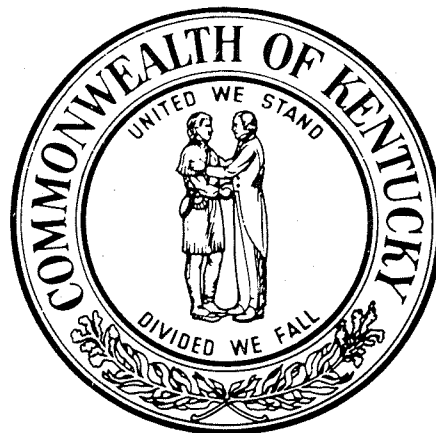


of Administrative Register Kentucky

LEGISLATIVE RESEARCH COMMISSION
FRANKFORT, KENTUCKY

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MONDAY, DECEMBER 1, 1986



IN THIS ISSUE

Administrative Regulation Review Subcommittee, December Agenda.....	1021
Regulation Review Procedure.....	1023
Emergency Regulations Now In Effect:	
Agriculture.....	1023
Human Resources.....	1027
As Amended:	
Natural Resources & Environmental Protection - Air Pollution.....	1059
Transportation.....	1071
Amended After Hearing:	
Board of Medical Licensure.....	1073
Natural Resources & Environmental Protection - Surface Mining.....	1076
Education.....	1079
Proposed Amendments:	
Revenue.....	1084
Board of Medical Licensure.....	1087
Board of Registration for Professional Engineers & Land Surveyors..	1091
Fish and Wildlife Resources.....	1093
Agriculture.....	1094
Corrections.....	1099
Education.....	1108
Alcoholic Beverage Control.....	1111
Financial Institutions - Securities.....	1112
Harness Racing Commission.....	1114
Housing, Buildings and Construction.....	1118
Human Resources.....	1125
Proposed Regulations Received Through November 15:	
Revenue.....	1173
Board of Occupational Therapy.....	1175
Agriculture.....	1195
Natural Resources & Environmental Protection - Air Pollution.....	1198
Alcoholic Beverage Control.....	1204
Insurance.....	1205
Housing, Buildings and Construction.....	1211
Reprint:	
Education.....	1212
Nov. Minutes of the Administrative Regulation Review Subcommittee..	1213

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates.....	F2
KRS Index.....	F9
Subject Index.....	F15

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 December 1 and 2, 1986. See tentative agenda on pages 845-847 of this Administrative Register.

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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 - 1021

COMPILER'S NOTE: The agenda for the December meeting of the Administrative Regulation Review Subcommittee appears below. This is a tentative agenda and is subject to change. For information on the final agenda, please call (502) 564-8100, ext. 411.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA
December 1, 1986
(Rm. 110, Capitol Annex @ 2 p.m.)

PERSONNEL BOARD

Personnel Rules

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

FINANCE AND ADMINISTRATION CABINET

Board of Dentistry

201 KAR 8:005. Advertising of dental services.

GENERAL GOVERNMENT CABINET

Board of Medical Licensure

201 KAR 9:083. Certification and supervision of physician assistants. (Amended After Hearing)
(Agency requests deferral to January meeting)

Board of Ophthalmic Dispensers

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

Board of Physical Therapy

201 KAR 22:010. Objectives of physical therapy.
201 KAR 22:031. Therapist's licensing procedure.
201 KAR 22:052. Refusal, revocation, suspension or probation of license or certificate; administrative warning to licensee or certificant.

Athletic Commission

201 KAR 27:015. Prompt payment of fees, fines, and forfeitures required.
201 KAR 27:044. Appointment of officials.

TOURISM CABINET

Department of Fish and Wildlife Resources

Game

301 KAR 2:140. Seasons for wild turkey.
301 KAR 2:220 and E. Hunting seasons for migratory birds.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Department for Environmental Protection
Division of Waste Management

Solid Waste Facilities

401 KAR 47:070. Operator certification.

Division of Air Pollution

General Administrative Procedures

401 KAR 50:010. Definitions and abbreviations.

New Source Requirements; Non-Attainment Areas

401 KAR 51:017. Prevention of significant deterioration of air quality.

Hazardous Pollutants

401 KAR 57:011. Asbestos standards.
401 KAR 57:021. Mercury standards. (Repeals 401 KAR 57:020)
401 KAR 57:045. Inorganic arsenic emissions from glass manufacturing plants.

New Source Standards

401 KAR 59:066. Primary emissions from new basic oxygen process furnaces. (Repeals 401 KAR 59:065)
401 KAR 59:068. Secondary emissions from new basic oxygen process steelmaking facilities.
401 KAR 59:166. Steel plants using new electric arc furnaces. (Repeals 401 KAR 59:165)
401 KAR 59:168. Steel plants using new electric arc furnaces and argon-oxygen decarburization vessels.

401 KAR 59:295. New onshore natural gas processing plants.

Existing Source Standards

401 KAR 61:175. Leaks from existing synthetic organic chemical and polymer manufacturing equipment.

Department for Surface Mining Reclamation and Enforcement

Bond and Insurance Requirements

405 KAR 10:200 & E. Kentucky bond pool. (Amended After Hearing)

CORRECTIONS CABINET

Office of the Secretary

501 KAR 6:030. Kentucky State Reformatory.
501 KAR 6:060. Northpoint Training Center.
501 KAR 6:120. Blackburn Correctional Complex.

ADMINISTRATIVE REGISTER - 1022

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

TRANSPORTATION CABINET
Department of Highways

Traffic

- 603 KAR 5:050. Uniform traffic control devices.
- 603 KAR 5:071. Bus dimension limits.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Superintendent

Office of Superintendent

- 701 KAR 5:070. Criteria for Commonwealth Institute for Teachers. (Amended After Hearing)
- Office of Local Services

General Administration

- 702 KAR 1:115. Annual in-service training of district board members.

School District Finance

- 702 KAR 3:200 & E. Management Assistance Program. (Amended After Hearing)
- Office of Instruction

Instructional Services

- 704 KAR 3:304. Required program of studies.

Student Services

- 704 KAR 7:070 & E. Guidelines for dropout prevention programs. (Amended After Hearing)

LABOR CABINET

Collective Bargaining and Arbitration

- 803 KAR 3:050. Arbitration.

PUBLIC PROTECTION AND REGULATION CABINET
State Racing Commission

Thoroughbred Racing Rules

- 810 KAR 1:013. Entries, subscriptions and declarations.

Department of Housing, Buildings and Construction

Kentucky Building Code

- 815 KAR 7:020. Building code.

Plumbing

- 815 KAR 20:010. Definitions.
- 815 KAR 20:030. License application; qualifications for examination, examination requirements, expiration, renewal, revival or reinstatement of licenses.
- 815 KAR 20:050. Installation permits.
- 815 KAR 20:130. House sewers and storm water piping; methods of installation.

CABINET FOR HUMAN RESOURCES
Department for Health Services

Regional Mental Health-Mental Retardation Boards

- 902 KAR 6:040. Hospital district assignments.

Local Boards of Health

- 902 KAR 8:020. Policies and procedures for local health department operations.

Hospitalization of Mentally Ill and Mentally Retarded

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

Disability Determination's Unit

- 902 KAR 16:010. Disability determination's program.

Department for Employment Services

Employment Services

- 903 KAR 6:010. Work incentive program.

Department for Social Insurance

Public Assistance

- 904 KAR 2:016. Standards for need and amount; AFDC.
- 904 KAR 2:020. Child support.
- 904 KAR 2:116 and E. Low income home energy assistance program.

Food Stamp Program

- 904 KAR 3:020 and E. Eligibility requirements.

Department for Medicaid Services

Medicaid Services

- 907 KAR 1:004 and E. Resource and income standard of medically needy.
- 907 KAR 1:010 and E. Payments for physicians' services.
- 907 KAR 1:049. Payments for family planning services.
- 907 KAR 1:330 and E. Hospice services.
- 907 KAR 1:340 and E. Payments for hospice services

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, and the fiscal note required by KRS 13A.250.

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

The disease Brucellosis is a great concern to the cattle industry and the people of the Commonwealth of Kentucky. The time needed to promulgate ordinary regulations will dangerously delay the important depopulation measures contained in this regulation. Immediate action by way of an emergency regulation is needed to eradicate Brucellosis in Kentucky. This emergency regulation will be replaced by an ordinary regulation.

MARTHA LAYNE COLLINS, Governor
DAVID E. BOSWELL, Commissioner

STATE BOARD OF AGRICULTURE
Kentucky Department of Agriculture

302 KAR 20:056E. Qualifications and eligibility requirements on state brucellosis indemnity payments for negative exposed cattle.

RELATES TO: KRS 257.020, 257.030, 257.110, 257.120, 257.140

PURSUANT TO: KRS 257.030, 257.110, 257.120,

257.140

EFFECTIVE: November 13, 1986

NECESSITY AND FUNCTION: The regulation is necessary to explain the conditions under which a cattle herd owner may collect state indemnity which is available only for sero negative exposed adult breeding cattle and heifer calves from within a brucellosis infected herd which are sent directly to slaughter.

Section 1. General Conditions for Eligibility.

(1) The state veterinarian shall determine the eligibility of cattle (genus Bos) and bison for the payment of state indemnity funds.

(2) State indemnity funds, if available, shall be paid only for the following classes of cattle that are sent directly to slaughter and in the following amounts:.

(a) Seventy-five (75) dollars for each adult breeding cow from a brucellosis infected herd that have been exposed to the disease and branded with a "B" brand but that has been tested negative to an approved brucellosis blood test.

(b) Fifty (50) dollars for each heifer cow from a brucellosis infected herd that has been exposed to the disease. For purposes of this section a heifer cow shall mean a female bovine or bison that has never calved.

(3) In order to be eligible, any animal on which indemnity is requested must have been in Kentucky for at least six (6) months prior to the time of the test which shall determine eligibility for state indemnity and if tested eligible must have been negative to an approved brucellosis test upon entry into Kentucky.

(4) Any animal on which a state indemnity claim is made must be properly tagged and branded within fifteen (15) days of signing of a required state depopulation agreement, sold for slaughter within fifteen (15) days of branding, and proof of slaughter obtained from meat inspection. Home slaughter by the original owner for his home consumption is allowed but proof of slaughter must be supplied. The fifteen (15) day requirement for branding, tagging and slaughter may be extended by the state veterinarian upon written request and for good cause shown.

(5) In order to be eligible for state indemnity funds pursuant to this regulation a written depopulation agreement shall be signed by the owner seeking state indemnity. Authorization for depopulation and for the receipt of state indemnity shall be approved by the state veterinarian and the amount of indemnity is to be mutually agreed upon prior to signing of the agreement.

(6) The following criteria may be considered by the state veterinarian in determining which infected herds qualify for available state indemnity funds:

(a) The percentage of known reactors found in an infected herd;

(b) The clinical evidence of brucellosis infection in the herd;

(c) Culture and isolation of the brucella organism in the herd;

(d) Possibility of spread of brucellosis infection to neighboring herds;

Section 2. Exclusions from Eligibility for State Indemnity Payments. Indemnity shall not be paid on the following classes of cattle:

(1) Any test eligible animal that moved into Kentucky without a negative blood test for

brucellosis or without an approved health certificate and/or permit when applicable, or in violation of any health requirement for admission or in violation of any law or regulation of the board.

(2) Any animal imported into Kentucky that originated from a known infected or quarantined herd, or determined otherwise to be an exposed animal.

(3) Cattle moving in trade channels in Kentucky which are owned by dealers or traders whether or not said owners are currently licensed by the department.

(4) No state indemnity funds shall be paid to an owner whose cattle are found to be in violation of any state or federal law, regulation, or agreement.

DAVID E. BOSWELL, Chairman

APPROVED BY AGENCY: November 10, 1986

FILED WITH LRC: November 13, 1986 at 3 p.m.

STATEMENT OF EMERGENCY

The disease Brucellosis is a great concern to the cattle industry and the people of the Commonwealth of Kentucky. The time needed to promulgate ordinary regulations will dangerously delay the important quarantine measures contained in this regulation. Immediate action by way of an emergency regulation is needed to eradicate Brucellosis in Kentucky. This emergency regulation will be replaced by an ordinary regulation.

MARTHA LAYNE COLLINS, Governor

DAVID E. BOSWELL, Commissioner

STATE BOARD OF AGRICULTURE Kentucky Department of Agriculture

302 KAR 20:057E. Brucellosis quarantine requirements.

RELATES TO: KRS 257.020, 257.030, 257.040, 257.050

PURSUANT TO: KRS 257.020, 257.030, 257.040, 257.050

EFFECTIVE: November 13, 1986

NECESSITY AND FUNCTION: The purpose of the regulation is to delineate the procedures for quarantine and quarantine release of brucellosis infected and exposed herds.

Section 1. Definitions. As used in this regulation unless the context clearly requires:

(1) "Herd" shall mean all cattle (genus Bos), bison, including calves maintained on common ground for any purpose or two (2) or more groups of cattle, (genus Bos), bison under common ownership or supervision, geographically separated but which have an interchange or movement of animals without regard to health status.

(2) "Individual herd plans" shall mean an approved brucellosis control program of the herd under quarantine for the purpose of eliminating brucellosis from the herd, preventing spread to other herds, and preventing reintroduction after the herd has become free of brucellosis.

(3) "Contact/adjacent herds" shall mean herds sharing common premises, herds within one (1) mile of the quarantined infected herds, or herds containing purchases from or exchanges with the

quarantined infected herds.

Section 2. Requirements for Quarantine Release. All cattle, (genus Bos), bison herds infected with or exposed to brucellosis may be quarantined by the state veterinarian until the following options for quarantine release are complied with:

(1) Complete depopulation. Quarantine of a herd that has been depopulated in accordance with a state and/or federal depopulation agreement shall be released ninety (90) days after all designated cattle in the herd have been sent to slaughter, the cleaning and disinfection procedure set out in KRS 257.140 has been completed, and the depopulation agreement has been otherwise fully complied with.

(2) Minimum requirements of the individual herd plan and quarantine release.

(a) Adult vaccinated herds. All herds which are adult vaccinated shall be quarantined a minimum of 180 days after the last reactor has been removed from the herd and all requirements of the state/federal adult vaccination agreement have been complied with.

(b) Other quarantined herds. Other quarantined herds shall remain under quarantine for a minimum of 300 days after the removal of the last reactor. A minimum of three (3) negative tests will be required with the third test to be administered at day 300. The herd owner is encouraged to test at more frequent intervals. The 300 day quarantine period may be shortened by the state veterinarian provided a complete epidemiological investigation of the herd is conducted and there is no evidence of brucella infection or exposure found.

1. All calves in infected herds shall remain under quarantine until:

a. Bull calves are castrated or isolated from the remainder of the infected herd for 180 days and tested negative;

b. Heifers are spayed and identified with a "spade" brand;

c. Calves are "S" branded and tagged and shipped to a state/federal quarantined feedlot or to slaughter on permit;

d. Heifer calves not "S" branded or spayed:

(i) Must be quarantined and held separate and apart from the affected adult herd after weaning until they are negative on an official test between fifteen (15) and forty-five (45) days following the completion of their first calving; or

(ii) If the heifer calves remain in the affected adult herd, the entire herd shall not be released from quarantine until all the heifer calves have matured and calved, then the entire herd must be tested negative for brucellosis to qualify for quarantine release.

(c) Contact/adjacent herds. All contact/adjacent herds shall be tested within thirty (30) days of the date of classification of the reactor herd or quarantined until a complete negative herd test is made.

(d) Individual herd management plan requirements shall be met except when the designated brucellosis epidemiologist authorizes the modifications of the plan consistent with sound brucellosis eradication principles. Testing, tagging, and branding may be rendered without expense to the owner however, owners are to provide for the handling of their cattle.

DAVID E. BOSWELL, Chairman

APPROVED BY AGENCY: November 10, 1986

FILED WITH LRC: November 13, 1986 at 3 p.m.

STATEMENT OF EMERGENCY

The disease Equine Infectious Anemia is a great concern to the horse industry and the people of the Commonwealth of Kentucky. The time needed to promulgate ordinary amendments will dangerously delay the important entry measures contained in this amendment. Immediate action by way of an emergency regulation is needed to control Equine Infectious Anemia in Kentucky. This emergency regulation will be replaced by an ordinary regulation.

MARTHA LAYNE COLLINS, Governor

DAVID E. BOSWELL, Commissioner

DEPARTMENT OF AGRICULTURE

302 KAR 20:065E. Sale and exhibition of livestock in Kentucky.

RELATES TO: KRS Chapter 257

PURSUANT TO: KRS 257.030

EFFECTIVE: November 13, 1986

NECESSITY AND FUNCTION: To specify general sanitary and health requirements in relation to the sale and exhibition of Kentucky livestock in Kentucky.

Section 1. Cattle. (1) General requirements.

(a) All animals, except as noted, shall be accompanied by an approved health certificate. Health certificates shall be void 150 days after issuance for exhibition and thirty (30) days after issuance for sale.

(b) If animals are from accredited or certified herds, health certificate shall show accreditation and certification number with date of last herd test for tuberculosis and brucellosis.

(c) Blood tests for brucellosis must be conducted in a state-federal laboratory and be negative according to recommended procedures of the Uniform Methods and Rules published by APHIS, VS, USDA.

(d) Cattle changing ownership shall be vaccinated against brucellosis as required in 302 KAR 20:055.

(2) Brucellosis.

(a) Sale. All breeding cattle moving from one (1) premise to another premise on the change of ownership must be negative to the brucellosis test within thirty (30) days prior to movement.

(b) Exhibition. Animals six (6) months of age or over shall be negative to an official test for brucellosis within 150 days of date of exhibition, unless exempt by one (1) of the following:

1. Originate directly from a certified herd.

2. Officially vaccinated under twenty (20) months of age for the dairy breeds and twenty-four (24) months of age for the beef breeds.

3. Steers. Must be accompanied by approved health certificate showing individual identification. No brucellosis test required.

(3) Tuberculosis.

(a) Sale. Animals six (6) months of age or older shall be negative to an official tuberculin test within sixty (60) days of date of sale, unless exempt by one (1) of the

following:

1. Originate directly from an accredited herd.
2. Originate directly from a herd in which all animals six (6) months of age or older are negative to an official tuberculin test within last twelve (12) months of date of sale.
- (b) Exhibition. No test required.

Section 2. Performance Bull Testing Program.

- (1) All animals shall be accompanied by approved health certificates.
- (2) Brucellosis. Animals entered in this program shall, if six (6) months of age or older, be negative to an official brucellosis test within thirty (30) days of date of entry or originate directly and immediately from a certified herd.
- (3) Tuberculosis. All animals six (6) months of age or older shall be negative to an official tuberculin test within sixty (60) days or originate directly and immediately from an accredited herd.

Section 3. Horses. (1) All horses entering Kentucky, except unweaned foals, and other equidae, for any purpose other than for immediate slaughter shall be accompanied by an official certificate of veterinary examination of state of origin issued by a state, federal or licensed accredited veterinarian and such certificate shall include:

- (a) Veterinarian's statement that examination was made within the past thirty (30) days and revealed the animal to be free of symptoms of any infectious disease or exposure thereto; and
- (b) Shall include any tests that have been conducted as well as all vaccinations including vaccination date and type of vaccine used; and
- (c) Have attached thereto a copy of certificate of report from a laboratory approved by the USDA showing the animal(s) to be negative to AGID test for equine infectious anemia within the past six (6) months, if offered for sale.

(2) All horses being offered for sale in Kentucky shall be accompanied by a health certificate or official certificate of veterinary examination of the state of origin issued by a state, federal or licensed accredited veterinarian. This certificate shall remain as a record at the sale and will be presented to the new owner. Such certificate shall include all information required pursuant to subsection (1) of this regulation. All horses past six (6) months of age and other equidae offered for public sale shall be negative to AGID test within the past six (6) months. Only horses offered for sale for slaughter shall be exempt from this requirement.

(3) All horses and other equidae offered for entry into fairgrounds, livestock show grounds, public boarding stables, and for trail rides or racing shall be negative to tests for AGID within twelve (12) months and shall be accompanied by certificate of report from a laboratory approved by the USDA.

(4) [(3)] All reactors to AGID test for equine infections anemia shall be officially, permanently identified using numbers and letter 61A with a brand on the left neck region.

(5) [(4)] All reactors not slaughtered or euthanized shall be isolated and quarantined. This isolation shall include stabling in a stall that is screened to preclude entry and exit of mosquitoes, stable flies and horse flies during those seasons of the year when such insects are

prevalent. These animals will also be kept at least 200 yards from all other horses.

(6) [(5)] The movement of any quarantined reactor shall be done only on permission of representative of the Department of Agriculture.

(7) [(6)] All horses in a herd in which a reactor is found shall be quarantined pending a negative test on all horses.

Section 4. Swine. (1) All swine for exhibition and sale must be accompanied by an approved health certificate which shall be void 150 days after issuance for exhibition and thirty (30) days after issuance of sale.

(2) Brucellosis.

(a) Sale. All swine except barrows six (6) months of age or older shall have a negative thirty (30) day test in accordance with the Uniform Methods and Rules published by APHIS, VS, USDA, or originate directly and immediately from a validated herd. Validation number and date of last herd test must be shown on the approved health certificate.

(b) Exhibition. All swine except barrows six (6) months of age or older shall have a negative 150 day test in accordance with the Uniform Methods and Rules published by APHIS, VS, USDA, or originate directly and immediately from a validated herd. Validation number and date of last herd test must be shown on the approved health certificate.

(3) Identification. All swine must have a permanent means of identification.

(4) Pseudorabies.

(a) Sale. All swine must be negative to the serum neutralization test within thirty (30) days or originate from a qualified pseudorabies negative herd.

(b) Exhibition. All swine must be negative to the serum neutralization test within 150 days of consignment for exhibition or originate from a qualified pseudorabies negative herd.

Section 5. Sheep. (1) Scrapie. No sheep or lambs shall be consigned that originated from or are known to be exposed to flocks under surveillance for scrapie.

(2) Scabies. All sheep or lambs for breeding and feeding purposes consigned from a farm, ranch or like premises shall be accompanied by an approved health certificate indicating such sheep and lambs originated directly and immediately from an official scabies-eradicated-free area.

(3) Sore mouth. Any sheep or lambs showing lesions of contagious exyhma shall not be consigned.

(4) Sale. All sheep and lambs consigned shall be identified individually by ear tattoo or ear tag and entered on an approved health certificate which is good for thirty (30) days after issuance.

(5) Exhibition. All sheep and lambs consigned shall be identified individually by ear tattoo or ear tag and entered on an approved health certificate which is good for 150 days after issuance.

Section 6. Goats. (1) Scabies. All goats must originate from a scab-free area.

(2) Scrapie. No goats from a herd under surveillance for scrapie that are known to have been exposed to or that are progeny shall be considered.

(3) Brucellosis.

(a) Sale. Animals six (6) months of age or older shall have a negative thirty (30) day test in accordance with the Uniform Methods and Rules published by APHIS, VS, USDA, as applies to the bovine test or originate directly from a certified herd and be accompanied by an approved health certificate which shall be void thirty (30) days after issuance.

(b) Exhibition. Goats six (6) months of age or older shall be negative to an official blood test for brucellosis within 150 days of exhibition or originate directly from a certified herd and be accompanied by an approved health certificate which shall be void 150 days after issuance.

(4) Tuberculosis.

(a) Sale. Animals six (6) months of age or older shall have negative tuberculin test in last sixty (60) days or originate directly and immediately from an accredited herd.

(b) Exhibition. No test required.

Section 7. Poultry. Negative pullorm agglutination test within thirty (30) days for sale and/or exhibition. Test record must accompany poultry.

Section 8. Dogs and Cats. (1) All dogs over four (4) months of age for sale or exhibition shall be accompanied by a health certificate signed by a licensed, accredited veterinarian stating that they are free from all infectious diseases, did not originate within an area under quarantine for rabies, or from an area where rabies is known to exist and has not been exposed to rabies. All dogs over four (4) months of age shall be vaccinated against rabies not less than fourteen (14) days nor more than twelve (12) months prior to date of consignment if killed virus vaccine is used. Any vaccine approved for a three (3) year immunity by the "Compendium of Animal Rabies Vaccines" prepared by the Association of State Public Health Veterinarians, (Inc.), qualifies a dog if it is one (1) year of age when vaccinated; provided, show or performing dogs to be within the state temporarily for a period of ten (10) days shall not be required to furnish an approved health certificate.

(2) All cats shall be in compliance to above requirements for dogs provided the animals are vaccinated for rabies if four (4) months of age or older not less than fourteen (14) days nor more than twelve (12) months prior to date of consignment with a vaccine approved by the state veterinarian and the Department for Health Services, Kentucky Cabinet for Human Resources.

DAVID E. BOSWELL, Commissioner

APPROVED BY AGENCY: November 10, 1986

FILED WITH LRC: November 13, 1986 at 3 p.m.

STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation

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

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

CABINET FOR HUMAN RESOURCES Office of the Inspector General Certificate of Need and Licensure Board

902 KAR 20:026E. Operations and services; skilled nursing facilities.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990[(1)(2)]

PURSUANT TO: KRS 216B.040, 216B.105(3), Executive Order 86-366

EFFECTIVE: November 13, 1986

NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) mandate that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. Executive Order 86-366 transferred the authority to regulate health services and health facilities from the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board to the Office of the Inspector General. This regulation provides for the licensure requirements for the operation of skilled nursing facilities and the services to be provided by skilled nursing facilities.

Section 1. Scope of Operations and Services. Skilled nursing facilities are establishments with permanent facilities including inpatient beds. Services provided include medical services, and continuous nursing services to provide treatment for patients. Patients in a skilled nursing facility are patients who require inpatient care but are not in an acute phase of illness, and who currently require primarily convalescent or rehabilitative services and have a variety of medical conditions.

Section 2. Definitions. (1) "Administrator" means a person who is licensed as a nursing home administrator pursuant to KRS 216A.080.

(2) "Board" means the Commission for Health Economics Control in Kentucky [Health Facilities and Health Services Certificate of Need and Licensure Board].

(3) "Facility" means a skilled nursing facility.

(4) "License" means an authorization issued by the Board for the purpose of operating a skilled nursing facility and offering skilled nursing services.

(5) "Occupational therapist" means a person who is registered by the American Occupational Therapy Association or a graduate of a program in occupational therapy approved by the Council on Medical Education of the American Medical Association in collaboration with the American Occupational Therapy Association and who is engaged in or has completed the required supervised clinical experience period prerequisite to registration by the American Occupational Therapy Association.

(6) "Speech pathologist" means a person who:

(a) Meets the education and experience requirements for a Certificate of Clinical Competence in the appropriate area (speech pathology or audiology) granted by the American

Speech and Hearing Association; or

(b) Meets the educational requirements for certification and is in the process of accumulating the supervised experience required for certification.

(7) "Qualified dietician" or "nutritionist" means:

(a) A person who has a bachelor of science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietician by ADA; or

(b) A person who has a masters degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) A person who has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietician.

(8) "Qualified medical record practitioner" means a person who has graduated from a program for medical record administrators or technicians accredited by the Council on Medical Education of the American Medical Association and the American Medical Record Association; and who is certified as a Registered Records Administrator or an Accredited Record Technician by the American Medical Record Association.

(9) "Qualified social worker" means a person who is licensed pursuant to KRS 335.090, if applicable, and who is a graduate of a school of social work accredited by the Council on Social Work Education.

(10) "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.

(11) "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body.

Section 3. Administration and Operation. (1) Licensee. The licensee shall be legally responsible for the facility and for compliance with federal, state and local laws and regulations pertaining to the operation of the facility.

(2) Administrator. All facilities shall have an administrator who is responsible for the operation of the facility and who shall delegate such responsibility in his absence.

(3) Policies. The facility shall establish written policies and procedures that govern all services provided by the facility. The written policies shall include:

(a) Personnel policies, practices and procedures that support sound patient care.

(b) Notification of changes in patient status and service cost. There shall be written policies and procedures relating to notification of responsible person(s) in the event of significant changes in patient status, patient charges, billings, and other related administrative matters.

(c) Patient care policies. The facility shall have written policies to govern the skilled nursing care and related medical and other services provided, which shall be developed with the advice of professional personnel, including one (1) or more physicians and one (1) or more registered nurses and other health personnel (e.g., social workers, dietitians, pharmacists,

speech pathologists and audiologists, physical and occupational therapists and mental health personnel). Pharmacy policies and procedures shall be developed with the advice of a subgroup of physicians and pharmacists who serve as a pharmacy and therapeutics committee. A physician or a registered nurse shall be responsible for assuring compliance with and annual review of these policies. In addition to written policies for services, the facility shall have written policies to include:

1. Admission, transfer, and discharge policies including categories of patients accepted and not accepted by the facility.

2. Medication stop orders;

3. Medical records;

4. Transfer agreement;

5. Utilization review; and

6. Use of restraints.

(d) Adult and child protection. The facility shall have written policies which assure the reporting of cases of abuse, neglect or exploitation of adults and children to the Cabinet for Human Resources pursuant to KRS Chapter 209 and KRS 199.335.

(e) Missing patient procedures. The facility shall have a written procedure to specify in a step-by-step manner the actions which shall be taken by staff when a patient is determined to be lost, unaccounted for or on other unauthorized absence.

(4) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(5) Admission.

(a) Patients shall be admitted only upon the referral of a physician. Additionally, the facility shall admit only persons who require medical and continuous skilled nursing care and who currently require primarily convalescent or rehabilitative services for a variety of medical conditions. The facility shall not admit persons whose care needs exceed the capability of the facility.

(b) Upon admission the facility shall obtain the patient's medical diagnosis, physician's orders for the care of the patient and the transfer form. The facility shall obtain a medical evaluation within forty-eight (48) hours of admission, unless an evaluation was performed within five (5) days prior to admission. The medical evaluation shall include current medical findings, rehabilitation potential, a summary of the course of treatment followed in the hospital or intermediate care facility (a current hospital discharge summary containing the above information shall be acceptable).

(c) If the physician's orders for the immediate care of a patient are unobtainable at the time of admission, the facility shall contact the physician with responsibility for emergency care to obtain temporary orders.

(d) Before admission the patient and a responsible member of his family or committee shall be informed in writing of the established policies of the facility to include: fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services rendered.

(6) Discharge planning. The facility shall have a discharge planning program to assure the continuity of care for patients being transferred to another health care facility or being discharged to the home.

(7) Transfer procedures and agreements.

(a) The facility shall have written transfer

procedures and agreements for the transfer of patients to other health care facilities which can provide a level of inpatient care not provided by the facility. Any facility which does not have a transfer agreement in effect but which documents a good faith attempt to enter into such an agreement shall be considered to be in compliance with the licensure requirement. The transfer procedures and agreements shall specify the responsibilities each institution assumes in the transfer of patients, shall establish responsibility for notifying the other institution promptly of the impending transfer of a patient, and shall arrange for appropriate and safe transportation.

(b) When the patient's condition exceeds the scope of services of the facility, the patient, upon physician's orders (except in cases of emergency), shall be transferred promptly to an appropriate level of care.

(c) The agreement shall provide for the transfer of personal effects, particularly money and valuables, and for the transfer of information related to these items.

(d) When a transfer is to another level of care within the facility, the complete patient record or a current summary thereof shall be transferred with the patient.

(e) If the patient is transferred to another health care facility or home to be cared for by a home health agency, a transfer form shall accompany the patient. The transfer form shall include at least the following: physician's orders (if available), current information relative to diagnosis with history of problems requiring special care, a summary of the course of prior treatment, special supplies or equipment needed for patient care, and pertinent social information on the patient and his family.

(f) Except in an emergency, the patient, his next of kin, or responsible person(s) if any, and the attending physician shall be consulted in advance of the transfer or discharge of any patient.

(8) Tuberculosis Testing. All employees and patients shall be tested for tuberculosis in accordance with the provisions of 902 KAR 20:200, tuberculosis testing in long term care facilities.

(9) Personnel.

(a) Job descriptions. Written job descriptions shall be developed for each category of personnel to include qualifications, lines of authority and specific duty assignments.

(b) Employee records. Current employee records shall be maintained and shall include a resume of each employee's training and experience, evidence of current licensure or registration where required by law, health records, evaluation of performance, records of in-service training and ongoing education, along with employee's name, address and social security number.

(c) Health requirements. No employee contracting an infectious disease shall appear at work until the infectious disease can no longer be transmitted.

(d) Staffing classification requirements.

1. The facility shall have adequate personnel to meet the needs of the patients on a twenty-four (24) hour basis. The number and classification of personnel required shall be based on the number of patients, and the amount and kind of personal care, nursing care, supervision, and program needed to meet the

needs of the patients, as determined by medical orders and by services required by this regulation.

2. If the staff/patient ratio does not meet the needs of the patients, the Division for Licensing and Regulation shall determine and inform the administrator in writing how many additional personnel are to be added and of what job classification, and shall give the basis for this determination.

3. The facility shall have a director of nursing service who is a registered nurse and who works full time during the day, and who devotes full time to the nursing service of the facility. If the director of nursing has administrative responsibility for the facility, there shall be an assistant director of nursing, who shall be a registered nurse, so that there shall be the equivalent of a full-time director of nursing service. The director of nursing shall be trained or experienced in areas of nursing service, administration, rehabilitation nursing, psychiatric or geriatric nursing. The director of the nursing service shall be responsible for:

a. Developing and maintaining nursing service objectives, standards of nursing practice, nursing procedure manuals, and written job descriptions for each level of nursing personnel;

b. Recommending to the administrator the number and level of nursing personnel to be employed, participating in their recruitment and selection, and recommending termination of employment when necessary;

c. Assigning and supervising all levels of nursing personnel;

d. Participating in planning and budgeting for nursing care;

e. Participating in the development and implementation of patient care policies and bringing patient care problems requiring changes in policy to the attention of the professional policy advisory group;

f. Coordinating nursing services with other patient care services;

g. Planning and conducting orientation programs for new nursing personnel and continuing inservice education for all nursing personnel;

h. Participating in the selection of prospective patients in terms of nursing services they need and nursing competencies available;

i. Assuring that a nursing care plan shall be established for each patient and that his plan shall be reviewed and modified as necessary;

j. Assuring that registered nurses, licensed practical nurses, nurses' aides and orderlies are assigned duties consistent with their training and experience.

4. Supervising nurse. Nursing care shall be provided by or under the supervision of a full-time registered nurse. The supervising nurse shall be a licensed registered nurse who may be the director of nursing or the assistant director of nursing and shall be trained or experienced in the areas of nursing administration and supervision, rehabilitative nursing, psychiatric or geriatric nursing. The supervising nurse shall make daily rounds to all nursing units performing such functions as visiting each patient, and reviewing medical records, medication cards, patient care plans, and staff assignments, and whenever possible accompanying physicians when visiting patients.

5. Charge nurse. There shall be at least one (1) registered nurse or licensed practical nurse on duty at all times and who is responsible for the nursing care of patients during her tour of duty. When a licensed practical nurse is on duty, a registered nurse shall be on call.

6. Pharmacist. The facility shall employ a licensed pharmacist on a full-time, part-time or consultant basis to direct pharmaceutical services.

7. Therapists.

a. If rehabilitative services beyond rehabilitative nursing care are offered, whether directly or through cooperative arrangements with agencies that offer therapeutic services, these services shall be provided or supervised by qualified therapists to include licensed physical therapists, speech pathologists and occupational therapists.

b. When supervision is less than full time, it shall be provided on a planned basis and shall be frequent enough, in relation to the staff therapist's training and experience, to assure sufficient review of individual treatment plans and progress.

c. In a facility with an organized rehabilitation service using a multi-disciplinary team approach to meet all the needs of the patient, and where all therapists' services are administered under the direct supervision of a physician qualified in physical medicine who will determine goals and limits of the therapists' work, and prescribes modalities and frequency of therapy, persons with qualifications other than those described in subparagraph 7a of Section 3(8)(d) may be assigned duties appropriate to their training and experience.

8. Dietary. Each facility shall have a full-time person designated by the administrator, responsible for the total food service operation of the facility and who shall be on duty a minimum of thirty-five (35) hours each week.

9. The administrator shall designate a person for each of the following areas who will be responsible for:

a. Medical records. The person responsible for the records shall maintain, complete and preserve all medical records. If the person is not a qualified medical record practitioner he shall be trained by and receive regular consultation from a qualified medical record practitioner.

b. Social services. There shall be a full-time or part-time social worker employed by the facility, or a person who has training and experience in related fields to find community resources, to be responsible for the social services. If the facility does not have a qualified social worker on its staff, consultation shall be provided by a qualified social worker. The person responsible for this area of service shall have information promptly available on health and welfare resources in the community.

c. Patient activities. This person shall have training or experience in directing group activities.

(e) In-service educational programs.

1. There shall be an in-service education program in effect for all nursing personnel at regular intervals in addition to a thorough job orientation for new personnel. Opportunities shall be provided for nursing personnel to

attend training courses in rehabilitative nursing and other educational programs related to the care of long-term patients. Skill training for non-professional nursing personnel shall begin during the orientation period, to include demonstration, practice and supervision of simple nursing procedures applicable in the individual facility. It shall also include simple rehabilitative nursing procedures to be followed in emergencies. All patient care personnel shall be instructed and supervised in the care of emotionally disturbed and confused patients, and shall be assisted to understand the social aspects of patient care.

2. Social services training of staff. There shall be provisions for orientation and in-service training of staff directed toward understanding emotional problems and social needs of sick and infirm aged persons and recognition of social problems of patients and the means of taking appropriate action in relation to them. Either a qualified social worker on the staff, or one (1) from outside the facility, shall participate in training programs, case conferences, and arrangements for staff orientation to community services and patient needs.

(10) Medical records.

(a) The facility shall develop and maintain a system of records retention and filing to insure completeness and prompt location of each patient's record. The records shall be held confidential. The records shall be in ink or typed and shall be legible. Each entry shall be dated and signed. Each record shall include:

1. Identification data including the patient's name, address and social security number (if available); name, address and telephone number of referral agency; name and telephone number of personal physician; name, address and telephone number of next of kin or other responsible person; and date of admission.

2. Admitting medical evaluation including current medical findings, medical history, physical examination and diagnosis. (The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital, or an intermediate care facility if done within five (5) days prior to admission.)

3. The physician's orders for medication, diet, and therapeutic services. These shall be dated and signed by the physician.

4. Physician's progress notes describing significant changes in the patient's condition, written at the time of each visit.

5. Findings and recommendations of consultants.

6. A medication sheet which contains the date, time given, name of each medication or prescription number, dosage and name of prescribing physician.

7. Nurse's notes indicating changes in patient's condition, actions, responses, attitudes, appetite, etc. Nursing personnel shall make notation of response to medications, response to treatments, visits by physician and phone calls to the physician, medically prescribed diets and restorative nursing measures.

8. Nursing supervisor's written assessment of the patient's monthly general condition.

9. Reports of dental, laboratory and x-ray services.

10. Changes in patient's response to the activity and therapeutic recreation program.

11. A discharge summary completed, signed and

dated by the attending physician within one (1) month of discharge from the facility.

(b) Retention of records. After death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years or in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

Section 4. Provision of Services. (1) Physician services.

(a) The health care of each patient shall be under supervision of a physician who, based on an evaluation of the patient's immediate and long-term needs, prescribes a planned regimen of medical care which covers indicated medications, treatments, rehabilitative services, diet, special procedures recommended for the health and safety of the patient, activities, plans for continuing care and discharge.

(b) Patients shall be evaluated by a physician at least once every thirty (30) days for the first ninety (90) days following admission. Subsequent to the ninetieth day following admission, the patients shall be evaluated by a physician every sixty (60) days. There shall be evidence in the patient's medical record of the physician's visits to the patient at appropriate intervals.

(c) There shall be evidence in the patient's medical record that the patient's attending physician has made arrangement for the medical care of the patient in the physician's absence.

(d) Availability of physicians for emergency care. The facility shall have arrangements with one (1) or more physicians who will be available to furnish necessary medical care in case of an emergency if the physician responsible for the care of the patient is not immediately available. A schedule listing the names and telephone numbers of these physicians and the specific days each shall be on call shall be posted in each nursing station. There shall be established procedures to be followed in an emergency, which cover immediate care of the patient, persons to be notified, and reports to be prepared.

(2) Nursing services.

(a) Twenty-four (24) hour nursing service. There shall be twenty-four (24) hour nursing service with a sufficient number of nursing personnel on duty at all times to meet the total needs of patients. Nursing personnel shall include registered nurses, licensed practical nurses, aides and orderlies. The amount of nursing time available for patient care shall be exclusive of non-nursing duties. Sufficient nursing time shall be available to assure that each patient:

1. Shall receive treatments, medication, and diets as prescribed;
2. Shall receive proper care to prevent decubiti and shall be kept comfortable, clean and well-groomed;
3. Shall be protected from accident and injury by the adoption of indicated safety measures;

1. Shall be treated with kindness and respect.

(b) Rehabilitative nursing care. There shall be an active program of rehabilitative nursing care directed toward assisting each patient to achieve and maintain his highest level of self-care and independence.

1. Rehabilitative nursing care initiated in the hospital shall be continued immediately upon admission to the facility.

2. Nursing personnel shall be taught rehabilitative nursing measures and shall practice them in their daily care of patients. These measures shall include:

a. Maintaining good body alignment and proper positioning of bedfast patients;

b. Encouraging and assisting bedfast patients to change positions at least every two (2) hours, day and night to stimulate circulation and prevent decubiti and deformities;

c. Making every effort to keep patients active and out of bed for reasonable periods of time, except when contraindicated by physician's orders, and encouraging patients to achieve independence in activities of daily living by teaching self care, transfer and ambulation activities;

d. Assisting patients to adjust to their disabilities, to use their prosthetic devices, and to redirect their interests if necessary;

e. Assisting patients to carry out prescribed physical therapy exercises between visits of the physical therapist.

(c) Dietary supervision. Nursing personnel shall assure that patients are served diets as prescribed. Patients needing help in eating shall be assisted promptly upon receipt of meals. Food and fluid intake of patients shall be observed and deviations from normal shall be reported to the charge nurse. Persistent unresolved problems shall be reported to the physician.

(d) Nursing care plan. There shall be written nursing care plans for each patient based on the nature of illness, treatment prescribed, long and short term goals and other pertinent information.

1. The nursing care plan shall be a personalized, daily plan for individual patients. It shall indicate what nursing care is needed, how it can best be accomplished for each patient, what are the patient's preferences, what methods and approaches are most successful, and what modifications are necessary to insure best results.

2. Nursing care plans shall be available for use by all nursing personnel.

3. Nursing care plans shall be reviewed and revised as needed.

4. Relevant nursing information from the nursing care plan shall be included with other medical information when patients are transferred.

(3) Specialized rehabilitative services.

(a) Rehabilitative services shall be provided upon written order of the physician which indicates anticipated goals and prescribed specific modalities to be used and frequency of physical, speech and occupational therapy services.

(b) Therapy services shall include:

1. Physical therapy which includes:

a. Assisting the physician in his evaluation of patients by applying muscle, nerve, joint, and functional ability tests;

b. Treating patients to relieve pain, develop or restore functions, and maintain maximum performance, using physical means such as exercise, massage, heat, water, light, and electricity.

2. Speech therapy which include:

a. Services in speech pathology or audiology;

b. Cooperation in the evaluation of patients with speech, hearing, or language disorders;

c. Determination and recommendation of

appropriate speech and hearing services.

3. Occupational therapy services which includes:

a. Assisting the physician in his evaluation of the patient's level of function by applying diagnostic and prognostic tests;

b. Guiding the patient in his use of therapeutic creative and self-care activities for improving function.

(c) Therapists shall collaborate with the facility's medical and nursing staff in developing the patient's total plan of care.

(d) Ambulation and therapeutic equipment. Commonly used ambulation and therapeutic equipment necessary for services offered shall be available for use in the facility such as parallel bars, hand rails, wheelchairs, walkers, walkerettes, crutches and canes. The therapists shall advise the administrator concerning the purchase, rental, storage and maintenance of equipment and supplies.

(4) Personal care services. Personal care services shall include: assistance with bathing, shaving, cleaning and trimming of fingernails and toenails, cleaning of the mouth and teeth, and washing, grooming and cutting of hair.

(5) Pharmaceutical services.

(a) Procedures for administration of pharmaceutical services. The facility shall provide appropriate methods and procedures for obtaining, dispensing and administering of drugs and biologicals, which have been developed with the advice of a staff pharmacist, or a consultant pharmacist, in cooperation with the facility's pharmacy and therapeutics committee.

(b) If the facility has a pharmacy department, a licensed pharmacist shall be employed to administer the pharmacy department.

(c) If the facility does not have a pharmacy department, it shall have provisions for promptly and conveniently obtaining prescribed drugs and biologicals from a community or institutional pharmacy holding a valid pharmacy permit issued by the Kentucky Board of Pharmacy, pursuant to KRS 315.035.

(d) If the facility does not have a pharmacy department, but does maintain a supply of drugs:

1. The consultant pharmacist shall be responsible for the control of all bulk drugs and maintain records of their receipt and disposition.

2. The consultant pharmacist shall dispense drugs from the drug supply, properly label them and make them available to appropriate licensed nursing personnel.

3. Provisions shall be made for emergency withdrawal of medications from the drug supply.

(e) An emergency medication kit approved by the facility's professional personnel shall be kept readily available. The facility shall maintain a record of what drugs are in the kit and document how the drugs are used.

(f) Medication services.

1. Conformance with physician's orders. All medications administered to patients shall be ordered in writing by the patient's physician. Telephone orders shall be given only to a licensed nurse or pharmacist immediately reduced to writing, signed by the nurse and countersigned by the physician within forty-eight (48) hours. Medications not specifically limited as to time or number of doses, when ordered, shall be automatically stopped in accordance with the facility's written policy or stop orders. The registered

nurse or the pharmacist shall review each patient's medication profile at least monthly. The prescribing physician shall review each patient's medications at the time of the medical evaluation pursuant to Section 4(1)(b). The patient's attending physician shall be notified of stop order policies and contacted promptly for renewal of such orders so that continuity of the patient's therapeutic regimen is not interrupted. Medications are to be released to patients on discharge only on the written authorization of the physician.

2. Administration of medications. All medications shall be administered by licensed medical or nursing personnel in accordance with the Medical Practice Act (KRS 311.530 to 311.620) and Nurse Practice Act of (KRS Chapter 314). Each dose administered shall be recorded in the medical record.

a. The nursing station shall have readily available items necessary for the proper administration of medications.

b. In administering medications, medication cards or other state approved systems shall be used and checked against the physician's orders.

c. Medications prescribed for one (1) patient shall not be administered to any other patient.

d. Self-administration of medications by patients shall not be permitted except on special order of the patient's physician or in a predischARGE program under the supervision of a licensed nurse.

e. Medication errors and drug reactions shall be immediately reported to the patient's physician and an entry thereof made in the patient's medical record as well as on an incident report.

f. Up-to-date medication reference texts and sources of information shall be provided for use by the nursing staff (e.g., the American Hospital Formulary Service of the American Society of Hospital Pharmacists, Physicians Desk Reference or other suitable references).

3. Labeling and storing medications.

a. All medications shall be plainly labeled with the patient's name, the name of the drug, strength, name of pharmacy, prescription number, date, physician name, caution statements and directions for use except where accepted modified unit dose systems conforming to federal and state laws are used. The medications of each patient shall be kept and stored in their original containers and transferring between containers shall be prohibited. All medicines kept by the facility shall be kept in a locked place and the persons in charge shall be responsible for giving the medicines and keeping them under lock and key. Medications requiring refrigeration shall be kept in a separate locked box of adequate size in the refrigerator in the medication area. Drugs for external use shall be stored separately from those administered by mouth and injection. Provisions shall also be made for the locked separate storage of medications of deceased and discharged patients until such medication is surrendered or destroyed in accordance with federal and state laws and regulations.

b. Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the issuing pharmacist or pharmacy for relabeling or disposal. Containers having no labels shall be destroyed in accordance with state and federal laws.

c. Cabinets shall be well lighted and of sufficient size to permit storage without crowding.

d. Medications no longer in use shall be disposed of or destroyed in accordance with federal and state laws and regulations.

e. Medications having an expiration date shall be removed from usage and properly disposed of after such date.

f. Controlled substances. Controlled substances shall be kept under double lock (e.g., in a locked box in a locked cabinet). There shall be a controlled substances record, in which is recorded the name of the patient, the date, time, kind, dosage, balance, remaining and method of administration of all controlled substances; the name of the physician who prescribed the medications; and the name of the nurse who administered it, or staff who supervised the self-administration. In addition, there shall be a recorded and signed schedule II controlled substances count daily, and schedule III, IV and V controlled substances count once per week by those persons who have access to controlled substances. All controlled substances which are left over after the discharge or death of the patient shall be destroyed in accordance with KRS 218A.230, or 21 CFR 1307.21, or sent via registered mail to the Controlled Substances Enforcement Branch of the Kentucky Cabinet for Human Resources.

4. Use of restraints or protective devices. If a patient becomes disturbed or unmanageable, the patient's physician shall be notified in order to evaluate and direct the patient's care. No form of restraints or protective devices shall be used except under written orders of the attending physician.

a. Protective devices. Protective devices may be used to protect the patient from falling from a bed or chair. The least restrictive form of protective device shall be used which affords the patient the greatest possible degree of mobility. In no case shall a locking device be used.

b. Physical restraint. Restraints that require lock and key shall not be used. In an emergency, restraints may be used temporarily, but in no case for a period to exceed twelve (12) hours. Restraints shall be applied only by personnel trained in the proper application and observation of this equipment. Restraints shall be checked at least every one-half (1/2) hour and released at least ten (10) minutes every two (2) hours. The checks and releases of restraints shall be recorded in the patient's medical record as they are completed. Such reports shall document the rationale or justification for the use of the procedure, a description of the specific procedures employed, and the physician's order. Restraints shall be used only as a therapeutic measure to prevent the patient from causing physical harm to self or others. Restraints shall not be used as a punishment, as discipline, as a convenience for the staff, or as a mechanism to produce regression. Restraints shall be comfortable and easily removed in case of an emergency.

c. Chemical restraints. Chemical restraints shall not be used as punishment, for the convenience of the staff, as a substitute for programs, or in quantities that interfere with the patient's habilitation.

5. Communicable diseases.

a. Except as provided by clauses b, c, and d

of this subparagraph no patient who is infected [shall knowingly be admitted to the facility] with a communicable disease which is reportable to the health department, pursuant to KRS Chapter 214 and applicable regulations shall knowingly be admitted to the facility. [except]

b. The following specific diseases, although reportable, do not preclude a person from being admitted to a facility, and do not necessitate any special procedures on the part of the facility upon patient admission: animal bites, asbestosis, botulism, histoplasmosis, Kawasaki's disease, lead poisoning, Lyme disease, mesothelioma, pneumoconiosis, Reye's syndrome, Rocky Mountain spotted fever, silicosis, toxic shock syndrome, and trichinosis.

c. A facility may admit a (non-infectious) tuberculosis patient under continuing medical supervision for his tuberculosis disease.

d. The following specific diseases, although reportable, also do not preclude a person from being admitted to a facility: acquired immune deficiency syndrome (AIDS), hepatitis B or non-A non-B, herpes (genital), leprosy, malaria and syphilis (late latent only); however, if a facility chooses to admit persons with these diseases, the following conditions shall be met: [; provided, however, that a "facility" may admit persons having Acquired Immune Deficiency Syndrome (AIDS) provided that the following conditions are met:]

(i) Staff of facility have completed a training program approved by the cabinet.

(ii) The facility has developed strict written procedures and protocols for staff to follow in order to avoid exposure to blood or body fluids of the affected residents [AIDS patient]; and to follow if such an exposure occurs.

(iii) The facility must apprise the public and the residents of the facility, that persons having one (1) or more of these specific disease(s) in clause d of this subparagraph [AIDS patients] are admissible to that facility, and which disease(s) are involved. [; but] Identifying information on these residents [AIDS patients] shall not be disclosed except as provided by law or regulation of the Cabinet for Human Resources.

e. [b.] If, after admission, a patient is suspected of having a communicable disease that would endanger the health and welfare of other patients the administrator shall assure that a physician is contacted and that appropriate measures are taken on behalf of the patient with the communicable disease and the other patients.

(6) Diagnostic services. The facility shall have provisions for obtaining required clinical laboratory, x-ray and other diagnostic services. Laboratory services may be obtained from a laboratory which is part of a licensed hospital or a laboratory licensed pursuant to KRS 333.030 and any regulations promulgated thereunder. Radiology services shall be obtained from a service licensed or registered pursuant to KRS 211.842 to 211.852 and any regulations promulgated thereunder. If the facility provides its own diagnostic services, the service shall meet the applicable laws and regulations. All diagnostic services shall be provided only on the request of a physician. The physician shall be notified promptly of the test results. Arrangements shall be made for the transportation of patients, if necessary, to and from the source of service. Simple tests, such as those customarily done by nursing personnel

for diabetic patients may be done in the facility. All reports shall be included in the medical record.

(7) Dental services. The facility shall assist patients to obtain regular and emergency dental care. Provision for dental care: Patients shall be assisted to obtain regular and emergency dental care. An advisory dentist shall provide consultation, participate in in-service education, recommend policies concerning oral hygiene, and shall be available in case of emergency. The facility, when necessary, shall arrange for the patient to be transported to the dentist's office. Nursing personnel shall assist the patient to carry out the dentist's recommendations.

(8) Social services.

(a) Provision for medically related social needs. The medically related social needs of the patient shall be identified, and services provided to meet them, in admission of the patient, during his treatment and care in the facility, and in planning for his discharge.

1. As a part of the process of evaluating a patient's need for services in a facility and whether the facility can offer appropriate care, emotional and social factors shall be considered in relation to medical and nursing requirements.

2. As soon as possible after admission, there shall be an evaluation, based on medical, nursing and social factors, of the probable duration of the patient's need for care and a plan shall be formulated and recorded for providing such care.

3. Where there are indications that financial help will be needed, arrangements shall be made promptly for referral to an appropriate agency.

4. Social and emotional factors related to the patient's illness, to his response to treatment and to his adjustment to care in the facility shall be recognized and appropriate action shall be taken when necessary to obtain casework services to assist in resolving problems in these areas.

5. Knowledge of the patient's home situation, financial resources, community resources available to assist him, and pertinent information related to his medical and nursing requirements shall be used in making decisions regarding his discharge from the facility.

(b) Confidentiality of social data. Pertinent social data, and information about personal and family problems related to the patient's illness and care shall be made available only to the attending physician, appropriate members of the nursing staff, and other key personnel who are directly involved in the patient's care, or to recognized health or welfare agencies. There shall be appropriate policies and procedures for assuring the confidentiality of such information.

1. The staff member responsible for social services shall participate in clinical staff conferences and confer with the attending physician at intervals during the patient's stay in the facility, and there shall be evidence in the record of such conferences.

2. The staff member and nurses responsible for the patient's care shall confer frequently and there shall be evidence of effective working relationships between them.

3. Records of pertinent social information and of action taken to meet social needs shall be maintained for each patient. Signed social service summaries shall be entered promptly in the patient's medical record for the benefit of

all staff involved in the care of the patient.

(9) Patient activities. Activities suited to the needs and interests of patients shall be provided as an important adjunct to the active treatment program and to encourage restoration to self-care and resumption of normal activities. Provision shall be made for purposeful activities which are suited to the needs and interests of patients.

(a) The activity leader shall use, to the fullest possible extent, community, social and recreational opportunities.

(b) Patients shall be encouraged but not forced to participate in such activities. Suitable activities are provided for patients unable to leave their rooms.

(c) Patients who are able and who wish to do so shall be assisted to attend religious services.

(d) Patients' request to see their clergymen shall be honored and space shall be provided for privacy during visits.

(e) Visiting hours shall be flexible and posted to permit and encourage visiting friends and relatives.

(f) The facility shall make available a variety of supplies and equipment adequate to satisfy the individual interests of patients. Examples of such supplies and equipment are: books and magazines, daily newspapers, games, stationery, radio and television and the like.

(10) Residential services.

(a) Dietary services. The facility shall provide or contract for food service to meet the dietary needs of the patients including modified diets or dietary restrictions as prescribed by the attending physician. When a facility contracts for food service with an outside food management company, the company shall provide a qualified dietician on a full-time, part-time or consultant basis to the facility. The qualified dietician shall have continuing liaison with the medical and nursing staff of the facility for recommendations on dietetic policies affecting patient care. The company shall comply with all of the appropriate requirements for dietary services in this regulation.

1. Therapeutic diets. If the designated person responsible for food service is not a qualified dietician or nutritionist, consultation by a qualified dietician or qualified nutritionist shall be provided.

2. Dietary staffing. There shall be sufficient food service personnel employed and their working hours, schedules of hours, on duty and days off shall be posted. If any food service personnel are assigned duties outside the dietary department, the duties shall not interfere with the sanitation, safety or time required for regular dietary assignments.

3. Menu planning.

a. Menus shall be planned, written and rotated to avoid repetition. Nutrition needs shall be met in accordance with the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council adjusted for age, sex and activity, and in accordance with physician's orders.

b. Meals shall correspond with the posted menu. Menus must be planned and posted one (1) week in advance. When changes in the menu are necessary, substitutions shall provide equal nutritive value and the changes shall be recorded on the menu and all menus shall be kept on file for thirty (30) days.

c. The daily menu shall include daily diet for all modified diets served within the facility based on an approved diet manual. The diet manual shall be a current manual with copies available in the dietary department that has the approval of the professional staff of the facility. The diet manual shall indicate nutritional deficiencies of any diet. The dietician shall correlate and integrate the dietary aspects of the patient care with the patient and patient's chart through such methods as patient instruction, recording diet histories, and participation in rounds and conference.

4. Food preparation and storage.

a. There shall be at least a three (3) day supply of food to prepare well-balanced palatable meals. Records of food purchased for preparation shall be on file for thirty (30) days.

b. Food shall be prepared with consideration for any individual dietary requirement. Modified diets, nutrient concentrates and supplements shall be given only on the written orders of a physician.

c. At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the substantial evening meal and breakfast. Between-meal snacks to include an evening snack before bedtime shall be offered to all patients. Adjustments shall be made when medically indicated.

d. Foods shall be prepared by methods that conserve nutritive value, flavor and appearance and shall be attractively served at the proper temperatures, and in a form to meet the individual needs. A file of tested recipes, adjusted to appropriate yield shall be maintained. Food shall be cut, chopped or ground to meet individual needs. If a patient refuses foods served, nutritional substitutions shall be offered.

e. All opened containers or left over food items shall be covered and dated when refrigerated.

5. Serving of food. When a patient cannot be served in the dining room, trays shall be provided for bedfast patients and shall rest on firm supports such as overbed tables. Sturdy tray stands of proper height shall be provided for patients able to be out of bed.

a. Correct positioning of the patient to receive his tray shall be the responsibility of the direct patient care staff. Patients requiring help in eating shall be assisted within a reasonable length of time.

b. Adaptive self-help devices shall be provided to contribute to the patient's independence in eating.

6. Sanitation. All facilities shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005 (Kentucky's Food Service Establishment Act and Food Service Code).

(b) Housekeeping and maintenance services.

1. The facility shall maintain a clean and safe facility free of unpleasant odors. Odors shall be eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans and other obvious sources.

2. An adequate supply of clean linen shall be on hand at all times. Soiled clothing and linens shall receive immediate attention and shall not be allowed to accumulate. Clothing or bedding used by one (1) patient shall not be used by another until it has been laundered or dry

cleaned.

3. Soiled linen shall be placed in washable or disposable containers, transported in a sanitary manner and stored in separate, well-ventilated areas in a manner to prevent contamination and odors. Equipment or areas used to transport or store soiled linen shall not be used for handling or storing of clean linen.

4. Soiled linen shall be sorted and laundered in the soiled linen room in the laundry area. Handwashing facilities with hot and cold water, soap dispenser and paper towels shall be provided in the laundry area.

5. Clean linen shall be sorted, dried, ironed, folded, transported, stored and distributed in a sanitary manner.

6. Clean linen shall be stored in clean linen closets on each floor, close to the nurses' station.

7. Personal laundry of patients or staff shall be collected, transported, sorted, washed and dried in a sanitary manner, separate from bed linens.

8. Patients' personal clothing shall be laundered as often as is necessary. Laundering of patients' personal clothing shall be the responsibility of the facility unless the patient or the patient's family accepts this responsibility. Patient's personal clothing laundered by or through the facility shall be marked to identify the patient-owner and returned to the correct patient.

9. Maintenance. The premises shall be well kept and in good repair. Requirements shall include:

a. The facility shall insure that the grounds are well kept and the exterior of the building, including the sidewalks, steps, porches, ramps and fences are in good repair.

b. The interior of the building including walls, ceilings, floors, windows, window coverings, doors, plumbing and electrical fixtures shall be in good repair. Windows and doors shall be screened.

c. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

d. A pest control program shall be in operation in the facility. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. The compounds shall be stored under lock.

(c) Room accommodations.

1. Each patient shall be provided a standard size bed or the equivalent at least thirty-six (36) inches wide, equipped with substantial springs, a clean comfortable mattress, a mattress cover, two (2) sheets and a pillow, and such bed covering as is required to keep the patients comfortable. Rubber or other impervious sheets shall be placed over the mattress cover whenever necessary. Beds occupied by patients shall be placed so that no patient may experience discomfort because of proximity to radiators, heat outlets, or by exposure to drafts.

2. The facility shall provide window coverings, bedside tables with reading lamps (if appropriate), comfortable chairs, chest or dressers with mirrors, a night light, and storage space for clothing and other possessions.

3. Patients shall not be housed in unapproved

rooms or unapproved detached buildings.

4. Basement rooms shall not be used for sleeping rooms for patients.

5. Patients may have personal items and furniture when it is physically feasible.

6. There shall be a sufficient number of tables provided that can be rolled over a patient's bed or be placed next to a bed to serve patients who cannot eat in the dining room.

7. Each living room or lounge area and recreation area shall have an adequate number of reading lamps, and tables and chairs or settees of sound construction and satisfactory design.

8. Dining room furnishings shall be adequate in number, well constructed and of satisfactory design for the patients.

9. Each patient shall be permitted to have his own radio and television set in his room unless it interferes with or is disturbing to other patients.

WILLIAM M. GARDNER, Inspector General

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: October 31, 1986

FILED WITH LRC: November 13, 1986 at 3 p.m.

STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

CABINET FOR HUMAN RESOURCES Office of Inspector General Certificate of Need and Licensure Board

902 KAR 20:048E. Operations and services; nursing homes.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990[(1)(2)]

PURSUANT TO: KRS 216B.040, 216B.105(3), Executive Order 86-366

EFFECTIVE: November 13, 1986

NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) mandate that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. Executive Order 86-366 transferred the authority to regulate health services and health facilities from the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board to the Office of the Inspector General. This regulation provides for the licensure requirements for the operation of existing nursing homes and the services to be provided by existing nursing homes. This regulation does not address the establishment of new nursing homes.

Section 1. Scope of Operations and Services. Nursing homes are establishments with permanent

facilities that include inpatient beds. Services provided include medical services, and continuous nursing services. Patients in a nursing home facility require inpatient care but do not currently require inpatient hospital services, and have a variety of medical conditions.

Section 2. Definitions. (1) "Activities of daily living" means activities of self-help (e.g., being able to feed, bathe and/or dress oneself), communication (e.g., being able to place phone calls, write letters and understanding instructions) and socialization (e.g., being able to shop, being considerate of others, working with others and participating in activities).

(2) "Administrator" means a person who is licensed as a nursing home administrator pursuant to KRS 216A.080.

(3) "Board" means the Commission on Health Economics Control in Kentucky [Health Facilities and Health Services Certificate of Need and Licensure Board].

(4) "Facility" means a nursing home facility.

(5) "License" means an authorization issued by the Board for the purpose of operating a nursing home and offering nursing home services.

(6) "PRN medications" means medications administered as needed.

(7) "Qualified dietician" or "nutritionist" means:

(a) A person who has a bachelor of science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietician by ADA; or

(b) A person who has a masters degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) A person who has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietician.

(8) "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.

(9) "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body.

Section 3. Administration and Operation. (1) Licensee. The licensee shall be legally responsible for the facility and for compliance with federal, state and local laws and regulations pertaining to the operation of the facility.

(2) Administrator.

(a) All facilities shall have an administrator who is responsible for the operation of the facility and who shall delegate such responsibility in his absence.

(b) The licensee shall contract for professional and supportive services not available in the facility as dictated by the needs of the patient. The contract shall be in writing.

(3) Administrative records.

(a) The facility shall maintain a bound, permanent, chronological patient registry showing date of admission, name of patient, and

date of discharge.

(b) The facility shall require and maintain written recommendations or comments from consultants regarding the program and its development on a per visit basis.

(c) Menu and food purchase records shall be maintained.

(d) A written report of any incident or accident involving a patient (including medication errors or drug reactions), visitor or staff shall be made and signed by the administrator or nursing service supervisor, and any staff member who witnessed the incident. The report shall be filed in an incident file.

(4) Policies. The facility shall establish written policies and procedures that govern all services provided by the facility. The written policies shall include:

(a) Patient care and services to include physician, nursing, pharmaceutical (including medication stop orders policy), and residential services.

(b) Adult and child protection. The facility shall have written policies which assure the reporting of cases of abuse, neglect or exploitation of adults and children to the Cabinet for Human Resources pursuant to KRS Chapter 209 and KRS 199.335.

(c) Use of restraints. The facility shall have a written policy that addresses the use of restraints and a mechanism for monitoring and controlling their use.

(d) Missing patient procedures. The facility shall have a written procedure to specify in a step-by-step manner the actions which shall be taken by staff when a patient is determined to be lost, unaccounted for or on other unauthorized absence.

(5) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(6) Admission.

(a) Patients shall be admitted only upon the referral of a physician. Additionally, the facility shall admit only persons who have a variety of medical conditions and require medical services, continuous medical services, and inpatient care but do not currently require inpatient hospital services. The facility shall not admit persons whose care needs exceed the capability of the facility.

(b) Upon admission the facility shall obtain the patient's medical diagnosis, physician's orders for the care of the patient and the transfer form. Within forty-eight (48) hours after admission the facility shall obtain a medical evaluation from the patient's physician including current medical findings, medical history and physical examination. The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital or nursing facility, if done within five (5) days prior to admission.

(c) Before admission the patient and a responsible member of his family or committee shall be informed in writing of the established policies of the facility including fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services rendered.

(d) The facility shall provide and maintain a system for identifying each patient's personal property and facilities for safekeeping of his declared valuables. Each patient's clothing and other property shall be reserved for his own use.

(7) Discharge planning. The facility shall

have a discharge planning program to assure the continuity of care for patients being transferred to another health care facility or being discharged to the home.

(8) Transfer procedures and agreements.

(a) The facility shall have written transfer procedures and agreements for the transfer of patients to other health care facilities which can provide a level of inpatient care not provided by the facility. Any facility which does not have a transfer agreement in effect but which documents a good faith attempt to enter into such an agreement shall be considered to be in compliance with the licensure requirement. The transfer procedures and agreements shall specify the responsibilities each institution assumes in the transfer of patients and establish responsibility for notifying the other institution promptly of the impending transfer of a patient and arrange for appropriate and safe transportation.

(b) When the patient's condition exceeds the scope of services of the facility, the patient, upon physician's orders (except in cases of emergency), shall be transferred promptly to a hospital or a skilled nursing facility, or services shall be contracted for from another community resource.

(c) When changes and progress occur which would enable the patient to function in a less structured and restrictive environment, and the less restrictive environment cannot be offered at the facility, the facility shall offer assistance in making arrangements for patients to be transferred to facilities providing appropriate services.

(d) Except in an emergency, the patient, his next of kin, or guardian, if any, and the attending physician shall be consulted in advance of the transfer or discharge of any patient.

(e) When a transfer is to another level of care within the same facility, the complete medical record or a current summary thereof shall be transferred with the patient.

(f) If the patient is transferred to another health care facility or home to be cared for by a home health agency, a transfer form shall accompany the patient. The transfer form shall include at least: physician's orders (if available), current information relative to diagnosis with history of problems requiring special care, a summary of the course of prior treatment, special supplies or equipment needed for patient care, and pertinent social information on the patient and his family.

(9) Tuberculosis testing. All employees and patients shall be tested for tuberculosis in accordance with the provisions of 902 KAR 20:200, Tuberculosis testing in long term care facilities.

(10) Personnel.

(a) Job descriptions. Written job descriptions shall be developed for each category of personnel, to include qualifications, lines of authority and specific duty assignments.

(b) Employee records. Current employee records shall be maintained and shall include a resume of each employee's training and experience, evidence of current licensure or registration where required by law, health records, records of in-service training and ongoing education, and the employee's name, address and social security number.

(c) Staffing requirements.

1. The facility shall have adequate personnel to meet the needs of the patients on a twenty-four (24) hour basis. The number and classification of personnel required shall be based on the number of patients and the amount and kind of personal care, nursing care, supervision and program needed to meet the needs of the patients as determined by medical orders and by services required by this regulation.

2. When the staff/patient ratio does not meet the needs of the patients, the Division for Licensing and Regulation shall determine and inform the administrator in writing how many additional personnel are to be added and of what job classification and shall give the basis for this determination.

3. A responsible staff member shall be on duty and awake at all times to assure prompt, appropriate action in cases of injury, illness, fire or other emergencies.

4. Volunteers shall not be counted to make up minimum staffing requirements.

5. The facility shall have a director of nursing service who is a registered nurse and who works full time during the day, and who devotes full time to the nursing service of the facility. If the director of nursing has administrative responsibility for the facility, there shall be an assistant director of nursing, so that there shall be the equivalent of a full-time director of nursing service. The director of nursing shall be trained or experienced in areas of nursing service, administration, rehabilitation nursing, psychiatric or geriatric nursing. The director of the nursing service shall be responsible for:

a. Developing and maintaining nursing service objectives, standards of nursing practice, nursing procedure manuals, and written job descriptions for each level of nursing personnel.

b. Recommending to the administrator the number and levels of nursing personnel to be employed, participating in their recruitment and selection and recommending termination of employment when necessary.

c. Assigning and supervising all levels of nursing personnel.

d. Participating in planning and budgeting for nursing care.

e. Participating in the development and implementation of patient care policies.

f. Coordinating nursing services with other patient care services.

g. Planning and conducting orientation programs for new nursing personnel and continuing in-service education for all nursing personnel.

h. Participating in the screening of prospective patients in terms of required nursing services and nursing skills available.

i. Assuring that a written monthly assessment of the patient's general condition is completed.

j. Assuring that a nursing care plan shall be established for each patient and that his plan shall be reviewed and modified as necessary.

k. Assuring that registered nurses, licensed practical nurses, nurses' aides and orderlies are assigned duties consistent with their training and experience.

l. Assuring that a monthly review of each patient's medications is completed and notifying the physician when changes are appropriate.

6. Supervising nurse. Nursing care shall be provided by or under the direction of a full-time registered nurse. The supervising

nurse may be the director of nursing or the assistant director of nursing and shall be trained or experienced in the areas of nursing administration and supervision, rehabilitative nursing, psychiatric or geriatric nursing. The supervising nurse shall make daily rounds to all nursing units performing such functions as visiting each patient, and reviewing medical records, medication cards, patient care plans, and staff assignments, and whenever possible accompanying physicians when visiting patients.

7. Charge nurse. There shall be at least one (1) registered nurse or licensed practical nurse on duty at all times who is responsible for the nursing care of patients during her tour of duty. When a licensed practical nurse is on duty, a registered nurse shall be on call.

8. Pharmacist. The facility shall retain a licensed pharmacist on a full-time, part-time or consultant basis to direct pharmaceutical services.

9. Therapists.

a. If rehabilitative services beyond rehabilitative nursing care are offered, whether directly or through cooperative arrangements with agencies that offer therapeutic services, these services shall be provided or supervised by qualified therapists to include licensed physical therapists, speech pathologists and occupational therapists.

b. When supervision is less than full time, it shall be provided on a planned basis and shall be frequent enough, in relation to the staff therapist's training and experience, to assure sufficient review of individual treatment plans and progress.

c. In a facility with an organized rehabilitation service using a multi-disciplinary team approach to meet all the needs of the patient, and where all therapists' services are administered under the direct supervision of a physician qualified in physical medicine who will determine the goals and limits of the therapists' work, and prescribes modalities and frequency of therapy, persons with qualifications other than those described in subparagraph 9a of Section 3(9)(c) may be assigned duties appropriate to their training and experience.

10. Dietary. Each facility shall have a full-time person designated by the administrator, responsible for the total food service operation of the facility and on duty a minimum of thirty-five (35) hours each week.

11. Each facility shall designate a person for the following areas who will be responsible for:

a. Medical records;

b. Arranging for social services; and

c. Developing and implementing the activities program and therapeutic recreation.

12. Supportive personnel, consultants, assistants and volunteers shall be supervised and shall function within the policies and procedures of the facility.

(d) Health requirements. No employee contracting an infectious disease shall appear at work until the infectious disease can no longer be transmitted.

(e) Orientation program. The facility shall conduct an orientation program for all new employees to include review of all facility policies (that relate to the duties of their respective jobs), services and emergency and disaster procedures.

(f) In-service training.

1. All employees shall receive in-service training and ongoing education to correspond with the duties of their respective jobs.

2. All nursing personnel shall receive in-service or continuing education programs at least quarterly.

(11) Medical records.

(a) The facility shall develop and maintain a system of records retention and filing to insure completeness and prompt location of each patient's record. The records shall be held confidential. The records shall be in ink or typed and shall be legible. Each entry shall be dated and signed. Each record shall include:

1. Identification data including the patient's name, address and social security number (if available); name, address and telephone number of referral agency; name and telephone number of personal physician; name, address and telephone number of next of kin or other responsible person; and date of admission.

2. Admitting medical evaluation by a physician including current medical findings, medical history, physical examination and diagnosis. (The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital, skilled nursing facility if done within five (5) days prior to admission.)

3. The physician's dated and signed orders for medication, diet, and therapeutic services.

4. Physician's progress notes describing significant changes in the patient's condition, written at the time of each visit.

5. Findings and recommendations of consultants.

6. A medication sheet which contains the date, time given, name of each medication dosage, name of prescribing physician and name of person who administered the medication.

7. Nurse's notes indicating changes in patient's condition, actions, responses, attitudes, appetite, etc. Nursing personnel shall make notation of response to medications, response to treatments, mode and frequency of PRN medications administered, condition necessitating administration of PRN medication, reaction following PRN medication, visits by physician and phone calls to the physician, medically prescribed diets and preventive maintenance or rehabilitative nursing measures.

8. Written assessment of the patient's monthly general condition.

9. Reports of dental, laboratory and x-ray services (if applicable).

10. Changes in patient's response to the activity and therapeutic recreation program.

11. A discharge summary, signed and dated by the attending physician within one (1) month of discharge from the facility.

(b) Retention of records. After patient's death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years or in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

Section 4. Provision of Services. (1) Physician services.

(a) The health care of every patient shall be under the supervision of a physician who, based on an evaluation of the patient's immediate and long-term needs, prescribes a planned regimen of medical care which covers indicated medications, treatments, rehabilitative services, diet, special procedures recommended for the health

and safety of the patient, activities, plans for continuing care and discharge.

(b) Patients shall be evaluated by a physician at least once every thirty (30) days for the first sixty (60) days following admission. Subsequent to the sixtieth day following admission, the patients shall be evaluated by a physician every sixty (60) days unless justified and documented by the attending physician in the patient's medical record. There shall be evidence in the patient's medical record of the physician visits to the patient at appropriate intervals.

(c) There shall be evidence in the patient's medical record that the patient's attending physician has made arrangement for the medical care of the patient in the physician's absence.

(d) Availability of physicians for emergency care. The facility shall have arrangements with one (1) or more physicians who will be available to furnish necessary medical care in case of an emergency if the physician responsible for the care of the patient is not immediately available. A schedule listing the names and telephone numbers of these physicians and the specific days each shall be on call shall be posted in each nursing station. There shall be established procedures to be followed in an emergency, which cover immediate care of the patient, persons to be notified, and reports to be prepared.

(2) Nursing services.

(a) Twenty-four (24) hour nursing service. There shall be twenty-four (24) hour nursing service with a sufficient number of nursing personnel on duty at all times to meet the total needs of patients. Nursing personnel shall include registered nurses, licensed practical nurses, aides and orderlies. The amount of nursing time available for patient care shall be exclusive of non-nursing duties. Sufficient nursing time shall be available to assure that each patient:

1. Shall receive treatments, medication, and diets as prescribed;

2. Shall receive proper care to prevent decubiti and shall be kept comfortable, clean and well-groomed;

3. Shall be protected from accident and injury by the adoption of indicated safety measures;

4. Shall be treated with kindness and respect.

(b) Rehabilitative nursing care. There shall be an active program of rehabilitative nursing care directed toward assisting each patient to achieve and maintain his highest level of self-care and independence.

1. Rehabilitative nursing care initiated in the hospital shall be continued immediately upon admission to the facility.

2. Nursing personnel shall be taught rehabilitative nursing measures and shall practice them in their daily care of patients. These measures shall include:

a. Maintaining good body alignment and proper positioning of bedfast patients;

b. Encouraging and assisting bedfast patients to change positions at least every two (2) hours, day and night to stimulate circulation and prevent decubiti and deformities;

c. Making every effort to keep patients active and out of bed for reasonable periods of time, except when contraindicated by physician's orders, and encouraging patients to achieve independence in activities of daily living by teaching self care, transfer and ambulation

activities;

d. Assisting patients to adjust to their disabilities, to use their prosthetic devices, and to redirect their interests if necessary;

e. Assisting patients to carry out prescribed physical therapy exercises between visits of the physical therapist.

(c) Dietary supervision. Nursing personnel shall assure that patients are served diets as prescribed. Patients needing help in eating shall be assisted promptly upon receipt of meals. Food and fluid intake of patients shall be observed and deviations from normal shall be reported to the charge nurse. Persistent unresolved problems shall be reported to the physician.

(d) Nursing care plan. There shall be written nursing care plans for each patient based on the nature of illness, treatment prescribed, long and short term goals and other pertinent information.

1. The nursing care plan shall be a personalized, daily plan for individual patients. It shall indicate what nursing care is needed, how it can best be accomplished for each patient, what are the patients preferences, what methods and approaches are most successful, and what modifications are necessary to insure best results.

2. Nursing care plans shall be available for use by all nursing personnel.

3. Nursing care plans shall be reviewed and revised as needed.

4. Relevant nursing information from the nursing care plan shall be included with other medical information when patients are transferred.

(3) Specialized rehabilitative services.

(a) Rehabilitative services shall be provided upon written order of the physician which indicates anticipated goals and prescribes specific modalities to be used and frequency of physical, speech and occupational therapy services.

(b) Therapy services shall include:

1. Physical therapy which includes:

a. Assisting the physician in his evaluation of patients by applying muscle, nerve, joint, and functional ability tests;

b. Treating patients to relieve pain, develop or restore functions, and maintain maximum performance, using physical means such as exercise, massage, heat, water, light, and electricity.

2. Speech therapy which includes:

a. Service in speech pathology or audiology;

b. Cooperation in the evaluation of patients with speech, hearing, or language disorders;

c. Determination and recommendation of appropriate speech and hearing services.

3. Occupational therapy services which include:

a. Assisting the physician in his evaluation of the patient's level of function by applying diagnostic and prognostic tests;

b. Guiding the patient in his use of therapeutic creative and self care activities for improving function.

(c) Therapists shall collaborate with the facility's medical and nursing staff in developing the patient's total plan of care.

(d) Ambulation and therapeutic equipment. Commonly used ambulation and therapeutic equipment necessary for services offered shall be available for use in the facility such as parallel bars, hand rails, wheelchairs, walkers,

walkerettes, crutches and canes. The therapists shall advise the administrator concerning the purchase, rental, storage and maintenance of equipment and supplies.

(4) Personal care services. Personal care services shall include: assistance with bathing, shaving, cleaning and trimming of fingernails and toenails, cleaning of the mouth and teeth, and washing, grooming and cutting of hair.

(5) Pharmaceutical services.

(a) The facility shall provide appropriate methods and procedures for obtaining, dispensing, and administering drugs and biologicals, developed with the advice of a licensed pharmacist or a pharmaceutical advisory committee which includes one (1) or more licensed pharmacists.

(b) If the facility has a pharmacy department, a licensed pharmacist shall be employed to administer the department.

(c) If the facility does not have a pharmacy department, it shall have provision for promptly obtaining prescribed drugs and biologicals from a community or institutional pharmacy holding a valid pharmacy permit issued by the Kentucky Board of Pharmacy, pursuant to KRS 315.035.

(d) If the facility does not have a pharmacy department, but does maintain a supply of drugs:

1. The consultant pharmacist shall be responsible for the control of all bulk drugs and maintain records of their receipt and disposition.

2. The consultant pharmacist shall dispense drugs from the drug supply, properly label them and make them available to appropriate licensed nursing personnel.

3. Provisions shall be made for emergency withdrawal of medications from the drug supply.

(e) An emergency medication kit approved by the facility's professional personnel shall be kept readily available. The facility shall maintain a record of what drugs are in the kit and document how the drugs are used.

(f) Medication services.

1. Conformance with physician's orders. All medications administered to patients shall be ordered in writing by the patient's physician. Telephone orders shall be given only to a licensed nurse or pharmacist immediately reduced to writing, signed by the nurse and countersigned by the physician within forty-eight (48) hours. Medications not specifically limited as to time or number of doses, when ordered, shall be automatically stopped in accordance with the facility's written policy on stop orders. A registered nurse or pharmacist shall review each patient's medication profile at least monthly. The prescribing physician shall review the patient's medical profile at least every two (2) months. The patient's attending physician shall be notified of stop order policies and contacted promptly for renewal of such orders so that continuity of the patient's therapeutic regimen is not interrupted. Medications are to be released to patients on discharge only on the written authorization of the physician.

2. Administration of medications. All medications shall be administered by licensed medical or nursing personnel in accordance with the Medical Practice Act (KRS 311.530 to 311.620) and Nurse Practice Act (KRS Chapter 314) or by personnel who have completed a state approved training program. The administration of oral and topical medicines by certified medicine

technicians shall be under the supervision of licensed medical or nursing personnel. Intramuscular injections shall be administered by a licensed nurse or a physician. If intravenous injections are necessary they shall be administered by a licensed physician or registered nurse. Each dose administered shall be recorded in the medical record.

a. The nursing station shall have readily available items necessary for the proper administration of medications.

b. In administering medications, medication cards or other state approved systems shall be used and checked against the physician's orders.

c. Medications prescribed for one (1) patient shall not be administered to any other patient.

d. Self-administration of medications by patients shall not be permitted except on special order of the patient's physician or in a predischARGE program under the supervision of a licensed nurse.

e. Medication errors and drug reactions shall be immediately reported to the patient's physician and an entry thereof made in the patient's medical record as well as on an incident report.

f. Up-to-date medication reference texts and sources of information shall be provided for use by the nursing staff (e.g., the American Hospital Formulary Service of the American Society of Hospital Pharmacists, Physicians Desk Reference or other suitable references).

3. Labeling and storing medications.

a. All medications shall be plainly labeled with the patient's name, the name of the drug, strength, name of pharmacy, prescription number, date, physician name, caution statements and directions for use except where accepted modified unit dose systems conforming to federal and state laws are used. The medications of each patient shall be kept and stored in their original containers and transferring between containers shall be prohibited. All medicines kept by the facility shall be kept in a locked place and the persons in charge shall be responsible for giving the medicines and keeping them under lock and key. Medications requiring refrigeration shall be kept in a separate locked box of adequate size in the refrigerator in the medication area. Drugs for external use shall be stored separately from those administered by mouth and injection. Provisions shall also be made for the locked separate storage of medications of deceased and discharged patients until such medication is surrendered or destroyed in accordance with federal and state laws and regulations.

b. Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the issuing pharmacist or pharmacy for relabeling or disposal. Containers having no labels shall be destroyed in accordance with state and federal laws.

c. Cabinets shall be well lighted and sufficient size to permit storage without crowding.

d. Medications no longer in use shall be disposed of or destroyed in accordance with federal and state laws and regulations.

e. Medications having an expiration date shall be removed from usage and properly disposed of after such date.

4. Controlled substances. Controlled substances shall be kept under double lock

(e.g., in a locked box in a locked cabinet). There shall be a controlled substances record, in which is recorded the name of the patient, the date, time, kind, dosage, balance remaining and method of administration of all controlled substances; the name of the physician who prescribed the medications; and the name of the nurse who administered it, or staff who supervised the self-administration. In addition, there shall be a recorded and signed schedule II controlled substances count daily, and schedule III, IV and V controlled substances count once per week by those persons who have access to controlled substances. All controlled substances which are left over after the discharge or death of the patient shall be destroyed in accordance with KRS 218A.230, or 21 CFR 1307.21, or sent via registered mail to the Controlled Substances Enforcement Branch of the Kentucky Cabinet for Human Resources.

5. Use of restraints or protective devices. If a patient becomes disturbed or unmanageable, the patient's physician shall be notified in order to evaluate and direct the patient's care. No form of restraints or protective devices shall be used except under written orders of the attending physician.

a. Protective devices. Protective devices may be used to protect the patient from falling from a bed or chair. The least restrictive form of protective device shall be used which affords the patient the greatest possible degree of mobility. In no case shall a locking device be used.

b. Physical restraint. Restraints that require lock and key shall not be used. In an emergency, restraints may be used temporarily, but in no case for a period to exceed twelve (12) hours. Restraints shall be applied only by personnel trained in the proper application and observation of this equipment. Restraints shall be checked at least every one-half (1/2) hour and released at least ten (10) minutes every two (2) hours. The checks and releases of restraints shall be recorded in the patient's medical record as they are completed. Such records shall document the rationale or justification for the use of the procedure, a description of the specific procedures employed, and the physician's order. Restraints shall be used only as a therapeutic measure to prevent the patient from causing physical harm to self or others. Restraints shall not be used as a punishment, as discipline, as a convenience for the staff, or as a mechanism to produce regression. Restraints shall be comfortable and easily removed in case of an emergency.

c. Chemical restraints. Chemical restraints shall not be used as punishment, for the convenience of the staff, as a substitute for programs, or in quantities that interfere with the patient's habilitation.

6. Communicable diseases.

a. Except as provided by clauses b, c, and d of this subparagraph, no patient who is infected [shall knowingly be admitted to the facility] with a communicable disease which is reportable to the health department, pursuant to KRS Chapter 214 and applicable regulations, shall knowingly be admitted to the facility. [except]

b. The following specific diseases, although reportable, do not preclude a person from being admitted to a facility, and do not necessitate any special procedures on the part of the facility upon patient admission: animal bites.

asbestosis, botulism, histoplasmosis, Kawasaki's disease, lead poisoning, Lyme disease, mesothelioma, pneumoconiosis, Reye's syndrome, Rocky Mountain spotted fever, silicosis, toxic shock syndrome, and trichinosis.

c. A facility may admit a (non-infectious) tuberculosis patient under continuing medical supervision for his tuberculosis disease.

d. The following specific diseases, although reportable, also do not preclude a person from being admitted to a facility: acquired immune deficiency syndrome (AIDS), hepatitis B or non-A non-B, herpes (genital), leprosy, malaria and syphilis (late latent only); however, if a facility chooses to admit persons with these diseases, the following conditions shall be met: [; provided, however, that a "facility" may admit persons having Acquired Immune Deficiency Syndrome (AIDS) provided that the following conditions are met:]

(i) Staff of facility have completed a training program approved by the cabinet.

(ii) The facility has developed strict written procedures and protocols for staff to follow in order to avoid exposure to blood or body fluids of the affected residents [AIDS patient]; and to follow if such an exposure occurs.

(iii) The facility must apprise the public and the residents of the facility, that persons having one (1) or more of these specific disease(s) in clause d of this subparagraph [AIDS patients] are admissible to that facility, and which disease(s) are involved. [; but] Identifying information on these residents [AIDS patients] shall not be disclosed except as provided by law or regulation of the Cabinet for Human Resources.

e. [b.] If, after admission, a patient is suspected of having a communicable disease that would endanger the health and welfare of other patients, the administrator shall assure that a physician is contacted and that appropriate measures are taken on behalf of the patient with the communicable disease and the other patients.

(6) Diagnostic services. The facility shall have provisions for obtaining required clinical laboratory, x-ray and other diagnostic services. Laboratory services may be obtained from a laboratory which is part of a licensed hospital or a laboratory licensed pursuant to KRS 333.030 and any regulations promulgated thereunder. Radiology services shall be obtained from a service licensed or registered pursuant to KRS 211.842 to 211.852 and any regulations promulgated thereunder. If the facility provides its own diagnostic services, the service shall meet the applicable laws and regulations. All diagnostic services shall be provided only on the request of a physician. The physician shall be notified promptly of the test results. Arrangements shall be made for the transportation of patients, if necessary, to and from the source of service. Simple tests, such as those customarily done by nursing personnel for diabetic patients may be done in the facility. All reports shall be included in the medical record.

(7) Dental services. The facility shall assist patients to obtain regular and emergency dental care. Provision for dental care: patients shall be assisted to obtain regular and emergency dental care. An advisory dentist shall provide consultation, participate in in-service education, recommend policies concerning oral hygiene, and shall be available in case of

emergency. The facility, when necessary, shall arrange for the patient to be transported to the dentist's office. Nursing personnel shall assist the patient to carry out the dentist's recommendations.

(8) Social services.

(a) Provision for medically related social needs. The medically related social needs of the patient shall be identified, and services provided to meet them, in admission of the patient, during his treatment and care in the facility, and in planning for his discharge.

1. As a part of the process of evaluating a patient's need for services in a facility and whether the facility can offer appropriate care, emotional and social factors shall be considered in relation to medical and nursing requirements.

2. As soon as possible after admission, there shall be an evaluation, based on medical, nursing and social factors, of the probable duration of the patient's need for care and a plan shall be formulated and recorded for providing such care.

3. Where there are indications that financial help will be needed, arrangements shall be made promptly for referral to an appropriate agency.

4. Social and emotional factors related to the patient's illness, to his response to treatment and to his adjustment to care in the facility shall be recognized and appropriate action shall be taken when necessary to obtain casework services to assist in resolving problems in these areas.

5. Knowledge of the patient's home situation, financial resources, community resources available to assist him, and pertinent information related to his medical and nursing requirements shall be used in making decisions regarding his discharge from the facility.

(b) Confidentiality of social data. Pertinent social data, and information about personal and family problems related to the patient's illness and care shall be made available only to the attending physician, appropriate members of the nursing staff, and other key personnel who are directly involved in the patient's care, or to recognized health or welfare agencies. There shall be appropriate policies and procedures for assuring the confidentiality of such information.

1. The staff member responsible for social services shall participate in clinical staff conferences and confer with the attending physician at intervals during the patient's stay in the facility, and there shall be evidence in the record of such conferences.

2. The staff member and nurses responsible for the patient's care shall confer frequently and there shall be evidence of effective working relationships between them.

3. Records of pertinent social information and of action taken to meet social needs shall be maintained for each patient. Signed social service summaries shall be entered promptly in the patient's medical record for the benefit of all staff involved in the care of the patient.

(9) Patient activities. Activities suited to the needs and interests of patients shall be provided as an important adjunct to the active treatment program and to encourage restoration to self-care and resumption of normal activities. Provision shall be made for purposeful activities which are suited to the needs and interests of patients.

(a) The activity leader shall use, to the fullest possible extent, community, social and

recreational opportunities.

(b) Patients shall be encouraged but not forced to participate in such activities. Suitable activities are provided for patients unable to leave their rooms.

(c) Patients who are able and who wish to do so shall be assisted to attend religious services.

(d) Patients' request to see their clergymen shall be honored and space shall be provided for privacy during visits.

(e) Visiting hours shall be flexible and posted to permit and encourage visiting friends and relatives.

(f) The facility shall make available a variety of supplies and equipment adequate to satisfy the individual interests of patients. Examples of such supplies and equipment are: books and magazines, daily newspapers, games, stationery, radio and television and the like.

(10) Transportation.

(a) If transportation of patients is provided by the facility to community agencies or other activities, the following shall apply:

1. Special provision shall be made for patients who use wheelchairs.

2. An escort or assistant to the driver shall be provided in transporting patients to and from the facility if necessary for the patient's safety.

(b) The facility shall arrange for appropriate transportation in case of medical emergencies.

(11) Residential services.

(a) Dietary services. The facility shall provide or contract for food service to meet the dietary needs of the patients including modified diets or dietary restrictions as prescribed by the attending physician. When a facility contracts for food service with an outside food management company, the company shall provide a qualified dietician on a full-time, part-time or consultant basis to the facility. The qualified dietician shall have continuing liaison with the medical and nursing staff of the facility for recommendations on dietetic policies affecting patient care. The company shall comply with all of the appropriate requirements for dietary services in this regulation.

1. Therapeutic diets. If the designated person responsible for food service is not a qualified dietician or nutritionist, consultation by a qualified dietician or qualified nutritionist shall be provided.

2. Dietary staffing. There shall be sufficient food service personnel employed and their working hours, schedules of hours, on duty and days off shall be posted. If any food service personnel are assigned duties outside the dietary department, the duties shall not interfere with the sanitation, safety or time required for regular dietary assignments.

3. Menu planning.

a. Menus shall be planned, written and rotated to avoid repetition. Nutrition needs shall be met in accordance with the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council adjusted for age, sex and activity, and in accordance with physician's orders.

b. Meals shall correspond with the posted menu. Menus must be planned and posted one (1) week in advance. When changes in the menu are necessary, substitutions shall provide equal nutritive value and the changes shall be recorded on the menu and all menus shall be kept

on file for thirty (30) days.

c. The daily menu shall include daily diet for all modified diets served within the facility based on an approved diet manual. The diet manual shall be a current manual with copies available in the dietary department, that has the approval of the professional staff of the facility. The diet manual shall indicate nutritional deficiencies of any diet. The dietician shall correlate and integrate the dietary aspects of the patient care with the patient and patient's chart through such methods as patient instruction, recording diet histories and participation in rounds and conference.

4. Food preparation and storage.

a. There shall be at least a three (3) day supply of food to prepare well balanced palatable meals. Records of food purchased for preparation shall be on file for thirty (30) days.

b. Food shall be prepared with consideration for any individual dietary requirement. Modified diets, nutrient concentrates and supplements shall be given only on the written orders of a physician.

c. At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the substantial evening meal and breakfast. Between-meal snacks to include an evening snack before bedtime shall be offered to all patients. Adjustments shall be made when medically indicated.

d. Foods shall be prepared by methods that conserve nutritive value, flavor and appearance and shall be attractively served at the proper temperatures, and in a form to meet the individual needs. A file of tested recipes, adjusted to appropriate yield shall be maintained. Food shall be cut, chopped or ground to meet individual needs. If a patient refuses foods served, nutritional substitutions shall be offered.

e. All opened containers or left over food items shall be covered and dated when refrigerated.

5. Serving of food. When a patient cannot be served in the dining room, trays shall be provided for bedfast patients and shall rest on firm supports such as overbed tables. Sturdy tray stands of proper height shall be provided for patients able to be out of bed.

a. Correct positioning of the patient to receive his tray shall be the responsibility of the direct patient care staff. Patients requiring help in eating shall be assisted within a reasonable length of time.

b. Adaptive self-help devices shall be provided to contribute to the patient's independence in eating.

6. Sanitation. All facilities shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005 (Kentucky's Food Service Establishment Act and Food Service Code).

(b) Housekeeping and maintenance services.

1. The facility shall maintain a clean and safe facility free of unpleasant odors. Odors shall be eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans and other obvious sources.

2. An adequate supply of clean linen shall be on hand at all times. Soiled clothing and linens shall receive immediate attention and shall not be allowed to accumulate. Clothing or bedding used by one (1) patient shall not be used by another until it has been laundered or dry

cleaned.

3. Soiled linen shall be placed in washable or disposable containers, transported in a sanitary manner and stored in separate, well-ventilated areas in a manner to prevent contamination and odors. Equipment or areas used to transport or store soiled linen shall not be used for handling or storing of clean linen.

4. Soiled linen shall be sorted and laundered in the soiled linen room in the laundry area. Handwashing facilities with hot and cold water, soap dispenser and paper towels shall be provided in the laundry area.

5. Clean linen shall be sorted, dried, ironed, folded, transported, stored and distributed in a sanitary manner.

6. Clean linen shall be stored in clean linen closets on each floor, close to the nurses' station.

7. Personal laundry of patients or staff shall be collected, transported, sorted, washed and dried in a sanitary manner, separate from bed linens.

8. Patients' personal clothing shall be laundered as often as is necessary. Laundering of patients' personal clothing shall be the responsibility of the facility unless the patient or the patient's family accepts this responsibility. Patient's personal clothing laundered by or through the facility shall be marked to identify the patient-owner and returned to the correct patient.

9. Maintenance. The premises shall be well kept and in good repair. Requirements shall include:

a. The facility shall insure that the grounds are well kept and the exterior of the building, including the sidewalks, steps, porches, ramps and fences are in good repair.

b. The interior of the building including walls, ceilings, floors, windows, window coverings, doors, plumbing and electrical fixtures shall be in good repair. Windows and doors shall be screened.

c. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

d. A pest control program shall be in operation in the facility. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. The compounds shall be stored under lock.

(c) Room accommodations.

1. Each patient shall be provided a standard size bed or the equivalent at least thirty-six (36) inches wide, equipped with substantial springs, a clean comfortable mattress, a mattress cover, two (2) sheets and a pillow, and such bed covering as is required to keep the patients comfortable. Rubber or other impervious sheets shall be placed over the mattress cover whenever necessary. Beds occupied by patients shall be placed so that no patient may experience discomfort because of proximity to radiators, heat outlets, or by exposure to drafts.

2. The facility shall provide window coverings, bedside tables with reading lamps (if appropriate), comfortable chairs, chest or dressers with mirrors, a night light, and storage space for clothing and other possessions.

3. Patients shall not be housed in unapproved

rooms or unapproved detached buildings.

4. Basement rooms shall not be used for sleeping rooms for patients.

5. Patients may have personal items and furniture when it is physically feasible.

6. There shall be a sufficient number of tables provided that can be rolled over a patient's bed or be placed next to a bed to serve patients who cannot eat in the dining room.

7. Each living room or lounge area and recreation area shall have an adequate number of reading lamps, and tables and chairs or settees of sound construction and satisfactory design.

8. Dining room furnishings shall be adequate in number, well constructed and of satisfactory design for the patients.

9. Each patient shall be permitted to have his own radio and television set in his room unless it interferes with or is disturbing to other patients.

WILLIAM M. GARDNER, Inspector General

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: October 31, 1986

FILED WITH LRC: November 13, 1986 at 3 p.m.

STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

CABINET FOR HUMAN RESOURCES Office of the Inspector General Certificate of Need and Licensure Board

902 KAR 20:051E. Operation and services; intermediate care.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990[(1)(2)]

PURSUANT TO: KRS 216B.040, 216B.105(3), Executive Order 86-366

EFFECTIVE: November 13, 1986

NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) mandate that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. Executive Order 86-366 transferred the authority to regulate health services and health facilities from the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board to the Office of the Inspector General. This regulation provides for the licensure requirements for the operation of intermediate care facilities and the services to be provided by intermediate care facilities.

Section 1. Scope of Operations and Services. Intermediate care facilities are establishments with permanent facilities including inpatient

beds. Services provided include twenty-four (24) hour supervision of patients, services including physician, nursing, pharmaceutical, personal care, activities and residential services. Patients in an intermediate care facility must have a physical or mental condition that requires intermittent nursing services along with continuous supervision of the activities of daily living.

Section 2. Definitions. (1) "Activities of daily living" means activities of self-help (e.g., being able to feed, bathe and/or dress oneself), communication (e.g., being able to place phone calls, write letters and understanding instructions) and socialization (e.g., being able to shop, being considerate of others, working with others and participating in activities).

(2) "Administrator" means a person who is licensed as a nursing home administrator pursuant to KRS 216A.080.

(3) "Board" means the Commission on Health Economics Control in Kentucky [Health Facilities and Health Services Certificate of Need and Licensure Board].

(4) "Facility" means an intermediate care facility.

(5) "License" means an authorization issued by the Board for the purpose of operating an intermediate care facility and offering intermediate care services.

(6) "PRN medications" means medications administered as needed.

(7) "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.

(8) "Qualified dietician" or "nutritionist" means:

(a) A person who has a bachelor of science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietician by ADA; or

(b) A person who has a master's degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) A person who has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietician.

(9) "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body.

Section 3. Administration and Operation. (1) Licensee. The licensee shall be legally responsible for the facility and for compliance with federal, state and local laws and regulations pertaining to the operation of the facility.

(2) Administrator.

(a) All facilities shall have an administrator who is responsible for the operation of the facility and who shall delegate such responsibility in his absence. The administrator shall not be the nursing services supervisor in a facility with more than sixty (60) beds.

(b) The licensee shall contract for professional and supportive services not available in the facility as dictated by the

needs of the patient. The contract shall be in writing.

(3) Administrative records.

(a) The facility shall maintain a bound, permanent, chronological patient registry showing date of admission, name of patient, and date of discharge.

(b) The facility shall require and maintain written recommendations or comments from consultants regarding the program and its development on a per visit basis.

(c) Menu and food purchase records shall be maintained.

(d) A written report of any incident or accident involving a patient (including medication errors or drug reactions), visitor or staff shall be made and signed by the administrator or nursing service supervisor, and any staff member who witnessed the incident. The report shall be filed in an incident file.

(4) Policies. The facility shall establish written policies and procedures that govern all services provided by the facility. The written policies shall include:

(a) Patient care and services to include physician, nursing, pharmaceutical (including medication stop orders policy), and residential services.

(b) Adult and child protection. The facility shall have written policies which assure the reporting of cases of abuse, neglect or exploitation of adults and children to the Department for Human Resources pursuant to KRS Chapter 209 and KRS 199.335.

(c) Use of restraints. The facility shall have a written policy that addresses the use of restraints and a mechanism for monitoring and controlling their use.

(d) Missing patient procedures. The facility shall have a written procedure to specify in a step-by-step manner the actions which shall be taken by staff when a patient is determined to be lost, unaccounted for or on other unauthorized absence.

(5) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(6) Admission.

(a) Patients shall be admitted only upon the referral of a physician. The facility shall admit only persons who have a physical or mental condition which requires intermittent nursing services and continuous supervision of activities of daily living. The facility shall not admit persons whose care needs exceed the capability of the facility.

(b) Upon admission the facility shall obtain the patient's medical diagnosis, physician's orders for the care of the patient and the transfer form. Within seventy-two (72) hours after admission the facility shall obtain a medical evaluation from the patient's physician including current medical findings, medical history and physical examination. The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital or long-term facility if done within fourteen (14) days prior to admission.

(c) Before admission the patient and a responsible member of his family or committee shall be informed in writing of the established policies of the facility including fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services rendered.

(d) The facility shall provide and maintain a

system for identifying each patient's personal property and facilities for safekeeping of his declared valuables. Each patient's clothing and other property shall be reserved for his own use.

(7) Discharge planning. The facility shall have a discharge planning program to assure the continuity of care for patients being transferred to another health care facility or being discharged to the home.

(8) Transfer procedures and agreements.

(a) The facility shall have written transfer procedures and agreements for the transfer of patients to other health care facilities which can provide a level of inpatient care not provided by the facility. Any facility which does not have a transfer agreement in effect but which documents a good faith attempt to enter into such an agreement shall be considered to be in compliance with the licensure requirement. The transfer procedures and agreements shall specify the responsibilities each institution assumes in the transfer of patients and establish responsibility for notifying the other institution promptly of the impending transfer of a patient and arrange for appropriate and safe transportation.

(b) When the patient's condition exceeds the scope of services of the facility, the patient, upon physician's orders (except in cases of emergency), shall be transferred promptly to a hospital or a skilled nursing facility, or services shall be contracted for from another community resource.

(c) When changes and progress occur which would enable the patient to function in a less structured and restrictive environment, and the less restrictive environment cannot be offered at the facility, the facility shall offer assistance in making arrangements for patients to be transferred to facilities providing appropriate services.

(d) Except in an emergency, the patient, his next of kin, or guardian, if any, and the attending physician shall be consulted in advance of the transfer or discharge of any patient.

(e) When a transfer is to another level of care within the same facility, the complete medical record or a current summary thereof shall be transferred with the patient.

(f) If the patient is transferred to another health care facility or home to be cared for by a home health agency, a transfer form shall accompany the patient. The transfer form shall include at least: physician's orders (if available), current information relative to diagnosis with history of problems requiring special care, a summary of the course of prior treatment, special supplies or equipment needed for patient care, and pertinent social information on the patient and his family.

(9) Tuberculosis Testing. All employees and patients shall be tested for tuberculosis in accordance with the provisions of 902 KAR 20:200. Tuberculosis testing in long term care facilities.

(10) Personnel.

(a) Job descriptions. Written job descriptions shall be developed for each category of personnel, to include qualifications, lines of authority and specific duty assignments.

(b) Employee records. Current employee records shall be maintained and shall include a resume of each employee's training and experience, evidence of current licensure or registration

where required by law, health records, records of in-service training and ongoing education, and the employee's name, address and social security number.

(c) Staffing requirements.

1. The facility shall have adequate personnel to meet the needs of the patients on a twenty-four (24) hour basis. The number and classification of personnel required shall be based on the number of patients and the amount and kind of personal care, nursing care, supervision and program needed to meet the needs of the patients as determined by medical orders and by services required by this regulation.

2. When the staff/patient ratio does not meet the needs of the patients, the Division for Licensing and Regulation shall determine and inform the administrator in writing how many additional personnel are to be added and of what job classification and shall give the basis for this determination.

3. A responsible staff member shall be on duty and awake at all times to assure prompt, appropriate action in cases of injury, illness, fire or other emergencies.

4. Volunteers shall not be counted to make up minimum staffing requirements.

5. Supervision of nursing services shall be by a registered nurse or licensed practical nurse employed on the day shift seven (7) days per week. The supervisor shall have training in rehabilitative nursing. When a licensed practical nurse serves as the supervisor, consultation shall be provided by a registered nurse at regular intervals, not less than four (4) hours weekly. The responsibilities of the nursing services supervisor shall include:

a. Developing and maintaining nursing service objectives, standards of nursing practice, nursing procedure manuals, and written job descriptions for each level of nursing personnel.

b. Recommending to the administrator the number and levels of nursing personnel to be employed, participating in their recruitment and selection and recommending termination of employment when necessary.

c. Assigning and supervising all levels of nursing care.

d. Participating in planning and budgeting for nursing care.

e. Participating in the development and implementation of patient care policies.

f. Coordinating nursing services with other patient care services.

g. Participating in the screening of prospective patients in terms of required nursing services and nursing skills available.

h. Assuring that a written monthly assessment of the patient's general condition is completed.

i. Assuring that the establishment, review and modification of nursing care plans for each patient is done by licensed nursing personnel.

j. Assuring that all medications are administered by licensed personnel or by other personnel who have completed a state-approved training program.

k. Assuring that a monthly review of each patient's medications is completed and notifying the physician when changes are appropriate.

6. The facility shall employ a licensed pharmacist on a full-time, part-time or consultant basis to direct pharmaceutical services.

7. Each facility shall have a full-time person designated by the administrator, responsible for

the total food service operation of the facility and on duty a minimum of thirty-five (35) hours each week.

8. Each facility shall designate a person for the following areas who will be responsible for:

- a. Medical records;
- b. Arranging for social services; and
- c. Developing and implementing the activities program and therapeutic recreation.

9. Supportive personnel, consultants, assistants and volunteers shall be supervised and shall function within the policies and procedures of the facility.

(d) Health requirements. No employee contracting an infectious disease shall appear at work until the infectious disease can no longer be transmitted.

(e) Orientation program. The facility shall conduct an orientation program for all new employees to include review of all facility policies (that relate to the duties of their respective jobs), services and emergency and disaster procedures.

(f) In-service training.

1. All employees shall receive in-service training and ongoing education to correspond with the duties of their respective jobs.

2. All nursing personnel shall receive in-service or continuing education programs at least quarterly.

(11) Medical records.

(a) The facility shall develop and maintain a system of records retention and filing to insure completeness and prompt location of each patient's record. The records shall be held confidential. The records shall be in ink or typed and shall be legible. Each entry shall be dated and signed. Each record shall include:

1. Identification data including the patient's name, address and social security number (if available); name, address and telephone number of referral agency; name and telephone number of personal physician; name, address and telephone number of next of kin or other responsible person; and date of admission.

2. Admitting medical evaluation by a physician including current medical findings, medical history, physical examination and diagnosis. (The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital, skilled nursing facility if done within fourteen (14) days prior to admission.)

3. The physician's dated and signed orders for medication, diet, and therapeutic services.

4. Physician's progress notes describing significant changes in the patient's condition, written at the time of each visit.

5. Findings and recommendations of consultants.

6. A medication sheet which contains the date, time given, name of each medication dosage, name of prescribing physician and name of person who administered the medication.

7. Nurse's notes indicating changes in patient's condition, actions, responses, attitudes, appetite, etc. Nursing personnel shall make notation of response to medications, response to treatments, mode and frequency of PRN medications administered, condition necessitating administration of PRN medication, reaction following PRN medication, visits by physician and phone calls to the physician, medically prescribed diets and preventive, maintenance or rehabilitative nursing measures.

8. Written assessment of the patient's monthly

general condition.

9. Reports of dental, laboratory and x-ray services (if applicable).

10. Changes in patient's response to the activity and therapeutic recreation program.

11. A discharge summary, signed and dated by the attending physician within one (1) month of discharge from the facility.

(b) Retention of records. After patient's death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years or, in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

Section 4. Provision of Services. (1) General requirements.

(a) Patient care equipment. There shall be a sufficient quantity of patient care equipment of satisfactory design and in good condition to carry out established patient care procedures. The equipment shall include:

1. Wheelchairs with brakes;
2. Walkers;
3. Bedside rails;
4. Bedpans and urinals (permanent or disposable);
5. Emesis basins and wash basins (permanent or disposable);
6. Footstools;
7. Bedside commodes;
8. Foot cradles;
9. Foot boards;
10. Under-the-mattress bed boards;
11. Trapeze frames;
12. Transfer board; and
13. An autoclave for sterilization of nursing equipment and supplies or an equivalent alternate method of sterilization.

(b) Communicable diseases.

1. Except as provided by subparagraphs 2, 3 and 4 of this paragraph, no patient who is infected [shall knowingly be admitted to the facility] with a communicable disease which is reportable to the health department, pursuant to KRS Chapter 214 and applicable regulations, [except]

2. The following specific diseases, although reportable, do not preclude a person from being admitted to a facility, and do not necessitate any special procedures on the part of the facility upon patient admission: animal bites, asbestosis, botulism, histoplasmosis, Kawasaki's disease, lead poisoning, Lyme disease, mesothelioma, pneumoconiosis, Reye's syndrome, Rocky Mountain spotted fever, silicosis, toxic shock syndrome, and trichinosis.

3. A facility may admit a (non-infectious) tuberculosis patient under continuing medical supervision for his tuberculosis disease.

4. The following specific diseases, although reportable, also do not preclude a person from being admitted to a facility: acquired immune deficiency syndrome (AIDS), hepatitis B or non-A non-B, herpes (genital), leprosy, malaria and syphilis (late latent only); however, if a facility chooses to admit persons with these diseases, the following conditions shall be met: [; provided, however, that a "facility" may admit persons having Acquired Immune Deficiency Syndrome (AIDS) provided that the following conditions are met:]

a. Staff of facility have completed a training program approved by the cabinet. In addition,

the facility shall have appropriately registered or licensed nurses on a twenty-four (24) hour basis in order to meet the needs of these residents.

b. The facility has developed strict written procedures and protocols for staff to follow in order to avoid exposure to blood or body fluids of the affected residents [AIDS patient]; and to follow if such an exposure occurs.

c. The facility must apprise the public and the residents of the facility, that persons having one (1) or more of these specific disease(s) in subparagraph 4 of this paragraph [AIDS patients] are admissible to that facility, and which disease(s) are involved. [; but] identifying information on these residents [AIDS patients] shall not be disclosed except as provided by law or regulation of the Cabinet for Human Resources.

5. [2.] If, after admission, a patient is suspected of having a communicable disease that would endanger the health and welfare of other patients the administrator shall assure that a physician is contacted and that appropriate measures are taken on behalf of the patient with the communicable disease and the other patients.

(c) Use of restraints or protective devices.

1. If a patient becomes disturbed or unmanageable, the patient's physician shall be notified in order to evaluate and direct the patient's care.

2. No form of restraints or protective devices shall be used except upon written orders of the attending physician.

a. Protective devices. Protective devices may be used to protect the patient from falling from a bed or chair. The least restrictive form of protective device shall be used which affords the patient the greatest possible degree of mobility. In no case shall a locking device be used.

b. Physical restraint. Restraints that require lock and key shall not be used. In an emergency, restraints may be used temporarily, but in no case for a period to exceed twelve (12) hours. Restraints shall be applied only by personnel trained in the proper application and observation of this equipment. Restraints shall be checked at least every one-half (1/2) hour and released at least ten (10) minutes every two (2) hours. The checks and releases of restraints shall be recorded in the patient's medical record as they are completed. Such records shall document the rationale or justification for the use of the procedure, a description of the specific procedures employed, and the physician's order. Restraints shall be used only as a therapeutic measure to prevent the patient from causing physical harm to self or others. Restraints shall not be used as a punishment, as discipline, as a convenience for the staff, or as a mechanism to produce regression. Restraints shall be comfortable and easily removed in case of an emergency.

c. Chemical restraints. Chemical restraints shall not be used as punishment, for the convenience of the staff, as a substitute for programs, or in quantities that interfere with the patient's habilitation.

(2) Physician services. All patients shall be under the medical supervision of a licensed physician. These services shall include:

(a) Physician's visit for medical evaluation as often as necessary and in no case less often than every sixty (60) days, unless justified and

documented by the attending physician in the patient's medical report.

(b) Physician services for medical emergencies available on a twenty-four (24) hour, seven (7) days-a-week basis.

(3) Nursing services. Nursing services shall include:

(a) The establishment of a nursing care plan for each patient. Each plan shall be reviewed and modified as necessary, or at least quarterly. Each plan shall include goals and nursing care needs;

(b) Rehabilitative nursing care to achieve and maintain the highest degree of function, self-care and independence. Rehabilitative measures shall be practiced on a twenty-four (24) hour, seven (7) day week basis. Those procedures requiring medical approval shall be ordered by the attending physician. Rehabilitative measures shall include:

1. Positioning and turning. Nursing personnel shall encourage and assist patients in maintaining good body alignment while standing, sitting, or lying in bed.

2. Exercises. Nursing personnel shall assist patients in maintaining maximum joint range of motion or active range of motion.

3. Bowel and bladder training. Nursing personnel shall make every effort to train incontinent patients to gain bowel and bladder control.

4. Training in activities of daily living. Nursing personnel shall encourage and when necessary teach patients to function at their maximum level in appropriate activities of daily living for as long as, and to the degree that, they are able.

5. Ambulation. Nursing personnel shall assist and encourage patients with daily ambulation unless otherwise ordered by the physician.

(c) Administration of medications including oral, rectal, hypodermic, and intramuscular;

(d) Written monthly assessment of the patient's general condition by licensed nursing personnel;

(e) Treatments such as: enemas, irrigations, catheterizations, applications of dressings or bandages, supervision of special diets;

(f) The recording of any changes, as they occur, in the patient's condition, actions, responses, attitudes, appetite, etc.

(g) Implementing a regular program to prevent decubiti with emphasis on the following:

1. Procedures to maintain cleanliness of the patient, his clothes and linens shall be followed each time the bed or the clothing is soiled. Rubber, plastic, or other type of linen protectors shall be properly cleaned and completely covered to prevent direct contact with the patient.

2. Special effort shall be made to assist the patient in being up and out of bed as much as his condition permits, unless medically contraindicated. If the patient cannot move himself, he shall have his position changed as often as necessary but not less than every two (2) hours.

(4) Pharmaceutical services.

(a) The facility shall provide appropriate methods and procedures for obtaining, dispensing, and administering drugs and biologicals, developed with the advice of a licensed pharmacist or a pharmaceutical advisory committee which includes one (1) or more licensed pharmacists.

(b) If the facility has a pharmacy department, a licensed pharmacist shall be employed to administer the pharmacy department.

(c) If the facility does not have a pharmacy department, it shall have provision for promptly obtaining prescribed drugs and biologicals from a community or institutional pharmacy holding a valid pharmacy permit issued by the Kentucky Board of Pharmacy, pursuant to KRS 315.035.

(d) An emergency medication kit approved by the facility's professional personnel shall be kept readily available. The facility shall maintain a record of what drugs are in the kit and document how the drugs are used.

(e) Medication requirement and services.

1. Conformance with physician's orders. All medications administered to patients shall be ordered in writing. Oral orders shall be given only to a licensed nurse or pharmacist, immediately reduced to writing, and signed. Medications not specifically limited as to time or number of doses, when ordered, shall be automatically stopped in accordance with the facility's written policy on stop orders. A registered nurse or the pharmacist shall review each patient's medical profile monthly. Medications shall be reviewed at least quarterly by the attending or staff physician. The patient's attending physician shall be notified of stop order policies and contacted promptly for renewal of such orders so that continuity of the patient's therapeutic regimen is not interrupted. Medications shall be released to patients on discharge or visits only after being labeled appropriately and on the written authorization of the physician.

2. Administration of medications. All medications shall be administered by licensed nurses or personnel who have completed a state-approved training program. Each dose administered shall be recorded in the medical record. Intramuscular injections shall be administered by a licensed nurse or a physician. If intravenous injections are necessary they shall be administered by a licensed physician or registered nurse.

a. The nursing station shall have items required for the proper administration of medications.

b. Medications prescribed for one (1) patient shall not be administered to any other patient.

c. Self-administration of medications by patients shall not be permitted except on special order of the patient's physician and a pre-discharge program under the supervision of a licensed nurse.

d. Medication errors and drug reactions shall be immediately reported to the patient's physician and pharmacist and an entry thereof made in the patient's medical record as well as on an incident report.

3. The facility shall provide up-to-date medication reference texts for use by the nursing staff (e.g., Physician's Desk Reference).

4. Labeling and storing medications. All medications shall be plainly labeled with the patient's name, the name of the drug, strength, name of pharmacy, prescription number, date, physician name, caution statements and directions for use except where accepted modified unit dose systems conforming to federal and state laws are used. The medications of each patient shall be kept and stored in their original containers and transferring between containers shall be prohibited. All medicines

kept by the facility shall be kept in a locked place and the persons in charge shall be responsible for giving the medicines and keeping them under lock and key. Medications requiring refrigeration shall be kept in a separate locked box of adequate size in the refrigerator in the medication area. Drugs for external use shall be stored separately from those administered by mouth and injection. Provisions shall also be made for the locked separate storage of medications of deceased and discharged patients until such medication is surrendered or destroyed in accordance with federal and state laws and regulations.

5. Controlled substances. Controlled substances shall be kept under double lock (e.g., in a locked box in a locked cabinet). There shall be a controlled substances record, in which is recorded the name of the patient; the date, time, kind, dosage, balance remaining and method of administration of all controlled substances; the name of the physician who prescribed the medications; and the name of the nurse who administered it, or staff who supervised the self-administration. In addition, there shall be a recorded and signed schedule II controlled substances count daily, and schedule III, IV and V controlled substances count once per week by those persons who have access to controlled substances. All controlled substances which are left over after the discharge or death of the patient shall be destroyed in accordance with KRS 218A.230, or 21 CFR 1307.21, or sent via registered mail to the Controlled Substances Enforcement Branch of the Kentucky Cabinet for Human Resources.

(5) Personal care services.

(a) All facilities shall provide services to assist patients to achieve and maintain good personal hygiene including the level of assistance necessary with:

1. Bathing of the body to maintain clean skin and freedom from offensive odors. In addition to assistance with bathing, the facility shall provide soap, clean towels, and wash cloths for each patient. Toilet articles such as brushes and combs shall not be used in common.

2. Shaving.

3. Cleaning and trimming of fingernails and toenails.

4. Cleaning of the mouth and teeth to maintain good oral hygiene as well as care of the lips to prevent dryness and cracking. All patients shall be provided with tooth brushes, a dentifrice, and denture containers, when applicable.

5. Washing, grooming, and cutting of hair.

(b) The staff shall encourage and assist the patients to dress in their own street clothing (unless otherwise indicated by the physician).

(6) Dental services. The facility shall assist patients in obtaining dental services. Conditions necessitating dental services shall be noted and such dental procedures and services provided shall be recorded in the patient's record.

(7) Social services. The facility shall provide or arrange for social services as needed by the patient.

(a) Social services shall be integrated with other elements of the plan of care.

(b) A plan for such care shall be recorded in the patient's record and periodically evaluated in conjunction with the patient's total plan of care.

(c) Social services records shall be

maintained as an integral part of case record maintained on each patient.

(8) Activities and therapeutic recreation.

(a) All facilities shall provide a program to stimulate physical and mental abilities to the fullest extent, to encourage and develop a sense of usefulness and self respect and to prevent, inhibit or correct the development of symptoms of physical and mental regression due to illness or old age. The program shall provide sufficient variety to meet the needs of the various types of patients in the facility. When possible, the patient shall be included in the planning of activities.

(b) All facilities shall meet the following program requirements:

1. Staff. A person designated by the administrator shall be responsible for the program.

2. A program shall be developed for each patient and shall be incorporated in the patient's plan of care and revised according to the patient's needs. Changes in his response to the program shall be recorded in the medical record.

3. There shall be a planned and supervised activity period each day. The schedule shall be current and posted.

4. The program shall be planned for group and individual activities, both within and outside of the facility, weather permitting.

5. The person responsible for activities shall maintain a current list of patients on which precautions are noted regarding a patient's condition that might restrict or modify his participation in the program.

6. A living or recreation room and outdoor recreational space shall be provided for patients and their guests.

7. The facility shall provide supplies and equipment for the activities program.

8. Reading materials, radios, games and TV sets shall be provided for the patients.

9. The program may include religious activities for each patient if it is the desire of the patient to participate. Requests from a patient to be seen by a clergyman shall be acted upon as soon as possible, and an area of private consultation shall be made available.

10. The facility shall allow the patient to leave the facility to visit, shop, attend church, or other social activities provided this does not endanger his health or safety.

(9) Transportation.

(a) If transportation of patients is provided by the facility to community agencies or other activities, the following shall apply:

1. Special provision shall be made for patients who use wheelchairs.

2. An escort or assistant to the driver shall be provided in transporting patients to and from the facility if necessary for the patient's safety.

(b) The facility shall arrange for appropriate transportation in case of medical emergencies.

(10) Residential care services. All facilities shall provide residential care services to all patients including: room accommodations, housekeeping and maintenance services, and dietary services. All facilities shall meet the following requirements relating to the provision of residential care services.

(a) Room accommodations.

1. Each patient shall be provided a standard size bed at least thirty-six (36) inches wide,

equipped with substantial springs, a clean comfortable mattress, a mattress cover, two (2) sheets and a pillow, and such bed covering as is required to keep the patients comfortable. Rubber or other impervious sheets shall be placed over the mattress cover whenever necessary. Beds occupied by patients shall be placed so that no patient may experience discomfort because of proximity to radiators, heat outlets, or by exposure to drafts.

2. The facility shall provide window coverings, bedside tables with reading lamps (if appropriate), comfortable chairs, chest or dressers with mirrors, a night light, and storage space for clothing and other possessions.

3. Patients shall not be housed in unapproved rooms or unapproved detached buildings.

4. Basement rooms shall not be used for sleeping rooms for patients.

5. Patients may have personal items and furniture when it is physically feasible.

6. There shall be a sufficient number of tables provided that can be rolled over a patient's bed or be placed next to a bed to serve patients who cannot eat in the dining room.

7. Each living room or lounge area and recreation area shall have an adequate number of reading lamps, and tables and chairs or settees of sound construction and satisfactory design.

8. Dining room furnishings shall be adequate in number, well constructed and of satisfactory design for the patients.

9. Each patient shall be permitted to have his own radio and television set in his room unless it interferes with or is disturbing to other patients.

(b) Housekeeping and maintenance services.

1. The facility shall maintain a clean and safe facility free of unpleasant odors. Odors shall be eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans and other obvious sources.

2. An adequate supply of clean linen shall be on hand at all times. Soiled clothing and linens shall receive immediate attention and shall not be allowed to accumulate. Clothing or bedding used by one (1) patient shall not be used by another until it has been laundered or dry cleaned.

3. Soiled linen shall be placed in washable or disposable containers, transported in a sanitary manner and stored in separate, well-ventilated areas in a manner to prevent contamination and odors. Equipment or areas used to transport or store soiled linen shall not be used for handling or storing of clean linen.

4. Soiled linen shall be sorted and laundered in the soiled linen room in the laundry area. Handwashing facilities with hot and cold water, soap dispenser and paper towels shall be provided in the laundry area.

5. Clean linen shall be sorted, dried, ironed, folded, transported, stored and distributed in a sanitary manner.

6. Clean linen shall be stored in clean linen closets on each floor, close to the nurses' station.

7. Personal laundry of patients or staff shall be collected, transported, sorted, washed and dried in a sanitary manner, separate from bed linens.

8. Patients' personal clothing shall be laundered by the facility as often as is necessary. Patients' personal clothing shall be laundered by the facility unless the patient or

the patient's family accepts this responsibility. Patients capable of laundering their own personal clothing and wishing to do so may, instead, be provided the facilities to do so. Patient's personal clothing laundered by the facility shall be marked to identify the patient-owner and returned to the correct patient.

9. Maintenance. The premises shall be well kept and in good repair. Requirements shall include:

a. The facility shall insure that the grounds are well kept and the exterior of the building, including the sidewalks, steps, porches, ramps and fences are in good repair.

b. The interior of the building including walls, ceilings, floors, windows, window coverings, doors, plumbing and electrical fixtures shall be in good repair. Windows and doors shall be screened.

c. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

d. A pest control program shall be in operation in the facility. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. The compounds shall be stored under lock.

(c) Dietary services. The facility shall provide or contract for food service to meet the dietary needs of the patients including modified diets or dietary restrictions as prescribed by the attending physician. When a facility contracts for food service with an outside food management company, the company shall provide a qualified dietician on a full-time, part-time or consultant basis to the facility. The qualified dietician shall have continuing liaison with the medical and nursing staff of the facility for recommendations on dietetic policies affecting patient care. The company shall comply with all of the appropriate requirements for dietary services in this regulation.

1. Therapeutic diets. If the designated person responsible for food service is not a qualified dietician or nutritionist, consultation by a qualified dietician or qualified nutritionist shall be provided.

2. Dietary staffing. There shall be sufficient food service personnel employed and their working hours, schedules of hours, on duty and days off shall be posted. If any food service personnel are assigned duties outside the dietary department, the duties shall not interfere with the sanitation, safety or time required for regular dietary assignments.

3. Menu planning.

a. Menus shall be planned, written and rotated to avoid repetition. Nutrition needs shall be met in accordance with the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council adjusted for age, sex and activity, and in accordance with physician's orders.

b. Meals shall correspond with the posted menu. Menus must be planned and posted one (1) week in advance. When changes in the menu are necessary, substitutions shall provide equal nutritive value and the changes shall be recorded on the menu and kept on file for thirty (30) days.

c. The daily menu shall include daily diet for

all modified diets served within the facility based on an approved diet manual. The diet manual shall be a current manual with copies available in the dietary department, that has the approval of the professional staff of the facility. The diet manual shall indicate nutritional deficiencies of any diet. The dietician shall correlate and integrate the dietary aspects of the patient care with the patient and patient's chart through such methods as patient instruction, recording diet histories and participation in rounds and conferences.

4. Food preparation and storage.

a. There shall be at least a three (3) day supply of food to prepare well balanced palatable meals.

b. Food shall be prepared with consideration for any individual dietary requirement. Modified diets, nutrient concentrates and supplements shall be given only on the written orders of a physician.

c. At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the substantial evening meal and breakfast. Between-meal snacks to include an evening snack before bedtime shall be offered to all patients. Adjustments shall be made when medically indicated.

d. Foods shall be prepared by methods that conserve nutritive value, flavor and appearance and shall be attractively served at the proper temperatures, and in a form to meet the individual needs. A file of tested recipes, adjusted to appropriate yield shall be maintained. Food shall be cut, chopped or ground to meet individual needs. If a patient refuses foods served, nutritional substitutions shall be offered.

e. All opened containers or left-over food items shall be covered and dated when refrigerated.

5. Serving of food. When a patient cannot be served in the dining room, trays shall be provided for bedfast patients and shall rest on firm supports such as overbed tables. Sturdy tray stands of proper height shall be provided for patients able to be out of bed.

a. Correct positioning of the patient to receive his tray shall be the responsibility of the direct patient care staff. Patients requiring help in eating shall be assisted.

b. Adaptive self-help devices shall be provided to contribute to the patient's independence in eating.

6. Sanitation. All facilities shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005 (Kentucky's Food Service Establishment Act and Food Service Code).

Section 5. Separability. If any clause, sentence, paragraph, section or part of these regulations shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof, directly involved in the controversy in which the judgment was rendered.

WILLIAM M. GARDNER, Inspector General
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: October 31, 1986

FILED WITH LRC: November 13, 1986 at 3 p.m.

STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

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

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

904 KAR 2:116E. Low income home energy assistance program.

RELATES TO: KRS 194.050
PURSUANT TO: KRS 194.050
EFFECTIVE: October 16, 1986

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	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	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	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	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 items, 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 2, 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 16, 1986 at 3 p.m.

STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

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

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

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

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

PURSUANT TO: KRS 194.050, 199.420, 200.080, 209.030

EFFECTIVE: October 29, 1986

NECESSITY AND FUNCTION: P.L. 97-35, "Block Grants for Social Services - Title XX," authorizes grants to states for social services. KRS 194.050 authorizes the Cabinet for Human Resources to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this manual is to implement a statewide social services program.

Section 1. DSS Policies and Procedures Manual. For the purpose of implementing and enforcing those sections of the Kentucky Revised Statutes relating to social service programs for children and adults that apply to the Department for Social Services, the Secretary of the Cabinet for Human Resources hereby adopts, by reference, the Department for Social Services' Policy and Procedural Manual as revised through October 15 [September 1], 1986, as the current policies and procedures of that department. The manual contains policies and procedures relating to management procedures, adult services, support services, family and children's services, and youth services. The Department for Social Services' Policy and Procedures Manual may be reviewed in any departmental field office located in each of the 120 counties or at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky, during regular working hours.

Section 2. Summary of Amendment. (1) In Chapter I, Management Procedures, Section A.1, General Policies, insert pages 16 and 17 which is new material that identifies various circumstances in which advice and representation from the cabinet's office of counsel will be provided to employees of the department.

(2) In Chapter V, Youth Services, Section B., Community Based, strike the current pages 3 and 4, and substitute in lieu thereof pages 3 and 4 dated 10/86, which revises policy to require children transported to institutions to be accompanied by someone of the same gender.

(3) In Chapter V, Youth Services, Section A.1., Admissions, strike page 5 and substitute in lieu thereof page 5 dated 10/86, which transmits revised technical admissions' policy for residential facilities. [In Chapter I, Management Procedures, Section A.4, Receiving Report - Impressed Cash Vouchers, strike the entire section and substitute in lieu thereof the entire revised Section A.4, dated 7/86, which transmits revised instructions and form DSS-110 necessary for reimbursement of foster care expenditures as they relate to new rates as approved by the General Assembly to become effective July 1, 1986.]

[(2) In Chapter II, Adult Services, Section A, Adult Protective Services, strike pages 1 and 2, and pages 23 through 27, dated 12/82, along with forms 291, 292 and 292A dated 8/82, and substitute in lieu thereof pages 1 and 2, and pages 39 through 57, dated 7/86, along with forms 291 and 292 dated 7/86. These revisions reflect changes in the definitions of "adult" and "exploitation," and incorporates into the manual the forms and procedures necessary for the implementation of the automated Adult Protection Reporting System which is to begin operation on July 1, 1986.]

[(3) In Chapter IV, Family and Children's Services, Section C, Foster Care, strike entire section and insert in lieu thereof entire revised section dated July 1, 1986. The major changes made in this section are as follows:]

[(a) Incorporates foster care rate changes authorized for fiscal year 1987;]

[(b) Minor changes in reporting foster care information;]

[(c) Revises foster care contracts to reflect new per diem rates;]

[(d) Sets up procedures for compliance with Foster Care External Review Boards; and]

[(e) Defines the roles of the Recruitment and Certification staff.]

[(4) In Chapter I, Management Procedures, Section A.5, Fair Hearing Procedures, Civil Rights Discrimination and Service Complaints, strike the entire section dated 10/83 and 5/84, and substitute in lieu thereof Chapter I, Management Procedures, A.5, Fair Hearing Procedures, Civil Rights Discrimination and Service Complaints, dated 7/86, and revised after public hearing. This material revises the method of handling civil rights/service complaints to conform with federal regulations (45 CFR 205.10) and designates that all hearings shall be conducted by the Quality Assurance Branch.]

[(5) In Chapter I, Management Procedures, incorporate Section A.6, Preventative Assistance, dated 7/86, and revised after public hearing, which establishes guidelines for the utilization of emergency funds granted by the 1986 General Assembly.]

[(6) In Chapter I, Management Procedures, incorporate Section A.7, Aging Section, Complaint Hearing, dated 7/86, which sets forth guidelines for the conduct of hearings as they relate to contracts with the Area Agencies on Aging, service provides and applicants to provide service, and service

recipients/applicants.]

ANNA GRACE DAY, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: October 20, 1986

FILED WITH LRC: October 29, 1986 at 1 p.m.

8,001 - 9,000	60%	20%
9,001 - 10,000	80%	40%
10,001 - 11,000	100%	60%
11,001 - 12,000		80%
12,001 - 13,000		80%
13,001 - 14,000		100%

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 Services Division of Aging Services

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

RELATES TO: KRS 205.460

PURSUANT TO: KRS 194.050

EFFECTIVE: October 29, 1986

NECESSITY AND FUNCTION: KRS 205.460 directs the Cabinet for Human Resources to fund directly or through contracting entity or entities, in each district, a program of essential services for the elderly. KRS 205.460 also provides that the cabinet shall adopt a fee schedule based upon the elderly person's ability to pay for essential services. The function of this regulation is to set forth the manner in which fees are to be assessed and collected.

Section 1. Schedule of Fees. The following schedule, revised October 1, 1986, shall be utilized in determining the amount of fee to be charged an eligible individual who has received homecare services. The cost of the service unit as determined by the state or contracting entity in accordance with its contract is to be multiplied by the applicable percentage rate based upon income and size of family as set forth below:

Annual Income	Applicable Percentage by Size of Family	
	1	2
7,000 and below	0%	0%
7,001 - 8,000	20%	0%
8,001 - 9,000	40%	20%
9,001 - 10,000	60%	20%
10,001 - 11,000	80%	40%
11,001 - 12,000	100%	60%
12,001 - 13,000		80%
13,001 - 14,000		80%
14,001 - 15,000		100%
[6,000 and below	0%	0%
6,001 - 7,000	20%	0%
7,001 - 8,000	40%	20%

Section 2. Extraordinary Medical Expense Deduction. In determining the eligible individual's ability to pay a fee in accordance with Section 1 of this regulation, any extraordinary medical expenses may be taken into consideration. For the purpose of this regulation, extraordinary medical expenses means medical or medical-related expenses, including the cost of prescription drugs, which severely affects the income of the individual or the household.

Section 3. Needy Aged. In no event shall a fee be assessed an eligible individual who meets the definition of "needy aged" as set forth in KRS 205.010(6).

Section 4. SSI Recipients. SSI income is not deemed available to other family members. When an applicant is receiving SSI benefits, he/she is to be considered a family of one (1) for the purpose of fee determination.

ANNA GRACE DAY, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: October 20, 1986

FILED WITH LRC: October 29, 1986 at 1 p.m.

STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

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

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

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

RELATES TO: 205.455 to 205.465

PURSUANT TO: KRS 194.050

EFFECTIVE: October 29, 1986

NECESSITY AND FUNCTION: KRS 205.460 directs the Cabinet for Human Resources to provide, within budgetary limitations, in-home services for the aging to include, but not necessarily limited to, homemaker services, chore services, core services, home delivered meal services, and home health aide services. The function of this regulation is to establish policies and procedures for carrying out this mandate.

Section 1. The Cabinet for Human Resources

hereby adopts, by reference, the "Homecare Policy Manual for the Elderly," completed as of October 1, 1986 [September 1, 1985], as the operating policies and procedures to be followed by contractors participating in the Department for Social Services Homecare Program. This manual includes instructions regarding extraordinary medical expenses, assessments and reassessments, assessment and case management services, units of service, service definitions, reporting and format procedures, and Title III program income and other relevant components of the program. The Homecare Policy manual may be reviewed in the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky, or any of the department's field offices located in each of the 120 counties.

Section 2. Summary of Amendments. Strike HC-85-6 Attachment 1 and substitute HC-85-6 Attachment 1 revised October 1, 1986. This change in the Homecare service definition of Home Repair allows pest extermination, cooling and heating devices and smoke detectors, and to increase the allowable expenditure to \$250 per client per year. [HC-83-1 through HC-83-10 and substitute in lieu thereof HC-85-1 through HC-85-10. These policies revise the existing policies related to the operation of the Homecare Program. Strike HC-84-1 through HC-84-3 and substitute in lieu thereof HC-85-11, HC-85-12 and HC-85-13. These policies authorize consideration of extraordinary medical expenses, transmits a form to be used for client assessment, and provides guidelines for transition from one (1) vendor to another. Add HC-85-14 through HC-85-20 which are new policies relating to personnel, quality control and waiting lists. Add HC-86-1 which established homecare quality assurance procedures.]

ANNA GRACE DAY, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: October 20, 1986

FILED WITH LRC: October 29, 1986 at 1 p.m.

STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

CABINET FOR HUMAN RESOURCES Department for Medicaid Services

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

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

EFFECTIVE: October 29, 1986

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

Section 1. Acute Care Hospital and Mental Hospital (Including Psychiatric Facility) Inpatient Services. The state agency will pay for inpatient hospital services provided to eligible recipients of Medical Assistance through the use of rates that are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated hospitals to provide services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

Section 2. Establishment of Payment Rates. The policies, methods, and standards to be used by the cabinet in setting payment rates are specified in the cabinet's "Inpatient Hospital Reimbursement Manual" revised October [July] 1, 1986 (retroactive to January 1, 1986), which is incorporated herein by reference. For any reimbursement issue or area not specified in the manual, the cabinet will apply the Medicare standards and principles described in 20 CFR Sections 405.402 through 405.488 (excluding the Medicare inpatient routine nursing salary differential).

Section 3. Compliance with Federal Medicaid Requirements. The cabinet will comply with the requirements shown in 42 CFR 447.250 through 447.280.

Section 4. General Description of the Payment System. (1) Use of prospective rates. Each hospital will be paid using a prospective payment rate based on allowable Medicaid costs and Medicaid inpatient days. The prospective rate will be all inclusive in that both routine and ancillary cost will be reimbursed through the rate. For universal rate years prior to January 1, 1985 the prospective rate will not be subject to retroactive adjustment except to the extent that an audited cost report alters the basis for the prospective rate and/or the projected inflation index utilized in setting the individual rate is different from actual inflation as determined by the index being used. For universal rate years beginning on or after January 1, 1985, the prospective rate will not be subject to retroactive adjustment except to the extent that facilities with a rate based on unaudited data will have their rate appropriately revised for the rate year when the audited cost report is received from the fiscal intermediary. However, total prospective payments shall not exceed the total customary charges in the prospective year. Overpayments will be recouped by payment from the provider to the cabinet of the amount of the overpayment, or alternatively, by the withholding of the overpayment amount by the cabinet from future payments otherwise due the provider.

(2) Use of a uniform rate year. A uniform rate

year will be set for all facilities, with the rate year established as January 1 through December 31 of each year. The first uniform rate year for mental hospitals shall be July 1, 1985 through June 30, 1986; however, effective January 1, 1986 the mental hospital rate year shall be re-established and shall be January 1 through December 31 of each year thereafter. Changes of rates throughout the rate year as a result of policy changes shall not change the rate year, although the facility rates may change. Hospitals are not required to change their fiscal years.

(3) Trending of cost reports. Allowable Medicaid cost as shown in cost reports on file in the cabinet, both audited and unaudited, will be trended to the beginning of the rate year so as to update Medicaid costs. When trending, capital costs and return on equity capital are excluded. The trending factor to be used will be the Data Resources, Inc. rate of inflation for the period being trended.

(4) Indexing for inflation. After allowable costs have been trended to the beginning of the rate year, an indexing factor is applied so as to project inflationary cost in the uniform rate year. The forecasting index currently in use is prepared by Data Resources, Inc. This policy shall be effective August 3, 1985.

(5) Peer grouping. Acute care hospitals will be peer grouped according to bed size. The peer groupings for the payment system will be: 0-50 beds, 51-100 beds, 101-200 beds, 201-400 beds, and 401 beds and up (except that the designated state teaching hospitals affiliated with or a part of the University of Kentucky and the University of Louisville shall not be included in the array for facilities with 401 beds and up unless such facility's primary characteristics are considered essentially the same as the peer group's, and the facility, although not a university teaching hospital as such, is treated in the same manner with regard to the upper limit to recognize the presence of the major pediatric teaching component existing outside the state university hospitals). No facility in the 201-400 peer group shall have its operational per diem reduced below that amount in effect in the 1982 rate year as a result of the establishment of a peer grouping of 401 beds and up. Mental hospitals will not be peer grouped but will have a separate array of mental hospitals only.

(6) Use of a minimum occupancy factor. A minimum occupancy factor will be applied to [operating and] capital costs attributable to the Medicaid program. A sixty (60) percent occupancy factor will apply to hospitals with 100 or fewer beds. A seventy-five (75) percent occupancy factor will apply to facilities with 101 or more beds. [Operating costs are all costs except professional (physician) and capital costs.] Capital costs are interest and depreciation related to plant and equipment. [The minimum occupancy factor is not applicable with regard to operating costs of mental hospitals. Effective January 1, 1986, the operating cost occupancy factor shall be applied in such a manner as not to reduce otherwise allowable payments for operating costs below eighty (80) percent of the appropriate peer group upper limit.]

(7) Use of a reduced depreciation allowance. The allowable amount for depreciation on building and fixtures (not including major

movable equipment) shall be sixty-five (65) percent of the reported depreciation amount as shown in the hospital's cost reports. The use of a reduced depreciation allowance is not applicable with regard to mental hospitals.

(8) Use of upper limits. For acute care hospitals, an upper limit will be established on all costs (except Medicaid capital cost) at the weighted median per diem cost for hospitals in each peer group, using the most recent Medicaid cost report available as of December 1 of each year. For mental hospitals, an upper limit will be established on all costs (except Medicaid capital cost) at the weighted median per diem cost for hospitals in the array. Upon being set, the arrays and upper limits will not be altered due to revisions or corrections of data; however the arrays and/or upper limits may be changed as a result of changes of agency policy. The upper limit is established at 120 percent for those acute care hospitals serving a disproportionate number of poor patients (defined as twenty (20) percent or more Medicaid clients as compared to the total number of clients served) and the upper limit is established at 105 percent for those mental hospitals serving a disproportionate number of poor patients (defined as thirty-five (35) percent or more Medicaid clients as compared to the total number of clients served). For the designated state teaching hospitals affiliated with or a part of the University of Kentucky and the University of Louisville, and major pediatric teaching hospitals affiliated thereto, their upper limit shall recognize their status as teaching hospitals traditionally serving a disproportionate number of poor patients, and shall be set at 126 percent of the median of the array for all other hospitals of comparable size (401 beds and up).

(9) Operating costs shall not include professional (physician) costs for purposes of establishing the median based upper limits. Professional costs shall be trended separately.

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

(11) Rate appeals. As specified in the Inpatient Hospital Reimbursement Manual, hospitals may request an adjustment to the prospective rate with the submittal of supporting documentation. The established appeal procedure allows a representative of the hospital group to participate as a member of the rate review panel.

Section 5. Payments to Participating Out-of-State Hospitals. Participating out-of-state hospitals, except those where the other state's Medicaid Program pays on the basis of diagnosis related groupings, shall be reimbursed for covered services rendered eligible Kentucky Medicaid recipients at the lower of the rate paid by the other state's Medicaid Program or the upper limit for Kentucky hospitals in a peer group for hospitals of comparable size (or total array, in the instance of mental hospitals), except that payments shall not exceed charges. For those participating out-of-state hospitals where the other state's Medicaid Program pays on the basis of diagnosis related groupings, reimbursement for covered services rendered eligible Kentucky Medicaid

recipients shall be at the lower of eight (80) percent of the hospital's covered charges or the upper limit for Kentucky hospitals in a peer group for hospitals of comparable size. The operating cost upper limits shall be appropriately adjusted to include capital costs. The appropriate amount to include for capital costs shall be the average allowable per diem capital cost for the peer group (not adjusted for occupancy). Professional costs (i.e., physician fees) shall be paid on the basis of

the usual and customary charges of the provider.

Section 6. The amendments shown herein shall be effective with regard to payments for services rendered January 1, 1986, and thereafter.

R. HUGHES WALKER, Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: October 22, 1986

FILED WITH LRC: October 29, 1986 at 1 p.m.

AS AMENDED

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

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

EFFECTIVE: November 11, 1986

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.]

(d) [(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.

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

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

(g) [(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 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 on Air Quality Models," 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 for fertilizer dispensing facilities [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.

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.

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

Where:

$E_{\text{Allowable}}$ = 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 63:021

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

Substance	Y*	Average Time	Significant Levels (M)** lbs. per hr.
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-Chloroaniline) (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, as Sb	2.00	8-hour	1.276E-04
Arsenic and arsenic compounds	RACT		5.103E-05
Barium, soluble compounds, as Ba	2.00	8-hour	1.276E-04

ADMINISTRATIVE REGISTER - 1061

Benzene	RACT		7.654E-03	Propargyl alcohol	8.00	8-hour	5.103E-04
Benzo(a)anthracene	RACT		5.100E-07	Propylene dichloride	1400.00	8-hour	8.930E-02
Benzo(a)pyrene	RACT		5.100E-07	Propylene oxide	200.00	8-hour	1.276E-02
Cadmium	RACT		1.276E-05	Selenium compounds, as Se	0.80	8-hour	5.103E-05
Calcium hydroxide	20.00	8-hour	1.276E-03	Silver, metal	0.40	8-hour	2.551E-05
Carbon disulfide	120.00	8-hour	7.655E-03	Silver, soluble compounds, as Ag	0.04	8-hour	2.551E-06
Carbon tetrachloride	RACT		7.654E-03	Sodium hydroxide	8.00	1-hour	3.583E-04
Chlorine	12.00	8-hour	7.654E-04	Styrene, monomer	860.00	8-hour	5.486E-02
Chlorine dioxide	1.20	8-hour	7.654E-05	Sulfuric acid	4.00	8-hour	2.551E-04
Chloroform	RACT		1.276E-02	Tetrahydrofuran	2360.00	8-hour	1.505E-01
Chlorophenols	RACT		5.100E-07	Tetrasodium pyrophosphate	20.00	8-hour	1.276E-03
Chromium VI	RACT		1.276E-05	Tin, organic compound, as Sn	0.40	8-hour	2.551E-05
Cumene	980.00	8-hour	6.251E-02	Tin, oxide, metal and inorganic compounds except SnH ₄ , as Sn	8.00	8-hour	5.103E-04
Cyanides, as CN	20.00	8-hour	1.276E-03	Titanium dioxide	20.00	8-hour	1.276E-03
Diacetone alcohol	960.00	8-hour	6.124E-02	Toluene	1500.00	8-hour	9.568E-02
Dimethylamine	72.00	8-hour	4.593E-03	Toluene 2,4-Diisocyanate (TDI)	0.16	8-hour	1.021E-05
Dioxin (2,3,7,8-tetrachlorodibenzo-p-dioxin)	RACT		5.100E-07	Trichloroethylene	1080.00	8-hour	6.889E-02
Ethyl benzene	1740.00	8-hour	1.110E-01	Trimethylamine	96.00	8-hour	6.124E-03
Ethylene dibromide	RACT		5.100E-07	Vinyl acetate	120.00	8-hour	7.654E-03
Ethylene dichloride (EDC) [(1,2-Dichloroethane)]	RACT		1.021E-02	Xylene (o-,m-,p-isomers)	1740.00	8-hour	1.110E-01
Ethylene oxide	RACT		5.103E-04	Zinc chloride fume	4.00	8-hour	2.551E-04
Formaldehyde	RACT		3.827E-04	Zinc oxide fume	20.00	8-hour	1.276E-03
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 & 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				
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				

*Threshold [Acceptable] Ambient Limit,

$$I[A]AL, \text{mg/m}^3 = \frac{Y}{T}$$

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)(d) [(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.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: October 15, 1986

FILED WITH LRC: October 15, 1986 at noon

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

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

EFFECTIVE: November 11, 1986

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) [(f)] 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.

(e) [(f)] Indirect heat exchangers using

fossil fuel, except for indirect heat exchangers which burn waste material containing toxic substances.

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

(g) [(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 [(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 on Air Quality Models," 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 for fertilizer dispensing facilities [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.

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.

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

Where:

$E_{\text{Allowable}}$ = 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)** lbs. per hr.
1,1,2,2-Tetra-chloroethane	28.00	8-hour	1.786E-03
1,1,1-Trichloro-ethane (methyl chloroform)	7600.00	8-hour	4.848E-01
1,1,2-Trichloro-ethane	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-Dichloroethyl-ene	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 sulfone	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

ADMINISTRATIVE REGISTER - 1064

2-Acetylamino-fluorene	BACT		5.100E-07	Acrolein	1.00	8-hour	6.379E-05
2-Aminoanthraquinone	BACT		1.021E-04	Acrylamide	1.20	8-hour	7.654E-05
2-Aminopyridine	8.00	8-hour	5.103E-04	Acrylic acid	120.00	8-hour	7.654E-03
2-Amino-5-(5-nitro-2-furyl)-1,3,4-thiadiazole	BACT		5.100E-07	Acrylonitrile	BACT		1.148E-03
2-Butoxyethanol	480.00	8-hour	3.062E-02	Actinomycin D	BACT		5.100E-07
2-Ethoxyethanol	76.00	8-hour	4.848E-03	Adriamycin	BACT		5.100E-07
2-Ethoxyethyl acetate	108.00	8-hour	6.889E-03	Aflatoxins	BACT		5.100E-07
2-Hydroxypropyl acrylate	12.00	8-hour	7.654E-04	Aldrin	10.00	8-hour	6.379E-04
2-Methylaziridine	BACT		5.100E-07	Allyl alcohol	20.00	8-hour	1.276E-03
2-Methyl-1-nitroanthraquinone	BACT		1.021E-04	Allyl chloride	12.00	8-hour	7.654E-04
2-Naphthylamine	BACT		5.100E-07	Allyl glycidyl ether	88.00	8-hour	5.613E-03
2-Nitropropane	BACT		1.613E-02	Allyl propyl disulfide	48.00	8-hour	3.062E-03
2-N-Diethylaminoethanol	56.00	8-hour	3.572E-03	alpha-Chloroacetophenone	1.20	8-hour	7.654E-05
2-(2-Formylhydrazine)-4-(5-nitro-2-furyl)thiazole	BACT		5.100E-07	Aluminum Metal and oxide	40.00	8-hour	2.551E-03
3,3'-Dichlorobenzidine	BACT		5.100E-07	Alkyls (NOC)	8.00	8-hour	5.103E-04
3,3'-Dichloro-4,4'-diaminodiphenyl ether	BACT		5.100E-07	Pyro powders	20.00	8-hour	1.276E-03
3,3-Dimethoxybenzidine	BACT		5.100E-07	Soluble salts	8.00	8-hour	5.103E-04
3,3'-Dimethylbenzidine	BACT		5.100E-07	[Welding fumes	20.00	8-hour	1.276E-03]
4,4'-Diaminodiphenyl ether	BACT		5.100E-07	Amitrole	BACT		5.103E-05
4,4'-Methylene bis(2-chloroaniline) (MOCA)	BACT		5.613E-05	Ammonia	72.00	8-hour	4.593E-03
4,4'-Methylene bis(2-methylaniline)	BACT		5.103E-04	Ammonium Chloride	40.00	8-hour	2.551E-03
4,4'-Methylene bis(N,N-dimethyl)benzenamine	BACT		5.100E-07	Ammonium sulfamate	40.00	8-hour	2.551E-03
4,4'-Methylene dianiline	3.20	8-hour	2.041E-04	Aniline	40.00	8-hour	2.551E-03
4,4'-Thiobis (6-tert-butyl-m-cresol)	40.00	8-hour	2.551E-03	Antimony Trioxide Production	2.00	8-hour	1.276E-04
4,4'-Thiodianiline	BACT		5.100E-07	Antimony and compounds, as Sb	2.00	8-hour	1.276E-04
4,4-Methylene dianiline	3.20	8-hour	2.041E-04	ANTU	1.20	8-hour	7.654E-05
4-Aminobiphenyl	BACT		5.100E-07	Aramite	BACT		5.100E-07
4-Chloro-orthophenylenediamine	BACT		7.654E-04	Arsenic and arsenic compounds	BACT		5.103E-05
4-Dimethylaminoazobenzene	BACT		5.100E-07	Arsenic Trioxide Production	BACT		5.103E-05
4-Methoxyphenol	20.00	8-hour	1.276E-03	Arsine	0.80	8-hour	5.103E-05
5-Nitroacenaphthene	BACT		5.100E-07	Atrazine	20.00	8-hour	1.276E-03
5-Nitro-o-anisidine	BACT		5.100E-07	Auramine	BACT		5.100E-07
5-(Morpholinomethyl)-3[(5-nitrofurfurylidene)amino]-2-oxazolidinone	BACT		5.100E-07	Azaserine	BACT		5.100E-07
Acetaldehyde	720.00	8-hour	4.593E-02	Azathioprine	BACT		5.100E-07
Acetic acid	100.00	8-hour	6.379E-03	Azinphos-methyl	0.80	8-hour	5.103E-05
Acetic anhydride	80.00	1-hour	3.583E-03	a-Methyl styrene	960.00	8-hour	6.124E-02
Acetone	7120.00	8-hour	4.542E-01	Barium, soluble compounds, as Ba	2.00	8-hour	1.276E-04
Acetonitrile	BACT		1.786E-02	Benomyl	40.00	8-hour	2.551E-03
Acetylene tetrabromide	60.00	8-hour	3.827E-03	Benal chloride	1000.00	8-hour	6.379E-02
Acetylsalicylic acid	20.00	8-hour	1.276E-03	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

ADMINISTRATIVE REGISTER - 1065

beta-Chloroprene	140.00	8-hour	8.930E-03	Chlorodiphenyl	2.00	8-hour	1.276E-04
Biphenyl	6.00	8-hour	3.827E-04	Chloroform	BACT		1.276E-02
bis Chloromethyl ether	0.02	8-hour	1.276E-06	Chloromethyl methyl ether (CMME)	BACT		5.100E-07
Bischloroethyl nitrosourea (BCNU)	BACT		5.100E-07	Chlorophenols	BACT		5.100E-07
Bismuth telluride	40.00	8-hour	2.551E-03	Chloropicrin	2.80	8-hour	1.786E-04
Bis(2-chloroethyl) ether	120.00	8-hour	7.654E-03	Chloroprene	140.00	8-hour	8.930E-03
Bis(chloromethyl) ether (BCME)	BACT		1.276E-06	Chlorpyrifos	0.80	8-hour	5.103E-05
Borates, tetra, sodium salts, Anhydrous	4.00	8-hour	2.551E-04	Chromium Metal	2.00	8-hour	1.276E-04
Borates, tetra, sodium salts, Decahydrate	20.00	8-hour	1.276E-03	Chromium VI compounds, certain water insoluble, as Cr	BACT		1.276E-05
Borates, tetra, sodium salts, Pentahydrate	4.00	8-hour	2.551E-04	Chromium (III) compounds as Cr	2.00	8-hour	1.276E-04
Boron oxide	40.00	8-hour	2.551E-03	Chromium (II) compounds as Cr	2.00	8-hour	1.276E-04
Boron tribromide	40.00	1-hour	1.792E-03	Chromly chloride	0.60	8-hour	3.827E-05
Boron trifluoride	12.00	1-hour	5.375E-04	Chrysene	0.80	8-hour	5.103E-05
Bromacil	40.00	8-hour	2.551E-03	Cisplatin	BACT		5.100E-07
Bromine pentafluoride	2.80	8-hour	1.786E-04	Citrus Red No. 2	BACT		5.100E-07
Bromine	2.80	8-hour	1.786E-04	Clopidol	40.00	8-hour	2.551E-03
Bromoform	20.00	8-hour	1.276E-03	Coal Tar Pitch	0.80	8-hour	5.103E-05
Butyl acrylate	220.00	8-hour	1.403E-02	Volatiles			
Butyl mercaptan	6.00	8-hour	3.827E-04	Cobalt carbonyl as Co	0.40	8-hour	2.551E-05
Butylamine	60.00	1-hour	2.688E-03	Cobalt hydrocarbonyl as Co	0.40	8-hour	2.551E-05
b-Butyrolactone	BACT		5.100E-07	Cobalt	0.40	8-hour	2.551E-05
b-Propiolactone	BACT		3.827E-04	Cobalt-chromium alloy	0.20	8-hour [0.05]	1.276E-05
Cadmium	BACT		1.276E-05	Coke oven emissions	BACT		5.103E-05
Cadmium oxide	BACT		8.959E-06	Copper	0.80	8-hour	5.103E-05
Cadmium sulfate	BACT		1.276E-05	Dusts & mists, as Cu	4.00	8-hour	2.551E-04
Cadmium sulfide	BACT		1.276E-05	Cresol all isomers	88.00	8-hour	5.613E-03
Calcium chromate	0.20	8-hour	1.276E-05	Crotonaldehyde	24.00	8-hour	1.531E-03
Calcium cyanamide	2.00	8-hour	1.276E-04	Cruformate	20.00	8-hour	1.276E-03
Calcium hydroxide	20.00	8-hour	1.276E-03	Cumene	980.00	8-hour	6.251E-02
Calcium oxide	8.00	8-hour	5.103E-04	Cupferron	BACT		5.100E-07
Camphor, synthetic	48.00	8-hour	3.062E-03	Cyanamide	8.00	8-hour	5.103E-04
Caprolactam dust	4.00	8-hour	2.551E-04	Cyanides, as CN	20.00	8-hour	1.276E-03
Caprolactam vapor	80.00	8-hour	5.103E-03	Cyanogen chloride	2.40	1-hour	1.075E-04
Captafol	0.40	8-hour	2.551E-05	Cyanogen	80.00	8-hour	5.103E-03
Captan	20.00	8-hour	1.276E-03	Cycasin	BACT		5.100E-07
Carbaryl	20.00	8-hour	1.276E-03	Cyclohexane	4200.00	8-hour	2.679E-01
Carbofuran	0.40	8-hour	2.551E-05	Cyclohexanol	800.00	8-hour	5.103E-02
Carbon black	14.00	8-hour	8.930E-04	Cyclohexanone	400.00	8-hour	2.551E-02
Carbon disulfide	120.00	8-hour	7.654E-03	Cyclohexene	4060.00	8-hour	2.590E-01
Carbon tetrabromide	5.60	8-hour	3.572E-04	Cyclohexylamine	160.00	8-hour	1.021E-02
Carbon tetrachloride	BACT		7.654E-03	Cyclonite	6.00	8-hour	3.827E-04
Carbonyl fluoride	20.00	8-hour	1.276E-03	Cyclopentadiene	800.00	8-hour	5.103E-02
Catechol	80.00	8-hour	5.103E-03	Cyclopentane	6880.00	8-hour	4.389E-01
Cesium hydroxide	8.00	8-hour	5.103E-04	Cyclophosphamide	BACT		5.100E-07
Chlorambucil	BACT		5.100E-07	Cyhexatin	20.00	8-hour	1.276E-03
Chloramphenicol	BACT		5.100E-07	Decabazine	BACT		5.100E-07
Chlordane	2.00	8-hour	1.276E-04	Daunomycin	BACT		5.100E-07
Chlordecone (Kepone)	BACT		5.100E-07	DDT	BACT		2.551E-04
Chlorinated camphene	2.00	8-hour	1.276E-04	Decaborane	1.20	8-hour	7.654E-05
Chlorinated diphenyl oxide	2.00	8-hour	1.276E-04	Demeton	0.40	8-hour	2.551E-05
Chlorine	12.00	8-hour	7.654E-04	Diacetone alcohol	960.00	8-hour	6.124E-02
Chlorine dioxide	1.20	8-hour	7.654E-05	2,4-Diaminotoluene	BACT		5.100E-07
Chlorine trifluoride	1.60	1-hour	7.167E-05	Diazinon	0.40	8-hour	2.551E-05
Chloroacetaldehyde	12.00	1-hour	5.375E-04	Diazomethane	1.60	8-hour	1.021E-04
Chloroacetyl chloride	0.80	8-hour	5.103E-05	7H-Dibenzo(c,g) carbazole	BACT		5.100E-07
Chlorobenzene	1400.00	8-hour	8.930E-02	Dibenzo(a,h)pyrene	BACT		5.100E-07
Chlorobromomethane	4200.00	8-hour	2.679E-01	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

ADMINISTRATIVE REGISTER - 1066

Diborane	0.40	8-hour	2.551E-05	Endosulfan	0.40	8-hour	2.551E-05
1,2-Dibromoethane (EDB)	BACT		5.100E-07	Endrin	0.40	8-hour	2.551E-05
Dibutyl phosphate	20.00	8-hour	1.276E-03	Epichlorohydrin	BACT		2.551E-03
Dibutyl phthalate	20.00	8-hour	1.276E-03	EPN	2.00	8-hour	1.276E-04
Dichloroacetylene	1.60	1-hour	7.167E-05	Ethanolamine	32.00	8-hour	2.041E-03
Dichlorobenzene - ortho	1200.00	1-hour	5.375E-02	Ethinylestradiol	BACT		5.100E-07
Dichlorobenzene - para	1800.00	8-hour	1.148E-01	Ethion	1.60	8-hour	1.021E-04
Dichloroethyl ether	120.00	8-hour	7.654E-03	Ethyl acetate	5600.00	8-hour	3.572E-01
Dichlorofluoromethane	160.00	8-hour	1.021E-02	Ethyl acrylate	80.00	8-hour	5.103E-03
[Dichloromethane (Methylene chloride)]	1400.00	8-hour	8.930E-02	Ethyl amyl ketone	520.00	8-hour	3.317E-02
Dichloropropene	20.00	8-hour	1.276E-03	Ethyl benzene	1740.00	8-hour	1.110E-01
Dichlorvos	4.00	8-hour	2.551E-04	Ethyl bromide	3560.00	8-hour	2.271E-01
Dicrotophos	1.00	8-hour	6.379E-05	Ethyl butyl ketone	920.00	8-hour	5.868E-02
Dicyclopentadiene	120.00	8-hour	7.654E-03	Ethyl chloride	10400.00	8-hour	6.634E-01
Dicyclopentadienyl iron	40.00	8-hour	2.551E-03	Ethyl ether	4800.00	8-hour	3.062E-01
Dieldrin	1.00	8-hour	6.379E-05	Ethyl formate	1200.00	8-hour	7.654E-02
Dienoestrol	BACT		5.100E-07	Ethyl mercaptan	4.00	8-hour	2.551E-04
Diepoxybutane	BACT		5.100E-07	Ethyl methanesulphonate	BACT		5.100E-07
Diethanolamine	60.00	8-hour	3.827E-03	Ethyl silicate	340.00	8-hour	2.169E-02
Diethyl ketone	2820.00	8-hour	1.799E-01	Ethylamine	72.00	8-hour	4.593E-03
Diethyl sulfate	BACT		5.100E-07	Ethylene chlorohydrin	12.00	1-hour	5.375E-04
Diethylamine	120.00	8-hour	7.654E-03	Ethylene dibromide (EDB)	BACT		5.100E-07
Diethylamino-ethanol	200.00	8-hour	1.276E-02	<u>Ethylene dichloride (EDC)</u>	<u>BACT</u>		<u>1.021E-02</u>
Diethylene triamine	16.00	8-hour	1.021E-03	Ethylene glycol dinitrate	1.20	8-hour	7.654E-05
Diethylstilbestrol (DES)	BACT		5.100E-07	Ethylene glycol vapor	500.00	1-hour	2.240E-02
Difluorodibromomethane	3440.00	8-hour	2.194E-01	Ethylene oxide	BACT		5.103E-04
Diglycidyl ether	2.00	8-hour	1.276E-04	Ethylene thiourea	BACT		5.100E-07
Dihydrosafrole	BACT		5.100E-07	Ethylenediamine	100.00	8-hour	6.379E-03
Diisobutyl ketone	1000.00	8-hour	6.379E-02	Ethylenimine	4.00	8-hour	2.551E-04
Diisopropylamine	80.00	8-hour	5.103E-03	Ethylidene norbornene	100.00	1-hour	4.479E-03
Dimethyl acetamide	140.00	8-hour	8.930E-03	Fenamiphos	0.40	8-hour	2.551E-05
Dimethyl sulfate	BACT		1.276E-04	Fensulfothion	0.40	8-hour	2.551E-05
Dimethylamine	72.00	8-hour	4.593E-03	Fenthion	0.80	8-hour	5.103E-05
Dimethylaniline	100.00	8-hour	6.379E-03	Ferbam	40.00	8-hour	2.551E-03
Dimethylcarbamoyl chloride	BACT		5.100E-07	Ferrovanadium dust	4.00	8-hour	2.551E-04
Dimethylformamide	120.00	8-hour	7.654E-03	Fonofos	0.40	8-hour	2.551E-05
Dimethylphthalate	20.00	8-hour	1.276E-03	Formaldehyde	BACT		3.827E-04
Dinitolmide	20.00	8-hour	1.276E-03	Formamide	120.00	8-hour	7.654E-03
Dinitrobenzene	4.00	8-hour	2.551E-04	Formic acid	36.00	8-hour	2.296E-03
Dinitrotoluene	6.00	8-hour	3.827E-04	Furfural	32.00	8-hour	2.041E-03
Dinitro-o-cresol	0.80	8-hour	5.103E-05	Furfuryl alcohol	160.00	8-hour	1.021E-02
Dioxane	360.00	8-hour	2.296E-02	Germanium tetrahydride	2.40	8-hour	1.531E-04
Dioxathion	0.80	8-hour	5.103E-05	Glutaraldehyde	2.80	1-hour	1.254E-04
Dioxin (2,3,7,8-tetrachlorodibenzo-p-dioxin)	BACT		5.100E-07	Glycidaldehyde	BACT		5.100E-07
Diphenylamine	40.00	8-hour	2.551E-03	Glycidol	300.00	8-hour	1.914E-02
Diphenylhydrazine	0.40	8-hour	2.551E-05	Hafnium	2.00	8-hour	1.276E-04
Dipropyl ketone	940.00	8-hour	5.996E-02	Hematite underground mining	BACT		1.276E-03
Dipropylene glycol methyl ether	2400.00	8-hour	1.531E-01	Heptachlor	2.00	8-hour	1.276E-04
Diquat	2.00	8-hour	1.276E-04	Hexachlorobenzene	BACT		7.654E-03
Direct Black 38	BACT		5.103E-05	Hexachlorobutadiene	0.96	8-hour	6.124E-05
Direct Blue 6	BACT		5.103E-05	Hexachlorocyclohexane	2.00	8-hour	1.276E-04
Direct Brown 95	BACT		5.103E-05	Hexachlorocyclopentadiene	0.40	8-hour	2.551E-05
Di-sec, octyl phthalate	20.00	8-hour	1.276E-03	Hexachlorodibenzodioxin	BACT		5.100E-07
Disulfiram	8.00	8-hour	5.103E-04	Hexachloroethane	BACT		2.551E-02
Disulfoton	0.40	8-hour	2.551E-05	Hexachloronaphthalene	0.80	8-hour	5.103E-05
Diuron	40.00	8-hour	2.551E-03	Hexafluoroacetone	2.80	8-hour	1.786E-04
Divinyl benzene	200.00	8-hour	1.276E-02	Hexamethylphosphoramide	BACT		5.100E-07
Di(2-ethylhexyl)phthalate	BACT		1.276E-03	Hexylene glycol	500.00	1-hour	2.240E-02
				Hydrazine	BACT		2.551E-05
				Hydrazine sulfate	BACT		2.551E-05

ADMINISTRATIVE REGISTER - 1067

Hydrazobenzene (1,2-diphenylhy- drazine)	BACT		2.551E-05	Mercury, alkyl compounds, as Hg	0.04	8-hour	2.551E-06
Hydrogen bromide	40.00	8-hour	2.551E-03	Mercury, as Hg, All forms except alkyl vapor	0.20	8-hour	1.276E-05
Hydrogen chloride	28.00	1-hour	1.254E-03	Mercury, as Hg, Aryl and inor- ganic compounds	0.40	8-hour	2.551E-05
Hydrogen cyanide	40.00	1-hour	1.792E-03	Merphalan	BACT		5.100E-07
Hydrogen peroxide	6.00	8-hour	3.827E-04	Mesityl oxide	240.00	8-hour	1.531E-02
Hydrogen selenide as Se	0.80	8-hour	5.103E-05	Mestranol	BACT		5.100E-07
Hydrogenated ter- phenyls	20.00	8-hour	1.276E-03	Methacrylic acid	280.00	8-hour	1.786E-02
Hydroquinone	8.00	8-hour	5.103E-04	Methomyl	10.00	8-hour	6.379E-04
Indene	180.00	8-hour	1.148E-02	Methoxychlor	40.00	8-hour	2.551E-03
Indeno(1,2,3-cd) pyrene	BACT		5.100E-07	2-Methoxyethanol	64.00	8-hour	4.082E-03
Indium and com- pounds, as In	0.40	8-hour	2.551E-05	2-Methoxyethyl acetate	96.00	8-hour	6.124E-03
Iodine	4.00	1-hour	1.792E-04	4-Methoxyphenol	20.00	8-hour	1.276E-03
Iodoform	40.00	8-hour	2.551E-03	Methyl 2-cyano- acrylate	32.00	8-hour	2.041E-03
Iron dextran complex	BACT		2.551E-04	Methyl acetate	2440.00	8-hour	1.556E-01
Iron pentacar- bonyl, as Fe	3.20	8-hour	2.041E-04	Methyl acetylene	6600.00	8-hour	4.210E-01
Iron salts, soluble, as Fe	4.00	8-hour	2.551E-04	Methyl acetylene- propadiene mixture	7200.00	8-hour	4.593E-01
Isoamyl acetate	2100.00	8-hour	1.340E-01	Methyl acrylate	140.00	8-hour	8.930E-03
Isoamyl alcohol	1440.00	8-hour	9.185E-02	Methyl alcohol	1040.00	8-hour	6.634E-02
Isobutyl acetate	2800.00	8-hour	1.786E-01	Methyl bromide	80.00	8-hour	5.103E-03
Isobutyl alcohol	600.00	8-hour	3.827E-02	Methyl chloride	420.00	8-hour	2.679E-02
Isooctyl alcohol	1080.00	8-hour	6.889E-02	Methyl chloroform	7600.00	8-hour	4.848E-01
Isophorone diiso- cyanate	0.36	8-hour	2.296E-05	Methyl demeton	2.00	8-hour	1.276E-04
Isophorone	100.00	1-hour	4.479E-03	Methyl ether	4800.00	8-hour	3.062E-01
Isopropoxyethanol	420.00	8-hour	2.679E-02	Methyl ethyl ke- tone	2360.00	8-hour	1.505E-01
Isopropyl acetate	3800.00	8-hour	2.424E-01	Methyl ethyl ke- tone peroxide	6.00	1-hour	2.688E-04
Isopropyl alcohol manufacturing (strong acid process)	BACT		5.100E-07	Methyl formate	1000.00	8-hour	6.379E-02
Isopropyl ether	4200.00	8-hour	2.679E-01	Methyl hydrazine	1.40	8-hour	6.271E-05
Isopropyl glycidyl ether	960.00	8-hour	6.124E-02	Methyl iodide	BACT		2.551E-03
Isopropylamine	48.00	8-hour	3.062E-03	Methyl isoamyl ke- tone	960.00	8-hour	6.124E-02
Isosafrole	BACT		5.100E-07	Methyl isobutyl carbinol	400.00	8-hour	2.551E-02
Ketene	3.60	8-hour	2.296E-04	Methyl isobutyl ketone	820.00	8-hour	5.231E-02
Lasiocarpine	BACT		5.100E-07	Methyl isocyanate	0.20	8-hour	1.276E-05
Lead, inorg. dusts and fumes, as Pb	0.60	8-hour	3.827E-05	Methyl isopropyl ketone	2820.00	8-hour	1.799E-01
Lead acetate	BACT		3.827E-05	Methyl mercaptan	4.00	8-hour	2.551E-04
Lead arsenate, as Pb3(AsO4)2	0.60	8-hour	3.827E-05	Methyl methacry- late	1640.00	8-hour	1.046E-01
Lead chromate, as Cr	BACT		1.276E-05	Methyl methanesul- phonate	BACT		5.100E-07
Lead chromate oxide	BACT		1.276E-05	Methyl n-amyl ketone	80.00	8-hour	5.103E-03
Lead phosphate	BACT		3.827E-05	Methyl n-butyl ketone	80.00	8-hour	5.103E-03
Lindane (all isomers)	BACT		1.276E-04	Methyl parathion	0.80	8-hour	5.103E-05
Lithium hydride	0.10	8-hour	6.379E-06	Methyl propyl ketone	2800.00	8-hour	1.786E-01
Magenta	BACT		5.100E-07	Methyl silicate	24.00	8-hour	1.531E-03
Magnesium oxide fume	40.00	8-hour	2.551E-03	Methylacryloni- trile	12.00	8-hour	7.654E-04
Malathion	40.00	8-hour	2.551E-03	Methylal	12400.00	8-hour	7.910E-01
Maleic anhydride	4.00	8-hour	2.551E-04	Methylamine	48.00	8-hour	3.062E-03
Manganese cyclo- pentadienyl tri- carbonyl, as Mn	0.40	8-hour	2.551E-05	Methylazoxymeth- anol & its acetate	BACT		5.100E-07
Manganese tetrox- ide	4.00	8-hour	2.551E-04	Methylcyclohexane	6400.00	8-hour	4.082E-01
Manganese, Dust and compounds as Mn	20.00	1-hour	8.959E-04	Methylcyclohexanol	940.00	8-hour	5.996E-02
Manganese, Fume, as Mn	4.00	8-hour	2.551E-04	Methylcyclopenta- dienyl manganese tricarbonyl as Mn	0.80	8-hour	5.103E-05
Melphalan	BACT		5.100E-07	Methylene bis (4- cyclohexylisocy- anate)	0.44	1-hour	1.971E-05

ADMINISTRATIVE REGISTER - 1068

Methylene bisphenyl isocyanate (MDI)	0.80	1-hour	3.583E-05	n-Butyl acetate	2840.00	8-hour	1.812E-01
				n-Butyl alcohol	600.00	1-hour	2.688E-02
Methylene chloride (dichloromethane)	1400.00	8-hour	8.930E-02	n-Butyl glycidyl ether	540.00	8-hour	3.444E-02
Methylthiouracil	BACT		5.100E-07	n-Butyl lactate	100.00	8-hour	6.379E-03
Metribuzin	20.00	8-hour	1.276E-03	N-Ethylmorpholine	92.00	8-hour	5.868E-03
Metronidazole	BACT		5.100E-07	n-Hexane	720.00	8-hour	4.593E-02
Mevinphos	0.40	8-hour	2.551E-05	N-Isopropylaniline	40.00	8-hour	2.551E-03
Michler's ketone (Tetramethyl-diaminobenzophenone)	BACT		5.100E-07	N-Methyl aniline	8.00	8-hour	5.103E-04
Mirex	BACT		5.100E-07	N-Methyl-N'-nitro-n-nitrosoguanidine	BACT		5.100E-07
Mitomycin C	BACT		5.100E-07	N-Nitrosodiethanolamine	BACT		5.100E-07
Molybdenum, as Mo, Insoluble compounds	40.00	8-hour	2.551E-03	N-Nitrosodiethylamine	BACT		5.100E-07
Molybdenum, as Mo, soluble compounds	20.00	8-hour	1.276E-03	N-Nitrosodi-n-butylamine	BACT		5.100E-07
Monocrotaline	BACT		5.100E-07	N-Nitrosodi-n-propylamine	BACT		5.100E-07
Monocrotophos	1.00	8-hour	6.379E-05	N-Nitrosomethyl-ethylamine	BACT		5.100E-07
Morpholine	280.00	8-hour	1.786E-02	N-Nitrosomethyl-vinylamine	BACT		5.100E-07
[Mustard gas (2, 2-Dichlorodimethyl sulfide)]	BACT		5.100E-07	N-Nitrosomorpholine	BACT		1.786E-02
m-Phthalodinitrile	20.00	8-hour	1.276E-03	N-Nitrosornicotine (nicotine)	BACT		1.276E-04
m-Zylene alpha, alpha'-diamine	0.40	1-hour	1.792E-05	N-Nitrosopiperidine	BACT		5.100E-07
Nafenopin (perfluorosulfonic acid)	BACT		5.100E-07	N-Nitrosopyrrolidine	BACT		5.100E-07
Naled	12.00	8-hour	7.654E-04	N-Nitrososarcosine	BACT		5.100E-07
Naphthalene	200.00	8-hour	1.276E-02	N-Nitroso-n-ethyl-urea	BACT		5.100E-07
Nickel carbonate	BACT		2.551E-05	N-Nitroso-n-methylurea	BACT		5.100E-07
Nickel carbonyl	BACT		8.930E-05	N-Nitroso-n-methylurethane	BACT		5.100E-07
Nickel oxide	BACT		2.551E-05	N-Nitroso-n-propylamine	BACT		5.100E-07
Nickel subsulfide	BACT		2.551E-04	N-Phenyl-2-naphthylamine	BACT		5.100E-07
Nickel - metal	BACT		2.551E-04	N-Phenyl-beta-naphthylamine	BACT		5.100E-07
Nickel - soluble compounds, as Ni	BACT		2.551E-05	n-Propyl acetate	3360.00	8-hour	2.143E-01
Nickelocene (dicyclopentadienyl-nickel)	BACT		2.551E-05	n-Propyl nitrate	420.00	8-hour	2.679E-02
Niridazole	BACT		5.100E-07	N-[4-(5-Nitro-2-furyl)-2-thiazolyl] acetamide	BACT		5.100E-07
Nitrapyrin	40.00	8-hour	2.551E-03	Octachloronaphthalene	0.40	8-hour	2.551E-05
Nitric acid	20.00	8-hour	1.276E-03	Oestradiol-17 beta	BACT		5.100E-07
Nitriloacetic acid	BACT		5.100E-07	Oestrone	BACT		5.100E-07
Nitrilotriacetic acid	BACT		5.100E-07	Oil orange SS (phenylazo-2-naphthol)	BACT		5.100E-07
Nitrobenzene	20.00	8-hour	1.276E-03	Osmium tetroxide, as Os	0.01	8-hour	5.103E-07
Nitroethane	1240.00	8-hour	7.910E-02	Oxalic acid	4.00	8-hour	2.551E-04
Nitrofen (2,4-dichlorophenyl-p-nitrophenyl-ether)	BACT		5.100E-07	Oxymetholone	BACT		5.100E-07
Nitrogen mustard N-oxide	BACT		5.100E-07	o-Aminoazotoluene	BACT		5.100E-07
Nitrogen mustard (Mechlorethamine hydrochloride)	BACT		5.100E-07	o-Anisidine	BACT		1.276E-04
Nitrogen trifluoride	120.00	8-hour	7.654E-03	o-Anisidine Hydrochloride	BACT		1.276E-04
Nitroglycerin (NG)	2.00	8-hour	1.276E-04	o-Chlorobenzylidene malononitrile	1.60	1-hour	7.167E-05
Nitromethane	1000.00	8-hour	6.379E-02	o-Chlorostyrene	1140.00	8-hour	7.272E-02
Nitrotoluene	44.00	8-hour	2.807E-03	o-Chlorotoluene	1000.00	8-hour	6.379E-02
Nonane	4200.00	8-hour	2.679E-01	o-Methylcyclohexanone	920.00	8-hour	5.868E-02
Norethisterone	BACT		5.100E-07	o-sec-Butylphenol	120.00	8-hour	7.654E-03
N,N-bis(2-chloroethyl)-2-naphthylamine (Chloraphazine)	BACT		5.100E-07	o-Tolidine	BACT		5.100E-07
N,N-Diacetylbenzidine	BACT		5.100E-07	o-Toluidine	BACT		2.296E-03
n-Amyl acetate	2120.00	8-hour	1.352E-01				

ADMINISTRATIVE REGISTER - 1069

o-Toluidine	BACT		2.296E-03	Propylene dichloride	1400.00	8-hour	8.930E-02
hydrochloride				Propylene glycol dinitrate	1.20	8-hour	7.654E-05
Panfuran S (Dihydroxymethylfuratrizine)	BACT		5.100E-07	Propylene glycol monomethyl ether	1440.00	8-hour	9.185E-02
Paraffin wax fume	8.00	8-hour	5.103E-04	Propylene imine	20.00	8-hour	1.276E-03
Paraquat	0.40	8-hour	2.551E-05	Propylene oxide	200.00	8-hour	1.276E-02
Parathion	0.40	8-hour	2.551E-05	Propylthiouracil	BACT		5.100E-07
Pentaborane	0.04	8-hour	2.551E-06	Pyrethrum	20.00	8-hour	1.276E-03
Pentachloronaphthalene	2.00	8-hour	1.276E-04	Pyridine	60.00	8-hour	3.827E-03
Pentachlorophenol	2.00	8-hour	1.276E-04	p-Cresidine	BACT		5.100E-07
Perchloroethylene	1340.00	8-hour	8.548E-02	p-Nitroaniline	12.00	8-hour	7.654E-04
Perchloromethyl mercaptan	3.20	8-hour	2.041E-04	p-Nitrochlorobenzene	12.00	8-hour	7.654E-04
Perchloryl fluoride	56.00	8-hour	3.572E-03	p-Nitrosodiphenylamine	BACT		5.100E-07
Phenacetin	BACT		5.100E-07	p-Phenylene diamine	0.40	8-hour	2.551E-05
Phenazopyridine	BACT		5.100E-07	p-tert-Butyltoluene	240.00	8-hour	1.531E-02
Phenazopyridine hydrochloride	BACT		5.100E-07	p-Toluidine	36.00	8-hour	2.296E-03
Phenol	76.00	8-hour	4.848E-03	Quinone	1.60	8-hour	1.021E-04
Phenothiazine	20.00	8-hour	1.276E-03	Reserpine	BACT		5.100E-07
Phenoxyacetic acid Herbicides	BACT		5.100E-07	Resorcinol	180.00	8-hour	1.148E-02
Phenoxybenzamine and its hydrochloride	BACT		5.100E-07	Rhodium metal and insoluble compounds, as Rh	4.00	8-hour	2.551E-04
Phenyl ether	28.00	8-hour	1.786E-03	Rhodium, soluble compounds, as Rh	0.04	8-hour	2.551E-06
Phenyl glycidyl ether	24.00	8-hour	1.531E-03	Ronnel	40.00	8-hour	2.551E-03
Phenyl mercaptan	8.00	8-hour	5.103E-04	Rosin core solder pyrolysis products, as formaldehyde	0.40	8-hour	2.551E-05
Phenylhydrazine	80.00	8-hour	5.103E-03	Rotenone	20.00	8-hour	1.276E-03
Phenylphosphine	1.00	1-hour	4.479E-05	Saccharin	BACT		5.100E-07
Phenytol and sodium salt of phenytol	BACT		5.100E-07	Safrole	BACT		5.100E-07
Phorate	0.20	8-hour	1.276E-05	sec-Amyl acetate	2660.00	8-hour	1.697E-01
Phosgene	1.60	8-hour	1.021E-04	sec-Butyl acetate	3800.00	8-hour	2.424E-01
Phosphine	1.60	8-hour	1.021E-04	sec-Butyl alcohol	1220.00	8-hour	7.782E-02
Phosphoric acid	4.00	8-hour	2.551E-04	sec-Hexyl acetate	1200.00	8-hour	7.654E-02
Phosphorus oxychloride	2.40	8-hour	1.531E-04	Selenium compounds, as Se	0.80	8-hour	5.103E-05
Phosphorus pentachloride	4.00	8-hour	2.551E-04	Selenium hexafluoride	0.80	8-hour	5.103E-05
Phosphorus pentasulfide	4.00	8-hour	2.551E-04	Selenium sulfide	BACT		5.103E-05
Phosphorus trichloride	6.00	8-hour	3.827E-04	Sesone	40.00	8-hour	2.551E-03
Phosphorus	0.40	8-hour	2.551E-05	Silicon tetrahydride	28.00	8-hour	1.786E-03
Phthalic anhydride	24.00	8-hour	1.531E-03	Silver Metal	0.40	8-hour	2.551E-05
Picloram	40.00	8-hour	2.551E-03	Silver soluble compounds, as Ag	0.04	8-hour	2.551E-06
Picric acid	0.40	8-hour	2.551E-05	Sintered calcium chromate	BACT		1.276E-05
Pindone	0.40	8-hour	2.551E-05	Sintered chromium trioxide	BACT		1.276E-05
Piperazine dihydrochloride	20.00	8-hour	1.276E-03	Sodium arsenate	0.80	8-hour	5.103E-05
Platinum metal	4.00	8-hour	2.551E-04	Sodium arsenite	0.80	8-hour	5.103E-05
Platinum Soluble salts, as Pt	0.01	8-hour	5.103E-07	Sodium azide	1.20	1-hour	5.375E-05
Polybrominated biphenyls (PBBs)	BACT		1.276E-04	Sodium bisulfite	20.00	8-hour	1.276E-03
Polychlorinated biphenyls (PCBs)	BACT		1.276E-04	Sodium dichromate	BACT		1.276E-05
Ponceau 3R	BACT		5.100E-07	Sodium fluoroacetate	0.20	8-hour	1.276E-05
Ponceau MX	BACT		5.100E-07	Sodium hydroxide	8.00	1-hour	3.583E-04
Potassium hydroxide	8.00	1-hour	3.583E-04	Sodium metabisulfite	20.00	8-hour	1.276E-03
Procarbazine	BACT		5.100E-07	Sodium saccharin	BACT		5.100E-07
Procarbazine hydrochloride	BACT		5.100E-07	Spirocholactone	BACT		5.100E-07
Progesterone	BACT		5.100E-07	Sterigmatocystin	BACT		5.100E-07
Propargyl alcohol	8.00	8-hour	5.103E-04	Stibine	2.00	8-hour	1.276E-04
Propionic acid	120.00	8-hour	7.654E-03	Streptozotocin	BACT		5.100E-07
Propoxur	2.00	8-hour	1.276E-04	Strontium chromate	BACT		1.276E-05
Propyl alcohol	2000.00	8-hour	1.276E-01	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

ADMINISTRATIVE REGISTER - 1070

Subtilisins (pro- teolytic enzymes as 100% pure crystalline enzyme)	2.40E-04	1-hour	1.075E-08	Triethylamine	160.00	8-hour	1.021E-02
Sulfallate	BACT		5.100E-07	Trimellitic anhydride	0.16	8-hour	1.021E-05
Sulfotep	0.80	8-hour	5.103E-05	Trimethyl benzene	500.00	8-hour	3.189E-02
Sulfur mono- chloride	24.00	8-hour	1.531E-03	Trimethyl phos- phite	40.00	8-hour	2.551E-03
Sulfur penta- fluoride	1.00	8-hour	6.379E-05	Trimethylamine	96.00	8-hour	6.124E-03
Sulfur tetra- fluoride	1.60	8-hour	1.021E-04	Triorthocresyl phosphate	0.40	8-hour	2.551E-05
Sulfuric acid	4.00	8-hour	2.551E-04	Triphenyl amine	20.00	8-hour	1.276E-03
Sulfuryl fluoride	80.00	8-hour	5.103E-03	Triphenyl phos- phate	12.00	8-hour	7.654E-04
Sulprofos	4.00	8-hour	2.551E-04	Tris (2,3-dibromo- propyl) phosphite	BACT		5.100E-07
Tantalum	20.00	8-hour	1.276E-03	Tris (2,3-dibromo- propyl)phosphate	BACT		5.100E-07
Tellurium hexa- fluoride, as Te	0.80	8-hour	5.103E-05	Tris(1-aziridinyll) phosphine sulfide (Thiotepa)	BACT		5.100E-07
Tellurium & com- pounds, as Te	0.40	8-hour	2.551E-05	Tris(aziridinyll)- para-benzoquinone (Triaziquone)	BACT		5.100E-07
Temephos	40.00	8-hour	2.551E-03	Trypan blue (com- mercial grade)	BACT		5.100E-07
TEPP	0.20	8-hour	1.276E-05	Tungsten, as W, insoluble com- pounds	20.00	8-hour	1.276E-03
Terphenyls	20.00	1-hour	8.959E-04	Tungsten, as W, soluble compounds	4.00	8-hour	2.551E-04
tert-Butyl acetate	3800.00	8-hour	2.424E-01	Uracil mustard	BACT		5.100E-07
tert-Butyl alcohol	1200.00	8-hour	7.654E-02	Uranium compounds, as U	0.80	8-hour	5.103E-05
tert-Butyl chro- mate as Cr	0.40	1-hour	1.792E-05	Urethane	BACT		5.100E-07
Testosterone and its esters	BACT		5.100E-07	Valeraldehyde	700.00	8-hour	4.465E-02
Tetrachloronaph- thalene	8.00	8-hour	5.103E-04	Vanadium, as V2O5, Respirable dust and fume	0.20	8-hour	1.276E-05
Tetraethyl lead, as Pb	0.40	8-hour	2.551E-05	Vinyl acetate	120.00	8-hour	7.654E-03
Tetrahydrofuran	2360.00	8-hour	1.505E-01	Vinyl bromide	80.00	8-hour	5.103E-03
Tetramethyl lead, as Pb	0.60	8-hour	3.827E-05	Vinyl cyclohexene dioxide	240.00	8-hour	1.531E-02
Tetramethyl suc- cinnonitrile	12.00	8-hour	7.654E-04	Vinyl toluene	960.00	8-hour	6.124E-02
Tetranitromethane	32.00	8-hour	2.041E-03	Vinylidene chlor- ide	80.00	8-hour	5.103E-03
Tetrasodium pyro- phosphate	20.00	8-hour	1.276E-03	Warfarin	0.40	8-hour	2.551E-05
Tetryl	6.00	8-hour	3.827E-04	[Welding fumes	20.00	8-hour	1.276E-03]
Thallium soluble compounds, as Tl	0.40	8-hour	2.551E-05	Xylene (o-,m-,p- isomers)	1740.00	8-hour	1.110E-01
Thioacetamide	BACT		5.100E-07	Xylidine	40.00	8-hour	2.551E-03
Thioglycolic acid	16.00	8-hour	1.021E-03	Yttrium	4.00	8-hour	2.551E-04
Thiourea	BACT		5.100E-07	Zinc beryllium silicate	BACT		5.103E-07
Thiram	20.00	8-hour	1.276E-03	Zinc chloride fume	4.00	8-hour	2.551E-04
Thorium dioxide	BACT		5.100E-07	Zinc chromate	BACT		1.276E-05
Tin, organic com- pounds, as Sn	0.40	8-hour	2.551E-05	Zinc oxide fume	20.00	8-hour	1.276E-03
Tin, oxide, metal and inorganic compounds except SnH4, as Sn	8.00	8-hour	5.103E-04	Zirconium com- pounds, as Zr	20.00	8-hour	1.276E-03
Titanium dioxide	20.00	8-hour	1.276E-03				
Toluene 2,4-Diiso- cyanate (TDI)	0.16	8-hour	1.021E-05				
Toluene	1500.00	8-hour	9.568E-02				
Toxaphene (poly- chlorinated camphenes)	BACT		1.276E-04				
Trans-2[(Dimethyl- amino)-methyl- iminol]-5-[2-(5- nitro-2-furyl) 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				
Trichloronaph- thalene	20.00	8-hour	1.276E-03				

*Threshold [Acceptable] Ambient Limit,

$$I[A]AL, \text{ mg/m}^3 = \frac{Y}{T}$$

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)(d) [(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.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: October 15, 1986

FILED WITH LRC: October 15, 1986 at noon

TRANSPORTATION CABINET
Department of Vehicle Regulation
(As Amended)

601 KAR 1:005. Safety regulations.

RELATES TO: KRS Chapter 281

PURSUANT TO: KRS 281.600, 281.726, 281.730

EFFECTIVE: November 11, 1986

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 quantity 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) Motor vehicles which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility which is located at a point not more than fifty (50) air miles from the harvest area are not required to comply with the above safety requirements relative to light fixtures when operated during daylight hours. They are, however, required to have two (2) brake lights and mechanical turn signals as set forth in 49 CFR 393.

[(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 statutes 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.

AMENDED AFTER HEARING

FINANCE AND ADMINISTRATION CABINET Kentucky State Board of Medical Licensure (Amended After Hearing)

201 KAR 9:083. Certification and supervision of physician assistants.

RELATES TO: KRS 311.530 to 311.620, 311.990
PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: It is the purpose of this regulation to promote the efficient and effective utilization of the skills of physicians by allowing them to delegate health care tasks to qualified physician assistants and in so doing, promote, sustain and enhance the health and welfare of the people of the Commonwealth.

Section 1. Definitions. The following terms and/or words used hereinafter shall have the assigned meanings unless indicated to the contrary:

(1) Physician assistant or PA means a person approved and certified by the board to assist a physician in the provision of medical care and service under the supervision and direction of a registered and supervising physician;

(2) Board means the Kentucky Board of Medical Licensure;

(3) Supervising physician means a physician currently licensed to practice medicine in the Commonwealth of Kentucky who registers with and is approved by the board as supervising physician and who, in turn, accepts responsibility for the supervision of physician assistant and the services rendered by the physician assistant in the Commonwealth of Kentucky;

(4) Advisory committee means the committee appointed by the board and composed of physicians, [and] physician assistants and a consumer directed to advise the board on all matters related to physician assistants;

(5) Approved program means a program for the education and training of physician assistants accredited by the Committee on Allied Health Education and Accreditation of the American Medical Association which meets the standards acceptable to the board;

(6) Supervision means the ability and responsibility to provide control and direction of the services of physician assistants. The constant physical presence of the supervising physician is not required so long as he/she and

the physician assistant can communicate easily, adequately and expeditiously at any time;

(7) Proficiency examination means an examination given by the National Commission on Certification of Physician Assistants;

(8) Trainee means a person who is currently enrolled in an approved educational and training program for physician assistants, and whose sponsoring training program assumes responsibility for the supervision of the trainee and the services rendered by the trainee;

(9) Certificate means the board's official authorization to assist a specific supervising physician(s) for the time specified in the certificate; and

(10) Sponsoring training program means a training program, approved by the approved program, in which a trainee is allowed to practice as a physician assistant within the parameters of the training program.

Section 2. Certification and Approval of Physician Assistants. (1) To be certified and approved by the board as a physician assistant, a person must:

(a) [(1)] Initially submit a completed application within twelve (12) months of the effective date of this regulation with the required fee;

(b) [(2)] Be of good character and reputation;

(c) [(3)] Be a graduate of an approved program; and

(d) [(4)] Have successfully completed the examination of the National Commission on the Certification of Physician Assistants. A temporary certificate may be issued to a physician assistant after graduating from a training program approved by the board. Such a certificate shall be effective until receipt of a passing score from the first available examination after graduation. The holder of such a certificate who fails the first available approved examination after graduation shall cease and desist performing any and all services as a physician assistant, and failure to comply in this instance shall subject him/her to prosecution for practicing as a physician assistant without a certificate. A failing score on the first available examination shall not prevent an applicant from applying for and taking the examination a second time. However, a person must be granted a waiver to apply for a certificate the third time upon the committee's recommendation to the board.

(2) Renewal of certification and approval of physician assistants shall be on a biennial basis according to established criteria as outlined in item eight (8) [nine (9)] under Functions and Duties of Supervising Physicians.

(3) Physician assistants duly authorized to practice in other states and in good standing, may apply for certification and be certified by the board after critical appraisal of their qualifications by the committee and if the state of the prior approval has substantially equivalent requirements.

(4) For persons who have held themselves out to be physician assistants and who have had sufficient equivalent training, who have served as a physician assistant satisfactorily under a physician duly licensed in the Commonwealth of Kentucky for at least one (1) year during the preceding five (5) years, may apply for certification and approval after successfully

completing the NCCPA examination or may apply for certification via waiver requiring approval of the committee and the board. For persons so categorized ("grandfather status"), their certification and approval must be renewed biennially by the same process as outlined above, provided they have served satisfactorily under a physician approved as a supervising physician by the board. Subsequent to one (1) year following the approval of this regulation, this mode of initial approval will no longer be in effect.

Section 3. Physician Assistant Scope of Practice. A physician assistant may:

(1) Perform medical services within his/her skills as delegated by the supervising physician;

(2) Augment the physician data gathering abilities to aid in reaching decisions and instituting health care plans;

(3) Initiate appropriate evaluation and treatment procedures in life threatening emergency situations;

(4) Perform assigned medical tasks and other procedures that are commonly in the practice limits of the supervising physician;

(5) Not make a definitive diagnosis nor prescribe any treatment program independent of the supervising physician;

(6) Facilitate referrals;

(7) Assist the supervising physician by making rounds, recording progress notes and transcribing specified orders at the direction of the supervising physician in hospitals, long-term care facilities and institutions where the scope of the physician assistant's practice is established and limited by the policies, procedures, rules and regulations of the associated governing board;

(8) Assist the supervising physician in operative procedures; and

(9) Prepare the record detailed narrative case summaries.

Section 4. [3.] Certification and Approval of Supervising Physicians. To be certified and approved as a supervising physician, a physician must:

(1) Have a current license and be in good standing with the board, and

(2) Submit a formal application with the required fee.

[Supervising physicians, functions and duties: He/she shall maintain adequate, active and continuous overview of the physician assistant's activity to insure that his/her directions and advice are being properly implemented and he/she shall make a personal review of the historical data, physical and other related examinations, and therapeutic data on all patients and their condition and shall certify same by signature in a timely manner.]

Section 5. [4.] Duties of Supervising Physician. The supervising physician must:

(1) Restrict the health care services of the physician assistant to the field of his specialty as designated by the specialty code in the most current revision of the Kentucky Medical Directory and not in any other specialty field of another supervising physician, nor in any field of other independent licensed non-physician health care providers;

(2) Not supervise more than two (2) physician assistants at any one time;

(3) Designate one (1) or more alternate physicians who agree contractually in writing to accept the responsibilities of supervising the physician assistant on a pre-arranged basis for whatever reason in his/her absence;

(4) Not allow the physician assistant to prescribe or dispense drugs;

(5) Make it known to all patients in out-patient and in-patient facilities that he/she utilizes the supervised services of physician assistants, including, but not limited to, posting notice on the primary premises of the supervising physician;

(6) Submit protocol in detail outlining the functions of, tasks to be performed by and medical services to be rendered by the physician assistant and obtain specific approval from the board to utilize a physician assistant in an area, office, clinic or any other non-hospital health care delivery system (satellite facility) that is separate and apart from the primary office of the supervising physician and in so doing, must demonstrate to the satisfaction of the board that there is adequate provision for direct communication between the physician assistant and supervising physician and that the distance between the main office and the satellite facility is not so great as to prohibit or impede delivery of appropriate medical services;

(7) Negotiate with the medical staff and/or governing body of any hospital, long-term care facility or institution to establish and limit the scope of his/her practice and that of the physician assistant. [Outline for the governing board of any hospital or other in-patient health care delivery system, if requested, the medical tasks and services to be rendered by the physician assistant; however, nothing in this regulation shall be interpreted as granting the board authority to regulate or otherwise have jurisdiction over any hospital or other in-patient health care delivery system;]

(8) Survey critically and biennially the performance of the physician assistant under his/her supervision as to reliability, accountability, fund of medical knowledge and recommend to the committee, approval or disapproval of the physician assistant's certification, including evidence of continuing certification by the National Commission on Certification of Physician Assistants. This critical survey process shall be performed by the supervising physician biennially on the date of the physician assistant's original certification in the Commonwealth of Kentucky;

(9) Require and be responsible for the physician assistant wearing visibly sufficient identification at all times to indicate the physician assistant's status;

(10) Prohibit the physician assistant from directly billing any patient or other payor, for any medical service; or

(11) Give written notice to the board if a physician assistant ceases for whatever reason to be in his supervisory control, such notice to be in the hands of the board within three (3) working days after the date on which the supervisory control ceased;

(12) Accept a physician assistant's refusal to perform services, acts or procedures that he/she feels he/she is not skillful enough or adequately trained to carry out;

(13) Be present in the operating room as an anesthesiologist when the physician assistant is

administering an anesthetic;

(14) Establish in his office, clinic or satellite clinic an operational policy regarding allied health care personnel and their obligation to carry out orders/instructions of a physician assistant when there is reasonable cause to believe or when the personnel knows the orders and/or instructions were given by or in consultation with a supervising physician;

(15) Attempt to establish a similar operational policy (as in subsection (14) of this section) when negotiating with the medical staff/governing board of any hospital, long-term care facility or institution;

(16) Maintain adequate, active and continuous overview of the physician assistant's activity to insure that his/her directions and advice are being properly implemented and he/she shall make a personal review of the historical data, physical and other related examinations, and therapeutic data on all patients and their condition and shall certify same by signature in a timely manner.

Section 6. [5.] Physician Assistant Advisory Committee. The board shall form a Physician Assistant Advisory Committee consisting of seven (7) [six (6)] members, three (3) physician assistants from (as far as is feasible) the western, central, and eastern sections of the Commonwealth, two (2) supervising physicians appointed by the board, one (1) general public representative not employed by nor directly related to any health related field, and one (1) board member. The members of the committee shall hold office for terms of three (3) years. The terms of members first appointed shall be as follows: two (2) members shall be appointed for one (1) year, three (3) [two (2)] members shall be appointed for two (2) years and two (2) members shall be appointed for three (3) years. Upon expiration of the respected terms of the first appointed, the terms of each successor shall be three (3) years. Members of the committee shall be entitled to reimbursement for all reasonable expenses for travel, lodging and subsistence incurred in connection with attendance of meetings. The committee shall select a chairman who is a member thereof. The committee shall hold meetings at least semiannually and more often as necessary, to hear, discuss, and make decisions about physician assistant affairs and problems, investigate grievances filed against physician assistants and/or supervising physicians, and forward recommendations to the board. The committee shall consider applications of physician assistants at the initiations of these regulations and biennially thereafter. The committee shall review annually the provisions and regulations of the Medical Practice Act as it relates to physician assistants and make indicated recommendations to the board. The committee shall consider all grievances against physician assistants and make recommendations to the board, being ever mindful of the grounds for disciplinary action against physician assistants which include:

(1) Having been convicted, by any court within or without the Commonwealth of Kentucky, of committing an act which is, or would be a felony under the laws of the Commonwealth of Kentucky, or of the United States, or of any crime involving moral turpitude which is a misdemeanor, under such laws;

- (2) Gross malpractice resulting in [permanent] injury or death of a patient;
- (3) Dishonorable, unethical or unprofessional conduct;
- (4) Habitual substance abuse to an extent as to incapacitate for performance of professional duties;
- (5) Fraud, deception and unlawful means in applying for, or securing certification as a physician assistant;
- (6) Exceeding authority delegated by supervising physician;
- (7) Violation of any provisions of this act or these regulations;
- (8) Having developed such physical or mental disability, or other condition, that continued practice is dangerous to patients or to the public;
- (9) Violation of any order of suspension, or the terms or conditions of any order of probation, issued by the board;
- (10) Conduct which is calculated, or which has the effect of bringing the medical profession into disrepute; or
- (11) Had his certification as a physician assistant in any other state, territory or foreign nation revoked, suspended, restricted or limited or has been subjected to other disciplinary action by the licensing authority thereof;
- (12) Having falsified or in a repeatedly negligent manner made incorrect entries or failed to make essential entries on essential records;
- (13) Exceeding the limits of practice established by the governing board of any hospital, long-term care facility or institution;
- (14) Held himself out or permitted another to represent him as a physician;
- (15) Failed to clearly identify himself while on duty.

C. WILLIAM SCHMIDT, Executive Director
 APPROVED BY AGENCY: November 6, 1986
 FILED WITH LRC: November 7, 1986 at 8 a.m.

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

405 KAR 10:200. Kentucky bond pool.

RELATES TO: KRS Chapter 304, 350.020, 350.028, 350.060, 350.062, 350.064, 350.068, 350.085, 350.093, 350.095, 350.100, 350.110, 350.113, 350.130, 350.135, 350.151, 350.260, 350.465, 350.700, 350.705, 350.710, 350.715, 350.720, 350.725, 350.730, 350.735, 350.740, 350.745, 350.750, 350.755, 350.990

PURSUANT TO: KRS Chapter 13A, 350.020, 350.028, 350.060, 350.062, 350.064, 350.093, 350.130, 350.151, 350.465, 350.710, 350.715, 350.720, 350.725, 350.730, 350.735, 350.740, 350.750

NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part requires the cabinet to regulate surface coal mining and reclamation operations, including requiring bond sufficient to insure satisfactory reclamation. KRS Chapter 350 further authorizes the cabinet to establish alternative methods of meeting bonding requirements. This regulation implements an

alternative bonding program known as a bond pool. This regulation establishes requirements for applications for membership in the bond pool; procedures for submittal of, review of, and decisions on such applications, including determinations of financial standing and reclamation compliance records of applicants; procedures for acceptance of specific permit areas into coverage by the bond pool; and procedures for keeping of production records, reporting of production, and payment of fees based on coal production.

Section 1. Applicability. This regulation applies only to the voluntary alternative bonding program known as the Kentucky Bond Pool, as established in Senate Bill No. 130, 1986 Acts Chapter 137, codified at KRS 350.700 through .755; and to permanent program permits, or parts of such permits, covered under that pool.

Section 2. Definitions. (1) "Administrator" or "bond pool administrator" means the cabinet employee named by the secretary to assist the commission and to perform certain administrative functions in connection with the bond pool, as required by KRS 350.715.

(2) "Applicant," for purposes of this regulation, means a person or entity which has submitted an application form to the commission seeking membership in the bond pool.

(3) "Bond pool" or "Kentucky Bond Pool" means the voluntary alternative bonding program as established at KRS 350.700 through .755.

(4) "Commission" or "bond pool commission" means the seven (7) member body established at KRS 350.705.

(5) "Member" means a person or entity which the bond pool commission has determined meets the minimum requirements of KRS 350.720 and this regulation for inclusion in the bond pool and upon whom the commission has formally conferred membership. Permanent program permits, or portions thereof, may be covered by the bond pool only if the permittee is a member of the bond pool.

(6) "Month of operation," for the purposes of Section 7 of this regulation, means a calendar month in which a duty exists to reclaim a disturbed area for which a permit was issued under KRS Chapter 350. It is not necessary that coal extraction occur during the month.

Section 3. Review of Decisions. There shall be no administrative appeal under 405 KAR 7:090 from a decision of the commission. However, the applicant or member may within sixty (60) days after notice of the decision, request the commission to reconsider its decision. The commission may, at its discretion, grant or deny the request for reconsideration.

Section 4. Applications for Membership. (1) Any person desiring membership in the bond pool shall submit an application for membership to the commission at the address established by the administrator.

(2) The application shall be submitted on forms provided by the commission and shall be of such form, content, and number of originals and copies as the commission may require. The application shall be typed or printed, and shall be legible throughout.

(3) Financial statements required with the application shall be prepared by a certified

public accountant. Financial statements shall be kept confidential to the commission, the administrator, and cabinet personnel authorized by the administrator.

(4) [(3)] The application shall include an application fee of \$100, by certified check, cashier's check, or money order made payable to "Kentucky State Treasurer." The fee shall not be refunded in any circumstances, but shall be applied toward the membership fee if the applicant is accepted for membership.

(5) [(4)] The application shall be complete in all respects.

Section 5. Review of Applications. (1) As soon as practicable after the administrator receives the application, he shall determine whether the application is complete or incomplete.

(a) If the application is incomplete, the administrator shall so notify the applicant and shall identify the additional information which is needed to make the application complete. The applicant may submit the corrected application, in whole or in part, and no additional application fee shall be required.

(b) If the application is complete, the administrator shall so notify the applicant in writing. The administrator shall evaluate the complete application and any other relevant information available to the administrator, and shall submit the evaluation to the commission. The application, the administrator's evaluation, and any other relevant information available to the commission, shall form the factual basis for the commission's decision on the application.

(2) The commission shall act upon the application as soon as practicable.

(a) If the commission approves the application, the administrator shall provide written notice to the applicant. The notice shall specify the rating which the applicant will receive upon membership, and shall state the membership fee required. The applicant shall submit the required membership fee. As soon as practicable after receipt of the membership fee, the administrator shall provide the applicant with an official certificate of membership which shall confer actual membership as of the date of the certificate. The certificate shall state the rating assigned to the member and also shall assign the member a unique membership number. The certificate shall be signed by the chairman of the commission and by the administrator.

(b) If the commission denies the application, the administrator shall provide written notice to the applicant, setting forth the reasons for denial. The notice of denial shall be signed by the chairman of the commission.

Section 6. Determination of Financial Standing. (1) If the commission or administrator prepares summaries or analyses of information contained in the applicant's financial statements, such documents shall be kept confidential where necessary to insure the confidentiality of information contained in the financial statements. [Financial statements required to be submitted as attachments to the application shall be kept confidential to the commission, the administrator, and cabinet personnel authorized by the administrator.]

(2) The financial standing of the applicant [for membership] shall be determined based upon the financial information required in the application and other information available to

the commission and cabinet. The commission may consider, but shall not be limited to, the following financial ratios and related financial information:

(a) The ratio of current assets to current liabilities;

(b) The ratio of net income to net sales;

(c) The ratio of total liabilities to stockholders' equity;

(d) The ratio of net income to owners' equity;

(e) The ratio of owners' equity to total assets; and

(f) The ratio of the sum of cash, marketable securities, and net receivables, to current liabilities.

Section 7. Determination of Reclamation Compliance Record. (1) Excellent compliance record. The applicant shall be deemed to have an excellent compliance record if the applicant, each person who owns or controls the applicant, each person who is owned or controlled by the applicant, and each person who is under common ownership or control with the applicant, meet all the criteria in this subsection.

(a) Has never forfeited a bond under KRS Chapter 350;

(b) Has never avoided forfeiture of a bond under KRS Chapter 350 because a surety performed reclamation work in order to avoid forfeiture;

(c) Has never been determined to have demonstrated a pattern of willful violations pursuant to KRS 350.028(4), 350.130(3), or 350.465(3)(f);

(d) Has not been issued a failure-to-abate cessation order pursuant to 405 KAR 12:020, Section 3(1)(a) in the most recent thirty-six (36) months of operation;

(e) Has not been issued more than one (1) cessation order under 405 KAR 12:020, Section 3(1)(b) in the most recent thirty-six (36) months of operation;

(f) Has not committed a violation of contemporaneous reclamation requirements under 405 KAR 16:020 or 405 KAR 18:020 in the most recent thirty-six (36) months of operation;

(g) Has not committed more than three (3) violations of KRS Chapter 350 or 405 KAR Chapters 7-24 on any one (1) permit in any twelve (12) month period of the most recent thirty-six (36) months of operation, except that the commission may for good cause exclude [excluding] the twelve (12) month period on one (1) permit during which the largest number of such violations occurred; or

(h) Has not had civil penalties under KRS 350.990, 405 KAR 7:090 or 405 KAR 7:095 remaining unpaid more than thirty (30) days after they were due and payable, within the most recent thirty-six (36) months of operation.

(i) To the extent such information is available, the commission may take into account the applicant's performance in other states and on federal lands and Indian lands under criteria similar or equivalent to paragraphs (a) - (h) of this subsection.

(2) Acceptable compliance record. The applicant shall be deemed to have an acceptable compliance record if the applicant, each person who owns or controls the applicant, each person who is owned or controlled by the applicant, and each person who is under common ownership or control with the applicant, meet all the criteria in this subsection:

(a) Has never forfeited a bond under KRS

Chapter 350;

(b) Has never avoided forfeiture of a bond under KRS Chapter 350 because a surety performed reclamation work to avoid forfeiture;

(c) Has never been determined to have demonstrated a pattern of willful violations pursuant to KRS 350.028(4), 350.130(3), or 350.465(3)(f);

(d) Has not been issued a failure-to-abate cessation order pursuant to 405 KAR 12:020, Section 3(1)(a) in the most recent thirty-six (36) months of operation;

(e) Has not been issued a cessation order under 405 KAR 12:020, Section 3(1)(b) in the most recent thirty-six (36) months of operation;

(f) Has not committed more than one (1) violation of contemporaneous reclamation requirements under 405 KAR 16:020 or 405 KAR 18:020 in the most recent thirty-six (36) months of operation;

(g) Has not committed more than eight (8) violations of KRS Chapter 350 or 405 KAR Chapters 7-24 on any one (1) permit in any twelve (12) month period of the most recent thirty-six (36) months of operation, except that the commission may for good cause exclude [excluding] the twelve (12) month period on one (1) permit during which the largest number of such violations occurred; or

(h) Has not had civil penalties under KRS 350.990, 405 KAR 7:090 or 405 KAR 7:095 remaining unpaid more than ninety (90) days after they were due and payable, within the most recent thirty-six (36) months of operation.

(i) To the extent such information is available, the commission may take into account the applicant's performance in other states and on federal lands and Indian lands under criteria similar or equivalent to paragraphs (a) - (h) of this subsection.

Section 8. Acceptance of Permit Areas Into Bond Pool. (1) The commission shall specifically set forth those permits, increments, or portions thereof, which have been accepted for coverage under the bond pool. Coverage shall not be effective unless so identified by the commission.

(2) Eligible portions of all permits issued to the member after the date of membership shall be covered by the bond pool.

(3) If a permit was issued to the member prior to the date of membership but has not been disturbed as of the date of membership, eligible portions of the permit shall be covered by the bond pool. The member shall substitute the appropriate rating based bond under KRS 350.735 for the bond originally posted for the permit area or increment.

(4) [(3)] For existing permits or increments which have been disturbed as of the date of membership [at the time membership is granted], the bond pool shall cover all eligible undisturbed portions of such permits or increments in accordance with this subsection. [provided that:]

(a) A permit area or increment shall not be accepted for coverage if coal removal has been completed or substantially completed on the permit area or increment. In determining whether coal removal has been substantially completed, the commission shall consider such factors as the amount or percentage of coal yet to be extracted from the permit area or increment, the acreage or percentage of the permit area or increment yet to be disturbed, and the amount of

time which likely would be required to complete coal extraction from the permit area or increment.

(b) Within thirty (30) days after the date of membership the member shall, for each existing permit, designate to the cabinet in writing a date, which shall be not later than ninety (90) days after the date of membership, on which eligible portions of the permit shall be covered by the bond pool. With the designation, the member shall also submit maps as required by the cabinet which clearly identify those portions of the permit area which the member expects to have disturbed as of the designated date and those portions which are expected to remain undisturbed as of that date. The cabinet may, on a case-by-case basis and for good cause, grant extensions to the thirty (30) and ninety (90) day periods in this paragraph.

(c) The cabinet shall recalculate the bond amount for the permit area or increment as two (2) bond amounts for two (2) new increments. One (1) new increment shall include the portion expected to be disturbed as of the designated date, and one (1) shall include the portion expected to remain undisturbed as of the designated date.

(d) The member shall, on or before the designated date, post a new bond in the amount determined by the cabinet for the increment containing the areas expected to be disturbed as of the designated date. This increment shall not be covered by the bond pool.

(e) The member shall, on or before the designated date, post a new rating based bond in the amount determined by the cabinet pursuant to KRS 350.735 for the increment containing the areas expected to remain undisturbed as of the designated date. This increment shall be covered by the bond pool. This increment shall not be disturbed until the bond required under this paragraph has been posted.

(f) Upon receipt and approval of acceptable bonds as required by paragraphs (d) and (e) of this subsection, and upon verification by the cabinet that the increment to be covered by the bond pool has not been disturbed, the cabinet shall release the bond originally posted for the permit area or increment.

[(a) The disturbed areas and undisturbed areas on the permit area or increment, and the acreages thereof, and the current date, shall be clearly marked by the applicant on a map or maps as required by the cabinet and shall be submitted to the cabinet. The map or maps shall be certified as required by the cabinet. Upon verification of the map information by the cabinet, the bond pool shall cover the eligible undisturbed portions of such permits or increments beginning on the date of verification.]

[(b) A permit area or increment shall not be accepted for coverage if all coal removal has been completed on the permit area or increment.]

Section 9. Production Records, Reporting, and Payment of Fees. (1)(a) Authorized representatives of the commission and administrator shall have access to all permit areas of the member [applicant] for purposes of determining compliance with the requirements of this section.

(b) Each member shall make any book or record necessary to substantiate the accuracy of

reports and payments available at reasonable times for inspection and copying by authorized representatives of the commission and administrator. Such books and records shall include, but not be limited to, those required under subsection (2) of this section, books and records related to federal reclamation fees as required under 30 CFR Part 870, and books and records related to Kentucky coal severance tax as required under KRS Chapter 143. All information copied shall be kept confidential to the administrator and commission and their authorized representatives.

(c) Each member shall retain books and records for a period of six (6) years from the end of the calendar month in which a report was due.

(d) Authorized representatives of the administrator and commission shall have authority to examine records of second parties involved in the sale or transfer of the ownership of coal by the member, and shall have authority to examine the records of any party selling or transferring coal to the member.

(2) Each member shall maintain current books and records that separately contain the tons of coal extracted [at least the following information separately] for each permit covered by the bond pool.

[(a) Tons of coal sold or transferred, name of party to whom sold or transferred, and the date of each sale or transfer.]

[(b) Tons of coal used by the member and date of use.]

[(c) Tons of coal stockpiled or inventoried, but not classified as sold, transferred, or used, for fee computation purposes.]

[(3) Coal subject to fees.]

[(a) Each member shall pay the tonnage fees required by KRS 350.725 through 350.730 on each ton of coal extracted. Fees shall be paid for all coal extracted on all eligible permits issued to the member after the date of membership. For permits held at the time of initial membership, coal extracted after the date of verification under Section 8(3)(a) shall be subject to fees.]

[(b) Stockpiled coal shall not be subject to tonnage fees until sold, transferred, or used by the member.]

(3) [(4)] Determination of fees. Fees shall be determined by the weight of the coal the first time the coal is weighed. [at the time of initial bona fide sale, transfer of ownership, or use by the member.]

[(a) The initial bona fide sale, transfer of ownership, or use by the member, shall be the first transaction or use of the coal after it is extracted.]

(a) [(b)] The weight of the coal shall be the actual gross weight of the coal. Impurities, including water, that have not been removed prior to the first time the coal is weighed [time of initial bona fide sale, transfer of ownership, or use by the member,] shall not be deducted from the gross weight. [Members selling coal on a clean coal basis shall retain records that show run-of-mine tonnage, and the basis for the clean coal transaction. Insufficient records shall subject the member to fees based on run-of-mine tonnage.]

(b) [(c)] If the member combines surface mined coal and underground mined coal before the coal is weighed [for fee purposes], the rate for surface mined coal shall apply unless the member can substantiate the tonnage produced by

surface and underground mining by acceptable engineering calculations or other procedures which the cabinet may require.

(4) [(5)] Reporting of tonnage and payment of fees.

(a) On forms provided by the cabinet each member shall report, for each permit covered by the bond pool, all coal tonnage extracted[, stockpiled, sold, transferred, or used,] during the reporting period. Payment of fees shall accompany the report.

(b) The reporting and payment period shall be monthly. The report shall be submitted, and fees shall be paid, not later than the 20th day of the month which follows the reporting period. The report shall be submitted even if the member has zero production during the reporting period.

(c) Late report or payment. If a member fails to submit a report or payment on or before the due date, five (5) percent of the original fee due shall be added to the fee for each month or fraction thereof elapsing between the due date and the date on which the report or payment is submitted. In no case shall the penalty be less than ten (10) dollars.

(5) [(6)] As soon as practicable after each report is received, the administrator shall examine it and shall notify the member of any underpayment or overpayment.

(a) If the amount of required fee as computed by the administrator is greater than the amount submitted by the member, the administrator shall notify the member, within thirty (30) days from the date the payment was received, of the additional amount to be paid; except that in the case of a failure to submit a report or of a fraudulent report, the examination and notification may occur at any time. Additional fee payments under this paragraph shall include a penalty of five (5) percent of the amount of the deficiency for each month or fraction thereof elapsing between the original due date and the date on which the payment is submitted.

(b) If the amount of required fee as computed by the administrator is less than the amount submitted by the member, the administrator shall notify the member, within thirty (30) days from the date the payment was received, of the amount of the overpayment. The member may receive credit for the overpayment against the next monthly payment or any subsequent payment.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: November 14, 1986

FILED WITH LRC: November 14, 1986 at noon.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Superintendent
(Amended After Hearing)

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

RELATES TO: KRS 156.097

PURSUANT TO: KRS 156.070, 156.097

NECESSITY AND FUNCTION: KRS 156.097 requires that the State Board of Education develop regulations to establish a summer program of one (1) week educational institutes to be held at selected college campuses for teachers for the purpose of general improvement of instruction. The state board must, further, develop specific criteria relating to the selection of the

eligible teachers, with an emphasis on selecting teachers with a demonstrated record of effective teaching, and participating teachers shall be reimbursed for their expenses and awarded a stipend in an amount to be determined by the state board. This regulation establishes the criteria for selection of the teachers, selection of the college campuses, and the amount of the stipend and expenses for the participating teachers.

Section 1. The educational institutes mandated by KRS 156.097 shall be called the Commonwealth Institute for Teachers. Each institute shall be of one (1) week duration [begin on Sunday and conclude on the following Saturday]. Each institute may be followed by weekend sessions during the school year following the institute session.

Section 2. A theme shall be selected for each year's institute that is designed to emphasize academic excellence in the schools and to motivate personal, professional excellence among the participants. The theme shall contribute to the overall goal of the State Board of Education which is the creation of an academically excellent school system in every Kentucky school district.

Section 3. The institute shall be held on the campuses of Kentucky colleges or universities which are accessible and which can provide appropriate conference facilities, faculty and staff for the conduct of the institute. The state board shall make its selections of sites based on recommendations submitted by the Kentucky Department of Education and assurances of capability provided by the institutions, and experience with preceding institutes.

Section 4. Teachers shall apply, either individually or in teams of two (2) or three (3), to attend the Commonwealth Institute, and shall use forms supplied by the institute for the purpose. The applications shall include appropriate information about the applicant, and specifically, shall include the name and address of at least one (1) private, public, non-profit, commercial, business or industry entity within the applicant's community which is willing to cooperate, and indicates its willingness in writing, with the applicant in the action project to expand academic excellence in the school district, which is one (1) component of the institute's activities.

Section 5. The Commonwealth Institute shall select outstanding teachers with a record of effective teaching which may be demonstrated as follows:

- (1) Professional credentials, development, and experience;
- (2) Honors, awards, and recognition achieved for effective teaching;
- (3) Innovative teaching techniques such as effective curricula developed for use in the applicant's classroom, award-winning students taught by the applicant, and any other appropriate evidence the teacher may wish to include;
- (4) Individual essays expressing initiative and reason for wishing to attend an institute.

Section 6. The selection committee will be

named by the Superintendent of Public Instruction and will consist of three (3) institute alumni, two (2) from the institute's host college(s) the preceding year, two (2) faculty from the institute's host college(s) the coming year, and two (2) citizens having an interest in the institute. The Kentucky Department of Education will provide staff support to the selection committee.

Section 7. Each institute shall serve approximately 200 [300] teachers.

Section 8. Each teacher shall be paid a stipend of \$400 for the week long seminar and follow-up sessions. Meals and lodging expenses shall be paid from the Department of Education appropriation for the Commonwealth Institute, and maximum expense allowance of fifty (50) per teacher per year may be paid to defray the cost of traveling to and from the institute sessions.

Section 9. An amount of ten (10) dollars per participant shall be set aside each year from institute resources to defray the expenses of a commonwealth institute alumni association. The amount shall be used for a network of institute participants for mutual support and sharing of information, experiences, and teaching techniques for further academic excellence. The association may supplement this amount with resources of its own.

Section 10. Teachers who have been selected and have attended a Commonwealth Institute, are not eligible to attend subsequent Commonwealth Institutes as participants eligible for stipends but may attend sessions as alumni. They may also serve as participants in institute programs or as resource consultants, and may receive any honorariums that may be appropriate in return for rendering specific services to the Commonwealth Institute.

Section 11. All Commonwealth Institutes shall include a study/action project component which shall require the participating teachers to develop and initiate within their home school and community a project for the advancement of academic excellence. The projects shall define the respective roles of the teacher/participants and the partner/sponsor supporting the teacher in carrying out the project. Project outcomes shall be reported and published by the Commonwealth Institute and disseminated throughout Kentucky.

Section 12. On behalf of the Commonwealth Institute, the Kentucky Department of Education shall request the cooperation and support of the Kentucky Educational Foundation, Inc. in obtaining the financial support necessary to enable teachers of private and parochial schools to attend the Commonwealth Institute and, in general, in obtaining the required private support for the Commonwealth Institute programs and purposes. In return, the foundation shall receive a co-sponsorship of the Commonwealth Institute for Teachers. Financial support provided to the Institute by any other private enterprise or tax-exempt entity shall receive appropriate recognition by the Commonwealth Institute, the state board, and the Department of Education.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: November 5, 1986
FILED WITH LRC: November 12, 1986 at 9 a.m.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Local Services
(Amended After Hearing)

702 KAR 3:200. Management Assistance Program.

RELATES TO: KRS 158.780, 158.785

PURSUANT TO: KRS 156.070, 158.780

NECESSITY AND FUNCTION: KRS 158.780 and 158.785 require the Superintendent of Public Instruction to identify to the State Board of Education each year a minimum of five (5) districts with critical management deficiencies and in need of the resources of a management assistance team. This regulation prescribes the selection criteria for such a program [and sets forth the effect of refusal to participate by a selected district].

Section 1. Districts participating in the Management Assistance Program mandated by KRS 158.780 and 158.785 shall be selected based upon the following criteria:

(1) The planning, maintenance and operation of physical plants (weight 12.3 percent):

(a) Percent adjusted operation cost (obtained from local districts' annual financial reports collected by the Division of School Management and Audit). The 600 codes (operation of plant) are adjusted to exclude utility costs. Total current expense (sum of expenditures for administration, instruction, attendance, health, transportation, plant operation, plant maintenance and fixed charges) is adjusted by excluding transportation expenditures. Adjusted operation cost is then divided by adjusted current expense.

(b) Percent maintenance cost. The total of the 700 codes (maintenance of plant) is divided by adjusted total current expense.

(2) The maintenance and operation of student transportation systems (weight 3.1 percent):

(a) Graph adjusted efficiency cost (data is obtained from local districts' annual financial reports and the superintendent's annual statistical reports collected by the Division of Pupil Attendance). This factor compares actual expenditures to computer generated density cost analysis to determine efficiency of transportation operation.

(3) Personnel administration (weight 12.3 percent):

(a) Percent sick leave. The sum of Codes 223.01 and 223.02 (elementary and secondary substitute teacher - sick leave) is divided by the total expenditures for instruction (annual financial report).

(b) Percent of classes out of field (obtained from professional staff data forms and certification files). The total number of classes being taught out of field is divided by the total number of classes offered.

(c) Percent non-certified staff (obtained from school data files collected by the Division of Computer Services and professional staff data forms). The total number of non-certified staff, less non-certified transportation employees, is divided by the total number of certified staff.

(4) Governance and executive leadership

(weight 9.2 percent): Deficit school districts (obtained from annual financial reports collected by the Division of School Management and Audit).

(5) Fiscal management (weight 26.2 percent):

(a) Percent administrative cost. The total cost of administration (100 codes) is divided by the total adjusted current expense (annual financial report).

(b) Percent investment income. Receipt Code 31.00 is divided by total receipts (annual financial report).

(c) Percent instruction expenditures. Total instructional expenditure is divided by total adjusted current expense (annual financial report).

(6) Professional performance, staff development and evaluation (weight 24.6 percent):

(a) Percent certified staff Rank II and above (obtained from professional staff data forms collected by Division of School Management and Audit). The total number of Rank II and above is divided by the total number of certified staff.

(b) Test scores (Normal Curve Equivalent Grade 7):

(c) Test scores (Normal Curve Equivalent Grade 10):

(d) Test scores (Normal Curve Equivalent Grade 7) compared to anticipated test scores (Normal Curve Equivalent Grade 7):

(e) Test scores (Normal Curve Equivalent Grade 10) compared to anticipated scores (Normal Curve Equivalent Grade 10).

(7) School-community relations (weight 12.3 percent):

(a) Percent attendance.

(b) Dropout rate.

[(1) Performance criteria:]

[(a) Holding power (9-12);]

[(b) Percent attendance;]

[(c) Dropout rate;]

[(d) Retention rate;]

[(e) Test scores (Normal Curve Equivalent Grade 3);]

[(f) Test scores (Normal Curve Equivalent Grade 5);]

[(g) Test scores (Normal Curve Equivalent Grade 7);]

[(h) Test scores (Normal Curve Equivalent Grade 10); and]

[(i) Test scores (Normal Curve Equivalent Total).]

[(2) Resource commitment criteria:]

[(a) Cost/Pupil - current expenses (obtained from local districts on the annual financial reports collected by the Division of School Management and Audit and the Superintendent's annual statistical reports collected by the Division of Pupil Attendance. The total current expenses are to be divided by the ADA to arrive at the figure. Current expenses include administration, instruction, attendance services, health services, pupil transportation, plant operation and maintenance, and fixed charges);]

[(b) Average teacher salary (average of all classroom teachers in a district, excluding salaries of administrators, principals, supervisors, and like personnel);]

[(c) Cost/Pupil - instruction (such instruction costs are calculated by dividing the total spent for instruction by the average daily attendance);]

[(d) Pupil/Teacher ratio (calculated by dividing the enrollment obtained from the

Superintendent's Annual Statistical Report by the total number of classroom teachers as reported on the federal and state salary schedules;]

[(e) Percent local revenue (percent of total revenue from local sources as indicated on the annual financial reports);]

[(f) Percent state revenue (the total posted in account codes 41-45 and below the line receipts 94.12 and 94.22 of the Annual Financial Report);]

[(g) Percent supplement for salary (teachers' salaries in excess of Foundation Program funding, with data necessary for this calculation to be obtained from a publication of the Department of Education, "Foundation Program Expenditures by Category," and from the salary schedules which include only state funds); and]

[(h) Cost/Pupil - instructional materials (cost for educational materials is found by adding the account items dealing with library books, periodicals and newspapers, library supplies, audio-visual materials, tests, supplementary books, and teaching supplies which include codes 251-258; 261-266.03; and 268 on the Annual Financial Report. This total is divided by the number of students in average daily attendance).]

Section 2. The Superintendent of Public Instruction shall recommend to the State Board of Education for the board's approval a minimum of five (5) local school districts each year identified as being in the lowest decile of the local school districts based on a composite rank resulting in the measurement of management efficiency when school districts are compared on each of the criteria in Section 1 of this regulation. After the first year (1986-87 school year) of the Management Assistance Program, any district identified and selected by the state board which refuses management assistance and which has identified deficiencies and required Master Educational Improvement Plan/sub-plans according to 704 KAR 3:005 shall not have such Master Educational Improvement Plan approved and shall be assessed under the provisions of 704 KAR 3:005.

Section 3. [Subsequent to selection,] The Superintendent of Public Instruction shall provide the state board, for its approval. Agreements to accept management assistance, signed by respective districts. A plan of action shall be developed and become a part of the agreement. The plan of action shall specify the needs of the district, the personnel involved and the time frame for accomplishment, including an agreement on a procedure for developing the required work program.

Section 4. The Superintendent of Public Instruction shall make interim progress reports [A mid-year progress report shall be submitted] to the State Board of Education on each district participating in the Management Assistance Program. [This progress report shall be submitted to the state board at its first regular meeting of the calendar year.] A final evaluation shall be submitted to the State Board of Education following the completion of the project which shall include an analysis of the effectiveness of the management assistance program in each district. Each team manager shall submit such an evaluation on the district

to which he/she was assigned.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: November 5, 1986
FILED WITH LRC: November 12, 1986 at 9 a.m.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction
(Amended After Hearing)

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

RELATES TO: KRS 158.148
PURSUANT TO: KRS 156.031(6), 156.035(2), 156.070(5), 158.148

NECESSITY AND FUNCTION: KRS 158.148 directs the State Board of Education to establish criteria for the development of dropout prevention programs and criteria for awarding grants to school districts which have the highest dropout rate and/or numbers of dropouts in the state. The state board is also directed to prescribe dropout prevention services and to develop grant funding criteria based upon available appropriations. This regulation prescribes the criteria for operation and funding of dropout prevention programs and authorizes the Department of Education to enter into contracts with other agencies for the purpose of securing additional funds for dropout prevention programs.

Section 1. (1) Local boards of education may operate dropout prevention programs for students of high risk for dropping out. A student is considered of high risk for dropping out if he/she meets one (1) or more of the following criteria:

(a) A student who is currently achieving two (2) or more grade levels below his/her age group.

(b) A student who has demonstrated poor academic skills, i.e., who has failed two (2) or more subjects in two (2) of the past four (4) school years.

(c) A student who is consistently absent or tardy and who has been absent twenty-five (25) or more unexcused days in the last two (2) school years and has an overall grade point average below a C.

(d) A student who has been suspended (in-school alternative to home suspension or home suspension) two (2) or more times during the past school year and has an overall grade point average below a C.

(e) A student who becomes pregnant.

(f) A student whose family has a history of dropping out and/or, whose family does not support the student in the completion of school.

(g) A student who little or no participation in school co-curricular activities.

(h) A student who is two (2) or more grades behind in reading or math skills.

(i) A student who shows indication of being socially isolated.

(j) Upon approval of the Department of Education, other indicators supported by strong evidence [research] may also be utilized to identify students of high risk for dropping out.

(2) Funds shall be made available to eligible Kentucky school districts through contractual agreements whereby school districts agree to provide special services designed to prevent

students of high risk from dropping out. State appropriated funds shall be utilized first in providing grant awards for dropout prevention programs. These funds may be supplemented by other special funds which may be available to the Department of Education through contracts or grants intended for this purpose.

(a) Eligibility for grant awards shall be based on the following criteria:

1. Twenty (20) dropout prevention programs shall be funded in districts whose dropout rates are among the highest twenty-five (25) districts in the state and who report more than 100 student dropouts each year.

2. Twenty (20) dropout prevention programs shall be funded in districts having high dropout rates but fewer than 100 dropouts per year.

3. Additional dropout prevention programs shall be funded in districts with dropout rates above the state average dropout rate and/or who report more than 100 dropouts each year, if special grant funds are available.

4. Special contract or grant funds may also be used to fund the continuation of successful dropout prevention services in school districts demonstrating a reduction in their dropout rates and/or numbers.

(b) Available dropout prevention funds, unless otherwise restricted by legislation or contract, shall be allocated for the use of eligible districts on a pro rata share basis. A percentage will be determined for each eligible district by dividing the number of reported dropouts of each eligible district by the total number of dropouts for all eligible districts. The resulting percentage shall be used as a multiple with the total funds for distribution to determine the amount of funds to be made available for each eligible district. The number of dropouts to be counted for each district shall be the total dropouts reported by the districts' annual report on file in the State Department of Education.

(c) The Department of Education shall notify school districts of their eligibility to receive funds for operation of dropout prevention programs based upon the rate and/or numbers of dropouts within each district during the most recent school year for which such data is available.

(d) School districts may apply for such funds by submitting applications which specify special services to be provided to students who are at high risk of dropping out. Procedures and forms for applications shall be developed by the Department of Education. Applications shall be approved by the Department of Education prior to the encumbrance or expenditure of such funds for a dropout prevention program.

(e) All districts receiving dropout prevention funds as provided for in this administrative regulation shall demonstrate a reduction in the number of youths dropping out as compared to the previous year in order to be eligible for continuation funding. In the 1986-87 school year, the percentage reduction shall be thirteen (13) percent. Appropriate percentage reductions will be determined by the Department of Education for succeeding years.

(3) School districts applying for such funds shall describe the special service(s) which will be provided to eligible students from the

services listed below:

(a) Alternative curriculum provides academic alternatives for rebellious or disruptive students, who have negative feelings for school or staff. Alternative programs, classes or schools provide the students with a neutral territory in which they can develop a positive attitude and build academic successes.

(b) Counseling/advising services provide techniques to fulfill individual needs for a positive self-esteem and personal status through school activities which promote the development of a healthy identity.

(c) Parent involvement services provide teachers and counselors with needed information to make an accurate assessment of student needs. This approach can be implemented through extensive home visits, group conferences or using parents as tutors.

(d) Students-centered services provide a focus on the individual student. All efforts are focused on individual needs and differences. These differences are respected and individualized goals and objectives for cognition and effective growth are determined and priorities.

(e) Tutorial services provide the extra attention, encouragement and support needed by underachievers. Tutoring can be provided by students (peer tutoring) or specialized staff, at a small cost, to help students gain academic skills, social skills and social maturity.

(f) Work-related services provide opportunities for paid employment to students who face family economic pressure. This approach may utilize several components which include on-the-job experiences, work-related classes, career awareness/exploration activities or vocational courses. It is designed to help students enter the world of work.

(g) Upon approval of the Department of Education, other services which the local district believes will have a significant impact on reducing the dropout rate.

Section 2. All school districts receiving dropout prevention funds shall submit an annual evaluation report. The annual evaluation report shall provide data for each student receiving dropout prevention services. The following data shall be required as a minimum: number of courses passed, number of courses failed, grade point average, NCE score of the Kentucky Essential Skills Test in reading and math, suspension data, and whether or not the student receiving services remained in school.

Section 3. The State Board of Education authorizes the Superintendent of Public Instruction to enter into contractual agreements with the Department of Employment Services and other agencies and organizations for the purpose of securing Job Training Partnership Act funds and other special grant and contract funds to be utilized to supplement state appropriations, under the criteria and standards of this regulation, in reducing the numbers of dropouts in the common schools of Kentucky.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: November 5, 1986

FILED WITH LRC: November 12, 1986 at 9 a.m.

PROPOSED AMENDMENTS

REVENUE CABINET
Department of Professional & Support Services
(Proposed Amendment)

103 KAR 26:050. Common carriers.

RELATES TO: KRS 139.090, 139.120, 139.190, 139.470, 139.480

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: To interpret the sales and use tax law as it applies to transactions involving common carriers.

Section 1. All tangible personal property sold to or used by common carriers in this state shall be subject to application of the sales or use tax with the exceptions noted in Section 2 of this regulation. Tax will be applicable to leasing arrangements, or use pursuant to leasing arrangements, whereby items of equipment (including, for example, but not limited to, such things as tires or batteries) are acquired by common carriers for utilization over extended periods of time in connection with operations. Such purchases, uses, leases, and uses pursuant to leases are subject to the exceptions and qualifications hereinafter noted.

Section 2. Excepted from application of the sales or use tax are the following:

(1) Over the road equipment[, aircraft,] or floating equipment which enters this state in actual use in interstate commerce at the time of entering, and is used exclusively in interstate commerce thereafter (nominal use in intrastate commerce will not affect this exception from application of tax).

(2) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives or trains, used or to be used in interstate commerce. The term "rolling stock" shall mean only that equipment designed to move on rails and used for the transportation of goods or passengers for hire.

(3) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire (nominal use in intrastate commerce will not affect this exception from application of tax).

GARY W. GILLIS, Secretary

APPROVED BY AGENCY: November 6, 1986

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

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 24, 1986 at 10 a.m. in Room 406 of the Capitol Annex, Frankfort, Kentucky. If no written notice of intent to attend the public hearing is received within five days before the scheduled hearing, the hearing will be cancelled. Those interested in attending shall notify in writing: Scott Akers, Revenue Cabinet, Division of Tax Policy and Legal Services, New Capitol Annex Building, Frankfort, Kentucky 40620.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Scott Akers

(1) Type and number of entities affected: This amendment results from legislation enacted by the 1986 General Assembly to exempt aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance passengers for hire. The current law exempts these items if aircraft are used only for the transportation of property. Retailers making sales to persons engaged in conveying passengers in interstate commerce that purchase aircraft, repair and replacement parts and supplies will be affected.

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

1. First year: Retailers selling the tangible personal property listed above will be affected because they will no longer be liable for sales and use tax on gross receipts from such sales.

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: Slight increase.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Slight amount of additional auditing.

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change from the present requirements.

(3) Assessment of anticipated effect on state and local revenues: An insignificant decrease in state revenue will result from exempting aircraft, repair and replacement parts and supplies. There will be no effect on local revenue.

(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. Tiering is not applicable since the amended regulation applies equally to all persons who are engaged in selling aircraft, repair and replacement parts in supplies used by persons engaged in conveying passengers in interstate commerce.

REVENUE CABINET
Department of Professional & Support Services
(Proposed Amendment)

103 KAR 27:180. Vending machines.

RELATES TO : KRS 139.100, 139.110, 139.120, 139.130, 139.140, 139.470.

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: To interpret the sales and use tax law as it applies to sales of tangible personal property through vending machines.

Section 1. Persons who own vending machines which dispense tangible personal property, or operators of such machines under lease or rental agreements, must obtain a permit to engage in the business of selling tangible personal property and must report and pay to the department the tax upon the gross receipts from sales made through such machines. One (1) permit is sufficient for all machines of one (1) owner or operator.

Section 2. The owners or operators of vending machines shall be responsible for reporting and paying the tax on the total gross receipts even though the owner or operator of the place in which the machines are [is] located receives a share of such gross receipts under a commission or concession contract. In reporting and paying such tax, the owner or operator shall be deemed the agent of the operator or owner of such place of business in which the machine is located to the extent of commissions due the latter. Gross receipts from sales of tangible personal property made in [one (1) cent] portions of twenty-five (25) cents or less through coin operated bulk vending machines where unsorted merchandise is dispensed in approximately equal portions are exempt from the sales and use tax (KRS 139.470(6)).

Section 3. A statement in the following form must be affixed upon each vending machine in a conspicuous place: "This vending machine is owned (operator) by _____ Owner (Operator), _____ Place of Business of Owner (Operator), who holds Permit No. _____, issued pursuant to the Sales and Use Tax Law."

Section 4. If the owner or operator of vending machines also places upon each machine a statement that the sales tax is included in the price of the property dispensed, he may compute his liability for the tax in the same manner as all other retailers who separately state the tax.

Section 5. Adequate and complete records must be kept by the owner or operator showing the location of each vending machine owned or operated by him, the serial number thereof, purchases and inventories of merchandise bought for sale through such machine, and the gross receipts derived from each location during each tax period.

GARY W. GILLIS, Secretary

APPROVED BY AGENCY: November 6, 1986

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

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 24, 1986 at 10 a.m. in Room 406 of the Capitol Annex, Frankfort, Kentucky. If no written notice of intent to attend the public hearing is received within five days before the scheduled hearing, the hearing will be cancelled. Those interested in attending shall notify in writing: Scott Akers, Revenue Cabinet, Division of Tax Policy and Legal Services, New Capitol Annex Building, Frankfort, Kentucky 40620.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Scott Akers

(1) Type and number of entities affected: The amendment to the regulation results from legislation enacted by the 1986 General Assembly, which amends KRS 139.470(6) to increase the exemption for sales made through vending machines from 1¢ to 25¢ or less. Retailers selling tangible personal property through coin-operated bulk vending machines, which dispense unsorted merchandise in approximately equal portions, at random and without selection by the customer, will be affected.

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

1. First year: Retailers selling the tangible personal property through coin-operated bulk vending machines in portions of 25¢ or less will no longer be required to remit sales tax.

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: The reporting and paperwork requirements are the same as those required by the regulation prior to the amendment.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change from the present requirement is necessary.

(3) Assessment of anticipated effect on state and local revenues: A slight decrease in state tax revenue will result from exempting sales made through coin-operated bulk vending machines in portions of 25¢ or less. There will be no effect on local revenues.

(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 since the amended regulation applies uniformly to all persons selling tangible personal property through coin-operated bulk vending machines in portions of 25¢ or less.

REVENUE CABINET

Department of Professional & Support Services
(Proposed Amendment)

103 KAR 30:020. Prescription medicines, prosthetic devices and physical aids.

RELATES TO: KRS 139.050, 139.110, 139.130, 139.472

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: This regulation defines and clarifies the sales and use tax exemption provided in KRS 139.472 for

prescription medicine, prosthetic devices and physical aids.

Section 1. As provided in KRS 139.472, effective January 1, 1971, the sales and use tax does not apply to sales of prescription medicines, prosthetic devices and physical aids.

Section 2. Prescription medicine shall mean and include any substance or preparation intended for use by external or internal application to the human body in the diagnosis, cure, mitigation, treatment or prevention of disease or infirmity and which is commonly recognized as a substance or preparation intended for such use which is prescribed for the treatment of a human being by a person authorized to prescribe the medicines and dispensed on prescription by a registered pharmacist in accordance with law.

Section 3. Sales of prescription medicine pursuant to a physician's or dentist's telephone (oral) prescription are exempt from sales tax provided the prescription is transcribed and signed by the pharmacist and is filed in the same manner as an original written prescription.

Section 4. Medical oxygen when purchased by the patient for private use is exempt from sales and use tax. [Prescriptions refilled on or after January 1, 1971 will be exempt from the tax even though the original prescription was written prior to that date. Sales records of all prescriptions, including refills, must be kept in a manner permitting ready inspection by the Revenue Cabinet.]

Section 5. Prosthetic Devices and Physical Aids shall mean:

(1) Artificial devices prescribed by a licensed physician, or individually designed, constructed or altered solely for the use of a particular crippled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure including the extremities of the individual;

(2) Artificial limbs, artificial eyes, hearing aids prescribed by a licensed physician, or individually designed, constructed or altered solely for the use of a particular disabled person;

(3) Crutches, [and] wheelchairs, walkers, hospital beds, and wheelchair lifting devices for the use of invalids and crippled persons;

(4) Insulin, and diabetic supplies, such as hypodermic syringes and needles, and sugar (urine and blood) testing materials purchased for use by diabetics; and

(5) Colostomy supplies.

Section 6. Sales of standardized or stock devices, braces or supports [are not exempt from the tax. These] including[e] such items as anklets, arch supports, athletic supporters, [bandages,] elbow caps, [ear correction caps,] elastic goods, eye [shades and] shields, [gloves,] knee caps, [leggings, shields, thumb protectors,] stockings, [suspensories] and wristlets are exempt from sales and use tax when prescribed by a licensed physician for the use of a particular crippled person. Sales of trusses, abdominal supports, uterine supports, maternity supports, kidney supports and post-operative supports are also exempt when

prescribed by a licensed physician or [taxable unless] specially made up for the use of a particular crippled [or disabled] person. Sales of [Corrective eyeglasses and] standardized hearing aids prescribed by a physician for the use of a particular disabled person are [not] exempt from the tax. Corrective eyeglasses are subject to tax.

Section 7. Sales of crutches, wheelchairs, walkers, hospital beds and wheelchair lifting devices [and similar equipment] to persons who rent them to others are exempt [taxable]. The rental receipts would not be subject to sales or use tax. Repair and replacement parts for prosthetic devices and physical aids are taxable.

Section 8. To claim an exemption for sales of prosthetic devices and physical aids, sellers of these items, with the exception of crutches, [and] wheelchairs, walkers, hospital beds and wheelchair lifting devices, must retain evidence to show that the devices were specifically designed for the use of a particular crippled or disabled person and not merely removed from inventory for sale.

GARY W. GILLIS, Secretary

APPROVED BY AGENCY: November 6, 1986

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

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 24, 1986 at 10 a.m. in Room 406 of the Capitol Annex, Frankfort, Kentucky. If no written notice of intent to attend the public hearing is received within five days before the scheduled hearing, the hearing will be cancelled. Those interested in attending shall notify in writing: Scott Akers, Revenue Cabinet, Division of Tax Policy and Legal Services, New Capitol Annex Building, Frankfort, Kentucky 40620.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Scott Akers

(1) Type and number of entities affected: The amendment to this regulation conforms with the provisions of House Bill 197, enacted by the 1986 General Assembly, which amends KRS 139.472 to include additional items of tangible personal property as exempt from sales and use tax. The amended law becomes effective July 15, 1986 and provides an exemption for medical oxygen, walkers, hospital beds, wheelchair lifting devices, insulin, diabetic supplies, such as hypodermic syringes and needles, sugar (urine and blood) testing material, colostomy supplies, prosthetic devices and physical aids prescribed by a licensed physician. Retailers selling the above listed property will no longer be required to remit tax on gross receipts from such sales.

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

1. First year: The amended regulation explains the statutory exemption for the tangible property described above. This exemption results in a tax savings to those persons purchasing these medical supplies.

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: No change.

(2) Effects on the promulgating administrative

body:

- (a) Direct and indirect costs or savings: None
 - 1. First year: None
 - 2. Continuing costs or savings: None
 - 3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No change.

(3) Assessment of anticipated effect on state and local revenues: A small decrease in state tax revenue will result from exempting the following: (1) prosthetic devices and physical aids prescribed by a physician, (2) medical oxygen, walkers, hospital beds, wheelchair lifting devices, and (3) insulin and diabetic supplies, such as hypodermic syringes and needles, sugar (urine and blood) testing materials, and colostomy supplies. There will be no effect on local revenue.

(4) Assessment of alternative methods; reasons why alternatives were rejected: None. The amendment to this regulation is necessary because of sales and use tax legislation enacted by the 1986 General Assembly.

(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: None

TIERING: Was tiering applied? No. Tiering was not applicable since the amended regulation applies equally to all persons who are engaged in selling such tangible personal property.

FINANCE AND ADMINISTRATION CABINET
Kentucky State Board of Medical Licensure
(Proposed Amendment)

201 KAR 9:016. Restriction on use of amphetamines and amphetamine-like anorectic controlled substances.

RELATES TO: KRS 311.530 to 311.620
 PURSUANT TO: KRS 311.565

NECESSITY AND FUNCTION: KRS 311.597 empowers the State Board of Medical Licensure to determine those acts that shall constitute dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof by a licensee. In accordance therewith, the purpose of this regulation is to regulate and control the use of amphetamine and amphetamine-like anorectic controlled substances.

Section 1. A physician shall not prescribe, order, dispense, administer, supply, sell or give any amphetamine or amphetamine-like anorectic controlled substance designated as Schedule II pursuant to KRS 218A.0780 or by duly promulgated regulation without taking into account the drug's potential for abuse, the possibility the drug may lead to dependence, the possibility the patient will obtain the drug for a nontherapeutic use or distribute to others and the presence of an illicit market for the drug. The patient's record and the prescription order shall indicate the specific diagnosis/purpose for which the drug is being given. Such

diagnosis/purpose shall be restricted to:

- (1) The treatment of narcolepsy;
- (2) The treatment of hyperkinesia;
- (3) The treatment of drug-induced brain dysfunction;
- (4) The treatment of epilepsy;
- (5) The differential diagnostic psychiatric evaluation of depression;
- (6) The treatment of depression shown to be refractory to other therapeutic modalities;
- (7) The treatment of attention deficit disorder; and

(8) [(7)] The clinical investigation of the effects of such drugs or compounds in which case an investigative protocol therefrom shall have been submitted to, reviewed and approved by the board before such investigation has begun.

Section 2. Amphetamine means all Schedule II controlled substances in this group, including but not limited to dextroamphetamine and methamphetamine. Amphetamine-like means all Schedule II controlled substances with pharmacologic activity similar to the prototype drugs of the amphetamine class, including but not limited to phenmetrazine and methylphenidate.

Section 3. Amphetamine and amphetamine-like controlled substances shall not be prescribed, ordered, dispensed, administered, supplied, sold or given except as provided in this regulation. A departure from this regulation shall constitute dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public or a member thereof.

Section 4. For legitimate medical purposes, a physician may apply in writing for a written waiver of any of these requirements. The board may issue such waivers with terms and conditions it deems appropriate.

C. WILLIAM SCHMIDT, Executive Director
 APPROVED BY AGENCY: October 27, 1986

FILED WITH LRC: October 29, 1986 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on Tuesday, December 23, 1986, at 10 a.m. at the offices of the Kentucky Board of Medical Licensure, 400 Sherburn Lane, Suite 222, Louisville, Kentucky 40207. Those interested in attending this hearing shall contact in writing: Mr. C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 400 Sherburn Lane, Suite 222, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: C. William Schmidt

(1) Type and number of entities affected: Will affect only those physicians who prescribe Schedule II amphetamine or amphetamine-like anorectic controlled substances.

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

- 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: Less - physicians writing prescriptions under the new diagnosis will no longer have to apply to the board for waiver.

(2) Effects on the promulgating administrative

body: Will lessen the number of amphetamine waivers to be reviewed by the board.

(a) Direct and indirect costs or savings: None expected.

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: See (2) above.

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: This new diagnosis is an accepted medical diagnosis that can justify prescription of Schedule II amphetamine or amphetamine-like anorectic controlled substances.

(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? Yes.

FINANCE AND ADMINISTRATION CABINET
Kentucky State Board of Medical Licensure
(Proposed Amendment)

201 KAR 9:031. Examinations.

RELATES TO: KRS 311.530 to 311.620, 311.990

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 311.565 empowers the State Board of Medical Licensure to exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy and authorizes the board to establish requirements and standards relating thereto. The purpose of this regulation is to establish standards and rules regarding examination scope, content, passing scores, testing opportunities and test score recognition.

Section 1. Basic Requirement; Passing Score. All applicants for any license or permit issued by the board shall provide written proof of having successfully completed an examination approved by the board with a minimum passing [an overall average] score of seventy-five (75) or its numerical equivalent. The passing [overall] score must have been determined on the basis of performance in a single sitting and scores based on an average of scores from multiple sittings will not be considered. All applicants taking Component I and Component II of the FLEX must obtain a minimum score of seventy-five (75) on each component in order to be considered passing. No combination of Component I and Component II scores will be considered.

Section 2. Examinations Approved by the Board. The following examinations are approved by the board in regard to the fulfillment of the examination requirement for licensure:

(1) Examinations administered by the licensure authority of another state, United States territory or Canadian province upon sufficient

proof that the examination consisted of comprehensive testing in the basic and clinical sciences;

(2) The Federation Licensure Examination (FLEX);

(3) The examination administered by the National Board of Medical Examiners; and

(4) The examination administered by the National Board of Examiners for Osteopathic Physicians and Surgeons.

The board may deny a license or permit when in the board's opinion the examination by which the applicant is seeking to fulfill the examination requirement inadequately tested the applicant's knowledge, education, training and competency.

Section 3. Examination Administered by Board.

(1) The board will administer the Federation Licensure Examination (FLEX) twice yearly in accord with protocol established by the Federation of State Medical Boards of the United States, Inc. The executive director shall oversee the examination and may expel any person for fraudulent or disruptive behavior.

(2) The executive director may allow an applicant to sit for the FLEX when in his or her opinion the applicant appears to have fulfilled the appropriate eligibility requirements. Allowing an applicant to sit for the FLEX or any component thereof shall not be considered as certification that any requirement for licensure has been fulfilled.

Section 4. Eligibility for Examination. (1) An applicant shall be eligible to take both components of the FLEX if the applicant has fulfilled all other requirements for regular licensure.

(2) An applicant shall be eligible to take Component I of the FLEX if the applicant has fulfilled all other requirements for limited licensure-institutional practice.

(3) An applicant shall be eligible to take Component II of the FLEX if the applicant has previously passed Component I and has fulfilled all other requirements for regular licensure.

(4) An applicant who has not fulfilled the particular post-graduate training requirement at the time the FLEX is administered may sit for the examination upon showing that this requirement will be fulfilled within seven (7) months of the examination date.

(5) An applicant who has failed the FLEX on three (3) previous occasions may sit for the FLEX or a component thereof upon proof that the applicant has completed since the time of the applicant's last failure one (1) additional year of approved post-graduate training in addition to the number of years of post-graduate training normally required to sit for the FLEX or a component thereof.

(6) No person shall be eligible to sit for the FLEX or a component thereof if the applicant has failed the FLEX on three (3) previous occasions except as provided in subsection (5) of this section. All failures prior to June 1, 1985, and failures thereafter of the FLEX components shall be added together to determine an applicant's total number of prior failures. An applicant who by a combination of failures of the entire exam, whenever given, and components thereof has accumulated three (3) failures of the entire exam or a component thereof shall be ineligible to sit for the exam or any component thereof except as provided in subsection (5) of this

section.

Section 5. Recognition of Passing Scores by Endorsement. The board will not recognize a passing score of the FLEX by endorsement if the applicant failed the FLEX or a component thereof on a total of three (3) previous occasions, wherever taken. The board will recognize a passing score on an applicant's fourth attempt upon proof that the applicant has obtained since the third failure one (1) additional year of approved post-graduate training in addition to the number of years of post-graduate training normally required for the type of licensure the applicant seeks.

C. WILLIAM SCHMIDT, Executive Director

APPROVED BY AGENCY: October 27, 1986

FILED WITH LRC: October 29, 1986 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on Tuesday, December 23, 1986, at 10 a.m. at the offices of the Kentucky Board of Medical Licensure, 400 Sherburn Lane, Suite 222, Louisville, Kentucky 40207. Those interested in attending this hearing shall contact in writing: Mr. C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 400 Sherburn Lane, Suite 222, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: C. William Schmidt

(1) Type and number of entities affected: Will affect all physicians seeking licensure in the Commonwealth of Kentucky for the first time.

(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: N/A

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: N/A

1. First year: N/A

2. Continuing costs or savings: N/A

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

(b) Reporting and paperwork requirements: N/A

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: There were no alternative methods available for accomplishing the purpose of the regulation which is to insure the competency of physicians licensed in the Commonwealth.

(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 amendment places 201 KAR 9:031 in compliance with the Federation of State Medical Boards' minimal guidelines on the scoring of their examination (FLEX).

TIERING: Was tiering applied? Yes.

FINANCE AND ADMINISTRATION CABINET Kentucky State Board of Medical Licensure (Proposed Amendment)

201 KAR 9:041. Fee schedule.

RELATES TO: KRS 311.530 to 311.620, 311.990

PURSUANT TO: KRS 311.565

NECESSITY AND FUNCTION: KRS 311.565 empowers the State Board of Medical Licensure to exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy and authorizes the board to establish requirements and standards relating thereto. The purpose of this regulation is to establish a schedule of fees for services rendered by the board.

Section 1. Fee Schedule.

(1) Fee for sitting for both components of examination administered by board - \$450 [350].

(a) Component I - \$225 [165].

(b) Component II - \$275 [185].

(2) Fee for initial issuance of regular license - \$150.

(3) Fee for initial issuance of limited license - \$65.

(4) Fee for annual registration or renewal of any license - \$65.

(5) Penalty for late annual registration or renewal:

(a) March 1 - April 1 - \$25.

(b) After April 1 - \$100.

(6) Fee for reregistration of inactive license - \$90.

(7) Endorsement of licensee to licensing agency of another jurisdiction - \$20.

(8) Certification of licensee's examination grades to licensing agency of another jurisdiction - \$10.

(9) Fee for temporary permit (credited to fee for regular license if subsequently issued) - \$50.

(10) Fee for emergency permit - \$15.

(11) Fee for duplicate license certificate - \$10.

(12) Fee for copy of "Kentucky Medical Directory" (fee waived for licensees, hospitals, schools and other licensure boards) - \$5.

(13) Fee for one (1) year subscription to Newsletter (fee waived for licensees) - \$5.

C. WILLIAM SCHMIDT, Executive Director

APPROVED BY AGENCY: October 27, 1986

FILED WITH LRC: October 29, 1986 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on Tuesday, December 23, 1986, at 10 a.m. at the offices of the Kentucky Board of Medical Licensure, 400 Sherburn Lane, Suite 222, Louisville, Kentucky 40207. Those interested in attending this hearing shall contact in writing: Mr. C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, 400 Sherburn Lane, Suite 222, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: C. William Schmidt

(1) Type and number of entities affected: Will apply only to those physicians applying for medical licensure in the Commonwealth of Kentucky for the first time and to those licensed physicians who are late in annually

reregistering their license.

(a) Direct and indirect costs or savings to those affected: Late fee - increase \$75; Board examination - \$450.

1. First year: N/A

2. Continuing costs or savings: If physician timely reregisters, no additional costs.

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: None - these fee increases are recommended by the Federation of State Medical Boards, who draft the FLEX exam (Components I & II).

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

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

(b) Reporting and paperwork requirements: N/A

(3) Assessment of anticipated effect on state and local revenues: 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: The increased examination fees reflect the costs the Board incurs by contracting with the Federation of State Medical Boards to develop the examination.

TIERING: Was tiering applied? Yes.

FINANCE AND ADMINISTRATION CABINET Kentucky State Board of Medical Licensure (Proposed Amendment)

201 KAR 9:151. Contracts for support services; establish a fee schedule; and establish a Paramedic Advisory Committee.

RELATES TO: KRS 311.650 to 311.658, 311.990(18)

PURSUANT TO: KRS Chapter 13A, 311.654, 311.656

NECESSITY AND FUNCTION: KRS 311.654 directs the State Board of Medical Licensure to adopt rules and regulations relating to paramedics. The function of this regulation is to authorize contracts for support services; establish a fee schedule; and to establish a Paramedic Advisory Committee.

Section 1. Contract for Support Services. The board may contract with the Cabinet [Department] for Human Resources for the selection of training sites, student selection, monitoring and evaluation of training courses of paramedics, and to perform such other services as may be necessary to implement the provisions of these regulations, subject to the approval of the board.

Section 2. Fees. The following schedule of fees is established pursuant to KRS 311.656:

(1) Exam application fee: \$10;

(2) Examination fee: \$45 [\$35];

(3) Renewal fee: \$35 [\$20];

(4) Fee for duplicate certificate: \$10;

(5) Training course application fee: \$50;

(6) Advance life support provider application fee: \$50;

(7) Annual renewal of ALS provider license: \$50.

Section 3. Paramedic Advisory Committee. (1) A Paramedic Advisory Committee appointed by the board will consist of the following members [There is hereby created a Paramedic Advisory Committee consisting of the following]:

(a) Four (4) physicians[, two (2) of them shall be] appointed for a term of three (3) years[, one (1) for a term of two (2) years, and one (1) for a term of one (1) year].

(b) One (1) [Two (2)] emergency department nurse[s, one (1) of whom shall be appointed] for a term of three (3) years[, and one (1) for a term of two (2) years].

(c) One (1) certified paramedic[, who shall be] appointed for a term of three (3) [one (1)] years.

(d) One (1) EMT instructor[, who shall be appointed] for a term of three (3) years.

(e) One (1) member of the Emergency Medical Services Coordination Association[, who shall be appointed] for a term of two (2) years.

(f) One (1) advanced life support provider[, who shall be appointed] for a term of two (2) [one (1)] years.

(g) One (1) consumer[, who shall be appointed] for a term of two (2) [one (1)] years.

(h) The director [manager] of the EMS Branch of the Cabinet [Department] for Human Resources or his designee shall serve as an ex-officio member.

(2) The duties of the committee shall be to advise the board on matters pertaining to paramedics.

C. WILLIAM SCHMIDT, Executive Director

APPROVED BY AGENCY: November 13, 1986

FILED WITH LRC: November 14, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on Tuesday, December 23, 1986, at 10 a.m., at the offices of the Kentucky Board of Medical Licensure, The Mall Office Center, 400 Sherburn Lane, Suite 222, Louisville, Kentucky 40207. Those interested in attending this hearing shall contact in writing: Mr. C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, The Mall Office Center, 400 Sherburn Lane, Suite 222, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: C. William Schmidt

(1) Type and number of entities affected: All paramedics and paramedic trainees and ALS Providers in the Commonwealth of Kentucky.

(a) Direct and indirect costs or savings to those affected: Increases in fees are minimal and reflect increased costs since promulgation of this regulation on May 25, 1978.

1. First year: Minimal

2. Continuing costs or savings: No change after 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: These increased fees will help the Medical Licensure Board offset costs of regulating paramedics within the Commonwealth of Kentucky.

(a) Direct and indirect costs or savings:

Paramedics may become more self-sufficient.

1. First year: See (2)(a) above.
2. Continuing costs or savings: See (2)(a) above.
3. Additional factors increasing or decreasing costs:
 - (b) Reporting and paperwork requirements: None
 - (3) Assessment of anticipated effect on state and local revenues: Minimal
 - (4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods available to increase fees.
 - (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: These increased fees are needed by the board to offset Paramedic Program operating and exam costs. The terms of office of the Advisory Committee are being increased to make the committee operate more efficiently and effectively.

TIERING: Was tiering applied? Yes.

**FINANCE AND ADMINISTRATION CABINET
Board of Registration for Professional
Engineers and Land Surveyors
(Proposed Amendment)**

201 KAR 18:040. Fees.

RELATES TO: KRS 322.040, 322.090, 322.100, 322.110, 322.120, 322.140, 322.150, 322.160, 322.420

PURSUANT TO: KRS 322.090, 322.100, 322.120, 322.140, 322.290, 322.420

NECESSITY AND FUNCTION: KRS Chapter 322 gives the board certain authority to fix fees, and this is intended to outline fees covering various steps of application, examination, certification, registration and/or renewal fees.

Section 1. Fees. (1) The license fee under KRS 322.040 shall be \$115 [seventy-five (75) dollars], of which seventy-five (75) [forty (40)] dollars is payable on application. The license fee under KRS 322.120 shall be \$100 [seventy-five (75) dollars] all of which is payable on application. The amounts specified as application fees should accompany each application and shall be transmitted by check or money order made payable to "Kentucky State Registration Board."

(2) These fees will be retained by the board as nonrefundable application fees, the same to be credited to the applicant when and if a license is granted.

(3) If approved under KRS 322.120 the license certificate will be issued without further fee, and if under KRS 322.040, it will be issued upon receipt by the board of the final payment of forty (40) [thirty-five (35)] dollars, representing the balance of the total licensing fee of \$115 [seventy-five (75) dollars].

(4) Only one (1) complete application form is required for a license in any one or more branches of engineering or land surveying. However, an updating of the application and an additional application fee of seventy-five (75)

[forty (40)] dollars and an additional forty (40) [thirty-five (35)] dollar final fee is required for each additional branch of engineering or section of the law under which the applicant subsequently applies for licensing. The update must stress the work experience the applicant has had in the branch he wishes to add.

(5) The application fee to take the engineer in training examination and the land surveyor in training examination shall be forty (40) dollars.

LARRY S. PERKINS, Executive Director

APPROVED BY AGENCY: July 25, 1986

FILED WITH LRC: November 14, 1986 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this amendment will be held on December 23, 1986 at 1:30 p.m. at the Kentucky Engineering Center. Comments or requests to attend hearing should be directed to: Larry S. Perkins, Executive Director, Kentucky State Board of Registration for Professional Engineers and Land Surveyors, Kentucky Engineering Center, Route 3, 96-5, Millville Road, Frankfort, Kentucky.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry Perkins

- (1) Type and number of entities affected:
 - (a) Direct and indirect costs or savings to those affected:
 1. First year: Increased fees for registration.
 2. Continuing costs or savings: N/A. One time costs.
 3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A
 - (b) Reporting and paperwork requirements: Not affected.
 - (2) Effects on the promulgating administrative body:
 - (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: Not affected.
 - (3) Assessment of anticipated effect on state and local revenues: N/A
 - (4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative available.
 - (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? No. N/A

**FINANCE AND ADMINISTRATION CABINET
Board of Registration for Professional
Engineers and Land Surveyors
(Proposed Amendment)**

201 KAR 18:050. Branches of professional engineering.

RELATES TO: KRS 322.020, 322.110

PURSUANT TO: KRS 322.010(4), 322.290(2)(a)

NECESSITY AND FUNCTION: Under KRS Chapter 322,

the board considers the field of sanitary engineering has developed to the extent that it warrants specific recognition as a registerable branch of engineering in the Commonwealth. This regulation sets forth branches of engineering for which licenses will be issued.

Section 1. Branches of Professional Engineering. The board at the present time recognizes for the purpose of licensing the following branches of engineering: agricultural, chemical, civil, electrical, [highway,] industrial, mechanical, metallurgical, mining, petroleum, structural, and sanitary. An applicant for license as "Professional Engineer," in order to be accepted and licensed, should qualify in one (1) or more of the above classifications. The board reserves the right to increase or decrease the number of branches in which licenses are granted.

LARRY S. PERKINS, Executive Director

APPROVED BY AGENCY: July 25, 1986

FILED WITH LRC: November 14, 1986 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this amendment will be held on December 23, 1986 at 1:30 p.m. at the Kentucky Engineering Center. Comments or requests to attend hearing should be directed to: Larry S. Perkins, Executive Director, Kentucky State Board of Registration for Professional Engineers and Land Surveyors, Kentucky Engineering Center, Route 3, 96-5, Millville Road, Frankfort, Kentucky.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry Perkins

(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): N/A

(b) Reporting and paperwork requirements: Not affected.

(2) Effects on the promulgating administrative body:

(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: Not affected.

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative available.

(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? No. N/A

FINANCE AND ADMINISTRATION CABINET Board of Registration for Professional Engineers and Land Surveyors (Proposed Amendment)

201 KAR 18:070. Examinations.

RELATES TO: KRS 322.040, 322.080, 322.090

PURSUANT TO: KRS 322.040, 322.290

NECESSITY AND FUNCTION: Sets forth requirements and scope of examinations conducted for applicants seeking registration/certification as engineers, land surveyors, engineers-in-training and land surveyors-in-training.

Section 1. Examinations. (1) The board conducts written examinations semi-annually, in the spring and in the fall. The eight (8) hour examination evaluates the candidate's knowledge of the basic science and fundamentals of engineering or land surveying. The sixteen (16) hour examination includes the eight (8) hours in basics, plus a second eight (8) hours examination covering the principles and practices of the specific field in which the applicant seeks to be licensed.

(2) Class I. Professional engineers.

[(a) Applicants for licensing under KRS 322.040(1)(a) will, through June 30, 1976, be permitted to elect between an eight (8) hours written examination combined with a short personal interview before the board and a sixteen (16) hour written examination without personal interview. After June 30, 1976, all class 1 applicants will be required to take the sixteen (16) hour examination. Persons holding valid in-training certificates will be excused from taking the eight (8) hour examination in basic science and fundamentals.

(b)] Applicants for licensing under KRS 322.040(1)(b) will take the sixteen (16) hour examination unless they hold a valid EIT certificate, excusing them from the eight (8) hour examination in fundamentals.

(3) Class 2. Engineer-in-training. Applicants for EIT certification will take the eight (8) hour basic examination in engineering fundamentals.

(4) Class 3. Land surveyors.

(a) Applicants for licensing under KRS 322.040(2)(a) will be required to take only a four (4) hour examination in the practice of land surveying in Kentucky.

(b) Applicants for licensing under KRS 322.040(2)(b) or (c) will be required to take [the] sixteen (16) hours of written examinations. Holders of valid land surveyor-in-training certification will be excused from the eight (8) hour examination in basic science and fundamentals.

(5) Class 4. Land surveyors-in-training. Applicants for LSIT certificate will take the eight (8) hour basic examination in land surveying.

LARRY S. PERKINS, Executive Director

APPROVED BY AGENCY: July 25, 1986

FILED WITH LRC: November 14, 1986 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this amendment will be held on December 23, 1986 at 1:30 p.m. at the Kentucky Engineering Center. Comments or requests to attend hearing should be directed to: Larry S. Perkins, Executive Director, Kentucky State Board of Registration for Professional Engineers and Land Surveyors.

Kentucky Engineering Center, Route 3, 96-5,
Millville Road, Frankfort, Kentucky.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry Perkins

(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): N/A

(b) Reporting and paperwork requirements: Not affected.

(2) Effects on the promulgating administrative body:

(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: Not affected.

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative available.

(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? No. N/A

TOURISM CABINET

Department of Fish and Wildlife Resources
(Proposed Amendment)

301 KAR 1:055. Angling; limits and seasons.

RELATES TO: KRS 150.010, 150.470, 150.990

PURSUANT TO: KRS 13A.350, 150.025

NECESSITY AND FUNCTION: In order to perpetuate and protect the size and well being of fish populations, it is necessary to govern the size and numbers fishermen can harvest. This amendment is necessary to allow specific fishery management programs for Dewey and Grayson Lakes [in private waters].

Section 1. The statewide season, creel limits and size limits for taking fish by angling shall be as follows except as specified in Section 2 of this regulation for specific bodies of water and as provided in 301 KAR 1:180, Fisheries management permit for private waters:

	Daily Creel Limits	Possession Limits	Size Limits Inches
Black bass (large-mouth, smallmouth, Kentucky & Coosa bass)	10	20	12
Rock bass (known as goggle eye or red-eye)	15	30	None

Walleye and their hybrids	10	20	15
Sauger	10	20	None
Muskellunge and their hybrids	2	2	30
Northern pike	5	10	None
Chain pickerel	5	10	None
White bass and yellow bass	60	60	None
Rockfish and their hybrids	5	5	15
Crappie	60	60	None
Trout (all species)	8	8	None

Seasons for all species is year around.

Section 2. The following special limits apply. All other angling limits and seasons apply as set forth in Section 1 of this regulation.

(1) The impounded waters of Grayson Lake:

	Daily Creel Limits	Possession Limits	Size Limits Inches
<u>Largemouth bass</u>	<u>10</u>	<u>20</u>	<u>15</u>
<u>Smallmouth bass</u>	<u>10</u>	<u>20</u>	<u>15</u>
<u>Kentucky bass</u>	<u>10</u>	<u>20</u>	<u>None*</u>
[Black bass (large-mouth, smallmouth, and Kentucky bass)]	10	20	15]
Crappie	None	None	None

*For purposes of identification, any black bass with a patch of teeth on its tongue is considered to be a Kentucky bass.

(2) The impounded waters of Herrington Lake and Dix River and their tributary streams upstream from Dix Dam:

	Daily Creel Limits	Possession Limits	Size Limits Inches
White bass, rock-fish, and their hybrids	20	40	*

*No more than five (5) fish of a daily limit or ten (10) fish of a possession limit may be fifteen (15) inches or longer.

(3) The impounded waters of Taylorsville Lake:

	Daily Creel Limits	Possession Limits	Size Limits Inches
Black bass (large-mouth, smallmouth, and Kentucky bass)	10	20	15

(4) The impounded waters of Kentucky and Barkley Lakes, including the connecting canal:

	Daily Creel Limits	Possession Limits	Size Limits Inches
Black bass (large-mouth, smallmouth, and Kentucky bass)	10	20	*

*Fourteen (14) inches, except that the daily limit may include no more than one (1) and the possession limit no more than two (2) black bass

less than fourteen (14) inches in length.

(5) The impounded waters of Cave Run and Dewey Lakes:

	Daily Creel Limits	Possession Limits	Size Limits Inches
<u>Largemouth bass</u>	10	20	15
<u>Smallmouth bass</u>	10	20	15
<u>Kentucky bass</u>	10	20	None*
[Black bass:	10	20	
Largemouth bass			15
Smallmouth bass			15
Kentucky bass			None]

*For purposes of identification, any black bass with a patch of teeth on its tongue is considered to be a Kentucky bass. [All other angling limits and seasons apply as set forth in Section 1 of this regulation.]

Section 3. Measure all fish from the terminal end of the lower jaw to the tip of the tail with fish laid flat on rule, mouth closed and tail lobes squeezed together. All fish caught that are smaller than those prescribed minimum lengths must be returned immediately to the waters from which they were taken in the best physical condition possible. Under no circumstances may a fisherman remove the head or the tail or part thereof of any of the above named fish while in the field and before he has completed fishing for the day.

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

APPROVED BY AGENCY: November 11, 1986

FILED WITH LRC: November 14, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1986 at 1:30 p.m. in the meeting room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Peter W. Pfeiffer, Director, Division of Fisheries, Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick

(1) Type and number of entities affected: Approximately 12,000 anglers.

(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:

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: No alternative methods available.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. The amendment is not tiered, but the complete regulation is.

DEPARTMENT OF AGRICULTURE (Proposed Amendment)

302 KAR 20:065. Sale and exhibition of livestock in Kentucky.

RELATES TO: KRS Chapter 257

PURSUANT TO: KRS 257.030

NECESSITY AND FUNCTION: To specify general sanitary and health requirements in relation to the sale and exhibition of Kentucky livestock in Kentucky.

Section 1. Cattle. (1) General requirements.

(a) All animals, except as noted, shall be accompanied by an approved health certificate. Health certificates shall be void 150 days after issuance for exhibition and thirty (30) days after issuance for sale.

(b) If animals are from accredited or certified herds, health certificate shall show accreditation and certification number with date of last herd test for tuberculosis and brucellosis.

(c) Blood tests for brucellosis must be conducted in a state-federal laboratory and be negative according to recommended procedures of the Uniform Methods and Rules published by APHIS, VS, USDA.

(d) Cattle changing ownership shall be vaccinated against brucellosis as required in 302 KAR 20:055.

(2) Brucellosis.

(a) Sale. All breeding cattle moving from one (1) premise to another premise on the change of ownership must be negative to the brucellosis test within thirty (30) days prior to movement.

(b) Exhibition. Animals six (6) months of age or over shall be negative to an official test for brucellosis within 150 days of date of exhibition, unless exempt by one (1) of the following:

1. Originate directly from a certified herd.

2. Official vaccinate under twenty (20) months of age for the dairy breeds and twenty-four (24) months of age for the beef breeds.

3. Steers. Must be accompanied by approved health certificate showing individual identification. No brucellosis test required.

(3) Tuberculosis.

(a) Sale. Animals six (6) months of age or older shall be negative to an official tuberculin test within sixty (60) days of date of sale, unless exempt by one (1) of the following:

1. Originate directly from an accredited herd.

2. Originate directly from a herd in which all animals six (6) months of age or older are negative to an official tuberculin test within last twelve (12) months of date of sale.

(b) Exhibition. No test required.

Section 2. Performance Bull Testing Program. (1) All animals shall be accompanied by approved health certificates.

(2) Brucellosis. Animals entered in this program shall, if six (6) months of age or older, be negative to an official brucellosis test within thirty (30) days of date of entry or originate directly and immediately from a certified herd.

(3) Tuberculosis. All animals six (6) months of age or older shall be negative to an official tuberculin test within sixty (60) days or originate directly and immediately from an accredited herd.

Section 3. Horses. (1) All horses entering Kentucky, except unweaned foals, and other equidae, for any purpose other than for immediate slaughter shall be accompanied by an official certificate of veterinary examination of state of origin issued by a state, federal or licensed accredited veterinarian and such certificate shall include:

(a) Veterinarian's statement that examination was made within the past thirty (30) days and revealed the animal to be free of symptoms of any infectious disease or exposure thereto; and

(b) Shall include any tests that have been conducted as well as all vaccinations including vaccination date and type of vaccine used; and

(c) Have attached thereto a copy of certificate of report from a laboratory approved by the USDA showing the animal(s) to be negative to AGID test for equine infectious anemia within the past six (6) months, if offered for sale.

(2) All horses being offered for sale in Kentucky shall be accompanied by a health certificate or official certificate of veterinary examination of the state of origin issued by a state, federal or licensed accredited veterinarian. This certificate shall remain as a record at the sale and will be presented to the new owner. Such certificate shall include all information required pursuant to subsection (1) of this regulation. All horses past six (6) months of age and other equidae offered for public sale shall be negative to AGID test within the past six (6) months. Only horses offered for sale for slaughter shall be exempt from this requirement.

(3) All horses and other equidae offered for entry into fairgrounds, livestock show grounds, public boarding stables, and for trail rides or racing shall be negative to tests for AGID within twelve (12) months and shall be accompanied by certificate of report from a laboratory approved by the USDA.

(4) [(3)] All reactors to AGID test for equine infections anemia shall be officially, permanently identified using numbers and letter 61A with a brand on the left neck region.

(5) [(4)] All reactors not slaughtered or euthanized shall be isolated and quarantined. This isolation shall include stabling in a stall that is screened to preclude entry and exit of mosquitoes, stable flies and horse flies during those seasons of the year when such insects are prevalent. These animals will also be kept at least 200 yards from all other horses.

(6) [(5)] The movement of any quarantined reactor shall be done only on permission of representative of the Department of Agriculture.

(7) [(6)] All horses in a herd in which a

reactor is found shall be quarantined pending a negative test on all horses.

Section 4. Swine. (1) All swine for exhibition and sale must be accompanied by an approved health certificate which shall be void 150 days after issuance for exhibition and thirty (30) days after issuance of sale.

(2) Brucellosis.

(a) Sale. All swine except barrows six (6) months of age or older shall have a negative thirty (30) day test in accordance with the Uniform Methods and Rules published by APHIS, VS, USDA, or originate directly and immediately from a validated herd. Validation number and date of last herd test must be shown on the approved health certificate.

(b) Exhibition. All swine except barrows six (6) months of age or older shall have a negative 150 day test in accordance with the Uniform Methods and Rules published by APHIS, VS, USDA, or originate directly and immediately from a validated herd. Validation number and date of last herd test must be shown on the approved health certificate.

(3) Identification. All swine must have a permanent means of identification.

(4) Pseudorabies.

(a) Sale. All swine must be negative to the serum neutralization test within thirty (30) days or originate from a qualified pseudorabies negative herd.

(b) Exhibition. All swine must be negative to the serum neutralization test within 150 days of consignment for exhibition or originate from a qualified pseudorabies negative herd.

Section 5. Sheep. (1) Scrapie. No sheep or lambs shall be consigned that originated from or are known to be exposed to flocks under surveillance for scrapie.

(2) Scabies. All sheep or lambs for breeding and feeding purposes consigned from a farm, ranch or like premises shall be accompanied by an approved health certificate indicating such sheep and lambs originated directly and immediately from an official scabies-eradicated-free area.

(3) Sore mouth. Any sheep or lambs showing lesions of contagious exythma shall not be consigned.

(4) Sale. All sheep and lambs consigned shall be identified individually by ear tattoo or ear tag and entered on an approved health certificate which is good for thirty (30) days after issuance.

(5) Exhibition. All sheep and lambs consigned shall be identified individually by ear tattoo or ear tag and entered on an approved health certificate which is good for 150 days after issuance.

Section 6. Goats. (1) Scabies. All goats must originate from a scab-free area.

(2) Scrapie. No goats from a herd under surveillance for scrapie that are known to have been exposed to or that are progeny shall be considered.

(3) Brucellosis.

(a) Sale. Animals six (6) months of age or older shall have a negative thirty (30) day test in accordance with the Uniform Methods and Rules published by APHIS, VS, USDA, as applies to the bovine test or originate directly from a certified herd and be accompanied by an approved

health certificate which shall be void thirty (30) days after issuance.

(b) Exhibition. Goats six (6) months of age or older shall be negative to an official blood test for brucellosis within 150 days of exhibition or originate directly from a certified herd and be accompanied by an approved health certificate which shall be void 150 days after issuance.

(4) Tuberculosis.

(a) Sale. Animals six (6) months of age or older shall have negative tuberculin test in last sixty (60) days or originate directly and immediately from an accredited herd.

(b) Exhibition. No test required.

Section 7. Poultry. Negative pullorum agglutination test within thirty (30) days for sale and/or exhibition. Test record must accompany poultry.

Section 8. Dogs and Cats. (1) All dogs over four (4) months of age for sale or exhibition shall be accompanied by a health certificate signed by a licensed, accredited veterinarian stating that they are free from all infectious diseases, did not originate within an area under quarantine for rabies, or from an area where rabies is known to exist and has not been exposed to rabies. All dogs over four (4) months of age shall be vaccinated against rabies not less than fourteen (14) days nor more than twelve (12) months prior to date of consignment if killed virus vaccine is used. Any vaccine approved for a three (3) year immunity by the "Compendium of Animal Rabies Vaccines" prepared by the Association of State Public Health Veterinarians, (Inc.), qualifies a dog if it is one (1) year of age when vaccinated; provided, show or performing dogs to be within the state temporarily for a period of ten (10) days shall not be required to furnish an approved health certificate.

(2) All cats shall be in compliance to above requirements for dogs provided the animals are vaccinated for rabies if four (4) months of age or older not less than fourteen (14) days nor more than twelve (12) months prior to date of consignment with a vaccine approved by the state veterinarian and the Department for Health Services, Kentucky Cabinet for Human Resources.

DAVID E. BOSWELL, Commissioner

APPROVED BY AGENCY: November 10, 1986

FILED WITH LRC: November 12, 1986 at 1 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1986 at 1:30 p.m. in Room 713 of the Capital Plaza Tower, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Thomas M. Troth, General Counsel, Department of Agriculture, Room 705, Capital Plaza Tower, Frankfort, Kentucky 40601. Unless written notification of intent to attend a public hearing is received by the promulgating agency at least five days before the hearing date, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Michael J. McDonald

(1) Type and number of entities affected: Kentucky equine industry.

(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): N/A
- (b) Reporting and paperwork requirements: N/A
- (2) Effects on the promulgating administrative body:
 - (a) Direct and indirect costs or savings:
 1. First year: N/A
 2. Continuing costs or savings: N/A
 3. Additional factors increasing or decreasing costs: N/A
 - (b) Reporting and paperwork requirements: N/A
 - (3) Assessment of anticipated effect on state and local revenues: N/A
 - (4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
 - (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:
 - (a) Necessity of proposed regulation if in conflict: N/A
 - (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
 - (6) Any additional information or comments: Purpose is to correct a previous error in filing of regulation.
- TIERING: Was tiering applied? No. This regulation will apply evenly to the entire equine industry.

DEPARTMENT OF AGRICULTURE (Proposed Amendment)

302 KAR 20:180. Restrictions equine viral arteritis.

RELATES TO: KRS 257.020, 257.030

PURSUANT TO: KRS 257.030

NECESSITY AND FUNCTION: To protect the thoroughbred industry from the spread of Equine Viral Arteritis within the borders of the Commonwealth of Kentucky and to control the disease in the Commonwealth.

Section 1. Definitions. As used in this regulation unless the context clearly requires otherwise:

- (1) "EVA" means Equine Viral Arteritis a communicable disease in livestock;
- (2) "Vaccinated" or "Vaccination" means equine vaccinated with EVA modified live virus vaccine and the vaccination status kept current in accordance with manufacturers recommendations;
- (3) "Sero Positive" horse means the horse has reacted positive to a blood test for EVA;
- (4) "Sero Negative" horse means the horse has reacted negatively to a blood test for EVA;
- (5) "Book or Booking" means the contracting of mares to breed to stallions and/or the scheduling of mares to breed to stallions;
- (6) "Chief livestock sanitary official" means the State Veterinarian of the Commonwealth of Kentucky;
- (7) "Cover" means the act of breeding a stallion to a mare;
- (8) "Shedder or Shedding" means equine that has the EVA organism in the body that is capable of being transmitted to other animals; and
- (9) "Identified or Identification" of equine means identification by breed, color, age, sex, tattoo and markings.

Section 2. Sero Positive Stallions. Sero positive stallions shall be handled in the following manner:

(1) All thoroughbred stallions known to be shedding EVA shall not be permitted to breed until the chief livestock sanitary official determines that the stallion does not pose a threat of EVA spread. In determining whether a shedder poses a threat of disease spread the chief livestock sanitary official shall consider whether the farm where the shedder is located can comply in all respects with the restrictions for breeding shedders found in subsection (1)(b) of this section.

[(a)] Shedding stallions shall be housed and handled in a facility apart from nonshedding stallions;

[(b)] When the chief livestock sanitary official determines that a shedding stallion can breed the following control measures shall apply:

[(a)] [1.] Owners and/or agents of mares booking or seeking to book to known shedding stallions shall be notified in writing by the owner and/or agent of the stallion as to the classification of the stallion as a shedder at the time of booking and copy of written notification sent to the chief livestock sanitary official;

[(b)] [2.] Shedding stallions shall be housed, handled and bred in a facility isolated from nonshedding stallions;

[(c)] [3.] Shedding stallions shall be bred only to mares that have been vaccinated against EVA at least twenty-one (21) days prior to breeding or to mares that are sero positive from prior vaccination or exposure. The serological testing on said positive mares must have been conducted no sooner than November 1 of the previous calendar year.

[(d)] [4.] All mares bred to shedding stallions shall be classified as either Category One Mares or Category Two Mares for the breeding season and the following shall apply to each category of mares:

1. Category One Mares. Category One Mares shall include mares bred to a shedding stallion for the first time.

a. Category One Mares shall be vaccinated a minimum of twenty-one (21) days prior to first cover and shall be isolated a minimum of twenty-one (21) days after first cover.

(i) For purposes of clause a of this subparagraph isolation shall mean physical separation from other equine in a separate isolation area approved by the chief livestock sanitary official.

(ii) Following the completion of the isolation period the Category One Mares may move without further restriction.

b. Category One Mares who do not conceive after being bred to shedding stallions and who have completed the twenty-one (21) day isolation period following first cover shall be reclassified as Category Two Mares for the remainder of the breeding season.

2. Category Two Mares. Category Two Mares shall include mares bred to shedding stallions within the previous two (2) years; mares previously classified as Category One Mares who have completed the twenty-one (21) day isolation period set out in clause a of this subparagraph; Category Two Mares may move without restrictions following cover with shedding stallions. [All mares bred to shedding stallions shall be returned to the farm of origin and isolated from all other equine for a period of forty-two (42)

days or shall be returned only to a premise where all animals on that premise are vaccinated a minimum of twenty-one (21) days prior to association with these mares where the mares shall remain on the isolation premise for a period of forty-two (42) days. Following the forty-two (42) day isolation period said mares shall return to the farm of origin where they shall be isolated for twenty-one (21) days. All mares bred to shedding stallions shall remain in Kentucky for the period of isolation;]

(e) [5.] Mares bred to shedding stallions shall be returned to the farm of origin in a separate van or other mode of transportation. Upon returning to the farm of origin the van or other mode of transportation used to transport said mare shall be immediately cleaned and disinfected;

(f) [6.] Mares that do not conceive after being bred to a shedding stallion shall be bred only to shedding stallions during that estrus cycle. These mares may be bred to stallions vaccinated for the current breeding season in subsequent estrus cycles [only].

(2) It shall be the responsibility of the chief livestock sanitary official in cooperation with the stallion owner/manager to determine that a stallion is not shedding EVA virus prior to the stallion being permitted to breed other than to test mares; [Sero positive stallions disclosed in 1985 or 1986 that were not tested sero negative prior to vaccination and those stallions known to have been associated with the transmission of EVA shall be handled as follows:]

(a) Sero positive nonshedding stallions shall be required to be monitored as follows: [It shall be the responsibility of the chief livestock sanitary official in cooperation with the stallion owner/manager to determine that such a stallion is not shedding EVA virus prior to the stallion being permitted to breed other than to test mares;]

1. All of the sero negative mares bred to these stallions shall be sero-monitored at fourteen (14) and twenty-eight (28) days following breeding for the first breeding season following the classification of the stallion.

2. The first two (2) sero negative mares shall be sero-monitored at fourteen (14) and twenty-eight (28) days following breeding to sero positive nonshedders during the stallions second season following classification.

3. No mares are required to be sero-monitored during the third season of service for sero positive nonshedding stallions.

(b) The procedure for determining that a stallion is not a shedder during the current breeding season shall be accomplished in the presence of the chief livestock sanitary official or his designee and shall be [is] as follows:

1. Bleed [Re-bleed] the stallion and if confirmed as sero positive breed the stallion a minimum of two (2) times a day for two (2) to four (4) days to each of two (2) sero negative test mares. These test mares shall be isolated from all other equine and blood tested on day fourteen (14) and twenty-eight (28) following the last cover.

2. If neither of the test mares shows symptoms of EVA and if each test mare remains sero negative following the twenty-eight (28) day test, the stallion shall be considered a nonshedder and allowed to breed.

[a. The first two (2) mares bred to these

stallions following the test mares must have a prebreeding blood test for EVA; and]

[b. The two (2) mares enumerated in item a of this subparagraph shall be blood tested at fourteen (14) and twenty-eight (28) days post breeding.]

3. If any test mare shows symptoms of the disease and/or if any mare sero converts the stallion shall be considered a shedder and shall be handled in accordance with subsection (1) of this section.

(c) Owners and/or agents of mares booking or seeking to book to sero positive stallions classified under subsection (2) of this section shall be notified in writing by the owner and/or agent of the stallion as to the classification of the stallion at the time of booking and a copy of the written notification sent to the chief livestock sanitary official;

(3) Sero positive, vaccinated stallions never associated with the transmission of EVA must have been sero negative prior to vaccination and a statement presented by the owner and/or agent of the stallion and his veterinarian that the stallion had no known contact with EVA infected and/or exposed equine prior to vaccination nor during the twenty-one (21) days post vaccination.

Section 3. Stallions or mares becoming infected during the breeding season shall immediately cease breeding and the chief livestock sanitary official shall be immediately notified. All owners and/or agents having mares booked [to that stallion] or previously bred to [that] stallions becoming infected during the breeding season shall be immediately notified in writing by the owner and/or agent of the stallion and a copy of written notification set to the chief livestock sanitary official. The [infected] stallion becoming infected during the breeding season shall be classified as a shedder and shall be handled accordingly. The stallion may be subsequently determined by the chief livestock sanitary official to be a nonshedder by test breeding in accordance with Section 2(2)(b) of this regulation.

Section 4. Equine Vaccinated Against EVA. Equine vaccinated for the first time against EVA must have blood drawn for EVA testing prior to vaccination. must be reported to the chief livestock sanitary official within seven (7) days of the vaccination. Stallions vaccinated shall not be exposed to infected animals nor used for breeding for at least twenty-eight (28) days following vaccination. All equine vaccinated against EVA shall be properly identified. All thoroughbred stallions standing in Kentucky must be properly vaccinated against EVA.

[Section 5. Mares that were Clinically Ill. Mares that were clinically ill with EVA or mares that were bred to shedding stallions in 1984 or any mare suspected of having EVA shall be blood tested. If found to be sero positive without proof of being sero negative prior to being vaccinated they shall be handled as follows:]

[(1) They shall only be bred to sero positive or vaccinated stallions;]

[(2) They shall be hauled in a separate van or other mode of transportation and shall be isolated from susceptible animals at the farm where breeding is to take place;]

[(3) These mares shall be bred last on any

given day during the breeding season and the breeding shed shall be cleaned and disinfected after breeding;]

[(4) The van or other mode of transportation hauling such mare shall be cleaned and disinfected immediately upon returning to the farm of origin; and]

[(5) Mares in foal from 1985 breeding shall be isolated one month prior to foaling and they shall remain in isolation until released by the chief livestock sanitary official. At foaling, or following abortion, appropriate samples should be taken from the mare and foal to evaluate the possibility of their shedding EVA virus.]

Section 5. [6.] The chief livestock sanitary official may take such steps in addition to those outlined in this regulation as are reasonably necessary for the prevention and control of EVA in the equine population which shall include but not be limited to the isolation of all thoroughbreds and equine associated with them, thought to present the potential for EVA spread in the Commonwealth of Kentucky.

Section 6. [7.] All thoroughbred stallions not receiving boosters, nonvaccinated stallions and teasers shall be blood tested for EVA prior to the 1987 [1986] breeding season.

Section 7. [8.] Nurse mares shall be sero negative and/or properly vaccinated in accordance with Section 4 of this regulation and/or isolated on the thoroughbred farm.

Section 8. [9.] All [newly acquired] teasers shall be [sero negative and/or] properly vaccinated in accordance with manufacturers recommendations [Section 4 of this regulation].

Section 9. [10.] If any test mare after test breeding shows symptoms of the disease and/or if any mare sero converts the positive mare shall be isolated from all other equine for the remainder of the breeding season.

[Section 11. All nonvaccinated stallions shall be blood tested for EVA every fourteen (14) days during the breeding season. Nonvaccinated mares bred to nonvaccinated stallions shall be negative to a pre-breeding EVA blood test not less than thirty (30) days before breeding and shall be blood tested on day fourteen (14) and twenty-eight (28) after breeding. All vaccinated stallions that have not been revaccinated in accordance with manufacturers recommendations shall be considered nonvaccinated stallions for purposes of these regulations and shall be required to comply with Section 2(2) of this regulation to determine that the stallion is not a shedder.]

DAVID E. BOSWELL, Commissioner

APPROVED BY AGENCY: November 14, 1986

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

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1986 at 1:30 p.m. in Room 713 of the Capital Plaza Tower, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Thomas M. Troth, General Counsel, Kentucky Department of Agriculture, Room 705, Capital Plaza Tower, Frankfort, Kentucky 40601.

Unless written notification of intent to attend a public hearing is received by the promulgating agency at least five days before the hearing date, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Michael J. McDonald

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected: Certain stallions not vaccinated previously will be required to be vaccinated.

1. First year: Cost of vaccination of previously nonvaccinated stallions.

2. Continuing costs or savings: N/A

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

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year: N/A

2. Continuing costs or savings: N/A

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

(b) Reporting and paperwork requirements: N/A

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: This method is the most feasible.

(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. This regulation will apply evenly in the thoroughbred industry.

CORRECTIONS CABINET

(Proposed Amendment)

501 KAR 6:020. Corrections policies and procedures.

RELATES TO: KRS Chapters 196, 197, 439

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

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on November 14 [July 15], 1986 and hereinafter should be referred to as Corrections Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

- 1.1 Legal Assistance for Corrections Staff
- 1.2 News Media
- 1.6 Extraordinary Occurrence Reports

- 1.9 Institutional Duty Officer
- 1.11 Population Counts and Reporting Procedures
- 2.1 Inmate Canteen
- 3.1 Code of Ethics
- 3.2 Inclement Weather and Emergency Conditions Policy
- 3.3 Holding of Second Jobs by Bureau Employees
- 3.7 Employment of Relatives
- 3.10 Staff Clothing and Personal Appearance
- 3.12 Institutional Staff Housing
- 3.14 Corrections Cabinet Payroll Deduction Policy and Procedure
- 4.1 Attendance at Professional Meetings
- 4.2 Staff Training and Development (Amended 11/14/86)
- 4.3 Firearms and Chemical Agents Training (Amended 11/14/86)
- 4.4 Educational Assistance Program
- 6.1 Open Records Law
- 7.2 Asbestos Abatement (Added 11/14/86)
- 8.4 Emergency Preparedness
- 9.1 Use of Force
- 9.3 Transportation of Convicted Offenders
- 9.4 Transportation of Inmates to Funerals or Bedside Visits
- 9.5 Return of Escapees by Automobile
- 9.6 Contraband
- 9.7 Storage, Issue and Use of Weapons Including Chemical Agents
- 9.8 Search Policy (Amended 11/14/86) [(Amended 6/13/86)]
- 9.9 Transportation of Inmates
- 9.10 Security Inspections
- 9.15 Institutional Entry and Exit Policy and Procedures
- 9.18 Informants
- 10.1 Inmates Serving a Sentence of Death
- 10.2 Special Management Inmates (Amended 11/14/86)
- 10.3 Safekeepers
- 10.4 Special Needs Inmates
- 11.2 Nutritional Adequacy of the Diet for Inmates
- 11.3 Special Diet Procedures
- 12.1 Resident Clothing
- 13.1 Pharmacy Policy and Formulary
- 13.2 Health Maintenance Services
- 13.3 Medical Alert System
- 13.4 Health Program Audits
- 14.2 Personal Hygiene Items
- 14.3 Marriage of Inmates
- 14.4 Legal Services Program
- 14.6 Inmate Grievance Procedures (Amended 11/14/86) [(Added 7/15/86)]
- 15.1 Hair and Grooming Standards
- 15.2 Offenses and Penalties
- 15.3 Meritorious Good Time
- 15.4 Governor's Meritorious Good Time Award
- 15.5 Restoration of Forfeited Good Time
- 15.6 Adjustment Procedures and Programs
- 16.1 General Inmate Visiting Procedure
- 16.2 Inmate Correspondence
- 16.3 Telephone Calls
- 16.4 Inmate Packages (Added 11/14/86)
- 17.1 Inmate Personal Property
- 17.2 Assessment Center Operations
- 17.3 Controlled Intake of Inmates
- 18.4 Classification of the Inmate
- 18.5 Custody/Security Guidelines
- 18.6 Classification Document
- 18.7 Transfers
- 18.8 Guidelines for Transfers Between Institutions
- 18.9 Out-of-State Transfers
- 18.10 Pre-Parole Progress Reports

- 18.11 Kentucky Correctional Psychiatric Center Transfer Procedures
- 18.12 Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill
- 18.13 Population Categories (Amended 11/14/86)
- 18.15 Protective Custody (Added 11/14/86)
- 19.1 Government Services Projects
- 19.2 Community Services Projects
- 20.1 Study Release
- 20.6 Vocational Study Release
- 22.1 Privilege Trips
- 25.1 Gratuities
- 25.2 Public Official Notification of Release of an Inmate
- 25.3 Pre-Release
- 25.4 Inmate Furloughs
- 25.6 Community Center Program
- 25.7 Expedient Release
- 25.8 Extended Furloughs
- 27.1 Supervision: Case Classification
- 27.2 Risk/Needs Administration
- 27.4 Supervision Plan: General
- 27.8 Travel Restrictions
- 27.9 Conditions of Supervision
- 27.10 Preliminary Revocation Procedures
- 27.11 Apprehension and Transportation of Violators of Probation, Parole and Conditional Release
- 27.12 Fugitive Section/Probation and Parole
- 27.13 Supervision Fee
- 27.14 Interstate Compact [(Added 7/15/86)]
- 27.18 Absconder Procedures
- 27.19 Technical Violators
- 27.20 Intensive Supervision (Amended 11/14/86)
- 28.2 Investigations: General
- 28.3 Pre-Sentence Investigations (To the Court)
- 28.4 Pre-Parole (Pre-Sentence) Investigation (To the Institution and State Parole Board)
- 28.5 Special Report to the Parole Board
- 28.7 Out-of-State Investigations [(Amended 7/15/86)]

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: November 14, 1986

FILED WITH LRC: November 14, 1986 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 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: 2106 employees of the Corrections Cabinet, 4750 inmates, 9740 parolees and probationers, and all visitors to state correctional institutions.

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

1. First year: None

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

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

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

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

(b) Reporting and paperwork requirements: 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 6:040. Kentucky State Penitentiary.

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 November 14 [September 9], 1986 and hereinafter should be referred to as Kentucky State Penitentiary 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.

- KSP 000000-06 Administrative Regulations
- KSP 010000-04 Public Information and Media Communication
- KSP 020000-01 General Guidelines for KSP Employees
- KSP 020000-02 Service Regulations, Attendance, Hours of Work, Accumulation and Use of Leave
- KSP 020000-03 Work Planning and Performance Review (WPPR)
- KSP 020000-04 Employee Disciplinary Procedure
- KSP 020000-05 Proper Dress for Uniformed and Non-Uniformed Personnel
- KSP 020000-06 Employee Grievance Procedure
- KSP 020000-07 Personnel Registers and Advertisements
- KSP 020000-09 Maintenance, Confidentiality, and Informational Challenge of Material Contained in Personnel Files
- KSP 020000-10 Overtime Policy
- KSP 020000-15 Legal Assistance
- KSP 020000-20 Equal Employment Opportunity Complaints

KSP 020000-23	Recruitment and Employment of Ex-Offenders	KSP 100000-23	Inmate Legal Office/Legal Library
KSP 020000-24	Educational Assistance Program	KSP 110000-03	Governor's Meritorious Good Time Award Committee
KSP 020000-29	Promotional Opportunity Announcement Program	KSP 110000-04	Pre-Parole Progress Report
KSP 030000-01	Inventory Records and Control	KSP 110000-06	General Guidelines of the Classification Committee
KSP 030000-04	Requisition and Purchase of Supplies and Equipment	KSP 110000-07	Statutory Good Time Restoration
KSP 030000-05	Inmate Personal Funds <u>(Amended 11/14/86)</u>	KSP 110000-08	Award of Meritorious Good Time
KSP 030000-06	Inmate Commissary Program	KSP 110000-10	Special Needs Inmates
KSP 040000-02	Inmate Records [Section]	KSP 110000-11	Classification Committee - Transfer Requests
KSP 040000-08	Inmate Equal Opportunity Policy	KSP 110000-12	Classification Committee - Inmate Work Assignments
KSP 050000-14	Searches and Preservation of Evidence	KSP 110000-13	Classification Document
KSP 060000-01	Special Security Unit	KSP 110000-14	Vocational School Placement
KSP 060000-02	Operational Procedures for Disciplinary Segregation, Administrative Segregation, Administrative Control and Behavioral Control Units	KSP 110000-15	Transfers to Kentucky Correctional Psychiatric Center (KCPC)
KSP 060000-04	Protective Custody Unit	KSP 110000-16	Consideration of Further Treatment Requirements for Inmates Prior to Release
KSP 060000-11	Criteria for Disciplinary Segregation and Incentive Time Reduction Program	KSP 110000-19	Custody/Security Guidelines
KSP 060000-12	Maximum Protective Custody	KSP 120000-04	Academic Education
KSP 070000-01	Hospital Services	KSP 120000-07	Community Center Program
KSP 070000-02	Sick Call <u>(Amended 11/14/86)</u>	KSP 120000-08	Inmate Furloughs
KSP 070000-03	Health Evaluations	KSP 120000-11	Religious Services - Staffing
KSP 070000-04	Consultations	KSP 120000-18	Religious Services - Religious Programming
KSP 070000-05	Emergency Medical Procedure	KSP 120000-20	Marriage of Inmates
KSP 070000-13	Pharmacy Procedures	KSP 120000-24	Muslim Services
KSP 070000-14	Medical Records	KSP 120000-31	Extended Furloughs
KSP 070000-16	Psychiatric and Psychological Services	KSP 120000-32	Discharge of Inmates by Shock Probation
KSP 070000-17	Dental Services for Special Management Units	KSP 130000-10	Execution Plan
KSP 070000-19	Optometric Services		
KSP 070000-20	Menu Preparation and Planning		
KSP 070000-24	Food Service, General Sanitation, Safety, and Protection Standards and Requirements		
KSP 070000-25	Food Service Inspections		
KSP 070000-30	Therapeutic Diets		
KSP 090000-01	Inmate Work Programs		
KSP 090000-03	Correctional Industries		
KSP 100000-02	Visiting Program [(Amended 9/9/86)]		
KSP 100000-03	Disposition of Unauthorized Property		
KSP 100000-04	Inmate Grooming and Dress Code		
KSP 100000-05	Procedures for Providing Clothing, Linens and Other Personal Items		
KSP 100000-06	Mail		
KSP 100000-07	Inmate Telephone Access <u>(Amended 11/14/86)</u>		
KSP 100000-08	Behavioral Counseling Record		
KSP 100000-09	Due Process/Disciplinary Procedures		
KSP 100000-11	Authorized and Unauthorized Property for Inmates		
KSP 100000-14	Property Room: Clothing Storage and Inventory		
KSP 100000-15	Uniform Standards for Fire Safety, Sanitation and Security of all Cells		
KSP 100000-18	Inmate Grievance Committee Hearings		
KSP 100000-20	Legal Services Program		
KSP 100000-21	Photocopies for Non-Indigent Inmates with Special Court Deadlines		
KSP 100000-22	Special Management Unit Legal Services Program		

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: November 14, 1986

FILED WITH LRC: November 14, 1986 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 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: 309 employees of the Kentucky State Penitentiary, 787 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 November 14 [October 15], 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
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 (Deleted 11/14/86)]
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 (Amended 11/14/86)
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
NTC 08-05-01 Duties of Fire and Safety Officer
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 08-06-01 Safety Officer (Added 11/14/86)
NTC 10-01-01 Special Management Inmates (Amended 11/14/86)
NTC 10-01-02 Legal Aide Visits for Special Management Inmates
NTC 10-02-01 Security Guidelines for Special Management Inmates (Added 11/14/86)
NTC 11-03-01 Food Services: General Guidelines
NTC 11-04-01 Food Service: Meals
NTC 11-04-02 Menu, Nutrition and Special Diets
NTC 11-05-02 Health Standards/Regulations for Food Service Employees
NTC 11-06-01 Inspections and Sanitation
NTC 11-07-01 Purchasing, Storage and Farm Products
NTC 12-01-01 Institutional Inspections (Amended 11/14/86)
NTC 12-02-01 Personal Hygiene for Inmates; Clothing and Linens [(Amended 10/15/86)]
NTC 12-02-02 Issuance of Personal Hygiene Products
NTC 13-01-01 Emergency Medical Care Plan
NTC 13-01-02 Emergency and Specialized Health Services (Amended 11/14/86)
NTC 13-02-01 Administration and Authority for Health Services
NTC 13-03-01 Sick Call and Pill Call (Amended 11/14/86)
NTC 13-04-01 Pharmacy (Amended 11/14/86)
NTC 13-05-01 Dental Services
NTC 13-06-01 Licensure and Training Standards
NTC 13-07-01 Provisions for Health Care Delivery
NTC 13-08-01 Medical and Dental Records (Amended 11/14/86)
NTC 13-09-01 Special Diets
NTC 13-11-01 Inmate Health Screening and Evaluation
NTC 13-12-01 Disabled and Infirm Inmates
NTC 13-13-01 Medical Alert System (Amended 11/14/86)
NTC 13-14-01 Management of Chemically Dependent Inmates
NTC 13-15-01 Health Education for Inmates

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 (Amended 11/14/86)
 NTC 13-19-03 Suicide Prevention and Intervention Program (Amended 11/14/86)
 NTC 13-20-01 Infectious Disease
 NTC 13-21-01 Vision Care/Optomety Services (Added 11/14/86)
 NTC 13-22-01 Informed Consent (Added 11/14/86)
 NTC 14-01-01 Legal Services Program
 NTC 14-02-01 Inmate Grievance Procedure
 NTC 14-03-01 Inmate Rights and Responsibilities [(Amended 10/15/86)]
 NTC 14-04-01 Inmate Search Policy (Added 11/14/86)
 NTC 15-01-01 Restoration of Forfeited Good Time [(Amended 10/15/86)]
 NTC 15-02-01 Due Process/Disciplinary Procedures (Amended 11/14/86) [(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 (Amended 11/14/86)
 NTC 16-02-01 Visiting
 NTC 16-02-02 Extended and Special Visits (Amended 11/14/86)
 NTC 16-02-03 Honor Dorm Visiting
 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
 NTC 17-01-04 Disposition of Unauthorized Property
 NTC 17-03-01 Assessment/Orientation (Amended 11/14/86)
 NTC 18-01-01 Pre-Parole Progress Report [(Amended 10/15/86)]
 NTC 18-01-02 Parole Eligibility Dates
 NTC 18-02-01 Classification (Amended 11/14/86)
 NTC 18-02-02 Classification - 48 Hour Notification
 NTC 18-03-01 Special Notice Form
 NTC 18-05-01 Transfers of Inmates [to Other Institutions] (Amended 11/14/86)
 NTC 18-05-02 Transfer of Inmates to Kentucky Correctional Psychiatric Center
 NTC 19-01-01 Inmate Work Program (Amended 11/14/86)
 NTC 19-01-02 Restricted Outside Work Crew
 NTC 19-01-03 Temporary Leave from Job Assignment
 NTC 19-02-01 Correctional Industries (Added 11/14/86)
 NTC 20-01-01 Academic School Program
 NTC 21-01-01 Library Services [(Amended 10/15/86)]
 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
 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 (Amended 11/14/86)
 NTC 26-01-02 Certification of Volunteers and Guests

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: November 14, 1986

FILED WITH LRC: November 14, 1986 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 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: 222 employees of the Northpoint Training Center, 653 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 6:090. Frankfort Career Development 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 November 14 [September 9], 1986 and hereinafter should be referred to as Frankfort Career Development 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.

FCDC 01-04-01 Confidentiality of Information Roles and Services of Consultant, Contract Personnel, Governmental Services Supervisors and Volunteers [(Added 9/9/86)]

FCDC 02-10-01 Fiscal Management and Control (Amended 11/14/86) [(Amended 9/9/86)]

FCDC 02-11-01 Fiscal Management: Accounting Procedures

FCDC 02-12-01 Fiscal Management: Checking Accounts (Amended 11/14/86) [(Amended 9/9/86)]

FCDC 02-13-01 Purchasing and Receiving [(Amended 9/9/86)]

FCDC 03-01-02 Security Manual Part 1: Staff Guidelines

FCDC 03-10-01 Dress Code

FCDC 03-15-01 Travel Expense Reimbursement

FCDC 03-16-01 Employee Grievance Procedure

FCDC 03-21-01 Time and Attendance

FCDC 06-02-01 Inmate Records (Amended 11/14/86) [(Added 9/9/86)]

FCDC 11-01-01 Special Diets [(Amended 9/9/86)]

FCDC 11-03-01 Food Services (Amended 11/14/86)

FCDC 12-03-01 Laundry, Clothing, Hygiene and Grooming Services (Amended 11/14/86) [(Added 9/9/86)]

FCDC 13-01-01 Use of Pharmaceutical Products

FCDC 13-01-02 Medical Emergencies [(Added 9/9/86)]

FCDC 13-01-03 Informed Consent

FCDC 13-02-01 Inmate Medical Screenings and Health Evaluations (Amended 11/14/86)

FCDC 13-03-01 Psychiatric and Psychological Services [(Added 9/9/86)]

FCDC 13-03-02 Parental Administration of Medications and Use of Psychotropic Drugs

FCDC 13-04-01 Intra-System Transfers of Medical/Psychiatric Problems

FCDC 13-06-01 Chronic and Convalescent Care

FCDC 13-08-01 Sick Call/Physician's Bi-Monthly Clinic (Added 11/14/86)

FCDC 13-09-01 Management of Serious and Infectious Diseases (Added 11/14/86)

FCDC 13-10-01 Treatment Protocol Regarding First-Aid Procedures, Routine Health Care

FCDC 13-11-01 Health Education: Provision of Special Health Care Needs

FCDC 13-12-01 Elective Services (Added 11/14/86)

FCDC 13-13-01 Physicians Referrals [(Added 9/9/86)]

FCDC 13-14-01 Health Records (Amended 11/14/86) [(Amended 9/9/86)]

FCDC 13-15-01 Routine and Emergency Dental Appointments [(Amended 9/9/86)]

FCDC 13-16-01 Routine and Emergency Eye Examinations

[FCDC 13-17-01 Health Requirements of Food Service Workers (Deleted 11/14/86)]

FCDC 14-01-01 Prohibiting Inmate Authority Over Other Inmates

FCDC 14-02-01 Inmate Grievance System [(Added 9/9/86)]

FCDC 14-03-01 Inmates Are Not Subject to Discrimination Based on Race, Religion, National Origin, Sex, Handicap or Political Beliefs and Are Protected Against Corporal Punishment (Amended 11/14/86) [(Added 9/9/86)]

FCDC 14-04-01 Legal Services Program (Amended 11/14/86)

FCDC 15-01-01 Good Time - Credits (Meritorious, Governor's and Statutory)

FCDC 15-03-01 Conduct of Adjustment Committee Hearings (Chairperson) [(Added 9/9/86)]

FCDC 16-01-01 Inmate Visiting [(Amended 9/9/86)]

FCDC 16-02-01 Mail Policy (Amended 11/14/86)

FCDC 16-03-01 Inmate Access to Telephones (Amended 11/14/86) [(Added 9/9/86)]

FCDC 17-01-01 Inmate Property Control

FCDC 17-02-01 Inmate Reception, Orientation, and Discharge (Amended 11/14/86) [(Added 9/9/86)]

FCDC 18-01-01 Inmate Classification (Amended 11/14/86) [(Added 9/9/86)]

FCDC 18-02-01 Reclassification Document [(Added 9/9/86)]

FCDC 18-03-01 Instructions for Six Month Review [(Added 9/9/86)]

FCDC 19-01-01 Security and Operation of the Governmental Services Program [(Added 9/9/86)]

FCDC 19-02-01 Inmate Work Program [(Added 9/9/86)]

FCDC 20-01-01 Academic and Vocational Education (Added 11/14/86)

FCDC 22-01-01 Privilege Trips

FCDC 22-01-02 Activity Trips

FCDC 22-02-01 Recreation and Inmate Activities [(Added 9/9/86)]

FCDC 23-01-01 Religious Activities [(Added 9/9/86)]

FCDC 24-01-01 Social Service Program [(Added 9/9/86)]

FCDC 24-02-01 Substance Abuse Programs [(Added 9/9/86)]

FCDC 25-01-01 Escorted Leaves [(Added 9/9/86)]

FCDC 25-02-01 Temporary Release/Community Center Program [(Added 9/9/86)]

FCDC 25-03-01 Release Preparation Program

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: November 14, 1986

FILED WITH LRC: November 14, 1986 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 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: 22 employees of the Frankfort Career Development Center, 75 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 6:110. Roederer Farm 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 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 November 14 [August 13], 1986 and hereinafter should be referred to as Roederer Farm 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.

RFC 01-04-02 Extraordinary Occurrence Procedure
(Added 11/14/86)

RFC 01-06-01 Inmate Access to and Communication with RFC Staff (Amended 11/14/86)

RFC 01-07-01 Institutional Legal Assistance

RFC 01-08-01 Public Information and News Media Access

RFC 01-10-01 RFC Cooperation with Outside Bodies Including Courts, Governmental Legislative, Executive, and Community Agencies

RFC 01-09-01 Staff Participation in Professional Organization and Conferences; Provisions for Leave and Reimbursement for Expenses

RFC 01-12-01 Institutional Duty Officer - Responsibilities

RFC 02-01-01 Fiscal Management: Organization

RFC 02-01-02 Fiscal Management: Accounting Procedures

RFC 02-01-03 Fiscal Management: Agency Funds

RFC 02-01-04 Fiscal Management: Insurance [(Added 8/13/86)]

RFC 02-02-01 Fiscal Management: Budget [(Added 8/13/86)]

RFC 02-02-02 Inmate Control of Personal Funds

RFC 02-02-03 Storage and Disposition of Monies received on Weekends, Holidays, and Between 4:00 p.m. and 8:00 a.m. Weekdays [(Amended 8/13/86)]

RFC 02-02-04 Inmate Accounts (Amended 11/14/86) [(Added 8/13/86)]

RFC 02-03-01 Fiscal Management: Audits [(Added 8/13/86)]

RFC 02-04-01 Purchase Orders [(Added 8/13/86)]

RFC 02-04-02 Processing of Invoices (Amended 11/14/86) [(Added 8/13/86)]

RFC 02-06-01 Property Inventory [(Added 8/13/86)]

RFC 03-01-01 General Guidelines for RFC Employees

RFC 03-01-02 Service Regulations, Attendance Accumulation and Use of Leave

RFC 03-03-01 Employee Grievance Procedures

RFC 03-04-01 Personnel Records

RFC 03-05-01 Personnel Vacancies: Promotion Board (Amended 11/14/86)

RFC 03-06-01 Work Planning: Employee Evaluations and Evaluation Control

RFC 03-07-01 Affirmative Action - E.E.O.

RFC 03-08-01 Confidentiality of Information, Roles and Services of Consultants, Contract Personnel, and Volunteers

RFC 03-09-01 Personnel Manning Review (Amended 11/14/86)

RFC 03-10-01 Employee's Handbook

RFC 03-11-01 Replacement of Damaged or Destroyed Personal Property

RFC 03-12-01 Corrections Cabinet Staff Members Entering the Roederer Farm Center While Being Under the Influence

RFC 03-13-01 Staff/Visitor Meals

RFC 04-01-01 Employee Training and Development (Amended 11/14/86)

RFC 05-01-01 Information System

RFC 06-01-01 Offender Records (Amended 11/14/86)

RFC 06-02-01 Use of Inmate Records/Security of Inmate Records (Amended 11/14/86)

RFC 06-03-01 Records Release of Information

RFC 06-03-02 Storage of Expunged Records (Amended 11/14/86) [(Added 8/13/86)]

RFC 06-04-01 Court Trips [(Added 8/13/86)]

RFC 06-04-02 Receipt of Order of Appearance [(Added 8/13/86)]

RFC 08-01-01 Fire Prevention [(Added 8/13/86)]

RFC 08-02-01 Fire Procedures [(Added 8/13/86)]

ADMINISTRATIVE REGISTER - 1106

RFC 08-02-02	Fire Extinguishers and Their Use [(Added 8/13/86)]	RFC 13-05-02	Licensure and Training Standards [(Added 8/13/86)]
RFC 08-08-01	Guidelines for the Control and Use of Flammable, Toxic, and Caustic Substances <u>(Amended 11/14/86)</u> [(Added 8/13/86)]	RFC 13-06-03	Emergency Medical/Dental Care Services <u>(Amended 11/14/86)</u> [(Added 8/13/86)]
RFC 09-04-03	Duties and Responsibilities of the Fire/Safety Officer [(Added 8/13/86)]	RFC 13-06-04	First Aid/CPR Training Program [(Added 8/13/86)]
RFC 09-09-02	Drug Abuse Testing [(Added 8/13/86)]	RFC 13-07-01	Health Records [(Added 8/13/86)]
RFC 09-09-03	Breathalyzer [(Added 8/13/86)]	RFC 13-10-01	Health Education/Special Health Programs <u>(Added 11/14/86)</u>
RFC 10-01-01	<u>Special Management Inmates (Added 11/14/86)</u>	[RFC 13-11-01	Dental Policies/Sick Call (Added 8/13/86)]
RFC 11-01-01	Food Services: General Guidelines <u>(Amended 11/14/86)</u>	RFC 13-12-01	<u>Mental Health/Provision of Psychiatric Services by KCPC (Added 11/14/86)</u>
RFC 11-02-01	Food Service: Security <u>(Amended 11/14/86)</u>	RFC 13-12-02	<u>Transfer of Inmates to Kentucky Correctional Psychiatric Center (Added 11/14/86)</u>
RFC 11-03-01	Dining Room Guidelines <u>(Amended 11/14/86)</u>	RFC 13-15-01	Medical Restraints [(Added 8/13/86)]
RFC 11-04-01	Food Service: Meals <u>(Amended 11/14/86)</u>	RFC 13-17-01	Vision Care/Optomety Services [(Added 8/13/86)]
RFC 11-04-02	Food Service: Menu, Nutrition and Special Diets <u>(Amended 11/14/86)</u>	RFC 14-01-01	Inmate Rights and Responsibilities <u>(Amended 11/14/86)</u>
RFC 11-05-01	Food Service: Kitchen and Dining Room Inmate Work Responsibilities <u>(Amended 11/14/86)</u>	RFC 14-02-01	Legal Services Program
RFC 11-05-02	Medical Screening of Food Handlers <u>(Amended 11/14/86)</u>	RFC 14-03-01	Inmate Grievance Procedure
RFC 11-06-01	Food Service: Inspections and Sanitation <u>(Amended 11/14/86)</u>	RFC 14-04-01	Inmate Participation in Authorized Research
RFC 11-07-01	Food Service: Purchasing, Storage and Farm Products <u>(Amended 11/14/86)</u>	RFC 15-01-01	Due Process/Disciplinary Procedures <u>(Amended 11/14/86)</u> [(Added 8/13/86)]
RFC 11-08-01	Staff/Visitor Meals [(Added 8/13/86)]	RFC 15-02-01	<u>Hearing Detention (Added 11/14/86)</u>
RFC 12-01-01	Sanitation, Living Conditions Standards, Clothing Issues <u>(Amended 11/14/86)</u> [(Added 8/13/86)]	RFC 16-01-01	Inmate Visiting <u>(Amended 11/14/86)</u> [(Added 8/13/86)]
RFC 12-01-02	Bed Areas - Assignment/Condition Standards <u>(Amended 11/14/86)</u> [(Added 8/13/86)]	RFC 16-02-01	Telephone Communications <u>(Amended 11/14/86)</u> [(Added 8/13/86)]
RFC 12-02-01	Issuance of Clean Laundry and Receiving of Dirty Laundry <u>(Amended 11/14/86)</u> [(Added 8/13/86)]	RFC 16-03-01	Mail Regulations <u>(Amended 11/14/86)</u> [(Added 8/13/86)]
RFC 12-03-01	Personal Hygiene Items: Issuance and Placement Schedule [(Added 8/13/86)]	RFC 16-03-02	Christmas Packages
RFC 12-03-02	<u>Barber Shop Services and Equipment Control (Added 11/14/86)</u>	RFC 17-01-01	Assessment/Orientation Procedure
RFC 12-04-01	Institutional Inspections [(Added 8/13/86)]	RFC 17-02-01	Inmate Reception Process
RFC 12-05-01	Fire Safety <u>(Amended 11/14/86)</u> [(Added 8/13/86)]	RFC 17-03-01	Inmate Personal Property and Property Control
RFC 12-05-02	Use of Noncombustible Receptacle [(Added 8/13/86)]	RFC 17-04-01	Unauthorized Items
RFC 12-06-01	Insect and Vermin Control <u>(Amended 11/14/86)</u> [(Added 8/13/86)]	RFC 17-05-01	Inmate Canteen
RFC 13-01-01	Organization of Health Services [(Added 8/13/86)]	RFC 18-01-01	Institutional Classification Committee [(Added 8/13/86)]
RFC 13-02-01	Health Maintenance Services: Sick Call and Pill Call [(Added 8/13/86)]	RFC 18-02-01	Classification/Security Levels [(Added 8/13/86)]
RFC 13-03-01	<u>Dental Policy/Sick Call (Amended 11/14/86)</u> [Mental Health/Provision of Psychiatric Services by KCPC (Added 8/13/86)]	RFC 18-03-01	Classification Process [(Added 8/13/86)]
[RFC 13-03-02	Transfer of Inmates to Kentucky Correctional Psychiatric Center (Added 8/13/86)]	RFC 18-03-02	Classification Program Planning [(Added 8/13/86)]
RFC 13-04-01	<u>Inmate Medical Screenings and Health Evaluations (Added 11/14/86)</u>	RFC 18-03-03	Honor's Program [(Added 8/13/86)]
		RFC 18-04-01	Instruction for Six Month Review <u>(Amended 11/14/86)</u> [(Added 8/13/86)]
		RFC 18-05-01	Transfers to Other Minimum Security Institutions [(Added 8/13/86)]
		RFC 18-06-01	Classification Document <u>(Amended 11/14/86)</u> [(Added 8/13/86)]
		RFC 19-01-01	<u>Job Assignments (Added 11/14/86)</u>
		RFC 20-01-01	Academic Education Program [(Added 8/13/86)]
		RFC 20-01-02	Testing and Verification Procedure [(Added 8/13/86)]
		RFC 20-02-01	Correctional Educator Senior [(Added 8/13/86)]
		RFC 21-01-01	Library Services <u>(Amended 11/14/86)</u>
		RFC 22-01-02	Recreational Equipment Check-in/Check-out Procedure
		RFC 22-02-01	Outside Recreation
		RFC 22-02-02	Entry/Exit Procedure for Inmate Outside Recreation

RFC 22-03-01 Inmate Clubs and Organizations
 RFC 22-03-02 Privilege Trips
 RFC 22-04-01 Conducting Inmate Organizational Meetings and Programs
 RFC 22-05-01 Woodworking Shop
 RFC 22-06-01 Playing Cards
 RFC 23-01-01 Religious Services
 RFC 23-02-01 Security Procedures for the Chapel
 RFC 23-03-01 Visitors for Religious Programs
 RFC 23-04-01 Marriage of Inmates
 RFC 24-01-01 Social Services and Counseling Program
 RFC 25-01-01 Release Preparation Program Description [(Added 8/13/86)]
 RFC 25-02-01 Temporary Release/Community Center Release [(Added 8/13/86)]
 RFC 25-03-01 Furloughs [(Added 8/13/86)]
 RFC 25-04-01 Pre-parole Progress Report [(Added 8/13/86)]
 RFC 25-04-02 Parole Eligibility Dates [(Added 8/13/86)]
 RFC 25-05-01 Inmate Discharge Procedure [(Added 8/13/86)]
 RFC 26-01-01 Citizen Involvement and Volunteer Services Program [(Added 8/13/86)]

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: November 14, 1986

FILED WITH LRC: November 14, 1986 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 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: 58 employees of the Roederer Farm Center, 252 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.

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 November 14 [October 15], 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 06-02-02	<u>Offender Records (Added 11/14/86)</u>
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 13-03-01 Provisions of Health Care Delivery (Added 11/14/86)
BCC 13-04-01 Licensure and Training Standards (Added 11/14/86)
BCC 13-05-01 Medical Alert System (Added 11/14/86)
BCC 13-06-01 Health Care Practices (Added 11/14/86)
BCC 13-08-01 Inmate Health Screening and Evaluation (Added 11/14/86)
BCC 13-09-01 Prohibition on Medical Experimentation (Added 11/14/86)
 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: November 14, 1986

FILED WITH LRC: November 14, 1986 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 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: 85 employees of the Blackburn Correctional Complex, 336 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.

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Local Services

(Proposed Amendment)

702 KAR 1:025. Extended employment.

RELATES TO: KRS 157.390

PURSUANT TO: KRS 156.070

NECESSITY AND FUNCTION: KRS 157.390 provides that the amount to be paid through the Minimum Foundation Program for teachers' salaries for certain units be increased proportionately if the personnel for such units are employed for longer than the regular school term and such employment is approved by the Superintendent of Public Instruction under regulations of the State Board of Education. This regulation implements that function by providing for approved employment beyond the regular school term for funding purposes under the Minimum Foundation Program, for personnel staffing the statutorily permissible units for administrative and special instructional services, supervisors of instruction, directors of pupil personnel, vocational education and superintendents.

Section 1. School districts to be allotted teachers salaries for more than 185 days by the Minimum Foundation Program in accordance with KRS 157.390(2)(a) for those foundation program units allotted under the provisions of KRS 157.360 shall be allotted days of extended employment based on the categories of employment and positions enumerated in Sections 4 and 9 of this regulation. Days allotted shall be limited to the lesser of:

(1) The number of days of employment in the position beyond 185 days;

(2) The maximum number of days beyond the 185 day term approved by the Superintendent of Public Instruction in the plan submitted by the

local district board of education; or

(3) The number of days calculated under Section 8 of this regulation.

Section 2. The board of education of each local school district shall, on or before March 15, on forms provided by the State Department of Education, submit a program plan for the use of extended employment for each position in each category of extended employment which may include, but not be limited to, program objectives to be achieved, calendars showing the days worked beyond the 185 day school term, and the execution of such reporting instruments as are necessary to appraise the efficiency of the extended employment program.

Section 3. Upon the completion of the final Foundation Program calculation each year the Superintendent of Public Instruction shall advise the local districts of the estimated number of days of extended employment funded in the Foundation Program appropriation for the subsequent school year which will be available to the local school district for the categories of employment specified in Sections 4 and 9 of this regulation as calculated in Sections 6, 7, 8 and 9 of this regulation. Personnel assigned to fill the positions identified in each category of extended employment as defined in Section 2 of this regulation will be identified on forms provided by the Department of Education and be submitted annually with the districts' professional staff data forms.

Section 4. For the purposes of allotting extended employment in accordance with Sections 6 and 7 of this regulation, eligible positions, including such positions staffed on a part-time basis with properly certified personnel performing eligible extended employment duties, will be categorized as follows:

- (1) Central Based Administration:
 - (a) Assistant Superintendent;
 - (b) Finance Officer;
 - (c) School Business Administrator;
 - (d) District Director of Vocational Education;
 and
 - (e) Director, Coordinator, or Manager of district-wide services as coded on the Professional Staff Data Form, including, but not limited to, Director of School Food Service and Director of Special Education.
- (2) Central Based Supervision of Instruction and Student Activities:
 - (a) Supervisor of Instruction; and
 - (b) Director of Pupil Personnel.
- (3) School Based Administration and Supervision:
 - (a) Principal;
 - (b) Assistant Principal; and
 - (c) Vocational School Director.
 - (4) Librarian.
 - (5) Guidance Counselor.
 - (6) District-Employed Vocational Teacher:
 - (a) Agri-Business;
 - (b) Business and Office;
 - (c) Marketing and Distributive Education;
 - (d) Health and Personal Services;
 - (e) Home Economics;
 - (f) Public Service;
 - (g) Special Vocational Programs; and
 - (h) Industrial/Technology Education Levels I, II, and III.

Section 5. The days of extended employment calculated in accordance with Sections 6, 7 and 8 of this regulation to the categories of extended employment as specified in Section 4 of this regulation may be transferred to meet program priorities in the following manner:

(1) The days of extended employment in Section 4(1) of this regulation may be transferred to Section 4(2) of this regulation.

(2) The days of extended employment in Section 4(2) of this regulation may be transferred to Section 4(3) of this regulation.

(3) The days of extended employment in Section 4(1), (2) and (3) of this regulation may be transferred to Section 4(4), (5) and (6) of this regulation.

(4) The days of extended employment in Section 4(4), (5) and (6) of this regulation may be transferred among those subsections.

Each school district with an existing approved vocational agriculture program shall employ each of its vocational agriculture teachers for fifty-five (55) days extended employment. Such extended employment shall be for the purposes set forth in KRS 157.360(9)(b) and in accordance with an approved plan for summer program developed pursuant to KRS 157.360(9)(c).

Section 6. The days calculated for each category enumerated in Section 4(1) through (5) of this regulation for each school district shall be the state total days allotted for the prior year in each such category divided by the sum of the state total units allotted for the prior year for basic, exceptional children, district-employed vocational, plus kindergarten times the sum of the units allotted the prior year in each district for basic, exceptional children, district-employed vocational plus kindergarten.

Section 7. The days calculated for the category enumerated in Section 4(6) of this regulation shall be the state total days allotted for the prior year district-employed vocational units divided by the state total units allotted for the prior year for the types of district-employed vocational units minus agri-business units approved for the Section 4(6) category of this regulation minus agri-business units [category] times the units allotted the prior year in each district for the types of district-employed vocational units approved for such category.

Section 8. Days calculated for extended employment for each category of extended employment for each school district shall be adjusted proportionately each year to a level not to exceed the appropriation contained in the biennial budget, after units allotted in Section 9 of this regulation are deducted from the appropriation.

Section 9. In addition to the extended employment allotted to the categories of employment specified in Section 4 of this regulation, each school district will be allotted fifty-five (55) days of extended employment for the superintendent of that district, and fifty-five (55) days for each vocational agri-business unit allotted, also each contract vocational education teacher employed in a state operated school may be allotted up to twenty (20) days of extended

employment provided a work program for that position has been approved by the Superintendent of Public Instruction.

Section 10. This regulation shall be effective for the 1984-85 school year and any preparatory steps in anticipation thereof enumerated herein, and school years thereafter.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: November 5, 1986

FILED WITH LRC: November 12, 1986 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on December 29, 1986, at 10 a.m., EST, 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 November 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 December 24, 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: Wilburn Pratt or Ron Moubrey

(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: Allow local district to make use of available funding. No new cost.

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings: N/A Funding currently provided.

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict: None

(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

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

704 KAR 10:022. Elementary, middle and secondary schools standards.

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 adopt rules and regulations relating to grading, classifying, and accrediting all common schools, and further allows private, parochial, and church schools to voluntarily comply with accreditation standards and to be so certified by the state board. This regulation implements this duty by prescribing general standards to be used in evaluation of public elementary, middle and secondary schools, and of those non-public schools voluntarily seeking an accreditation evaluation.

Section 1. (1) Pursuant to the authority vested in the Kentucky State Board of Education by KRS 156.070 and 156.160, the Kentucky Standards for Grading, Classifying and Accrediting Elementary, Middle and Secondary Schools, as amended on November 5, 1986 [December 11, 1985], are presented herewith for filing with the Legislative Research Commission, and incorporated by reference.

(2) "Procedures for Kentucky Accreditation Program," April, 1985, as revised on September 10, 1985, is presented herewith for filing with the Legislative Research Commission and incorporated by reference.

Section 2. Pursuant to the authority vested in the Kentucky State Board of Education by KRS 156.160(2), non-public schools which voluntarily request accreditation shall be in compliance with all standards and indicators included in the Kentucky Standards for Grading, Classifying and Accrediting Elementary, Middle and Secondary Schools limited to curriculum, textbooks, and staff certification. Schools will address all standards and indicators except those marked "N/A" (not applicable). These Voluntary Non-Public School Accreditation Standards, May, 1986, are presented herewith for filing with the Legislative Research Commission and incorporated herein by reference.

Section 3. The procedures for the voluntary accreditation of individual non-public schools or related groups of such schools under common management and control shall be as follows:

(1) All non-public schools or groups of schools which voluntarily request accreditation shall notify the Division of Accreditation by letter of their intentions.

(2) An Instructional Services Advisor (I.S.A.) shall be assigned to a school and shall be the liaison between the school and the Department of Education. The I.S.A. shall provide the school with the department's self-study guide and provide technical assistance as needed.

(3) An on-site team will visit each school to validate the school's self-study. This team shall be appointed by the Department of Education and shall consist of at least three (3) persons - an I.S.A., a local non-public school official and another Department of Education staff member.

(4) An additional team member shall be appointed for each additional five (5) faculty members beyond fifteen (15).

(5) A report shall be generated by the on-site team and a copy presented to the school or related group of schools. The school or related group of schools shall prepare a three (3) year plan of action to correct all non-compliance. The plan shall be monitored annually to assure that the plan of action is being implemented.

(6) The school or related group of schools shall then be placed on a five (5) year accreditation cycle. The first year shall be the self-study and the on-site visit followed by a three (3) year plan of action, and the last year shall be devoted to updating the self-study.

(7) State funds may not be used for the accreditation of non-public schools. Such schools shall reimburse the Department of Education the total costs of accreditation certification, including necessary follow-up, either from their own funds or from any appropriate federal grants.

Section 4. "The Merit Rating Procedural Information and General Criteria for Guidance Programs," March, 1985, and "Merit Rating Guidelines for Kentucky Schools," as adopted on July 9, 1984, are presented herewith for filing with the Legislative Research Commission and incorporated by reference.

Section 5. Any school or institution whose primary mission is to serve a student clientele (k-12) with unique needs that are outside the generally accepted operational range of students who attend public schools shall be classified and accredited under the category of Special School Accreditation.

Section 6. [5.] A copy of all documents incorporated in this regulation may be obtained from the Office of Instruction, Department of Education.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: November 5, 1986

FILED WITH LRC: November 12, 1986 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on December 29, 1986, at 10 a.m., EST, 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 November 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 December 24, 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: James Fouche

(1) Type and number of entities affected: None

(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: Routine reports as required in 5 year

accreditation review.

(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: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: This item was addressed in each individual regulation listed in this amendment.

(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

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. This regulation must apply evenly to all school districts.

PUBLIC PROTECTION AND REGULATION CABINET Department of Alcoholic Beverage Control (Proposed Amendment)

804 KAR 2:007. Inside signs.

RELATES TO: KRS 244.130, 244.510

PURSUANT TO: KRS 241.060

NECESSITY AND FUNCTION: The past provisions of this regulation placed a limit of fifty (50) dollars on inside signs that can be made available to malt beverage retailers by brewers or distributors of malt beverages; however, economic conditions dictated that this limit be raised.

Section 1. Except as provided in Section 2, it is unlawful for any brewer or distributor of malt beverages to induce any retailer to purchase any products from such brewer or wholesaler to the exclusion in whole or in part of such products sold or offered for sale by other brewers or distributors, by furnishing, giving, renting, lending, or selling any equipment, fixtures, signs, supplies, money, service or other things of value, directly or indirectly or through an affiliate, if such inducement is made or such practice is used as a means to prevent, deter, hinder or restrict other brewers or distributors from selling or offering for sale any such malt beverage products to a retailer.

Section 2. Signs, posters, placards, designs, devices, decorations or graphic displays, bearing advertising matter and for use in the windows or elsewhere in the interior of a retail malt beverage establishment, may be given, rented, loaned, or sold to a malt beverage retailer by a brewer or distributor of malt beverages, if the total value of all such materials furnished by any brewer or distributor for any one (1) brand in use at any one (1) time in any one (1) retail establishment does not exceed the sum of \$150 [\$100], including all

expenses incurred directly or indirectly by a brewer or distributor in connection with the purchase, manufacture, transportation, assembly, and installation of such materials and accessories. No brewer or distributor shall directly or indirectly pay or credit any retailer for displaying such materials or for any expense incidental to their operation.

EDWARD A. FARRIS, Commissioner

ROBERT DAVIS, Secretary

APPROVED BY AGENCY: November 3, 1986

FILED WITH LRC: November 4, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on the above proposed regulation will be held on Tuesday, December 22, 1986, at 1:30 p.m., EST, in the Hearing Room of the Department of Alcoholic Beverage Control, 123 Walnut, Frankfort, Kentucky. Unless requests for a public hearing are received, in writing, five working days before the hearing date, the public hearing will be cancelled. Those who may be interested in attending, please contact: Joyce A. Hall, Secretary to the Board, Alcoholic Beverage Control Board, 123 Walnut, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Edward A. Farris

(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: N/A

TIERING: Was tiering applied? N/A

PUBLIC PROTECTION AND REGULATION CABINET

Department of Financial Institutions

Division of Securities

(Proposed Amendment)

808 KAR 10:210. Registration exemptions - Federal Regulation D.

RELATES TO: KRS 292.410(1)

PURSUANT TO: KRS 292.500(3)

NECESSITY AND FUNCTION: To declare that registration is not necessary in the public interest for certain business transactions

pursuant to KRS 292.410(1)(q).

Section 1. Pursuant to KRS 292.410(1)(q), the director having found that registration is not necessary or appropriate in the public interest or for the protection of investors, the following transaction is determined to be exempt from the registration provisions of KRS 292.340 through KRS 292.390.

(1) Any offer or sale of securities offered or sold in compliance with Securities Act of 1933, Regulation D, Rules 230.501-230.503 and either 230.505 or 230.506 as made effective in Release No. 33-6389 and which satisfies the following further conditions and limitations:

(a) Persons receiving commissions, finders fees, or other remuneration in connection with sales of securities in reliance on this regulation are not relieved of compliance with KRS 292.330.

(b) No exemption under this rule shall be available for the securities of any issuer, if any of the parties and/or persons [or interest] described in Securities Act of 1933, Regulation A, Rule 230.252, Sections (c), (d), (e) or (f):

1. Has filed a registration statement which is the subject of a currently effective stop order entered pursuant to any state's law within five (5) years prior to the commencement of the offering.

2. Has been convicted within five (5) years prior to commencement of the offering of any felony or misdemeanor in connection with the purchase or sale of any security or any felony involving fraud or deceit including but not limited to forgery, embezzlement, obtaining money under false pretenses, larceny or conspiracy to defraud.

3. Is currently subject to any state's administrative order or judgment entered by that state's securities administrator within five (5) years prior to reliance on this exemption or is subject to any state's administrative order or judgment in which fraud or deceit was found and the order or judgment was entered within five (5) years of the expected offer and sale of securities in reliance upon this exemption.

4. Is currently subject to any state's administrative order or judgment which prohibits the use of any exemption from registration in connection with the purchase or sale of securities.

5. Is subject to any order, judgment or decree of any court of competent jurisdiction temporarily or preliminarily restraining or enjoining, or is subject to any order, judgment or decree of any court of competent jurisdiction, entered within five (5) years prior to the commencement of the offering permanently restraining or enjoining, such person from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of any false filing with any state.

6. The prohibitions of subparagraphs 1 through 3 and subparagraph 5 of this paragraph shall not apply if the person subject to the disqualification is duly licensed or registered to conduct securities related business in the state in which the administrative order or judgment was entered against such person or if the broker/dealer employing such person is licensed or registered in this state and the Form B-D filed with this state discloses the order, conviction, judgment or decree relating

to such person.

7. Any disqualification caused by this section is automatically waived if the state which created the basis for disqualification determines upon a showing of good cause that it is not necessary under the circumstances that the exemption be denied.

(c) The issuer shall file with the Division of Securities a notice on Form D (17 CFR 239.500) [(17 CFR 239.550)];

1. no later than fifteen (15) days after the first sale of securities from this state or to an investor in this state which results from an offer being made in reliance upon this exemption.

2. No later than thirty (30) days after the completion date of the offering of the issue.]

3. Every six (6) months after the first sale of securities from the issue made in reliance on this regulation unless the final notice required by subparagraph 2 of this paragraph has been filed.]

1. [4.] Every notice on Form D shall be manually signed by a person duly authorized by the issuer.

2. [5.] Any information furnished by the issuer to offerees shall be filed with the notice required pursuant to [subparagraph 1 of] this paragraph and, if such information is altered in any way during the course of the offering, the Division of Securities shall be notified of such amendment within fifteen (15) days after an offer using such amended information.

6. If more than one (1) notice is required to be filed pursuant to subparagraphs 1 through 3 of this paragraph, notices other than the original notice need only report the information required by Part C and any material change in the facts from those set forth in Parts A and B of the original notice.]

3. [7.] There is no filing fee.

4. In the event that the issuer files any additional documents with the United States Securities and Exchange Commission subsequent to its initial filing, copies of same shall be filed with the Division of Securities.

(d) In all sales to nonaccredited investors the issuer and any person acting on its behalf shall have reasonable grounds to believe and after making reasonable inquiry shall believe that both of the following conditions are satisfied:

1. The investment is suitable for the purchaser upon the basis of the facts, if any, disclosed by the purchaser as to his other security holdings and as to his financial situations and needs. For the limited purpose of this condition only, it may be presumed that if the investment does not exceed ten (10) percent of the investor's net worth, it is suitable.

2. The purchaser either alone or with his/her purchaser representative(s) has such knowledge and experience in financial and business matters that he/she is or they are capable of evaluating the merits and risk of the prospective investment.

(2) Offers and sales which are exempt under this rule may not be combined with offers and sales exempt under any other rule or section of this Act, however, nothing in this limitation shall act as an election. Should for any reason the offers and sales fail to comply with all of the conditions for this exemption, the issuer may claim the availability of any other applicable exemption.

(3) Nothing in this exemption is intended to or should be construed as in any way relieving issuers or persons acting on behalf of issuers from providing disclosure to prospective investors adequate to satisfy the anti-fraud provisions of this state's securities law.

(4) In any proceeding involving this rule, the burden of proving the exemption or an exception from a definition or condition is upon the person claiming it.

(5) In view of the objective of this rule and the purpose and policies underlying the securities act, the exemption is not available to any issuer with respect to any transaction which, although in technical compliance with this rule, is part of a plan or scheme to evade registration or the conditions or limitations explicitly stated in this rule.

RONDA S. PAUL, Director

APPROVED BY AGENCY: November 11, 1986

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

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for Wednesday, December 24, 1986, at 10 a.m., local prevailing time, at the Department of Financial Institutions, Division of Securities, 911 Leawood Drive, Frankfort, Kentucky 40601. If no written notice of intent to attend and testify at the public hearing is received within five days before the scheduled hearing, the hearing will be cancelled. Those interested in attending this hearing shall notify in writing: William E. Doyle, Department of Financial Institutions, Division of Securities, 911 Leawood Drive, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: William E. Doyle

(1) Type and number of entities affected: Persons utilizing Federal Regulation D of the Securities & Exchange Commission. Number indeterminable.

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

1. First year: Indeterminable. Regulation eliminates two reports. Those affected will save the cost of two reports.

2. Continuing costs or savings: Places Kentucky in conformity with federal regulation. Facilitates national offering, creating savings.

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

(b) Reporting and paperwork requirements: Reduction. Eliminates two reports.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Eliminates two reports. Will save processing time and storage space. Cost savings indeterminable.

(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 change will place the Kentucky requirements in line with new federal procedures, thereby facilitating national offerings. This regulation will save time and money for all parties concerned without compromising the protection of the investing public.

TIERING: Was tiering applied? Yes.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Harness Racing Commission
(Proposed Amendment)

811 KAR 1:055. Declaration to start; drawing horses.

RELATES TO: KRS 230.630(1), (3), 230.640

PURSUANT TO: KRS 230.630(3), (4), (7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to regulate declarations to start; drawing horses.

Section 1. Declaration. (1) At extended pari-mutuel meetings. Unless otherwise specified in the conditions, or approved in writing by the commission three (3) days prior to the day of the race omitting Sundays, the declaration time shall be 9 a.m.

(2) Declaration time at other meetings. At all other meetings starters must be declared in at 10 a.m. unless another time is specified in the conditions.

(3) No horse shall be declared to start in more than one (1) race on any one (1) racing day.

(4) Timed used. In order to avoid confusion and misunderstanding, the time when declarations close will be considered to be standard time, except the time in use at an extended pari-mutuel meeting shall govern that meeting.

(5) Declaration box. The management shall provide a locked box with an aperture through which declarations shall be deposited.

(6) Responsibility for declaration box. The presiding judge shall be in charge of the declaration box.

(7) Search for declarations by presiding judge before opening box. Just prior to opening of the box at extended pari-mutuel meetings where futurities, stakes, early closing or late closing events are on the program, the presiding judge shall check with the race secretary to ascertain if any declarations by mail, telegraph, or otherwise, are in the office and not deposited in the entry box, and he shall see that they are declared and drawn in the proper event.

(8) Opening of declaration box. At the time specified the presiding judge shall unlock the box, assort the declarations found therein and immediately draw the positions in the presence of such owners or their representatives, as may appear.

(9) Entry box and drawing of horses at extended pari-mutuel meetings. The entry box shall be opened by the presiding judge at the advertised time and the presiding judge will be responsible to see that at least one (1) horseman or an official representative of the horsemen is present. No owner or agent for a

horse with a declaration in the entry box shall be denied the privilege of being present. Under the supervision of the presiding judge, all entries shall be listed, the eligibility verified, preference ascertained, starters selected and post positions drawn. If it is necessary to reopen any race, public announcement shall be made at least twice and the box reopened to a definite time.

(10) Drawing of post positions for second heat in races of more than one (1) dash or heat at pari-mutuel meetings. In races of a duration of more than one (1) dash or heat at pari-mutuel meetings, the judges may draw post positions from the stand for succeeding dashes or heats.

(11) Declarations by mail, telegraph or telephone. Declarations by mail, telegraph, or telephone actually received and evidence of which is deposited in the box before the time specified to declare in, shall be drawn in the same manner as the others. Such drawings shall be final. Mail, telephone and telegraph declarations must state the name and address of the owner or lessee; the name, color, sex, sire and dam of the horse; the name of the driver and his colors; the date and place of last start; a current summary, including the number of starts, first, seconds, thirds, earnings and best winning time for the current year; and the event or events in which the horse is to be entered.

(12) Effect of failure to declare on time. When a track requires a horse to be declared at a stated time, failure to declare as required shall be considered a withdrawal from the event.

(13) Drawings of horses after declaration. After declaration to start has been made no horse shall be drawn except by permission of the judges. A fine, not to exceed \$500, or suspension, may be imposed for drawing a horse without permission, the penalty to apply to both the horse and the party who violates the regulation.

(14) Horses omitted through error. Such drawings shall be final unless there is conclusive evidence that a horse properly declared, other than by telephone, was omitted from the race through error of a track or its agent or employee in which event the horse may be added to this race but given the outside post position. This shall not apply at pari-mutuel meetings unless the error is discovered prior to the publication of the official program.

Section 2. Qualifying Races. At all extended pari-mutuel meetings declarations for overnight events shall be governed by the following:

(1) Within two (2) weeks of being declared in, a horse that has not raced previously at the gait chosen must go a qualifying race under the supervision of a judge holding a presiding or associate judge's license for pari-mutuel meetings and acquire at least one (1) charted line by a licensed charter. In order to provide complete and accurate chart information on time and beaten lengths a standard photo finish shall be in use.

(2) A horse that does not show a charted line for the previous season, or a charted line within its last six (6) starts, must go a qualifying race as set forth in subsection (1) of this section. Uncharted races contested in heats or more than one (1) dash and consolidated according to subsection (4) of this section will be considered one (1) start.

[(3) A horse that has not started at a charted

meeting by April 1 of a season must go a qualifying race and meet the qualifying standards of the meet.]

(3) [(4)] When a horse has raced at a charted meeting during the current season, then gone to meetings where the races are not charted, the information from the uncharted races may be summarized, including each start, and consolidated in favor of charted lines and the requirements of subsection (2) of this section would then not apply.

(4) [(5)] The consolidated line shall carry date, place, time, driver, finish, track condition and distance if race is not at one (1) mile.

(5) [(6)] The judges may require any horse that has been on the steward's list to go a qualifying race. If a horse has raced in individual time not meeting the qualifying standards for that class of horse, he may be required to go a qualifying race.

(6) [(7)] The judges may permit a fast horse to qualify by means of a timed workout consistent with the time of the races in which he will compete in the event adequate competition is not available for a qualifying race. However, a horse that is on the steward's list for breaks or refusing to come to the gate must qualify in a qualifying race.

(7) [(8)] To enable a horse to qualify, qualifying races should be held at least one (1) full week prior to the opening of any meeting of ten (10) days or more and shall be scheduled at least twice a week. Qualifying races shall also be scheduled twice a week during the meeting and through the last week of the meeting.

(8) [(9)] Where a race is conducted for the purpose of qualifying drivers and not horses, the race need not be charted, timed or recorded. This subsection is not applicable to races qualifying both drivers and horses.

(9) [(10)] If a horse takes a win race record in a qualifying race, such record must be prefaced with the letter "Q" wherever it appears, except in a case where, immediately prior to or following the race, the horse taking the record has been submitted to an approved urine, saliva or blood test. It will be the responsibility of the presiding judge to report the test on the judges' sheet.

(10) [(11)] Any horse that fails to race at a charted meeting within thirty (30) days after having started [in a current year], shall start in a charted race or a qualifying race and meet the standards of the meeting before being allowed to start in a race with pari-mutuel wagering.

Section 3. Coupled Entries. (1) When the starters in a race include two (2) or more horses owned or trained by the same person, or trained in the same stable or by the same management, they shall be coupled as an "entry" and a wager on one (1) horse in the "entry" shall be a wager on all horses in the "entry." Provided, however, that when a trainer enters two (2) or more horses in a stake, early closing, futurity, free-for-all or other special event under bona fide separate ownerships, the said horses may, at the request of the association and with the approval of the commission, be permitted to race as separate betting entries. The fact that such horses are trained by the same person shall be indicated prominently in the program. If the race is split

in two (2) or more divisions, horses in an "entry" shall be seeded insofar as possible, first by owners, then by trainers, then by stables; but the divisions in which they compete and their post positions shall be drawn by lot. The above provision shall also apply to elimination heats.

(2) The presiding judge shall be responsible for coupling horses. In addition to the foregoing, horses separately owned or trained may be coupled as an entry where it is necessary to do so to protect the public interest for the purpose of pari-mutuel wagering only. However, where this is done, entries may not be rejected.

(3) If an owner, lessor, or lessee has a vested interest in another horse in the same race, it shall constitute an entry.

Section 4. Also Eligibles. Not more than two (2) horses may be drawn as also eligibles for a race and their positions shall be drawn along with the starters in the race. In the event one (1) or more horses are excused by the judges, the also eligible horse or horses shall race and take the post position drawn by the horse that it replaces, except in handicap races. In handicap races the also eligible horse shall take the place of the horse that it replaces in the event that the handicap is the same. In the event the handicap is different, the also eligible horse shall take the position on the outside of horses with a similar handicap. No horse may be added to a race as an also eligible unless the horse was drawn as such at the time declarations closed. No horse may be barred from a race to which it is otherwise eligible by reason of its preference due to the fact that it has been drawn as an also eligible. A horse moved into the race from the also eligible list cannot be drawn except by permission of the judges, but the owner or trainer of such a horse shall be notified that the horse is to race and it shall be posted at the race secretary's office. All horses on the also eligible list and not moved into race by 9 a.m. on the day of the race shall be released.

Section 5. Preference. (1) Preference shall be given in all overnight events according to a horse's last previous purse race during the current year. The preference date on a horse that has drawn to race and been scratched is the date of the race from which he was scratched.

(2) When a horse is racing for the first time in the current year, the date of the first declaration shall be considered its last race date, and preference applied accordingly.

(3) If an error has been made in determining or posting a preference date and said error deprives an eligible horse of an opportunity to race, the trainer involved shall report the error to the racing secretary within one (1) hour of the announcement of the draw. If in fact a preference date error has occurred, the race will be redrawn.

Section 6. Steward's List. (1) A horse that is unfit to race because he is dangerous, unmanageable, sick, lame, unable to show a performance to qualify for races at the meeting, or otherwise unfit to race at the meeting may be placed on a "steward's list" by the presiding judge, and declarations on said horse shall be refused, but the owner or trainer shall be notified in writing of such action and the

reason as set forth above shall be clearly stated on the notice. When any horse is placed on the steward's list, the clerk of the course shall make a note on the eligibility certificate of such horse, showing the date the horse was put on the steward's list, the reason therefor and the date of removal if the horse has been removed.

(2) No presiding judge or other official at a non-extended meeting shall have the power to remove from the steward's list and accept as an entry any horse which has been placed on a steward's list and not subsequently removed therefrom for the reason that he is a dangerous or unmanageable horse. Such meetings may refuse declarations on any horse that has been placed on the steward's list and has not been removed therefrom.

(3) A horse scratched from a race because of lameness or sickness may not enter another race for at least three (3) days from the date of the scratch.

Section 7. Driver. Declarations shall state who shall drive the horse and give the driver's colors. Drivers may be changed until 9 a.m. of the day preceding the race, after which no driver may be changed without permission of the judges and for good cause. When a nominator starts two (2) or more horses, the judges shall approve or disapprove the second and third drivers.

Section 8. (1) It shall be the duty of the presiding judge to call a meeting of all horsemen on the grounds before the opening of an extended pari-mutuel meeting for the purpose of their electing a member and an alternate to represent them on matters relating to the withdrawal of horses due to bad track or weather conditions.

(2) In case of questionable track conditions due to weather, the presiding judge shall call a meeting consisting of an agent of the track member, the duly elected representative of the horsemen and himself.

(3) Upon unanimous decision by this committee of three (3) that track conditions are safe for racing, no unpermitted withdrawals may be made.

(4) Any decision other than unanimous by this committee will allow any entrant to scratch his horse or horses after posting ten (10) percent of the purse to be raced for. In the event sufficient withdrawals are received to cause the field to be less than six (6), then the track member shall have the right of postponement of an early closing event or stake and cancellation of an overnight event.

(5) Said money posted shall be forwarded to the commission and shall be retained as a fine, or refunded to the individual upon the decision of the commission as to whether the withdrawal was for good cause.

(6) The above procedure applies only to the withdrawal of horses that have been properly declared in and does not relate to postponement which is covered in 811 KAR 1:060.

ROBERT DAVIS, Secretary

CARL B. LARSEN, Executive Director

APPROVED BY AGENCY: November 4, 1986

FILED WITH LRC: November 12, 1986 at noon.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on December 30, 1986, at 1 p.m. at the office of the

Kentucky Harness Racing Commission. Anyone interested in attending this hearing shall notify in writing Carl B. Larsen, Executive Director, Kentucky Harness Racing Commission, Suite 300, 535 West Second Street, Lexington, Kentucky, 40508, at least five days before the hearing.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carl B. Larsen, Executive Director

(1) Type and number of entities affected: Not applicable - no cost known.

(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:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.

(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. Not applicable.

PUBLIC PROTECTION AND REGULATION CABINET Kentucky Harness Racing Commission (Proposed Amendment)

811 KAR 1:070. Licensing; owners, drivers, trainers, grooms and agents.

RELATES TO: KRS 230.630(1),(3), 230.640, 230.700, 230.710

PURSUANT TO: KRS 230.630(3),(4),(7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to set out the requirements of and to provide for the licensing of owners, trainers, drivers, grooms and agents.

Section 1. Owners. Every person owning a horse that is entered at a race meeting licensed by the commission shall be required to obtain a license from the commission and the United States Trotting Association. Said application shall be on forms provided by the commission and shall be filed at any commission office. Such license shall be presented to the clerk of the course at the time said horse is entered in a race.

Section 2. Leased Horses. Any horse under lease must race in the name of the lessee and a copy of such lease must be filed with the Kentucky Harness Racing Commission. No horse shall race under lease without an eligibility certificate issued by the United States Trotting Association in the name of the lessee [and unless both lessor] and the lessee is a [are] current licensee [members] of the commission in good standing. Persons violating this rule may be fined, suspended or expelled.

Section 3. Driver's Application for License. Every person desiring to drive a harness horse at a race meeting licensed by the commission shall be required to obtain a license from the commission and the United States Trotting Association. Such application shall be on forms provided by the commission. Applications may be filed at any commission office. Such license shall be presented to the clerk of course before driving. Pending a valid license by the United States Trotting Association, the commission may, at its discretion, issue a provisional or full driver's license to those who qualify as hereinafter set out.

Section 4. Qualification for a Provisional and/or Full Driver's License. (1) Every applicant for a provisional license to drive a harness horse at a race meeting licensed by the commission in addition to any other requirements mentioned herein shall:

- (a) Submit evidence of good moral character.
- (b) Submit evidence of his ability to drive in a race and, if he is a new applicant, this must include the equivalent of one (1) year's training experience.
- (c) Be at least eighteen (18) years of age.
- (d) Furnish a completed application form.
- (e) Submit satisfactory evidence of an eye examination indicating 20/40 corrected vision in both eyes, or if one (1) eye blind, at least 20/30 corrected vision in the other eye; and, when requested, submit evidence of physical and mental ability and/or submit to a physical examination.
- (f) No person sixty (60) years of age or older who has never held any type of driver's license previously shall be issued a driver's license.
- (g) When requested, submit a written examination at a designated time and place to determine his qualifications to drive and his knowledge of racing and the rules. In addition, any driver who presently holds a license and wishes to obtain a license in a higher category, who has not previously submitted to such written test, shall be required to take a written test before becoming eligible to obtain a license in a higher category.
- (h) No applicant who has previously held any type of driver's license shall be subsequently denied a driver's license solely on the basis of age.

(2) A full license will be granted to an applicant who qualifies for a provisional license and has acquired:

- (a) At least one (1) year's driving experience while holding a provisional license from the United States Trotting Association.
- (b) Twenty-five (25) satisfactory starts in the calendar year preceding the date of his application at an extended pari-mutuel meeting.
- (3) In the event any person is involved in an accident on the track, the commission may order

such person to submit to a physical examination and such examination must be completed within thirty (30) days from such request or his license may be suspended until compliance therewith.

(4) All penalties imposed on any driver may be recorded on the reverse side of his commission driver's license by the presiding judge.

(5) The Kentucky Harness Racing Commission reserves the right to require any driver to take a physical examination at any time.

Section 5. Trainers' Application for License. An applicant for a license as trainer shall be licensed by the United States Trotting Association and must be at least eighteen (18) years of age and satisfy the commission that he possesses the necessary qualifications both mental and physical, to perform the duties required. Elements to be considered, among others, shall be character, reputation, temperament, experience, knowledge of the rules of racing and of the duties of a trainer in the preparation, training, entering and managing of horses for racing.

Section 6. Absence of Trainers. When any licensed trainer is absent from a racing meet for more than six (6) days, it shall be the duty of the trainer to appoint and have properly licensed a new trainer of record.

Section 7. Grooms' Application for License. An applicant for a license as a groom must satisfy the commission that he possesses the necessary qualifications, both mental and physical to perform the duties required. Elements to be considered, among others, shall be character, reputation, temperament, experience, knowledge of the rules of racing and of the duties of a groom. No license shall be issued to applicants under sixteen (16) years of age.

Section 8. (1) The holder of a license issued by the United States Trotting Association or a holder of a license issued by the Kentucky Harness Racing Commission for the prior year, may be presumed to be qualified to receive a license, all others must be tested by the deputy commissioner (supervisor of racing), his assistant, or agent of the commission, at such locations as shall be designated by the commission as to the capability of said applicant for a license to perform the functions required of him. Said tests shall be either in writing or by demonstrations or both and shall be administered in a uniform manner. The cost of said testing shall be borne by the applicant.

(2) A holder of a current qualifying license issued by the United States Trotting Association may be allowed to drive a horse that is already qualified, however, if the horse does not meet the standards of the meeting, the horse shall be placed on the stewards list. If a race is held solely for qualifying drivers, the race may not be charted. A race solely for qualifying drivers must have more than four (4) starters.

Section 9. The following shall constitute disorderly conduct and be reason for a fine, suspension, or revocation of an owner's, driver's, trainer's, or groom's license:

- (1) Failure to obey the judges' or other officials' orders that are expressly authorized by the rules of this commission.

(2) Failure to drive when programmed unless excused by the judges.

(3) Drinking intoxicating beverages within four (4) hours of the first post time of the programs on which he is carded to drive.

(4) Appearing in the paddock in an unfit condition to drive.

(5) Fighting.

(6) Assaults.

(7) Offensive and profane language.

(8) Smoking on the track in colors during actual racing hours.

(9) Warming up a horse prior to racing without colors.

(10) Disturbing the peace.

(11) Refusing to take a breath analyzer test when directed by the presiding judge, deputy commissioner (supervisor of racing), or assistant deputy commissioner (assistant supervisor of racing).

Section 10. Colors and Helmet. Drivers must wear distinguishing colors, and clean white pants, and shall not be allowed to start in a race or other public performance unless in the opinion of the judges they are properly dressed. From the time it becomes necessary to wear colors before the races, no one will be permitted to jog, train, warm-up or drive a horse during a race meet licensed by the Kentucky Harness Racing Commission unless he or she is wearing a protective safety helmet, with the chin strap fastened and in place, that meets the standards and requirements as set forth in the Snell Memorial Foundation's 1984 Standard For Protective Headgear For Use In Harness Racing. This standard is hereby incorporated by reference. Any equestrian helmet bearing the Snell label shall be deemed to have met the performance requirements as set forth in the standards.

Section 11. Misconduct in Colors. Any driver wearing colors who shall appear at a betting window or at a bar or in a restaurant dispensing alcoholic beverages shall be fined not to exceed \$100 for each such offense.

Section 12. Driver Change. No driver can, without good and sufficient reasons, decline to be substituted by the judges. Any driver who refuses to be so substituted may be fined or suspended, or both by order of the judges.

Section 13. Amateur Definition. An amateur driver is one who has never accepted any valuable consideration by way of or in lieu of compensation for his services as a trainer or driver during the past ten (10) years.

Section 14. Registered Colors. Drivers holding an "A" license or drivers with a "V" license who formerly held an "A" license, shall register their colors with the United States Trotting Association. Registered stables or corporations may register their racing colors with the United States Trotting Association.

ROBERT DAVIS, Secretary

CARL B. LARSEN, Executive Director

APPROVED BY AGENCY: November 4, 1986

FILED WITH LRC: November 12, 1986 at noon.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on December 30, 1986, at 1 p.m. at the office of the

Kentucky Harness Racing Commission. Anyone interested in attending this hearing shall notify in writing Carl B. Larsen, Executive Director, Kentucky Harness Racing Commission, Suite 300, 535 West Second Street, Lexington, Kentucky, 40508, at least five days before the hearing.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carl B. Larsen, Executive Director

(1) Type and number of entities affected: Not applicable - no cost known.

(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:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.

(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. Not applicable.

PUBLIC PROTECTION AND REGULATION CABINET

Department of Housing, Buildings & Construction

Office of State Fire Marshal

(Proposed Amendment)

815 KAR 15:020. Administrative procedures; requirements.

RELATES TO: KRS Chapter 236 [236.030]

PURSUANT TO: KRS 236.030, 236.120 [Chapter 13A]

NECESSITY AND FUNCTION: KRS 236.030 and 236.120 requires the commissioner, upon advisement of the Board of Boiler Rules, to fix reasonable fees and standards for the safe construction, installation, inspection and repair of boilers and pressure piping. This regulation specifies administrative procedures, fees and requirements of the boiler inspection section.

Section 1. Administration. (1) Manufacturers data report to be filed:

(a) Manufacturers data report on all boilers of steel construction which are to be operated in this state, unless exempted by KRS 236.060, shall be filed with the national board.

(b) Details of boilers and pressure vessels of special design (not fully complying with ASME

Boiler and Pressure Vessel Code) shall be submitted to the boiler section and approval secured before construction or field erection is started.

(2) When boilers or pressure vessels are designed and fabricated according to the requirements of the applicable sections of the ASME Boiler and Pressure Vessel Code, but are not stamped with the ASME Boiler and Pressure Vessel Code symbol stamp, individual handling is required for their installation. The prospective owner or user who desires jurisdiction authority acceptance must pursue the following procedure in each individual case:

(a) Prior to construction of the boiler or pressure vessel the proposed owner, user, or his authorized agent shall make written application for permission to install the boiler or pressure vessel in the State of Kentucky. The application may be by letter or application permit form of the jurisdiction and shall be directed to the Chief Boiler Inspector, Office of the State Fire Marshal, Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky 40601.

(b) He shall submit with the application letter or application permit the following data, material and information to establish ASME Boiler and Pressure Vessel Code equivalency:

1. Detailed shop drawings and welding details of the proposed construction. All materials shall be in the English language and United States units of measurements as used in the ASME Boiler and Pressure Vessel Codes.

2. Design calculation and supporting data which include pressure (psi), temperature (deg.F.), use and other service conditions.

3. Specifications for all material to be used in construction. These should conform to the applicable ASME Boiler and Pressure Vessel Codes standards or their suitable equivalent. If reference is made to a standard or specification of a country other than the United States, please attach a copy and indicate how the material is considered equivalent.

4. Copies of: All welding procedures to be used, welding qualification test reports for each welding operator or welder to be used. The procedures and tests required in this paragraph shall be made in accordance with the ASME Boiler and Pressure Vessel Code, Section IX, "Welding Qualifications."

5. Where the design exceeds ASME Boiler and Pressure Vessel Code limitation, recognized engineering practices shall be used and identified in the submittal.

6. Design drawings and calculations shall be certified by a professional engineer holding a license acceptable to the boiler inspection section.

7. The manufacturer of the vessel shall identify the inspection agency whose personnel will make the shop inspections and sign the manufacturer's data reports for the proposed vessel.

8. The shop inspection agency shall furnish the qualifications and experience of the individual inspector or inspectors assigned to make the shop inspections and shall give his jurisdiction commission number.

(c) All details mentioned in paragraphs (a) and (b) of this subsection must be acceptable to the Boiler Inspection Section, Department of Housing, Buildings and Construction.

(d) When the boiler or pressure vessel is

completed, a manufacturers' data report signed by the manufacturer and shop inspector shall be submitted to the jurisdictional authorities containing the equivalent type data required by the ASME Boiler and Pressure Vessel Code. (Do not use ASME Boiler and Pressure Vessel Code data report forms.)

(e) The vessel will be inspected by a qualified boiler and pressure vessel inspector in the employ of the department upon arrival in the State of Kentucky and before installation to make certain the above provisions have been complied with and that the vessel is properly marked and stamped for identification.

(3) Inspection of boilers:

(a) All power boilers shall be inspected annually internally and externally while not under pressure and shall also be inspected annually externally while under pressure. One (1) of the above inspections shall be a certificate inspection.

(b) All low pressure heating boilers shall be inspected biannually both internally and externally where construction will permit. One (1) of the above inspections shall be a certificate inspection.

(c) A grace period of two (2) months beyond the periods specified in paragraphs (a) and (b) of this subsection may elapse between inspections.

(d) Power boilers operated in such a manner that experience indicates internal corrosion of deposits would not be anticipated may have the internal inspection period extended by the boiler inspection section if requested in writing by the owner or user and if circumstances warrant.

(4) Installation inspection or first inspection and stamping boilers and pressure vessels:

(a) Upon completion of installation or at the time of first inspection, a Commonwealth of Kentucky serial number will be assigned to the boiler or pressure vessel, applied as follows:

1. Steel boilers will be stamped with the letters, "KY" followed by the state serial number assigned. Pressure vessels will be stamped with the letters "KY" followed by the numeral "0" and the remainder of the state serial number assigned. Stamping will be applied in the immediate area of code stamping on the boiler or pressure vessel and will be in letters and figures not less than five-sixteenths (5/16) inch in height. A metal tag may additionally be used showing identical lettering and serial number as used in the stamping, this tag to be securely affixed in the area of manufacturer's name plate or data plate.

2. Cast iron boilers shall have securely attached to the boiler (preferably adjacent to the manufacturer's data plate or in the most conspicuous area) a metal tag not less than one (1) inch in height which shall have the letters "KY" and the state serial number stamped thereon.

3. Hot water supply boilers shall have securely attached to the heater (preferably adjacent to the manufacturer's data plate or in the most conspicuous area) a metal tag not less than one (1) inch in height which shall have the letters "KY" and the state serial number stamped thereon.

(b) New installations completed subsequent to July 1, 1970, are subject to inspection as set forth in KRS Chapter 236. Such installations will be inspected for conformance with

applicable ASME Boiler and Pressure Vessel Codes and these rules and regulations and additionally will be subject to inspection of pressure piping carrying steam, vapor or water pressures emanating from the boiler, as follows:

1. Power boiler piping shall be inspected in all segments of the system carrying substantially the same pressures and temperatures encountered in the boiler itself. Inspection shall be to the extent necessary to assure compliance with engineering design, material specifications, fabrication, assembly and test requirements of the boiler and first (or second) stop valve and requirements of Section 1, ASME Boiler and Pressure Vessel Code, for that piping between the boiler and the first (or second) stop valve and requirements of The National Standard Code For Pressure Piping ANSI B31.1 (and subsequent revisions) for pressure piping beyond Section 1, Power Boiler ASME Code Limits. ANSI B31.1 also covers air and hydraulic system piping.

2. The installing contractor, where welded assembly has been used, must be able to present for the inspector's review, his welding procedures and proof of qualification of his welding operators. The contractor is responsible for the quality of the welding done by his organization.

3. Visual inspection of welding performed by qualified welders is normally deemed sufficient unless codes or engineering specifications state otherwise, or unless the inspector wishes to augment this visual inspection with other nondestructive tests including radiography. All tests or retests required by the inspector shall be at the owner's or contractor's expense.

4. The inspector may accept signed certification of the contractor regarding satisfactory hydrostatic tests performed on piping or he may witness such tests himself. He may also, if he deems it expedient, require such tests to be performed in his presence.

5. Heating boiler piping shall be inspected in all segments of the system carrying substantially the same pressure and temperature as the boiler itself. Inspection shall be to the extent necessary to assure good fitup, assembly, tightness and support of the system. Welded joints shall be visually inspected for soundness of the weld and freedom from undercutting, cracking and other surface imperfections.

6. Hot water supply boiler installations shall be inspected for conformance with Section IV, ASME Boiler and Pressure Vessel Code.

(5) Notification of inspection: the owner or user shall prepare each boiler for internal inspection and shall prepare for and apply a hydrostatic pressure test whenever necessary, on the date specified by the inspector, which date shall not be less than seven (7) days after the date of notification.

(6) Examinations for commission:

(a) Examinations for commission as an inspector shall be given by the Department of Housing, Boiler Inspection Section four (4) times each year; namely, the first Wednesday of the months of March, June, September, and December. Special examinations will be held when considered necessary by the department. Qualifications shall be set forth in KRS 236.070, 236.090 and 815 KAR 15:010, Section 1(7).

(b) Application for employment as an inspector shall be in writing, upon a form to be furnished

by the commissioner, stating the school education of the applicant, a list of his employers, his period of employment and position held with each employer. Applications containing willful falsification or untruthful statements shall be rejected. If the applicant's history and experience meet with the approval of the Board of Boiler Rules, he shall be given a written examination, prepared by the National Board of Boiler and Pressure Vessel Inspectors in accordance with their bylaws, Article IV, dealing with the construction, installation, operation, maintenance, and repair of boilers and their appurtenances. The applicant shall be accepted or rejected for permanent status on the merits of this examination.

(7) Examination fees: A fee of twenty (20) dollars will be charged to each applicant who sits for the National Board examination. This fee shall be payable directly to the Treasurer of the Commonwealth of Kentucky, and shall accompany the application.

(8) Commission:

(a) Upon the request of a boiler insurance company authorized to do business in this Commonwealth, a commission as a special boiler inspector and an identifying commission card shall be issued by the department to an inspector in the employ of such insurance company provided the inspector has successfully passed the written examination as set forth in subsection (6) of this section, or holds a commission as outlined in subsection (9) of this section.

(b) The commission and the identifying commission card shall be returned to the department when the inspector to whom the commission was issued is no longer in its employ, or at the request of the department.

(c) The commission issued to such boiler inspector may be suspended by the commissioner and may be revoked upon ten (10) days notice to the inspector and to the employer of such inspector for incompetency or untrustworthiness; for willful falsification of any matter or statement contained in his application, or in the report of an inspection; or for other sufficient reasons; but the holder of such commission shall be entitled to a hearing before the commissioner before the revocation of said commission.

(9) Reciprocal commissions:

(a) Upon the request of a boiler insurance company authorized to do business in this Commonwealth, a commission and identifying commission card as special boiler inspector shall be issued by the department to an inspector in the employ of such insurance company provided the inspector has the experience prescribed in subsection (6) of this section, and holds either:

1. A certificate of competency, or

2. A commission issued by a state which has adopted the ASME Boiler and Pressure Code, or

3. A commission issued by the National Board of Boiler and Pressure Vessel Inspectors.

(b) Application for a reciprocal commission shall be made on a form to be furnished by the department and shall be accompanied by a photostatic copy of the applicant's state or national board commission or certificate of competency and a fee of twenty (20) dollars.

(c) The commission issued to such an inspector may be suspended or revoked upon ten (10) days notice to the inspector and to the employer of

such inspector for incompetency or untrustworthiness; for willful falsification of his application or in the report of an inspection; but the holder of the commission shall be entitled to a hearing before any final action is taken.

(10) Inspectors to have no other interests: Inspectors shall not be engaged in the sale of any article or device that is related to boilers and shall devote their full time to inspection work.

(11) Inspection reports: Inspectors shall submit to the Boiler Inspection Section an inspection report on each boiler or pressure vessel subject to inspection. Reinspection shall be reported on a form suggested by the National Board Inspection Code. Reports shall be submitted within thirty (30) days of the date of inspection. External inspections shall be reported on a form suggested by the National Board Inspection Code immediately when hazardous conditions affecting the safety of the boiler or pressure vessel are found to exist.

(12) Insurance companies to notify the Boiler Inspection Section of new, cancelled, or suspended risks: All insurance companies shall notify the Boiler Inspection Section within thirty (30) days of all boiler or pressure vessel risks written, cancelled, not renewed, or suspended because of unsafe conditions.

(13) Insurance companies to notify the Boiler Inspection Section of defective boilers or pressure vessels: If a special boiler inspector, upon the first inspection of a boiler or pressure vessel, finds that the boiler or pressure vessel or any of the appurtenances are in such condition that his company refuses insurance, the company shall immediately notify the Boiler Inspection Section and submit a report of the defects.

(14) Defective conditions disclosed at time of external inspections: If, upon an external inspection, there is evidence of a leak or crack, enough of the covering of the boiler or pressure vessel shall be removed to satisfy the inspector in order that he may determine its safety; or, if the covering cannot be removed at that time, he may order the operation stopped until such time as the covering can be removed and proper examination made.

(15) Owner, user or insurer to notify the Boiler Inspection Section in case of accident: When an accident occurs which serves to render a boiler or pressure vessel inoperative, the owner, user, or insurer shall immediately notify the Boiler Inspection Section, and submit a detailed report of the accident. In case of serious accident, such as explosion, notice shall be given immediately by telephone, telegraph, or messenger and neither the boiler, pressure vessel nor any of the parts thereof shall be removed or disturbed before an inspection has been made by an inspector, except for the purpose of saving a human life.

(16) Inspection certificate fees:

(a) If a boiler shall, upon inspection, be found to be suitable and to conform to these rules and regulations, the owner or user shall pay directly to the department a fee of five (5) dollars for each boiler required to be inspected under KRS Chapter 236 before an inspection certificate shall be issued.

(b) If the owner or user of each boiler or pressure vessel required to be inspected refuses to allow an inspection to be made or refuses to

pay the above fee, the inspection certificate shall be suspended by the commissioner until the owner or user complies with the requirements.

(c) The owner or user who causes a boiler or pressure vessel to be operated without possessing a valid certificate of inspection shall be subject to the penalties provided for in KRS 236.990.

(d) Certificates shall be posted under glass in the room containing the boiler or pressure vessel inspected or, in the case of a portable boiler, shall be kept in a metal container, either fastened to the boiler or kept in a tool box accompanying the boiler.

(17) Validity of inspection certificates: An inspection certificate, issued in accordance with KRS 236.120, shall be valid until expiration unless some defect or condition affecting the safety of the boiler or pressure vessel is disclosed. A certificate issued for a boiler or pressure vessel inspected by a special boiler inspector shall be valid only if the boiler for which it was issued continues to be insured by a duly authorized insurance company.

(18) Suspension of certificate of operations: If, upon inspection, a boiler or pressure vessel is found to be in such condition that it is unsafe to operate, the inspection certificate shall be suspended by the commissioner. Any person, firm, partnership, or corporation causing such objects to be operated shall be subject to the penalties provided for in KRS 236.990.

(19) Condemned boilers:

(a) Any boiler or pressure vessel having been inspected and declared unsafe by the chief boiler inspector or boiler inspector shall be stamped with the letters "XX" and the letters "KY," as shown by the following facsimile which will designate a condemned boiler or pressure vessel: XX KY 12345 XX.

(b) Any person, firm, partnership, or corporation using or offering for sale a condemned boiler or pressure vessel for operation within this Commonwealth shall be subject to the penalties in KRS 236.990.

(20) Nonstandard boilers and pressure vessels:

(a) Shipment of nonstandard boilers or pressure vessels, or hot water supply boilers into this Commonwealth for use is prohibited, provided same are not exempted under KRS Chapter 236.

(b) A nonstandard boiler, pressure vessel, or hot water supply boiler now in use in this Commonwealth, if removed from the Commonwealth, may not be brought into and reinstalled.

(21) Secondhand boilers and pressure vessels: Before a secondhand boiler or pressure vessel can be shipped into this Commonwealth, an inspection shall be made by a boiler inspector, or a special boiler inspector holding a national board commission, and the data submitted by him shall be filed by the owner or user of the boiler or pressure vessel with the Boiler Inspection Section for approval.

(22) Reinstalled boilers or pressure vessels: In any case where a boiler or pressure vessel within the Commonwealth is moved and reinstalled, the fittings and appliances must comply with the ASME Boiler and Pressure Vessel Code.

(23) Factors of safety for existing installations: The inspector is authorized to increase factors of safety if the condition of the boiler warrants it. If the owner or user

does not concur with the inspector's decision, he may appeal to the commissioner who may request a joint inspection by the chief inspector and the boiler inspector or special boiler inspector. Each inspector shall render his report to the commissioner, who shall render the final decision, based upon the data contained in all the inspector's reports.

(24) Major repairs: Where a major repair is necessary, an inspector shall be called for consultation and advice as to the best method of making such repair; after such repair is made, it shall be subject to the approval of the inspector. Repairs to all boilers, pressure vessels and their appurtenances, shall conform to the requirements of the National Board of Boiler and Pressure Vessel Inspectors Inspection Code.

(25) Repairs by welding: Welding repairs shall be performed in accordance with the rules recommended by the National Board of Boiler and Pressure Vessel Inspectors Inspection Code available from the 1979 Edition, (or most recent edition).

(26) Riveted patches: Riveted patches shall be designed and installed in accordance with the rules recommended by the National Board of Boiler and Pressure Vessel Inspectors Inspection Code.

(27) Removal of safety appliances: No person, except under the direction of an inspector, shall attempt to remove or shall do any work, upon any safety appliance, while a boiler is in operation. Should any of these appliances be repaired during an outage of a boiler or pressure vessel, they must be reinstalled and in proper working order before the object is again placed in service.

(28) Inspection fees: The installing contractor, owner or user of any boiler or pressure vessel not exempted under KRS Chapter 236 and required to be inspected by a boiler or pressure vessel inspector, shall pay to the department following inspection of the boiler, fees in accordance with this section [KRS 236.130].

[(29) Other inspection fees:]

(a) Shop inspections made by boiler inspectors for purposes of inspecting the fabrication of the vessels themselves at the request of a boiler manufacturer, installer, engineering contractor, or owner shall be charged at the following rates:

1. \$150 [Seventy-five dollars (\$75)] for one-half (1/2) day of four (4) hours or less.
2. \$200 [One hundred dollars (\$100)] for one (1) day of over four (4) hours.
3. \$240 [One hundred twenty dollars (\$120)] for eight (8) hours or any part thereof on Saturdays, Sundays, or public holidays.

4. Thirty (30) dollars [Fifteen dollars (\$15)] per hour for overtime in excess of eight (8) hours in any one (1) day. Plus itemized expenses to include mileage, lodging, meals and incidentals. These charges shall not void regular fees for inspection and certificate when the boilers or pressure vessels are completed.

(b) Charges for inspection of second-hand equipment shall be at the rates specified above plus charges for mileage, lodging, meals, and incidentals. These charges shall not void regular fees for inspection and certificate when the boilers or pressure vessels are installed.

(c) ASME and National Board inspections. Inspections of the manufacturing facility

itself, at the request of the manufacturer, for the issuance of ASME or National Board certificates of authorization shall be charged as follows:

1. Initial inspection for ASME certificates - \$1,000.

2. Reviews for renewal of ASME Certificates - \$750.

3. Initial inspections and renewals for National Board R or VR certificate - \$200.

(d) [(c)] Inspection of new installations of pressure piping, boilers and pressure vessels:

1. Under normal circumstances, this will be a "once only" inspection as specified under KRS Chapter 236 and will be conducted generally as set forth under subsection (4)(b) of this section.

2. The fees chargeable for inspection of piping carrying substantially the same pressures and temperatures as encountered in the boiler shall be based upon the total dollar value of the contract covering the combined boiler and piping installation, either actual or estimated. It is the obligation of the installing contractor to supply this value which shall include both labor and material costs. No exact figure need be quoted or divulged to the boiler inspector or department; only a designation that the true value lies within certain limits as set forth in the table below. The fee for boiler, pressure vessel and pressure piping inspection is then found in the table's right hand column.

Amount In Dollars	Fee
\$ 2,000 or less	\$ 60 [30]
\$ 2,001 to \$10,000	\$ 90 [45]
\$ 10,001 to \$25,000	\$120 [60]
\$ 25,001 to \$50,000	\$150 [75]
\$ 50,001 to \$75,000	\$200 [100]
\$ 75,001 to \$100,000	\$300 [150]
\$100,001 to \$150,000	\$400 [200]
\$150,001 to \$200,000	\$500 [250]
\$200,001 to \$250,000	\$600 [300]
[and over]	
\$250,001 to \$300,000	\$700
\$300,001 to \$400,000	\$800
\$400,001 to \$500,000	\$1,000
\$500,001 and over	\$1,200

3. The installing contractor, owner or user shall request inspection of new boiler and pressure piping at least seven (7) days in advance. If the inspection is not made within this time limit, the installation may proceed. Request for inspection shall be made by letter or phone call to the department.

(e) [(d)] Inspection of nuclear installations: Nuclear installation inspections will be charged as set forth under paragraph (a) of this subsection or as determined by contracts between the installer and the department.

(f) [(e)] Hydrostatic tests: When it is necessary to make a special trip to witness the application of a hydrostatic test, an additional fee based on the scale of fees set forth under paragraph (a) of this subsection shall be charged.

(g) Fees for reinspection of boilers and pressure vessels:

1. Fees for reinspection of power boilers shall be in accordance with the following tables:

INTERNAL INSPECTIONS OF POWER BOILERS

<u>Height Surface (Square Feet)</u>	<u>Fee</u>
<u>100 or less</u>	<u>\$20</u>
<u>101 to 1,000</u>	<u>\$40</u>
<u>1,001 to 4,000</u>	<u>\$70</u>
<u>4,001 to 10,000</u>	<u>\$100</u>
<u>10,001 and over</u>	<u>\$160</u>

EXTERNAL INSPECTIONS OF POWER BOILERS

<u>Height Surface (Square Feet)</u>	<u>Fee</u>
<u>100 or less</u>	<u>\$16</u>
<u>101 and over</u>	<u>\$20</u>

2. Fees for reinspection of heating boilers shall be as follows:

HEATING BOILERS

<u>Boilers with manway where internal inspection required</u>	<u>\$40</u>
<u>Other heating boilers</u>	<u>\$20</u>
<u>Hot water supply boilers</u>	<u>\$10</u>
<u>Miniature boilers</u>	<u>\$10</u>

3. The initial installation inspection fee for pressure vessels shall be twenty (20) dollars.

(h) Plan review of boiler and unfired pressure vessel installations: Prior to the construction and installation of any boiler or unfired pressure vessel, the plans for the installation shall be submitted to the chief boiler inspector of this department for review and release for construction. Fees for this service shall be provided in accordance with the following table:

<u>Heating Surface (Square Feet)</u>	<u>Fee</u>
<u>100 and under</u>	<u>\$20</u>
<u>101 to 1,000</u>	<u>\$30</u>
<u>1,001 to 4,000</u>	<u>\$50</u>
<u>4,001 to 10,000</u>	<u>\$70</u>
<u>10,001 and over</u>	<u>\$100</u>
<u>Unfired Pressure Vessels</u>	<u>\$20</u>

CHARLES A. COTTON, Commissioner

ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: November 13, 1986

FILED WITH LRC: November 14, 1986 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 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 December 17, 1986, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected: Installers - 500; Owner/Users - 60,000.

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

1. First year: Owner/user - \$73,338; special inspection \$6,045; contractor permits - \$5,000.

2. Continuing costs or savings: Same

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

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body: Increases total fees received for service provided in an effort to become more self-supportive in its program.

(a) Direct and indirect costs or savings:

1. First year: Same

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs: Costs of program will be better defrayed.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: State revenue will increase by projected approx. \$85,000.

(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: 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: N/A
TIERING: Was tiering applied? Yes

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings & Construction
Office of State Fire Marshal
(Proposed Amendment)

815 KAR 30:050. Fireworks; approval of exempted novelties.

RELATES TO: KRS Chapter[s] 227[, 438]

PURSUANT TO: KRS 227.300, 227.740 [438.143]

NECESSITY AND FUNCTION: KRS 227.740 [438.143] requires the State Fire Marshal to review samples of certain novelties allowed to be sold under [exempted from] the state fireworks law, approve their compliance with the provisions of KRS 227.702(1) and 227.704 [438.100] and issue a certificate of compliance before the sale, offering for sale, possession, storing or use within the state of those exempted novelties. This regulation establishes the requirements necessary for submission and approval of those novelties including enforcement provisions.

Section 1. Submission of Samples and Analysis for Approval by Wholesalers/Distributors. (1) Prior to the sale, offering for sale, possessing, storing or use within this state of any gold star producing sparklers which contain no magnesium or chlorate, toy snakes which contain no mercury, and smoke novelties and party novelties which contain less than twenty-five hundredths (.25) of a grain of explosive mixture, sufficient samples for inspection thereof shall be submitted by the wholesaler or distributor to the State Fire Marshal, U.S. 127 South, Frankfort, Kentucky 40601, for approval, along with a laboratory report from an approved testing laboratory designating the chemical analysis of each sample item submitted.

(2) The laboratory report of analysis shall specify the quantity of magnesium or chlorate in gold star producing sparklers, the quantity of mercury in toy snakes, and the quantity of explosive mixture or compound in smoke novelties

and party novelties, the name given to the item submitted and the name of the manufacturer.

Section 2. Approval or Denial of Certificate of Compliance; Appeal. (1) Within ten (10) days after receiving the samples and laboratory analysis report, the State Fire Marshal or his authorized designee shall determine if the submitted samples comply with KRS 227.704 [438.100]. If so, he shall approve the item and issue a certificate of compliance to the wholesaler or distributor who submitted the samples and report. No items listed in Section 1 shall be sold, offered for sale, possessed, stored or used in this state without such approval and certificate, together with the required label. No other novelties or fireworks shall be sold or offered for sale in this state.

(2) If the samples do not comply with KRS 227.704 [438.100], the State Fire Marshal shall notify the wholesaler or distributor of the reasons for his refusal to issue a certificate of compliance. Said refusal may be appealed by requesting a hearing before the State Fire Marshal or his appointed hearing officer as authorized by KRS Chapter 227.

Section 3. Labeling Shipping Cartons, Packages and Individual Items. (1) The certificate of compliance shall bear a designation consisting of the letters "SFM" and one or more consecutive arabic numerals. All shipping cases or cartons containing any item listed in Section 1 that are sold, to be sold, offered for sale, possessed, stored or used in Kentucky shall have the name of the item conspicuously printed on it, together with the SFM number designating the State Fire Marshal's approval. The item, name and SFM approval number shall be positioned on all shipping cases or cartons so as to be readily recognized by law enforcement authorities and the general public.

(2) All packages containing unlabeled items, all items shipped, or all items to be sold individually shall have the SFM number designating the State Fire Marshal's approval indelibly and legibly imprinted on them.

(3) The State Fire Marshal's approval number shall be applied to all approved fireworks by the manufacturer, importer, exporter, wholesaler, or distributor.

(4) No person, firm, partnership, co-partnership or other shall reproduce, alter, deface, transfer, or use the State Fire Marshal approval number except as provided for in KRS Chapter 227 and this regulation.

Section 4. Penalties; Enforcement. (1) Willful failure of any assembler, manufacturer, wholesaler or distributor to obtain the certificate of compliance, or properly label shipping cases or cartons, packages, or individual items, as required in this regulation shall subject such person, partnership, or corporation to suspension or revocation of the certificate of compliance.

(2) Any person, partnership or corporation who shall sell at retail, or offer, advertise or expose for sale at retail or use or explode any prohibited fireworks; any person, partnership or corporation who shall sell at retail, or offer, advertise or expose for sale at retail any device containing explosive substance without the shipping cartons, packages and individual items properly labeled in accordance with this

regulation; or any person, partnership or corporation who knowingly induce another to violate any provision of this regulation, upon conviction thereof, shall be fined not less than twenty-five dollars (\$25) nor more than \$1,000, or confined in the county jail for not more than sixty (60) days, or both. Each day such violation exists shall, in the discretion of the court, be considered a separate offense.

(3) The State Fire Marshal or his authorized designee may exercise any power or authority he has under KRS Chapter 227 that he deems necessary or desirable in order to properly enforce and administer this regulation.

CHARLES A. COTTON, Commissioner
ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: November 13, 1986

FILED WITH LRC: November 14, 1986 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 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 December 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: None

TIERING: Was tiering applied? N/A

**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 November [October] 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, 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 November [October] 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, 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 1 - Oakwood Policy Manual

Oakwood Policy Manual is revised as follows:

DST-2-2, #3B is revised to include the signs and symptoms of sexual abuse.

Section 5 - Central State Hospital Policy Manual is revised as follows:

E1, Section D, #1:

Section D - No. 1: Remove the bylaws and add the revised copy:

Page 10, Section 2 - Disciplines of the Clinical Staff No. 13 was added to the list of disciplines.

Page 29, 29-A and 29-B have been added to the bylaws. Clinical Staff Bylaw changes have been requested, in accordance with voting approval from Clinical Staff, to comply with JCAH accreditation standards in effect during 1985. Neither additional funding nor staffing will result from these changes.

Section R - No. 14 Patient Billing New policy. The justification for this policy is in reference to KRS 216B.250. This statute requires facilities and/or hospitals to be in compliance.

Section HH - No. 4.05-Revised policy. The revision of the hospital policy regarding AWOL's is required in order to update information to include the current contacts which must be made, the order of contact, and the current telephone numbers of the agencies involved in reporting an AWOL.

Also, it is necessary to delete a reference in the old policy to a seven (7) day court order which no longer exists under the law.

[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	Procedure change for approval of on-grounds training activities.
	4B	Reflects facility reorganization.	6B	Omits references to former Competency Based Training and specifies training records to be maintained in Personnel office.
DST-0-1A	1	New section combines policies covering the Interdisciplinary Team process into one easily defined section. Policies updated to reflect current terminology, time frames, and reporting requirements.	DST-0-6	5A Policy deleted. No longer applicable.
	1		OAKWOOD	A-2 VOLUME II
	3		DST-0-8	1A Policy deleted. Facility reorganization.
	4			
	5		*DST-0-8A,B,C,D	*Section Titles changed from Liaison Services to Social Work Services to reflect current facility organization.
	6			
DST-0-2	4C	Policy deleted. Covered in DST-0-1A, No.3.	DST-0-8A	1A Revises distribution of resident identification pictures.
	5D	Policy deleted. Covered in DST-0-1A, No.1.		2C Revises list of forms to be completed during admission process.
	16A	Designates facility safety officer to conduct alcohol-related investigations rather than personnel officer.		3B Reflects changes in admission procedures for Resident Affairs office.
	17D	Reflects facility reorganization.		4B Revised to reflect current terminology and titles.
	21	Policy deleted. Covered in DST-4-3, No.5.		5C Reflects current facility organization/title change.
	24A	Clarifies procedures for reporting incidents and medication errors.		6B Changes number of respite beds and reflects current titles and organization.
	27	Describes coordination of services with other agencies in regard to AC MRDD standards.		7A Reflects current titles and organization.
	28	Describes procedures for handling abuse situations, etc., occurring outside the facility.		8A Designates members of Pre-Admission Team.
DST-0-3	3A	Policy deleted. Covered in DST-0-1A, No. 2.	DST-0-8B	1C Reflects shift in duties from Unit Social Worker to Placement Coordinator.
	4	Policy deleted. Covered in DST-0-1A, No. 2.		2A Reflects shift in duties from Unit Social Worker to Placement Coordinator.
	5B	Revised to identify Q.M.R.P. (Qualified Mental Retardation Professional) responsibilities.		3A Reflects shift in apartment duties from Residential Training Specialist to Social Worker.
	6C	Reflects current titles.		4C Reflects revised KRS information.
	10A	States procedure for Resident Affairs Office when receiving money for a resident's account.		5A Revised procedure for requesting discharge or transfer.
	12B	Revises policy references.		6B Corrects terminology and designated specific time for notice of discharge planning sessions to parents, etc.
	13A	Deletes reference to posey mitts, which are not considered body alignment.		7 Specifies procedures for community placement.
	14B	Describes procedures for chair, wall restraint.	DST-0-8C	1A Section title change only.
	15D	Policy deleted. Covered in DST-0-3, No. 20.		2A Updates Resident Record Department functions.
	16B	Policy deleted. Covered in DST-0-8B, No. 7.		3B Corrects terminology to reflect current organization.
	17B	Revises terminology. Reflects current Department titles.		4A Revises information to be included in the Residents Record.
	18C	Revises terminology to reflect current individual Program Plan language.		5B Revises list of required reports and time limits.
	20A	Updates Behavior Management program procedures.		6C Updates requirements for release of information.
DST-0-4	2B	Clarifies functions of Sanitation and Infection Control Committee.		7 Policy deleted. Combined with DST 0-0, No. 8B.
	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.		

	8B	More clearly identifies access and control of records.	DST-2-5	12C	Revises schedule of automatic stop order drugs.
	9C	Revised to indicate current policy reference.		24B	Updates procedures for drug reviews to conform to accreditation standards.
	10B	Revised to indicate current policy reference.		28	Establishes Pharmacy and Therapeutics Committee as facility Formulary Committee and sets forth operating procedures.
	11B	Revises list of staff allowed access to residents' records.			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.
	12	Policy deleted. Covered in DST-0-3, No. 14B.			Policy deleted. See DST-3-1 above.
	13C	Updates procedure for preparing records for admissions.	DST-3-1	1A	Policy deleted. Covered in DST-4-3, No. 2.
	14B	Deletes reference to obsolete equipment. Updates steno procedures.		2A	Policy deleted. See DST-3-1 above.
	15B	Revises policy to reflect current statistical procedures.		4B	Policy deleted. Covered in DST-4-3, No. 3.
	16A	Reflects current facility organization.	DST-3-2	1D	Policies in this section deleted. Under facility reorganization, these 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-0-8D	1C	Updates social work duties and terminology.		2	Reflects facility reorganization combining Residential and Program Services Branches.
	2A	Revises time frames for family contacts.	DST-3-4	1B	Reflects facility reorganization combining Residential and Program Services Branches.
	3A	Revises off-grounds visit procedures for social workers.		2	Updates requirements for reports and documentation and reflects new organization.
	4A	Corrects terminology and updates telephone call listing procedures.	DST-3-6	1B	Policy deleted. Included in Resident Rights Section, DST-0-3.
	5B	Reflects current facility organization.		2	Reflects new Branch organization.
	6	Reflects social work responsibilities in parent grievances.		5A	Reflects grant supervision as a function of the Director of Resident Program Services in Branch reorganization.
DST-0-8E	1A	Policy deleted. Q.M.R.P. responsibilities now included in Resident Program Services.	DST-4-1	1E	Changes sign-in procedure to clock-in.
DST-0-9	1	States mission of Psychology Department under current organization.		2C	Reflects Branch reorganization. Revised to require advance approval for overtime. Omits provision for combining breaks.
DST-1-1	6A	Policy deleted. No longer applicable.		3B	Specifies shift changeover procedures to be conducted between shifts rather than specifying a time. Allows for shift adjustment.
DST-1-2	7C	Policy deleted. Included in IDT Process Section.		4B	Makes Branch Manager responsible for monitoring key control system.
DST-1-3	6A	Omits reference to lig no longer in use.		4B	Revises social worker notification procedures of pending off-grounds resident visits.
	8A	Updates furniture tagging procedure.		5A	
	10C	Updates purchasing procedures.		6A	
	13E	Updates receipt procedures for resident personal funds.		6B	
	22C	Updates replacement procedures for damaged personal property.		7A	
DST-1-3A	1C	Revises stipulations for maintaining sick call log.		8	
DST-1-3B	3A	Policy deleted. Housekeeping services provided for canteen by contract.	DST-4-2	3B	
	6B	Revises procedure for turning in cash receipts.		4B	
DST-1-4	6B	Revises responsibility for vehicle inspection prior to use.		5A	
OAKWOOD	A-3	VOLUME III		6B	
DST-2-2	3B	Attachment change only for symptoms of illness.		8B	
	24B	Policy deleted. Covered in IDT Process section.		9D	
	32D	Revises drug administration procedures for Living and Training Unit personnel.			
	43	Specifies development of nursing care plans.			

- 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 organization.
- 3
- 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 Colonoscopy	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.]

DENNIS D. BOYD, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: October 30, 1986
FILED WITH LRC: November 11, 1986 at 3 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 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 December 17, 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: 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 17:010. State health plan.

RELATES TO: KRS Chapters 194, 216B

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Health Planning and Resources Development Act, 42 USC 300 M-3 requires participating states to adopt by procedures set out in the United States Code, a state health plan. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for the proper administration of the cabinet and its programs. The Commission for Health Economics Control in Kentucky [Certificate of Need Authority] utilizes the state health plan in review of applications for certificates of need to establish and modify health services and health facilities in the Commonwealth. The function of this regulation is to assist in the inventory of existing health resources and to set planning goals and guidelines.

Section 1. The Kentucky State Health Plan 1986-1988, was adopted by the State Health Planning Council on November 8, 1985, amended on January 22, 1986, and November 12, 1986, and approved by Governor Martha Layne Collins as the document that sets out planning policies and guidelines for use by the Commission for Health Economics Control in Kentucky [Certificate of Need Authority]. A copy of the Kentucky State Health Plan 1986-1988 as amended on January 22 and November 12, 1986, is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621 and is open and available for public inspection during normal business hours.

Section 2. The Review Criteria and Standards Section, pages 167 through 190 [191], of the Kentucky State Health Plan 1986-1988 is hereby

adopted by reference as regulations of the Cabinet for Human Resources as if fully set out herein.

C. HERNANDEZ, M.D., Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: November 7, 1986

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

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 29, 1986 at 1 p.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 December 24, 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: Greg Lawther

(1) Type and number of entities affected: The State Health Plan will assist in the containment of health care costs in the Commonwealth.

(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: The proposed amendments will have no effect on reporting or paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: The proposed amendments will not result in any increased costs to the cabinet.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: The proposed amendments will not result in any new reporting or paperwork requirements for the cabinet.

(3) Assessment of anticipated effect on state and local revenues:

(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS Chapter 13A necessitates incorporation by reference of portions of the plan.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Not applicable.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The federal mandate concerning the state health plans, 42 USC 300 M-3, outlines the process for developing the State Health Plan. Kentucky's plan

development process is basically the same as the process outlined in the federal mandate.

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: See above.

CABINET FOR HUMAN RESOURCES
Office of Inspector General
Certificate of Need and Licensure Board
(Proposed Amendment)

902 KAR 20:008. License procedures and fee schedule.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990[(1),(2)]

PURSUANT TO: KRS 216B.040, 216B.105, Executive Order 86-366

NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105 mandate that the Cabinet for Human Resources [Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board] regulate health facilities and health services. This regulation provides for the requirements for obtaining a license to operate a health facility and establishes the fee schedule for a license.

Section 1. Definitions. (1) "Volunteer service" means an ambulance service in which none of the drivers or attendants receive any compensation for their work.

(2) "Inspecting agency" means the Division of Licensing and Regulation in the Office of the Inspector General, Cabinet for Human Resources.

(3) "Commission" means the Commission on Health Economics Control in Kentucky.

Section 2. Licenses. (1) No person shall operate any health facility in this Commonwealth without first obtaining the appropriate license therefor.

(2) The license shall be conspicuously posted in a public area of the facility.

(3) All applications for licensure shall be filed with the Office of the Inspector General, Division of Licensing and Regulation [Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board], 275 East Main Street, Frankfort, Kentucky 40621.

(4) All applicants for licenses shall, as a condition precedent to licensure or relicensure, be in compliance with the applicable regulations relating to the particular health facility. Compliance with licensure [the board's] regulations shall be ascertained through on-site inspections of the health facility [by members of the board or their authorized representatives]. Any regulatory violation identified during such inspections will be transmitted in writing to the health facility by the inspecting agency. The health facility shall submit a written plan for the elimination or correction of the regulatory violations to the inspecting agency within ten (10) days. Such plan shall specify the date(s) by which each of the violations will be corrected. Following a review of the plan, the inspecting agency shall

notify the health facility in writing of the acceptability of the plan. In instances where a portion or all of the plan is unacceptable, the inspecting agency shall specify the reasons for the unacceptability. In such cases, the health facility shall modify or amend the plan and resubmit it to the inspecting agency within ten (10) days.

(5) All licensees shall, as a condition of licensure or relicensure, be in compliance with the following reporting requirements unless otherwise exempted by statute. All licensees shall have submitted completed annual routine reports [(e.g., annual and semi-annual reports)] approved by the Commission on Health Economics Control in Kentucky [Health Facilities and Health Services Certificate of Need and Licensure Board] and any special reports required by the commission [board] concerning health services provided, health manpower employed, or utilization of health services within forty-five (45) days of the date the request is mailed. Completed routine semiannual reports approved by the commission shall be submitted within thirty (30) days of the date the request is mailed. Licensees shall be notified of the content of routine (e.g., annual and semi-annual reports) reports as follows:

[(a) The content of the reports for calendar year 1984 for hospitals, long term care facilities and home health agencies shall be limited to information requested for the year of 1983 by the Health and Vital Statistics Branch of the Division of State Health Planning, Department for Health Services. The cabinet shall make recommendations to the board on the content of the calendar year 1984 reports at the November 21, 1984, meeting of the board;]

[(b) Licensees shall be notified of the content of reports for calendar year 1985 upon approval of the content by the board. The cabinet shall make recommendations to the board on the content of the calendar year 1985 reports no later than the January 16, 1985 meeting of the board; and]

(a) [(c)] Licensees shall be notified of the content of reports for calendar year 1986 and subsequent years no later than October 1 of the previous year.

(b) The cabinet shall recommend the content of the reports to the commission [board] no later than the date of the regularly scheduled September meeting of the commission [board].

(6) Unannounced inspections shall be conducted on complaint allegations. Such inspections shall be conducted utilizing the procedures outlined under subsection (4) of this section.

(7) All licenses shall expire on December 31 following the date of issuance unless otherwise expressly provided in the license certificate.

(8) Licenses may be renewed upon payment of the prescribed fee and compliance with the applicable provisions of the licensure [Certificate of Need and Licensure Board's] regulations.

(9) Each license to operate shall be issued only for the person or persons and premises, including the number of beds (if applicable), named in the application and shall not be transferable. A new application shall be filed in the event of change of ownership. A change of ownership for licenses shall be deemed to occur when more than fifty (50) percent of an existing facility or capital stock or voting rights of a corporation is purchased, leased or acquired by

comparable arrangement by one (1) person from another.

(10) Upon the filing of a new application for a license because of change of ownership, the new license shall be automatically issued for the remainder of the current licensure period. No additional fee will be charged for the remainder of the licensure period.

(11) There shall be full disclosure to the commission [licensure board] of the name and address (and any changes) of:

(a) Each person having (directly or indirectly) ownership interest of ten (10) percent or more in the facility;

(b) Each officer and director of the corporation, where a facility is organized as a corporation; and

(c) Each partner, where a facility is organized as a partnership.

Section 3. Fee Schedule. (1) Fees for review of plans and specifications for construction of health facilities shall be as follows:

License Type	Rate
(a) Hospitals plans and specifications review (initial through final)	\$.025 per sq. ft. \$1,500 maximum
(b) All other health facilities plans and specifications review (initial through final)	\$.025 per sq. ft. \$800 maximum

(2) Annual fees. The annual licensure fee (including renewals) for health services shall be as follows:

License Type	Rate
(a) Air ambulance services	\$ 50
(b) Alternative birth centers	\$100
(c) Ambulatory surgical center	\$100
(d) Chemical dependency treatment service	\$5 per bed \$100/minimum \$1,000/maximum
(e) Community mental health and mental retardation center	\$500
(f) Day health care	\$ 50
(g) Ambulance service (Per non-volunteer service)	\$ 50
(g) Ambulance service (Per volunteer service)	\$ 10
(h) Family care homes	\$ 25
(i) Group homes mentally retarded/developmentally disabled	\$ 50
(j) Health maintenance organizations	\$3 per 100 patients
(k) Home health agencies	\$ 50
(l) Homemaker	\$ 50
(m) Hospice	\$ 10
(n) Hospitals	
1. Accredited hospital	\$3 per bed \$100/minimum \$1,000/maximum
2. Non-accredited hospital	\$5 per bed \$100/minimum \$1,000/maximum
(o) Intermediate care facilities	\$5 per bed \$100/minimum \$1,000/maximum

(p) Medical detoxification services	No fee
(q) Non-emergency health transportation service (per service)	\$ 50
(r) Nursing home	\$5 per bed \$100/minimum \$1,000/maximum
(s) Outpatient clinics and ambulatory care facilities	\$100
(t) Personal care home	\$2 per bed \$50/minimum \$500/maximum
(u) Primary care center	\$100 \$15 per satellite
(v) Psychiatric hospitals	
1. Accredited	\$3 per bed \$100/minimum \$1,000/maximum
2. Non-accredited hospital	\$5 per bed \$100/minimum \$1,000/maximum
(w) Rehabilitation (outpatient)	\$50
(x) Renal dialysis	\$10 per station
(y) Rural health clinics	\$50
(z) Skilled nursing facilities	\$5 per bed \$100/minimum \$1,000/maximum

E. AUSTIN, JR., Secretary

WILLIAM M. GARDNER, Inspector General

APPROVED BY AGENCY: November 10, 1986

FILED WITH LRC: November 12, 1986 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 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 December 17, 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: Delano Miller

(1) Type and number of entities affected:

(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: Requires semi-annual reports to be responded to in 30 days rather than 45 days.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected:

(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 in conflict.

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

(6) Any additional information or comments:

TIERING: Was tiering applied? Yes. This is a good example of tiering. The 30 day response time applies only to basic utilization data collected through semi-annual surveys. Data which is more difficult for licensees to tabulate is collected through annual surveys with a 45 day response time. Not all categories of health facilities are sent semi-annual surveys.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No such standards in federal program.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: See above.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Shortening the response time on semi-annual surveys from 45 to 30 days will make the basic utilization data collected through such surveys available on a more timely basis for the purposes of planning and consideration of proposals to establish new services and facilities.

CABINET FOR HUMAN RESOURCES Office of the Inspector General Certificate of Need and Licensure Board (Proposed Amendment)

902 KAR 20:026. Operations and services; skilled nursing facilities.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990[(1)(2)]

PURSUANT TO: KRS 216B.040, 216B.105(3) Executive Order 86-366

NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) mandate that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. Executive Order 86-366 transferred the authority to regulate health services and health facilities from the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board to the Office of the Inspector General. This regulation provides for the licensure requirements for the operation of skilled nursing facilities and the services to be provided by skilled nursing facilities.

Section 1. Scope of Operations and Services. Skilled nursing facilities are establishments with permanent facilities including inpatient beds. Services provided include medical services, and continuous nursing services to provide treatment for patients. Patients in a skilled nursing facility are patients who require inpatient care but are not in an acute phase of illness, and who currently require primarily convalescent or rehabilitative

services and have a variety of medical conditions.

Section 2. Definitions. (1) "Administrator" means a person who is licensed as a nursing home administrator pursuant to KRS 216A.080.

(2) "Board" means the Commission for Health Economics Control in Kentucky [Health Facilities and Health Services Certificate of Need and Licensure Board].

(3) "Facility" means a skilled nursing facility.

(4) "License" means an authorization issued by the Board for the purpose of operating a skilled nursing facility and offering skilled nursing services.

(5) "Occupational therapist" means a person who is registered by the American Occupational Therapy Association or a graduate of a program in occupational therapy approved by the Council on Medical Education of the American Medical Association in collaboration with the American Occupational Therapy Association and who is engaged in or has completed the required supervised clinical experience period prerequisite to registration by the American Occupational Therapy Association.

(6) "Speech pathologist" means a person who:

(a) Meets the education and experience requirements for a Certificate of Clinical Competence in the appropriate area (speech pathology or audiology) granted by the American Speech and Hearing Association; or

(b) Meets the educational requirements for certification and is in the process of accumulating the supervised experience required for certification.

(7) "Qualified dietician" or "nutritionist" means:

(a) A person who has a bachelor of science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietician by ADA; or

(b) A person who has a masters degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) A person who has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietician.

(8) "Qualified medical record practitioner" means a person who has graduated from a program for medical record administrators or technicians accredited by the Council on Medical Education of the American Medical Association and the American Medical Record Association; and who is certified as a Registered Records Administrator or an Accredited Record Technician by the American Medical Record Association.

(9) "Qualified social worker" means a person who is licensed pursuant to KRS 335.090, if applicable, and who is a graduate of a school of social work accredited by the Council on Social Work Education.

(10) "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.

(11) "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body.

Section 3. Administration and Operation. (1) Licensee. The licensee shall be legally responsible for the facility and for compliance with federal, state and local laws and regulations pertaining to the operation of the facility.

(2) Administrator. All facilities shall have an administrator who is responsible for the operation of the facility and who shall delegate such responsibility in his absence.

(3) Policies. The facility shall establish written policies and procedures that govern all services provided by the facility. The written policies shall include:

(a) Personnel policies, practices and procedures that support sound patient care.

(b) Notification of changes in patient status and service cost. There shall be written policies and procedures relating to notification of responsible person(s) in the event of significant changes in patient status, patient charges, billings, and other related administrative matters.

(c) Patient care policies. The facility shall have written policies to govern the skilled nursing care and related medical and other services provided, which shall be developed with the advice of professional personnel, including one (1) or more physicians and one (1) or more registered nurses and other health personnel (e.g., social workers, dietitians, pharmacists, speech pathologists and audiologists, physical and occupational therapists and mental health personnel). Pharmacy policies and procedures shall be developed with the advice of a subgroup of physicians and pharmacists who serve as a pharmacy and therapeutics committee. A physician or a registered nurse shall be responsible for assuring compliance with and annual review of these policies. In addition to written policies for services, the facility shall have written policies to include:

1. Admission, transfer, and discharge policies including categories of patients accepted and not accepted by the facility.

2. Medication stop orders;

3. Medical records;

4. Transfer agreement;

5. Utilization review; and

6. Use of restraints.

(d) Adult and child protection. The facility shall have written policies which assure the reporting of cases of abuse, neglect or exploitation of adults and children to the Cabinet for Human Resources pursuant to KRS Chapter 209 and KRS 199.335.

(e) Missing patient procedures. The facility shall have a written procedure to specify in a step-by-step manner the actions which shall be taken by staff when a patient is determined to be lost, unaccounted for or on other unauthorized absence.

(4) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(5) Admission.

(a) Patients shall be admitted only upon the referral of a physician. Additionally, the facility shall admit only persons who require medical and continuous skilled nursing care and who currently require primarily convalescent or rehabilitative services for a variety of medical conditions. The facility shall not admit persons whose care needs exceed the capability of the facility.

(b) Upon admission the facility shall obtain

the patient's medical diagnosis, physician's orders for the care of the patient and the transfer form. The facility shall obtain a medical evaluation within forty-eight (48) hours of admission, unless an evaluation was performed within five (5) days prior to admission. The medical evaluation shall include current medical findings, rehabilitation potential, a summary of the course of treatment followed in the hospital or intermediate care facility (a current hospital discharge summary containing the above information shall be acceptable).

(c) If the physician's orders for the immediate care of a patient are unobtainable at the time of admission, the facility shall contact the physician with responsibility for emergency care to obtain temporary orders.

(d) Before admission the patient and a responsible member of his family or committee shall be informed in writing of the established policies of the facility to include: fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services rendered.

(6) Discharge planning. The facility shall have a discharge planning program to assure the continuity of care for patients being transferred to another health care facility or being discharged to the home.

(7) Transfer procedures and agreements.

(a) The facility shall have written transfer procedures and agreements for the transfer of patients to other health care facilities which can provide a level of inpatient care not provided by the facility. Any facility which does not have a transfer agreement in effect but which documents a good faith attempt to enter into such an agreement shall be considered to be in compliance with the licensure requirement. The transfer procedures and agreements shall specify the responsibilities each institution assumes in the transfer of patients, shall establish responsibility for notifying the other institution promptly of the impending transfer of a patient, and shall arrange for appropriate and safe transportation.

(b) When the patient's condition exceeds the scope of services of the facility, the patient, upon physician's orders (except in cases of emergency), shall be transferred promptly to an appropriate level of care.

(c) The agreement shall provide for the transfer of personal effects, particularly money and valuables, and for the transfer of information related to these items.

(d) When a transfer is to another level of care within the facility, the complete patient record or a current summary thereof shall be transferred with the patient.

(e) If the patient is transferred to another health care facility or home to be cared for by a home health agency, a transfer form shall accompany the patient. The transfer form shall include at least the following: physician's orders (if available), current information relative to diagnosis with history of problems requiring special care, a summary of the course of prior treatment, special supplies or equipment needed for patient care, and pertinent social information on the patient and his family.

(f) Except in an emergency, the patient, his next of kin, or responsible person(s) if any, and the attending physician shall be consulted in advance of the transfer or discharge of any patient.

(8) Tuberculosis Testing. All employees and patients shall be tested for tuberculosis in accordance with the provisions of 902 KAR 20:200, tuberculosis testing in long term care facilities.

(9) Personnel.

(a) Job descriptions. Written job descriptions shall be developed for each category of personnel to include qualifications, lines of authority and specific duty assignments.

(b) Employee records. Current employee records shall be maintained and shall include a resume of each employee's training and experience, evidence of current licensure or registration where required by law, health records, evaluation of performance, records of in-service training and ongoing education, along with employee's name, address and social security number.

(c) Health requirements. No employee contracting an infectious disease shall appear at work until the infectious disease can no longer be transmitted.

(d) Staffing classification requirements.

1. The facility shall have adequate personnel to meet the needs of the patients on a twenty-four (24) hour basis. The number and classification of personnel required shall be based on the number of patients, and the amount and kind of personal care, nursing care, supervision, and program needed to meet the needs of the patients, as determined by medical orders and by services required by this regulation.

2. If the staff/patient ratio does not meet the needs of the patients, the Division for Licensing and Regulation shall determine and inform the administrator in writing how many additional personnel are to be added and of what job classification, and shall give the basis for this determination.

3. The facility shall have a director of nursing service who is a registered nurse and who works full time during the day, and who devotes full time to the nursing service of the facility. If the director of nursing has administrative responsibility for the facility, there shall be an assistant director of nursing, who shall be a registered nurse, so that there shall be the equivalent of a full-time director of nursing service. The director of nursing shall be trained or experienced in areas of nursing service, administration, rehabilitation nursing, psychiatric or geriatric nursing. The director of the nursing service shall be responsible for:

a. Developing and maintaining nursing service objectives, standards of nursing practice, nursing procedure manuals, and written job descriptions for each level of nursing personnel;

b. Recommending to the administrator the number and level of nursing personnel to be employed, participating in their recruitment and selection, and recommending termination of employment when necessary;

c. Assigning and supervising all levels of nursing personnel;

d. Participating in planning and budgeting for nursing care;

e. Participating in the development and implementation of patient care policies and bringing patient care problems requiring changes in policy to the attention of the professional policy advisory group;

f. Coordinating nursing services with other

patient care services;

g. Planning and conducting orientation programs for new nursing personnel and continuing inservice education for all nursing personnel;

h. Participating in the selection of prospective patients in terms of nursing services they need and nursing competencies available;

i. Assuring that a nursing care plan shall be established for each patient and that his plan shall be reviewed and modified as necessary;

j. Assuring that registered nurses, licensed practical nurses, nurses' aides and orderlies are assigned duties consistent with their training and experience.

4. Supervising nurse. Nursing care shall be provided by or under the supervision of a full-time registered nurse. The supervising nurse shall be a licensed registered nurse who may be the director of nursing or the assistant director of nursing and shall be trained or experienced in the areas of nursing administration and supervision, rehabilitative nursing, psychiatric or geriatric nursing. The supervising nurse shall make daily rounds to all nursing units performing such functions as visiting each patient, and reviewing medical records, medication cards, patient care plans, and staff assignments, and whenever possible accompanying physicians when visiting patients.

5. Charge nurse. There shall be at least one (1) registered nurse or licensed practical nurse on duty at all times and who is responsible for the nursing care of patients during her tour of duty. When a licensed practical nurse is on duty, a registered nurse shall be on call.

6. Pharmacist. The facility shall employ a licensed pharmacist on a full-time, part-time or consultant basis to direct pharmaceutical services.

7. Therapists.

a. If rehabilitative services beyond rehabilitative nursing care are offered, whether directly or through cooperative arrangements with agencies that offer therapeutic services, these services shall be provided or supervised by qualified therapists to include licensed physical therapists, speech pathologists and occupational therapists.

b. When supervision is less than full time, it shall be provided on a planned basis and shall be frequent enough, in relation to the staff therapist's training and experience, to assure sufficient review of individual treatment plans and progress.

c. In a facility with an organized rehabilitation service using a multi-disciplinary team approach to meet all the needs of the patient, and where all therapists' services are administered under the direct supervision of a physician qualified in physical medicine who will determine goals and limits of the therapists' work, and prescribes modalities and frequency of therapy, persons with qualifications other than those described in subparagraph 7a of Section 3(8)(d) may be assigned duties appropriate to their training and experience.

8. Dietary. Each facility shall have a full-time person designated by the administrator, responsible for the total food service operation of the facility and who shall be on duty a minimum of thirty-five (35) hours each week.

9. The administrator shall designate a person for each of the following areas who will be responsible for:

a. Medical records. The person responsible for the records shall maintain, complete and preserve all medical records. If the person is not a qualified medical record practitioner he shall be trained by and receive regular consultation from a qualified medical record practitioner.

b. Social services. There shall be a full-time or part-time social worker employed by the facility, or a person who has training and experience in related fields to find community resources, to be responsible for the social services. If the facility does not have a qualified social worker on its staff, consultation shall be provided by a qualified social worker. The person responsible for this area of service shall have information promptly available on health and welfare resources in the community.

c. Patient activities. This person shall have training or experience in directing group activities.

(e) In-service educational programs.

1. There shall be an in-service education program in effect for all nursing personnel at regular intervals in addition to a thorough job orientation for new personnel. Opportunities shall be provided for nursing personnel to attend training courses in rehabilitative nursing and other educational programs related to the care of long-term patients. Skill training for non-professional nursing personnel shall begin during the orientation period, to include demonstration, practice and supervision of simple nursing procedures applicable in the individual facility. It shall also include simple rehabilitative nursing procedures to be followed in emergencies. All patient care personnel shall be instructed and supervised in the care of emotionally disturbed and confused patients, and shall be assisted to understand the social aspects of patient care.

2. Social services training of staff. There shall be provisions for orientation and in-service training of staff directed toward understanding emotional problems and social needs of sick and infirm aged persons and recognition of social problems of patients and the means of taking appropriate action in relation to them. Either a qualified social worker on the staff, or one (1) from outside the facility, shall participate in training programs, case conferences, and arrangements for staff orientation to community services and patient needs.

(10) Medical records.

(a) The facility shall develop and maintain a system of records retention and filing to insure completeness and prompt location of each patient's record. The records shall be held confidential. The records shall be in ink or typed and shall be legible. Each entry shall be dated and signed. Each record shall include:

1. Identification data including the patient's name, address and social security number (if available); name, address and telephone number of referral agency; name and telephone number of personal physician; name, address and telephone number of next of kin or other responsible person; and date of admission.

2. Admitting medical evaluation including current medical findings, medical history,

physical examination and diagnosis. (The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital, or an intermediate care facility if done within five (5) days prior to admission.)

3. The physician's orders for medication, diet, and therapeutic services. These shall be dated and signed by the physician.

4. Physician's progress notes describing significant changes in the patient's condition, written at the time of each visit.

5. Findings and recommendations of consultants.

6. A medication sheet which contains the date, time given, name of each medication or prescription number, dosage and name of prescribing physician.

7. Nurse's notes indicating changes in patient's condition, actions, responses, attitudes, appetite, etc. Nursing personnel shall make notation of response to medications, response to treatments, visits by physician and phone calls to the physician, medically prescribed diets and restorative nursing measures.

8. Nursing supervisor's written assessment of the patient's monthly general condition.

9. Reports of dental, laboratory and x-ray services.

10. Changes in patient's response to the activity and therapeutic recreation program.

11. A discharge summary completed, signed and dated by the attending physician within one (1) month of discharge from the facility.

(b) Retention of records. After death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years or in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

Section 4. Provision of Services. (1) Physician services.

(a) The health care of each patient shall be under supervision of a physician who, based on an evaluation of the patient's immediate and long-term needs, prescribes a planned regimen of medical care which covers indicated medications, treatments, rehabilitative services, diet, special procedures recommended for the health and safety of the patient, activities, plans for continuing care and discharge.

(b) Patients shall be evaluated by a physician at least once every thirty (30) days for the first ninety (90) days following admission. Subsequent to the ninetieth day following admission, the patients shall be evaluated by a physician every sixty (60) days. There shall be evidence in the patient's medical record of the physician's visits to the patient at appropriate intervals.

(c) There shall be evidence in the patient's medical record that the patient's attending physician has made arrangement for the medical care of the patient in the physician's absence.

(d) Availability of physicians for emergency care. The facility shall have arrangements with one (1) or more physicians who will be available to furnish necessary medical care in case of an emergency if the physician responsible for the care of the patient is not immediately available. A schedule listing the names and telephone numbers of these physicians and the specific days each shall be on call shall be posted in each nursing station. There shall be established procedures to be followed in an

emergency, which cover immediate care of the patient, persons to be notified, and reports to be prepared.

(2) Nursing services.

(a) Twenty-four (24) hour nursing service. There shall be twenty-four (24) hour nursing service with a sufficient number of nursing personnel on duty at all times to meet the total needs of patients. Nursing personnel shall include registered nurses, licensed practical nurses, aides and orderlies. The amount of nursing time available for patient care shall be exclusive of non-nursing duties. Sufficient nursing time shall be available to assure that each patient:

1. Shall receive treatments, medication, and diets as prescribed;

2. Shall receive proper care to prevent decubiti and shall be kept comfortable, clean and well-groomed;

3. Shall be protected from accident and injury by the adoption of indicated safety measures;

1. Shall be treated with kindness and respect.

(b) Rehabilitative nursing care. There shall be an active program of rehabilitative nursing care directed toward assisting each patient to achieve and maintain his highest level of self-care and independence.

1. Rehabilitative nursing care initiated in the hospital shall be continued immediately upon admission to the facility.

2. Nursing personnel shall be taught rehabilitative nursing measures and shall practice them in their daily care of patients. These measures shall include:

a. Maintaining good body alignment and proper positioning of bedfast patients;

b. Encouraging and assisting bedfast patients to change positions at least every two (2) hours, day and night to stimulate circulation and prevent decubiti and deformities;

c. Making every effort to keep patients active and out of bed for reasonable periods of time, except when contraindicated by physician's orders, and encouraging patients to achieve independence in activities of daily living by teaching self care, transfer and ambulation activities;

d. Assisting patients to adjust to their disabilities, to use their prosthetic devices, and to redirect their interests if necessary;

e. Assisting patients to carry out prescribed physical therapy exercises between visits of the physical therapist.

(c) Dietary supervision. Nursing personnel shall assure that patients are served diets as prescribed. Patients needing help in eating shall be assisted promptly upon receipt of meals. Food and fluid intake of patients shall be observed and deviations from normal shall be reported to the charge nurse. Persistent unresolved problems shall be reported to the physician.

(d) Nursing care plan. There shall be written nursing care plans for each patient based on the nature of illness, treatment prescribed, long and short term goals and other pertinent information.

1. The nursing care plan shall be a personalized, daily plan for individual patients. It shall indicate what nursing care is needed, how it can best be accomplished for each patient, what are the patient's preferences, what methods and approaches are most successful, and what modifications are necessary to insure

best results.

2. Nursing care plans shall be available for use by all nursing personnel.

3. Nursing care plans shall be reviewed and revised as needed.

4. Relevant nursing information from the nursing care plan shall be included with other medical information when patients are transferred.

(3) Specialized rehabilitative services.

(a) Rehabilitative services shall be provided upon written order of the physician which indicates anticipated goals and prescribed specific modalities to be used and frequency of physical, speech and occupational therapy services.

(b) Therapy services shall include:

1. Physical therapy which includes:

a. Assisting the physician in his evaluation of patients by applying muscle, nerve, joint, and functional ability tests;

b. Treating patients to relieve pain, develop or restore functions, and maintain maximum performance, using physical means such as exercise, massage, heat, water, light, and electricity.

2. Speech therapy which include:

a. Services in speech pathology or audiology;

b. Cooperation in the evaluation of patients with speech, hearing, or language disorders;

c. Determination and recommendation of appropriate speech and hearing services.

3. Occupational therapy services which includes:

a. Assisting the physician in his evaluation of the patient's level of function by applying diagnostic and prognostic tests;

b. Guiding the patient in his use of therapeutic creative and self-care activities for improving function.

(c) Therapists shall collaborate with the facility's medical and nursing staff in developing the patient's total plan of care.

(d) Ambulation and therapeutic equipment. Commonly used ambulation and therapeutic equipment necessary for services offered shall be available for use in the facility such as parallel bars, hand rails, wheelchairs, walkers, walkerettes, crutches and canes. The therapists shall advise the administrator concerning the purchase, rental, storage and maintenance of equipment and supplies.

(4) Personal care services. Personal care services shall include: assistance with bathing, shaving, cleaning and trimming of fingernails and toenails, cleaning of the mouth and teeth, and washing, grooming and cutting of hair.

(5) Pharmaceutical services.

(a) Procedures for administration of pharmaceutical services. The facility shall provide appropriate methods and procedures for obtaining, dispensing and administering of drugs and biologicals, which have been developed with the advice of a staff pharmacist, or a consultant pharmacist, in cooperation with the facility's pharmacy and therapeutics committee.

(b) If the facility has a pharmacy department, a licensed pharmacist shall be employed to administer the pharmacy department.

(c) If the facility does not have a pharmacy department, it shall have provisions for promptly and conveniently obtaining prescribed drugs and biologicals from a community or institutional pharmacy holding a valid pharmacy permit issued by the Kentucky Board of Pharmacy,

pursuant to KRS 315.035.

(d) If the facility does not have a pharmacy department, but does maintain a supply of drugs:

1. The consultant pharmacist shall be responsible for the control of all bulk drugs and maintain records of their receipt and disposition.

2. The consultant pharmacist shall dispense drugs from the drug supply, properly label them and make them available to appropriate licensed nursing personnel.

3. Provisions shall be made for emergency withdrawal of medications from the drug supply.

(e) An emergency medication kit approved by the facility's professional personnel shall be kept readily available. The facility shall maintain a record of what drugs are in the kit and document how the drugs are used.

(f) Medication services.

1. Conformance with physician's orders. All medications administered to patients shall be ordered in writing by the patient's physician. Telephone orders shall be given only to a licensed nurse or pharmacist immediately reduced to writing, signed by the nurse and countersigned by the physician within forty-eight (48) hours. Medications not specifically limited as to time or number of doses, when ordered, shall be automatically stopped in accordance with the facility's written policy or stop orders. The registered nurse or the pharmacist shall review each patient's medication profile at least monthly. The prescribing physician shall review each patient's medications at the time of the medical evaluation pursuant to Section 4(1)(b). The patient's attending physician shall be notified of stop order policies and contacted promptly for renewal of such orders so that continuity of the patient's therapeutic regimen is not interrupted. Medications are to be released to patients on discharge only on the written authorization of the physician.

2. Administration of medications. All medications shall be administered by licensed medical or nursing personnel in accordance with the Medical Practice Act (KRS 311.530 to 311.620) and Nurse Practice Act of (KRS Chapter 314). Each dose administered shall be recorded in the medical record.

a. The nursing station shall have readily available items necessary for the proper administration of medications.

b. In administering medications, medication cards or other state approved systems shall be used and checked against the physician's orders.

c. Medications prescribed for one (1) patient shall not be administered to any other patient.

d. Self-administration of medications by patients shall not be permitted except on special order of the patient's physician or in a pre-discharge program under the supervision of a licensed nurse.

e. Medication errors and drug reactions shall be immediately reported to the patient's physician and an entry thereof made in the patient's medical record as well as on an incident report.

f. Up-to-date medication reference texts and sources of information shall be provided for use by the nursing staff (e.g., the American Hospital Formulary Service of the American Society of Hospital Pharmacists, Physicians Desk Reference or other suitable references).

3. Labeling and storing medications.

a. All medications shall be plainly labeled with the patient's name, the name of the drug, strength, name of pharmacy, prescription number, date, physician name, caution statements and directions for use except where accepted modified unit dose systems conforming to federal and state laws are used. The medications of each patient shall be kept and stored in their original containers and transferring between containers shall be prohibited. All medicines kept by the facility shall be kept in a locked place and the persons in charge shall be responsible for giving the medicines and keeping them under lock and key. Medications requiring refrigeration shall be kept in a separate locked box of adequate size in the refrigerator in the medication area. Drugs for external use shall be stored separately from those administered by mouth and injection. Provisions shall also be made for the locked separate storage of medications of deceased and discharged patients until such medication is surrendered or destroyed in accordance with federal and state laws and regulations.

b. Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the issuing pharmacist or pharmacy for relabeling or disposal. Containers having no labels shall be destroyed in accordance with state and federal laws.

c. Cabinets shall be well lighted and of sufficient size to permit storage without crowding.

d. Medications no longer in use shall be disposed of or destroyed in accordance with federal and state laws and regulations.

e. Medications having an expiration date shall be removed from usage and properly disposed of after such date.

f. Controlled substances. Controlled substances shall be kept under double lock (e.g., in a locked box in a locked cabinet). There shall be a controlled substances record, in which is recorded the name of the patient, the date, time, kind, dosage, balance, remaining and method of administration of all controlled substances; the name of the physician who prescribed the medications; and the name of the nurse who administered it, or staff who supervised the self-administration. In addition, there shall be a recorded and signed schedule II controlled substances count daily, and schedule III, IV and V controlled substances count once per week by those persons who have access to controlled substances. All controlled substances which are left over after the discharge or death of the patient shall be destroyed in accordance with KRS 218A.230, or 21 CFR 1307.21, or sent via registered mail to the Controlled Substances Enforcement Branch of the Kentucky Cabinet for Human Resources.

4. Use of restraints or protective devices. If a patient becomes disturbed or unmanageable, the patient's physician shall be notified in order to evaluate and direct the patient's care. No form of restraints or protective devices shall be used except under written orders of the attending physician.

a. Protective devices. Protective devices may be used to protect the patient from falling from a bed or chair. The least restrictive form of protective device shall be used which affords the patient the greatest possible degree of mobility. In no case shall a locking device be

used.

b. Physical restraint. Restraints that require lock and key shall not be used. In an emergency, restraints may be used temporarily, but in no case for a period to exceed twelve (12) hours. Restraints shall be applied only by personnel trained in the proper application and observation of this equipment. Restraints shall be checked at least every one-half (1/2) hour and released at least ten (10) minutes every two (2) hours. The checks and releases of restraints shall be recorded in the patient's medical record as they are completed. Such reports shall document the rationale or justification for the use of the procedure, a description of the specific procedures employed, and the physician's order. Restraints shall be used only as a therapeutic measure to prevent the patient from causing physical harm to self or others. Restraints shall not be used as a punishment, as discipline, as a convenience for the staff, or as a mechanism to produce regression. Restraints shall be comfortable and easily removed in case of an emergency.

c. Chemical restraints. Chemical restraints shall not be used as punishment, for the convenience of the staff, as a substitute for programs, or in quantities that interfere with the patient's habilitation.

5. Communicable diseases.

a. Except as provided by clauses b, c, and d of this subparagraph no patient who is infected [shall knowingly be admitted to the facility] with a communicable disease which is reportable to the health department, pursuant to KRS Chapter 214 and applicable regulations shall knowingly be admitted to the facility. [except]

b. The following specific diseases, although reportable, do not preclude a person from being admitted to a facility, and do not necessitate any special procedures on the part of the facility upon patient admission: animal bites, asbestosis, botulism, histoplasmosis, Kawasaki's disease, lead poisoning, Lyme disease, mesothelioma, pneumoconiosis, Reye's syndrome, Rocky Mountain spotted fever, silicosis, toxic shock syndrome, and trichinosis.

c. A facility may admit a (non-infectious) tuberculosis patient under continuing medical supervision for his tuberculosis disease.

d. The following specific diseases, although reportable, also do not preclude a person from being admitted to a facility: acquired immune deficiency syndrome (AIDS), hepatitis B or non-A non-B, herpes (genital), leprosy, malaria and syphilis (late latent only); however, if a facility chooses to admit persons with these diseases, the following conditions shall be met: [; provided, however, that a "facility" may admit persons having Acquired Immune Deficiency Syndrome (AIDS) provided that the following conditions are met:]

(i) Staff of facility have completed a training program approved by the cabinet.

(ii) The facility has developed strict written procedures and protocols for staff to follow in order to avoid exposure to blood or body fluids of the affected residents [AIDS patient]; and to follow if such an exposure occurs.

(iii) The facility must apprise the public and the residents of the facility, that persons having one (1) or more of these specific disease(s) in clause d of this subparagraph [AIDS patients] are admissible to that facility, and which disease(s) are involved. [; but]

Identifying information on these residents [AIDS patients] shall not be disclosed except as provided by law or regulation of the Cabinet for Human Resources.

e. [b.] If, after admission, a patient is suspected of having a communicable disease that would endanger the health and welfare of other patients the administrator shall assure that a physician is contacted and that appropriate measures are taken on behalf of the patient with the communicable disease and the other patients.

(6) Diagnostic services. The facility shall have provisions for obtaining required clinical laboratory, x-ray and other diagnostic services. Laboratory services may be obtained from a laboratory which is part of a licensed hospital or a laboratory licensed pursuant to KRS 333.030 and any regulations promulgated thereunder. Radiology services shall be obtained from a service licensed or registered pursuant to KRS 211.842 to 211.852 and any regulations promulgated thereunder. If the facility provides its own diagnostic services, the service shall meet the applicable laws and regulations. All diagnostic services shall be provided only on the request of a physician. The physician shall be notified promptly of the test results. Arrangements shall be made for the transportation of patients, if necessary, to and from the source of service. Simple tests, such as those customarily done by nursing personnel for diabetic patients may be done in the facility. All reports shall be included in the medical record.

(7) Dental services. The facility shall assist patients to obtain regular and emergency dental care. Provision for dental care: Patients shall be assisted to obtain regular and emergency dental care. An advisory dentist shall provide consultation, participate in in-service education, recommend policies concerning oral hygiene, and shall be available in case of emergency. The facility, when necessary, shall arrange for the patient to be transported to the dentist's office. Nursing personnel shall assist the patient to carry out the dentist's recommendations.

(8) Social services.

(a) Provision for medically related social needs. The medically related social needs of the patient shall be identified, and services provided to meet them, in admission of the patient, during his treatment and care in the facility, and in planning for his discharge.

1. As a part of the process of evaluating a patient's need for services in a facility and whether the facility can offer appropriate care, emotional and social factors shall be considered in relation to medical and nursing requirements.

2. As soon as possible after admission, there shall be an evaluation, based on medical, nursing and social factors, of the probable duration of the patient's need for care and a plan shall be formulated and recorded for providing such care.

3. Where there are indications that financial help will be needed, arrangements shall be made promptly for referral to an appropriate agency.

4. Social and emotional factors related to the patient's illness, to his response to treatment and to his adjustment to care in the facility shall be recognized and appropriate action shall be taken when necessary to obtain casework services to assist in resolving problems in these areas.

5. Knowledge of the patient's home situation, financial resources, community resources available to assist him, and pertinent information related to his medical and nursing requirements shall be used in making decisions regarding his discharge from the facility.

(b) Confidentiality of social data. Pertinent social data, and information about personal and family problems related to the patient's illness and care shall be made available only to the attending physician, appropriate members of the nursing staff, and other key personnel who are directly involved in the patient's care, or to recognized health or welfare agencies. There shall be appropriate policies and procedures for assuring the confidentiality of such information.

1. The staff member responsible for social services shall participate in clinical staff conferences and confer with the attending physician at intervals during the patient's stay in the facility, and there shall be evidence in the record of such conferences.

2. The staff member and nurses responsible for the patient's care shall confer frequently and there shall be evidence of effective working relationships between them.

3. Records of pertinent social information and of action taken to meet social needs shall be maintained for each patient. Signed social service summaries shall be entered promptly in the patient's medical record for the benefit of all staff involved in the care of the patient.

(9) Patient activities. Activities suited to the needs and interests of patients shall be provided as an important adjunct to the active treatment program and to encourage restoration to self-care and resumption of normal activities. Provision shall be made for purposeful activities which are suited to the needs and interests of patients.

(a) The activity leader shall use, to the fullest possible extent, community, social and recreational opportunities.

(b) Patients shall be encouraged but not forced to participate in such activities. Suitable activities are provided for patients unable to leave their rooms.

(c) Patients who are able and who wish to do so shall be assisted to attend religious services.

(d) Patients' request to see their clergymen shall be honored and space shall be provided for privacy during visits.

(e) Visiting hours shall be flexible and posted to permit and encourage visiting friends and relatives.

(f) The facility shall make available a variety of supplies and equipment adequate to satisfy the individual interests of patients. Examples of such supplies and equipment are: books and magazines, daily newspapers, games, stationery, radio and television and the like.

(10) Residential services.

(a) Dietary services. The facility shall provide or contract for food service to meet the dietary needs of the patients including modified diets or dietary restrictions as prescribed by the attending physician. When a facility contracts for food service with an outside food management company, the company shall provide a qualified dietician on a full-time, part-time or consultant basis to the facility. The qualified dietician shall have continuing liaison with the medical and nursing staff of the facility for recommendations on dietetic policies affecting

patient care. The company shall comply with all of the appropriate requirements for dietary services in this regulation.

1. Therapeutic diets. If the designated person responsible for food service is not a qualified dietician or nutritionist, consultation by a qualified dietician or qualified nutritionist shall be provided.

2. Dietary staffing. There shall be sufficient food service personnel employed and their working hours, schedules of hours, on duty and days off shall be posted. If any food service personnel are assigned duties outside the dietary department, the duties shall not interfere with the sanitation, safety or time required for regular dietary assignments.

3. Menu planning.

a. Menus shall be planned, written and rotated to avoid repetition. Nutrition needs shall be met in accordance with the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council adjusted for age, sex and activity, and in accordance with physician's orders.

b. Meals shall correspond with the posted menu. Menus must be planned and posted one (1) week in advance. When changes in the menu are necessary, substitutions shall provide equal nutritive value and the changes shall be recorded on the menu and all menus shall be kept on file for thirty (30) days.

c. The daily menu shall include daily diet for all modified diets served within the facility based on an approved diet manual. The diet manual shall be a current manual with copies available in the dietary department that has the approval of the professional staff of the facility. The diet manual shall indicate nutritional deficiencies of any diet. The dietician shall correlate and integrate the dietary aspects of the patient care with the patient and patient's chart through such methods as patient instruction, recording diet histories, and participation in rounds and conference.

4. Food preparation and storage.

a. There shall be at least a three (3) day supply of food to prepare well-balanced palatable meals. Records of food purchased for preparation shall be on file for thirty (30) days.

b. Food shall be prepared with consideration for any individual dietary requirement. Modified diets, nutrient concentrates and supplements shall be given only on the written orders of a physician.

c. At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the substantial evening meal and breakfast. Between-meal snacks to include an evening snack before bedtime shall be offered to all patients. Adjustments shall be made when medically indicated.

d. Foods shall be prepared by methods that conserve nutritive value, flavor and appearance and shall be attractively served at the proper temperatures, and in a form to meet the individual needs. A file of tested recipes, adjusted to appropriate yield shall be maintained. Food shall be cut, chopped or ground to meet individual needs. If a patient refuses foods served, nutritional substitutions shall be offered.

e. All opened containers or left over food items shall be covered and dated when

refrigerated.

5. Serving of food. When a patient cannot be served in the dining room, trays shall be provided for bedfast patients and shall rest on firm supports such as overbed tables. Sturdy tray stands of proper height shall be provided for patients able to be out of bed.

a. Correct positioning of the patient to receive his tray shall be the responsibility of the direct patient care staff. Patients requiring help in eating shall be assisted within a reasonable length of time.

b. Adaptive self-help devices shall be provided to contribute to the patient's independence in eating.

6. Sanitation. All facilities shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005 (Kentucky's Food Service Establishment Act and Food Service Code).

(b) Housekeeping and maintenance services.

1. The facility shall maintain a clean and safe facility free of unpleasant odors. Odors shall be eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans and other obvious sources.

2. An adequate supply of clean linen shall be on hand at all times. Soiled clothing and linens shall receive immediate attention and shall not be allowed to accumulate. Clothing or bedding used by one (1) patient shall not be used by another until it has been laundered or dry cleaned.

3. Soiled linen shall be placed in washable or disposable containers, transported in a sanitary manner and stored in separate, well-ventilated areas in a manner to prevent contamination and odors. Equipment or areas used to transport or store soiled linen shall not be used for handling or storing of clean linen.

4. Soiled linen shall be sorted and laundered in the soiled linen room in the laundry area. Handwashing facilities with hot and cold water, soap dispenser and paper towels shall be provided in the laundry area.

5. Clean linen shall be sorted, dried, ironed, folded, transported, stored and distributed in a sanitary manner.

6. Clean linen shall be stored in clean linen closets on each floor, close to the nurses' station.

7. Personal laundry of patients or staff shall be collected, transported, sorted, washed and dried in a sanitary manner, separate from bed linens.

8. Patients' personal clothing shall be laundered as often as is necessary. Laundering of patients' personal clothing shall be the responsibility of the facility unless the patient or the patient's family accepts this responsibility. Patient's personal clothing laundered by or through the facility shall be marked to identify the patient-owner and returned to the correct patient.

9. Maintenance. The premises shall be well kept and in good repair. Requirements shall include:

a. The facility shall insure that the grounds are well kept and the exterior of the building, including the sidewalks, steps, porches, ramps and fences are in good repair.

b. The interior of the building including walls, ceilings, floors, windows, window coverings, doors, plumbing and electrical fixtures shall be in good repair. Windows and doors shall be screened.

c. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

d. A pest control program shall be in operation in the facility. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. The compounds shall be stored under lock.

(c) Room accommodations.

1. Each patient shall be provided a standard size bed or the equivalent at least thirty-six (36) inches wide, equipped with substantial springs, a clean comfortable mattress, a mattress cover, two (2) sheets and a pillow, and such bed covering as is required to keep the patients comfortable. Rubber or other impervious sheets shall be placed over the mattress cover whenever necessary. Beds occupied by patients shall be placed so that no patient may experience discomfort because of proximity to radiators, heat outlets, or by exposure to drafts.

2. The facility shall provide window coverings, bedside tables with reading lamps (if appropriate), comfortable chairs, chest or dressers with mirrors, a night light, and storage space for clothing and other possessions.

3. Patients shall not be housed in unapproved rooms or unapproved detached buildings.

4. Basement rooms shall not be used for sleeping rooms for patients.

5. Patients may have personal items and furniture when it is physically feasible.

6. There shall be a sufficient number of tables provided that can be rolled over a patient's bed or be placed next to a bed to serve patients who cannot eat in the dining room.

7. Each living room or lounge area and recreation area shall have an adequate number of reading lamps, and tables and chairs or settees of sound construction and satisfactory design.

8. Dining room furnishings shall be adequate in number, well constructed and of satisfactory design for the patients.

9. Each patient shall be permitted to have his own radio and television set in his room unless it interferes with or is disturbing to other patients.

WILLIAM M. GARDNER, Inspector General

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: October 31, 1986

FILED WITH LRC: November 12, 1986 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 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 December 17, 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: Delano Miller

(1) Type and number of entities affected: Would impact three long term care licensure categories.

(a) Direct and indirect costs or savings to

those affected: (Minimal)

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: Long term care facilities admitting residents with diseases that have a low risk of transmission would be required to meet three stipulations established by the cabinet.
- (2) Effects on the promulgating administrative body: The Cabinet for Human Resources would indirectly bear some of the costs through the Medicaid program.
 - (a) Direct and indirect costs or savings: See above
 1. First year:
 2. Continuing costs or savings:
 3. Additional factors increasing or decreasing costs:
 - (b) Reporting and paperwork requirements: (Minimal increase)
 - (3) Assessment of anticipated effect on state and local revenues: None
 - (4) Assessment of alternative methods; reasons why alternatives were rejected: The alternative was to maintain the status quo, and bar victims of reportable diseases from admission to long term care facilities.
 - (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: No
 - TIERING: Was tiering applied? No. These are licensure standards. All services are required to meet the same requirements.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: There are no federal standards pursuant to this subject.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. This proposed amendment loosens admission standards by removing barriers from admission to long term care facilities.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: A person who has been infected with a disease which has a low risk of transmission can be admitted to a long term care facility only after the facility has met three (3) criteria established by the cabinet.

CABINET FOR HUMAN RESOURCES
Office of Inspector General
Certificate of Need and Licensure Board
(Proposed Amendment)

902 KAR 20:048. Operations and services; nursing homes.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990[(1)(2)]

PURSUANT TO: KRS 216B.040, 216B.105(3),
Executive Order 86-366

NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) mandate that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. Executive Order 86-366 transferred the authority to regulate health services and health facilities from the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board to the Office of the Inspector General. This regulation provides for the licensure requirements for the operation of existing nursing homes and the services to be provided by existing nursing homes. This regulation does not address the establishment of new nursing homes.

Section 1. Scope of Operations and Services. Nursing homes are establishments with permanent facilities that include inpatient beds. Services provided include medical services, and continuous nursing services. Patients in a nursing home facility require inpatient care but do not currently require inpatient hospital services, and have a variety of medical conditions.

Section 2. Definitions. (1) "Activities of daily living" means activities of self-help (e.g., being able to feed, bathe and/or dress oneself), communication (e.g., being able to place phone calls, write letters and understanding instructions) and socialization (e.g., being able to shop, being considerate of others, working with others and participating in activities).

(2) "Administrator" means a person who is licensed as a nursing home administrator pursuant to KRS 216A.080.

(3) "Board" means the Commission on Health Economics Control in Kentucky [Health Facilities and Health Services Certificate of Need and Licensure Board].

(4) "Facility" means a nursing home facility.

(5) "License" means an authorization issued by the Board for the purpose of operating a nursing home and offering nursing home services.

(6) "PRN medications" means medications administered as needed.

(7) "Qualified dietician" or "nutritionist" means:

(a) A person who has a bachelor of science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietician by ADA; or

(b) A person who has a masters degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) A person who has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietician.

(8) "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.

(9) "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body.

Section 3. Administration and Operation. (1) Licensee. The licensee shall be legally responsible for the facility and for compliance with federal, state and local laws and regulations pertaining to the operation of the facility.

(2) Administrator.

(a) All facilities shall have an administrator who is responsible for the operation of the facility and who shall delegate such responsibility in his absence.

(b) The licensee shall contract for professional and supportive services not available in the facility as dictated by the needs of the patient. The contract shall be in writing.

(3) Administrative records.

(a) The facility shall maintain a bound, permanent, chronological patient registry showing date of admission, name of patient, and date of discharge.

(b) The facility shall require and maintain written recommendations or comments from consultants regarding the program and its development on a per visit basis.

(c) Menu and food purchase records shall be maintained.

(d) A written report of any incident or accident involving a patient (including medication errors or drug reactions), visitor or staff shall be made and signed by the administrator or nursing service supervisor, and any staff member who witnessed the incident. The report shall be filed in an incident file.

(4) Policies. The facility shall establish written policies and procedures that govern all services provided by the facility. The written policies shall include:

(a) Patient care and services to include physician, nursing, pharmaceutical (including medication stop orders policy), and residential services.

(b) Adult and child protection. The facility shall have written policies which assure the reporting of cases of abuse, neglect or exploitation of adults and children to the Cabinet for Human Resources pursuant to KRS Chapter 209 and KRS 199.335.

(c) Use of restraints. The facility shall have a written policy that addresses the use of restraints and a mechanism for monitoring and controlling their use.

(d) Missing patient procedures. The facility shall a written procedure to specify in a step-by-step manner the actions which shall be taken by staff when a patient is determined to be lost, unaccounted for or on other unauthorized absence.

(5) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(6) Admission.

(a) Patients shall be admitted only upon the referral of a physician. Additionally, the facility shall admit only persons who have a variety of medical conditions and require medical services, continuous medical services, and inpatient care but do not currently require inpatient hospital services. The facility shall not admit persons whose care needs exceed the capability of the facility.

(b) Upon admission the facility shall obtain the patient's medical diagnosis, physician's orders for the care of the patient and the transfer form. Within forty-eight (48) hours after admission the facility shall obtain a

medical evaluation from the patient's physician including current medical findings, medical history and physical examination. The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital or nursing facility, if done within five (5) days prior to admission.

(c) Before admission the patient and a responsible member of his family or committee shall be informed in writing of the established policies of the facility including fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services rendered.

(d) The facility shall provide and maintain a system for identifying each patient's personal property and facilities for safekeeping of his declared valuables. Each patient's clothing and other property shall be reserved for his own use.

(7) Discharge planning. The facility shall have a discharge planning program to assure the continuity of care for patients being transferred to another health care facility or being discharged to the home.

(8) Transfer procedures and agreements.

(a) The facility shall have written transfer procedures and agreements for the transfer of patients to other health care facilities which can provide a level of inpatient care not provided by the facility. Any facility which does not have a transfer agreement in effect but which documents a good faith attempt to enter into such an agreement shall be considered to be in compliance with the licensure requirement. The transfer procedures and agreements shall specify the responsibilities each institution assumes in the transfer of patients and establish responsibility for notifying the other institution promptly of the impending transfer of a patient and arrange for appropriate and safe transportation.

(b) When the patient's condition exceeds the scope of services of the facility, the patient, upon physician's orders (except in cases of emergency), shall be transferred promptly to a hospital or a skilled nursing facility, or services shall be contracted for from another community resource.

(c) When changes and progress occur which would enable the patient to function in a less structured and restrictive environment, and the less restrictive environment cannot be offered at the facility, the facility shall offer assistance in making arrangements for patients to be transferred to facilities providing appropriate services.

(d) Except in an emergency, the patient, his next of kin, or guardian, if any, and the attending physician shall be consulted in advance of the transfer or discharge of any patient.

(e) When a transfer is to another level of care within the same facility, the complete medical record or a current summary thereof shall be transferred with the patient.

(f) If the patient is transferred to another health care facility or home to be cared for by a home health agency, a transfer form shall accompany the patient. The transfer form shall include at least: physician's orders (if available), current information relative to diagnosis with history of problems requiring special care, a summary of the course of prior treatment, special supplies or equipment needed for patient care, and pertinent social

information on the patient and his family.

(9) Tuberculosis testing. All employees and patients shall be tested for tuberculosis in accordance with the provisions of 902 KAR 20:200, Tuberculosis testing in long term care facilities.

(10) Personnel.

(a) Job descriptions. Written job descriptions shall be developed for each category of personnel, to include qualifications, lines of authority and specific duty assignments.

(b) Employee records. Current employee records shall be maintained and shall include a resume of each employee's training and experience, evidence of current licensure or registration where required by law, health records, records of in-service training and ongoing education, and the employee's name, address and social security number.

(c) Staffing requirements.

1. The facility shall have adequate personnel to meet the needs of the patients on a twenty-four (24) hour basis. The number and classification of personnel required shall be based on the number of patients and the amount and kind of personal care, nursing care, supervision and program needed to meet the needs of the patients as determined by medical orders and by services required by this regulation.

2. When the staff/patient ratio does not meet the needs of the patients, the Division for Licensing and Regulation shall determine and inform the administrator in writing how many additional personnel are to be added and of what job classification and shall give the basis for this determination.

3. A responsible staff member shall be on duty and awake at all times to assure prompt, appropriate action in cases of injury, illness, fire or other emergencies.

4. Volunteers shall not be counted to make up minimum staffing requirements.

5. The facility shall have a director of nursing service who is a registered nurse and who works full time during the day, and who devotes full time to the nursing service of the facility. If the director of nursing has administrative responsibility for the facility, there shall be an assistant director of nursing, so that there shall be the equivalent of a full-time director of nursing service. The director of nursing shall be trained or experienced in areas of nursing service, administration, rehabilitation nursing, psychiatric or geriatric nursing. The director of the nursing service shall be responsible for:

a. Developing and maintaining nursing service objectives, standards of nursing practice, nursing procedure manuals, and written job descriptions for each level of nursing personnel.

b. Recommending to the administrator the number and levels of nursing personnel to be employed, participating in their recruitment and selection and recommending termination of employment when necessary.

c. Assigning and supervising all levels of nursing personnel.

d. Participating in planning and budgeting for nursing care.

e. Participating in the development and implementation of patient care policies.

f. Coordinating nursing services with other patient care services.

g. Planning and conducting orientation programs for new nursing personnel and

continuing in-service education for all nursing personnel.

h. Participating in the screening of prospective patients in terms of required nursing services and nursing skills available.

i. Assuring that a written monthly assessment of the patient's general condition is completed.

j. Assuring that a nursing care plan shall be established for each patient and that his plan shall be reviewed and modified as necessary.

k. Assuring that registered nurses, licensed practical nurses, nurses' aides and orderlies are assigned duties consistent with their training and experience.

l. Assuring that a monthly review of each patient's medications is completed and notifying the physician when changes are appropriate.

6. Supervising nurse. Nursing care shall be provided by or under the direction of a full-time registered nurse. The supervising nurse may be the director of nursing or the assistant director of nursing and shall be trained or experienced in the areas of nursing administration and supervision, rehabilitative nursing, psychiatric or geriatric nursing. The supervising nurse shall make daily rounds to all nursing units performing such functions as visiting each patient, and reviewing medical records, medication cards, patient care plans, and staff assignments, and whenever possible accompanying physicians when visiting patients.

7. Charge nurse. There shall be at least one (1) registered nurse or licensed practical nurse on duty at all times who is responsible for the nursing care of patients during her tour of duty. When a licensed practical nurse is on duty, a registered nurse shall be on call.

8. Pharmacist. The facility shall retain a licensed pharmacist on a full-time, part-time or consultant basis to direct pharmaceutical services.

9. Therapists.

a. If rehabilitative services beyond rehabilitative nursing care are offered, whether directly or through cooperative arrangements with agencies that offer therapeutic services, these services shall be provided or supervised by qualified therapists to include licensed physical therapists, speech pathologists and occupational therapists.

b. When supervision is less than full time, it shall be provided on a planned basis and shall be frequent enough, in relation to the staff therapist's training and experience, to assure sufficient review of individual treatment plans and progress.

c. In a facility with an organized rehabilitation service using a multi-disciplinary team approach to meet all the needs of the patient, and where all therapists' services are administered under the direct supervision of a physician qualified in physical medicine who will determine the goals and limits of the therapists' work, and prescribes modalities and frequency of therapy, persons with qualifications other than those described in subparagraph 9a of Section 3(9)(c) may be assigned duties appropriate to their training and experience.

10. Dietary. Each facility shall have a full-time person designated by the administrator, responsible for the total food service operation of the facility and on duty a minimum of thirty-five (35) hours each week.

11. Each facility shall designate a person for

the following areas who will be responsible for:

- a. Medical records;
- b. Arranging for social services; and
- c. Developing and implementing the activities program and therapeutic recreation.

12. Supportive personnel, consultants, assistants and volunteers shall be supervised and shall function within the policies and procedures of the facility.

(d) Health requirements. No employee contracting an infectious disease shall appear at work until the infectious disease can no longer be transmitted.

(e) Orientation program. The facility shall conduct an orientation program for all new employees to include review of all facility policies (that relate to the duties of their respective jobs), services and emergency and disaster procedures.

(f) In-service training.

1. All employees shall receive in-service training and ongoing education to correspond with the duties of their respective jobs.

2. All nursing personnel shall receive in-service or continuing education programs at least quarterly.

(11) Medical records.

(a) The facility shall develop and maintain a system of records retention and filing to insure completeness and prompt location of each patient's record. The records shall be held confidential. The records shall be in ink or typed and shall be legible. Each entry shall be dated and signed. Each record shall include:

1. Identification data including the patient's name, address and social security number (if available); name, address and telephone number of referral agency; name and telephone number of personal physician; name, address and telephone number of next of kin or other responsible person; and date of admission.

2. Admitting medical evaluation by a physician including current medical findings, medical history, physical examination and diagnosis. (The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital, skilled nursing facility if done within five (5) days prior to admission.)

3. The physician's dated and signed orders for medication, diet, and therapeutic services.

4. Physician's progress notes describing significant changes in the patient's condition, written at the time of each visit.

5. Findings and recommendations of consultants.

6. A medication sheet which contains the date, time given, name of each medication dosage, name of prescribing physician and name of person who administered the medication.

7. Nurse's notes indicating changes in patient's condition, actions, responses, attitudes, appetite, etc. Nursing personnel shall make notation of response to medications, response to treatments, mode and frequency of PRN medications administered, condition necessitating administration of PRN medication, reaction following PRN medication, visits by physician and phone calls to the physician, medically prescribed diets and preventive maintenance or rehabilitative nursing measures.

8. Written assessment of the patient's monthly general condition.

9. Reports of dental, laboratory and x-ray services (if applicable).

10. Changes in patient's response to the activity and therapeutic recreation program.

11. A discharge summary, signed and dated by the attending physician within one (1) month of discharge from the facility.

(b) Retention of records. After patient's death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years or in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

Section 4. Provision of Services. (1) Physician services.

(a) The health care of every patient shall be under the supervision of a physician who, based on an evaluation of the patient's immediate and long-term needs, prescribes a planned regimen of medical care which covers indicated medications, treatments, rehabilitative services, diet, special procedures recommended for the health and safety of the patient, activities, plans for continuing care and discharge.

(b) Patients shall be evaluated by a physician at least once every thirty (30) days for the first sixty (60) days following admission. Subsequent to the sixtieth day following admission, the patients shall be evaluated by a physician every sixty (60) days unless justified and documented by the attending physician in the patient's medical record. There shall be evidence in the patient's medical record of the physician visits to the patient at appropriate intervals.

(c) There shall be evidence in the patient's medical record that the patient's attending physician has made arrangement for the medical care of the patient in the physician's absence.

(d) Availability of physicians for emergency care. The facility shall have arrangements with one (1) or more physicians who will be available to furnish necessary medical care in case of an emergency if the physician responsible for the care of the patient is not immediately available. A schedule listing the names and telephone numbers of these physicians and the specific days each shall be on call shall be posted in each nursing station. There shall be established procedures to be followed in an emergency, which cover immediate care of the patient, persons to be notified, and reports to be prepared.

(2) Nursing services.

(a) Twenty-four (24) hour nursing service. There shall be twenty-four (24) hour nursing service with a sufficient number of nursing personnel on duty at all times to meet the total needs of patients. Nursing personnel shall include registered nurses, licensed practical nurses, aides and orderlies. The amount of nursing time available for patient care shall be exclusive of non-nursing duties. Sufficient nursing time shall be available to assure that each patient:

1. Shall receive treatments, medication, and diets as prescribed;

2. Shall receive proper care to prevent decubiti and shall be kept comfortable, clean and well-groomed;

3. Shall be protected from accident and injury by the adoption of indicated safety measures;

4. Shall be treated with kindness and respect.

(b) Rehabilitative nursing care. There shall be an active program of rehabilitative nursing care directed toward assisting each patient to achieve and maintain his highest level of

self-care and independence.

1. Rehabilitative nursing care initiated in the hospital shall be continued immediately upon admission to the facility.

2. Nursing personnel shall be taught rehabilitative nursing measures and shall practice them in their daily care of patients. These measures shall include:

a. Maintaining good body alignment and proper positioning of bedfast patients;

b. Encouraging and assisting bedfast patients to change positions at least every two (2) hours, day and night to stimulate circulation and prevent decubiti and deformities;

c. Making every effort to keep patients active and out of bed for reasonable periods of time, except when contraindicated by physician's orders, and encouraging patients to achieve independence in activities of daily living by teaching self care, transfer and ambulation activities;

d. Assisting patients to adjust to their disabilities, to use their prosthetic devices, and to redirect their interests if necessary;

e. Assisting patients to carry out prescribed physical therapy exercises between visits of the physical therapist.

(c) Dietary supervision. Nursing personnel shall assure that patients are served diets as prescribed. Patients needing help in eating shall be assisted promptly upon receipt of meals. Food and fluid intake of patients shall be observed and deviations from normal shall be reported to the charge nurse. Persistent unresolved problems shall be reported to the physician.

(d) Nursing care plan. There shall be written nursing care plans for each patient based on the nature of illness, treatment prescribed, long and short term goals and other pertinent information.

1. The nursing care plan shall be a personalized, daily plan for individual patients. It shall indicate what nursing care is needed, how it can best be accomplished for each patient, what are the patients preferences, what methods and approaches are most successful, and what modifications are necessary to insure best results.

2. Nursing care plans shall be available for use by all nursing personnel.

3. Nursing care plans shall be reviewed and revised as needed.

4. Relevant nursing information from the nursing care plan shall be included with other medical information when patients are transferred.

(3) Specialized rehabilitative services.

(a) Rehabilitative services shall be provided upon written order of the physician which indicates anticipated goals and prescribes specific modalities to be used and frequency of physical, speech and occupational therapy services.

(b) Therapy services shall include:

1. Physical therapy which includes:

a. Assisting the physician in his evaluation of patients by applying muscle, nerve, joint, and functional ability tests;

b. Treating patients to relieve pain, develop or restore functions, and maintain maximum performance, using physical means such as exercise, massage, heat, water, light, and electricity.

2. Speech therapy which includes:

a. Service in speech pathology or audiology;

b. Cooperation in the evaluation of patients with speech, hearing, or language disorders;

c. Determination and recommendation of appropriate speech and hearing services.

3. Occupational therapy services which include:

a. Assisting the physician in his evaluation of the patient's level of function by applying diagnostic and prognostic tests;

b. Guiding the patient in his use of therapeutic creative and self care activities for improving function.

(c) Therapists shall collaborate with the facility's medical and nursing staff in developing the patient's total plan of care.

(d) Ambulation and therapeutic equipment. Commonly used ambulation and therapeutic equipment necessary for services offered shall be available for use in the facility such as parallel bars, hand rails, wheelchairs, walkers, walkerettes, crutches and canes. The therapists shall advise the administrator concerning the purchase, rental, storage and maintenance of equipment and supplies.

(4) Personal care services. Personal care services shall include: assistance with bathing, shaving, cleaning and trimming of fingernails and toenails, cleaning of the mouth and teeth, and washing, grooming and cutting of hair.

(5) Pharmaceutical services.

(a) The facility shall provide appropriate methods and procedures for obtaining, dispensing, and administering drugs and biologicals, developed with the advice of a licensed pharmacist or a pharmaceutical advisory committee which includes one (1) or more licensed pharmacists.

(b) If the facility has a pharmacy department, a licensed pharmacist shall be employed to administer the department.

(c) If the facility does not have a pharmacy department, it shall have provision for promptly obtaining prescribed drugs and biologicals from a community or institutional pharmacy holding a valid pharmacy permit issued by the Kentucky Board of Pharmacy, pursuant to KRS 315.035.

(d) If the facility does not have a pharmacy department, but does maintain a supply of drugs:

1. The consultant pharmacist shall be responsible for the control of all bulk drugs and maintain records of their receipt and disposition.

2. The consultant pharmacist shall dispense drugs from the drug supply, properly label them and make them available to appropriate licensed nursing personnel.

3. Provisions shall be made for emergency withdrawal of medications from the drug supply.

(e) An emergency medication kit approved by the facility's professional personnel shall be kept readily available. The facility shall maintain a record of what drugs are in the kit and document how the drugs are used.

(f) Medication services.

1. Conformance with physician's orders. All medications administered to patients shall be ordered in writing by the patient's physician. Telephone orders shall be given only to a licensed nurse or pharmacist immediately reduced to writing, signed by the nurse and countersigned by the physician within forty-eight (48) hours. Medications not specifically limited as to time or number of doses, when ordered, shall be automatically stopped in accordance with the facility's

written policy on stop orders. A registered nurse or pharmacist shall review each patient's medication profile at least monthly. The prescribing physician shall review the patient's medical profile at least every two (2) months. The patient's attending physician shall be notified of stop order policies and contacted promptly for renewal of such orders so that continuity of the patient's therapeutic regimen is not interrupted. Medications are to be released to patients on discharge only on the written authorization of the physician.

2. Administration of medications. All medications shall be administered by licensed medical or nursing personnel in accordance with the Medical Practice Act (KRS 311.530 to 311.620) and Nurse Practice Act (KRS Chapter 314) or by personnel who have completed a state approved training program. The administration of oral and topical medicines by certified medicine technicians shall be under the supervision of licensed medical or nursing personnel. Intramuscular injections shall be administered by a licensed nurse or a physician. If intravenous injections are necessary they shall be administered by a licensed physician or registered nurse. Each dose administered shall be recorded in the medical record.

a. The nursing station shall have readily available items necessary for the proper administration of medications.

b. In administering medications, medication cards or other state approved systems shall be used and checked against the physician's orders.

c. Medications prescribed for one (1) patient shall not be administered to any other patient.

d. Self-administration of medications by patients shall not be permitted except on special order of the patient's physician or in a predischARGE program under the supervision of a licensed nurse.

e. Medication errors and drug reactions shall be immediately reported to the patient's physician and an entry thereof made in the patient's medical record as well as on an incident report.

f. Up-to-date medication reference texts and sources of information shall be provided for use by the nursing staff (e.g., the American Hospital Formulary Service of the American Society of Hospital Pharmacists, Physicians Desk Reference or other suitable references).

3. Labeling and storing medications.

a. All medications shall be plainly labeled with the patient's name, the name of the drug, strength, name of pharmacy, prescription number, date, physician name, caution statements and directions for use except where accepted modified unit dose systems conforming to federal and state laws are used. The medications of each patient shall be kept and stored in their original containers and transferring between containers shall be prohibited. All medicines kept by the facility shall be kept in a locked place and the persons in charge shall be responsible for giving the medicines and keeping them under lock and key. Medications requiring refrigeration shall be kept in a separate locked box of adequate size in the refrigerator in the medication area. Drugs for external use shall be stored separately from those administered by mouth and injection. Provisions shall also be made for the locked separate storage of medications of deceased and discharged patients until such medication is surrendered or

destroyed in accordance with federal and state laws and regulations.

b. Medication containers having soiled, damaged, incomplete, illegible, or makeshift labels shall be returned to the issuing pharmacist or pharmacy for relabeling or disposal. Containers having no labels shall be destroyed in accordance with state and federal laws.

c. Cabinets shall be well lighted and sufficient size to permit storage without crowding.

d. Medications no longer in use shall be disposed of or destroyed in accordance with federal and state laws and regulations.

e. Medications having an expiration date shall be removed from usage and properly disposed of after such date.

4. Controlled substances. Controlled substances shall be kept under double lock (e.g., in a locked box in a locked cabinet). There shall be a controlled substances record, in which is recorded the name of the patient, the date, time, kind, dosage, balance remaining and method of administration of all controlled substances; the name of the physician who prescribed the medications; and the name of the nurse who administered it, or staff who supervised the self-administration. In addition, there shall be a recorded and signed schedule II controlled substances count daily, and schedule III, IV and V controlled substances count once per week by those persons who have access to controlled substances. All controlled substances which are left over after the discharge or death of the patient shall be destroyed in accordance with KRS 218A.230, or 21 CFR 1307.21, or sent via registered mail to the Controlled Substances Enforcement Branch of the Kentucky Cabinet for Human Resources.

5. Use of restraints or protective devices. If a patient becomes disturbed or unmanageable, the patient's physician shall be notified in order to evaluate and direct the patient's care. No form of restraints or protective devices shall be used except under written orders of the attending physician.

a. Protective devices. Protective devices may be used to protect the patient from falling from a bed or chair. The least restrictive form of protective device shall be used which affords the patient the greatest possible degree of mobility. In no case shall a locking device be used.

b. Physical restraint. Restraints that require lock and key shall not be used. In an emergency, restraints may be used temporarily, but in no case for a period to exceed twelve (12) hours. Restraints shall be applied only by personnel trained in the proper application and observation of this equipment. Restraints shall be checked at least every one-half (1/2) hour and released at least ten (10) minutes every two (2) hours. The checks and releases of restraints shall be recorded in the patient's medical record as they are completed. Such records shall document the rationale or justification for the use of the procedure, a description of the specific procedures employed, and the physician's order. Restraints shall be used only as a therapeutic measure to prevent the patient from causing physical harm to self or others. Restraints shall not be used as a punishment, as discipline, as a convenience for the staff, or as a mechanism to produce regression. Restraints

shall be comfortable and easily removed in case of an emergency.

c. Chemical restraints. Chemical restraints shall not be used as punishment, for the convenience of the staff, as a substitute for programs, or in quantities that interfere with the patient's habilitation.

6. Communicable diseases.

a. Except as provided by clauses b, c, and d of this subparagraph, no patient who is infected [shall knowingly be admitted to the facility] with a communicable disease which is reportable to the health department, pursuant to KRS Chapter 214 and applicable regulations, shall knowingly be admitted to the facility. [except]

b. The following specific diseases, although reportable, do not preclude a person from being admitted to a facility, and do not necessitate any special procedures on the part of the facility upon patient admission: animal bites, asbestosis, botulism, histoplasmosis, Kawasaki's disease, lead poisoning, Lyme disease, mesothelioma, pneumoconiosis, Reye's syndrome, Rocky Mountain spotted fever, silicosis, toxic shock syndrome, and trichinosis.

c. A facility may admit a (non-infectious) tuberculosis patient under continuing medical supervision for his tuberculosis disease.

d. The following specific diseases, although reportable, also do not preclude a person from being admitted to a facility: acquired immune deficiency syndrome (AIDS), hepatitis B or non-A non-B, herpes (genital), leprosy, malaria and syphilis (late latent only); however, if a facility chooses to admit persons with these diseases, the following conditions shall be met: [; provided, however, that a "facility" may admit persons having Acquired Immune Deficiency Syndrome (AIDS) provided that the following conditions are met:]

(i) Staff of facility have completed a training program approved by the cabinet.

(ii) The facility has developed strict written procedures and protocols for staff to follow in order to avoid exposure to blood or body fluids of the affected residents [AIDS patient]; and to follow if such an exposure occurs.

(iii) The facility must apprise the public and the residents of the facility, that persons having one (1) or more of these specific disease(s) in clause d of this subparagraph [AIDS patients] are admissible to that facility, and which disease(s) are involved. [; but] Identifying information on these residents [AIDS patients] shall not be disclosed except as provided by law or regulation of the Cabinet for Human Resources.

e. [b.] If, after admission, a patient is suspected of having a communicable disease that would endanger the health and welfare of other patients, the administrator shall assure that a physician is contacted and that appropriate measures are taken on behalf of the patient with the communicable disease and the other patients.

(6) Diagnostic services. The facility shall have provisions for obtaining required clinical laboratory, x-ray and other diagnostic services. Laboratory services may be obtained from a laboratory which is part of a licensed hospital or a laboratory licensed pursuant to KRS 333.030 and any regulations promulgated thereunder. Radiology services shall be obtained from a service licensed or registered pursuant to KRS 211.842 to 211.852 and any regulations promulgated thereunder. If the facility provides

its own diagnostic services, the service shall meet the applicable laws and regulations. All diagnostic services shall be provided only on the request of a physician. The physician shall be notified promptly of the test results. Arrangements shall be made for the transportation of patients, if necessary, to and from the source of service. Simple tests, such as those customarily done by nursing personnel for diabetic patients may be done in the facility. All reports shall be included in the medical record.

(7) Dental services. The facility shall assist patients to obtain regular and emergency dental care. Provision for dental care: patients shall be assisted to obtain regular and emergency dental care. An advisory dentist shall provide consultation, participate in in-service education, recommend policies concerning oral hygiene, and shall be available in case of emergency. The facility, when necessary, shall arrange for the patient to be transported to the dentist's office. Nursing personnel shall assist the patient to carry out the dentist's recommendations.

(8) Social services.

(a) Provision for medically related social needs. The medically related social needs of the patient shall be identified, and services provided to meet them, in admission of the patient, during his treatment and care in the facility, and in planning for his discharge.

1. As a part of the process of evaluating a patient's need for services in a facility and whether the facility can offer appropriate care, emotional and social factors shall be considered in relation to medical and nursing requirements.

2. As soon as possible after admission, there shall be an evaluation, based on medical, nursing and social factors, of the probable duration of the patient's need for care and a plan shall be formulated and recorded for providing such care.

3. Where there are indications that financial help will be needed, arrangements shall be made promptly for referral to an appropriate agency.

4. Social and emotional factors related to the patient's illness, to his response to treatment and to his adjustment to care in the facility shall be recognized and appropriate action shall be taken when necessary to obtain casework services to assist in resolving problems in these areas.

5. Knowledge of the patient's home situation, financial resources, community resources available to assist him, and pertinent information related to his medical and nursing requirements shall be used in making decisions regarding his discharge from the facility.

(b) Confidentiality of social data. Pertinent social data, and information about personal and family problems related to the patient's illness and care shall be made available only to the attending physician, appropriate members of the nursing staff, and other key personnel who are directly involved in the patient's care, or to recognized health or welfare agencies. There shall be appropriate policies and procedures for assuring the confidentiality of such information.

1. The staff member responsible for social services shall participate in clinical staff conferences and confer with the attending physician at intervals during the patient's stay in the facility, and there shall be evidence in the record of such conferences.

2. The staff member and nurses responsible for the patient's care shall confer frequently and there shall be evidence of effective working relationships between them.

3. Records of pertinent social information and of action taken to meet social needs shall be maintained for each patient. Signed social service summaries shall be entered promptly in the patient's medical record for the benefit of all staff involved in the care of the patient.

(9) Patient activities. Activities suited to the needs and interests of patients shall be provided as an important adjunct to the active treatment program and to encourage restoration to self-care and resumption of normal activities. Provision shall be made for purposeful activities which are suited to the needs and interests of patients.

(a) The activity leader shall use, to the fullest possible extent, community, social and recreational opportunities.

(b) Patients shall be encouraged but not forced to participate in such activities. Suitable activities are provided for patients unable to leave their rooms.

(c) Patients who are able and who wish to do so shall be assisted to attend religious services.

(d) Patients' request to see their clergymen shall be honored and space shall be provided for privacy during visits.

(e) Visiting hours shall be flexible and posted to permit and encourage visiting friends and relatives.

(f) The facility shall make available a variety of supplies and equipment adequate to satisfy the individual interests of patients. Examples of such supplies and equipment are: books and magazines, daily newspapers, games, stationery, radio and television and the like.

(10) Transportation.

(a) If transportation of patients is provided by the facility to community agencies or other activities, the following shall apply:

1. Special provision shall be made for patients who use wheelchairs.

2. An escort or assistant to the driver shall be provided in transporting patients to and from the facility if necessary for the patient's safety.

(b) The facility shall arrange for appropriate transportation in case of medical emergencies.

(11) Residential services.

(a) Dietary services. The facility shall provide or contract for food service to meet the dietary needs of the patients including modified diets or dietary restrictions as prescribed by the attending physician. When a facility contracts for food service with an outside food management company, the company shall provide a qualified dietician on a full-time, part-time or consultant basis to the facility. The qualified dietician shall have continuing liaison with the medical and nursing staff of the facility for recommendations on dietetic policies affecting patient care. The company shall comply with all of the appropriate requirements for dietary services in this regulation.

1. Therapeutic diets. If the designated person responsible for food service is not a qualified dietician or nutritionist, consultation by a qualified dietician or qualified nutritionist shall be provided.

2. Dietary staffing. There shall be sufficient food service personnel employed and their

working hours, schedules of hours, on duty and days off shall be posted. If any food service personnel are assigned duties outside the dietary department, the duties shall not interfere with the sanitation, safety or time required for regular dietary assignments.

3. Menu planning.

a. Menus shall be planned, written and rotated to avoid repetition. Nutrition needs shall be met in accordance with the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council adjusted for age, sex and activity, and in accordance with physician's orders.

b. Meals shall correspond with the posted menu. Menus must be planned and posted one (1) week in advance. When changes in the menu are necessary, substitutions shall provide equal nutritive value and the changes shall be recorded on the menu and all menus shall be kept on file for thirty (30) days.

c. The daily menu shall include daily diet for all modified diets served within the facility based on an approved diet manual. The diet manual shall be a current manual with copies available in the dietary department, that has the approval of the professional staff of the facility. The diet manual shall indicate nutritional deficiencies of any diet. The dietician shall correlate and integrate the dietary aspects of the patient care with the patient and patient's chart through such methods as patient instruction, recording diet histories and participation in rounds and conference.

4. Food preparation and storage.

a. There shall be at least a three (3) day supply of food to prepare well balanced palatable meals. Records of food purchased for preparation shall be on file for thirty (30) days.

b. Food shall be prepared with consideration for any individual dietary requirement. Modified diets, nutrient concentrates and supplements shall be given only on the written orders of a physician.

c. At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the substantial evening meal and breakfast. Between-meal snacks to include an evening snack before bedtime shall be offered to all patients. Adjustments shall be made when medically indicated.

d. Foods shall be prepared by methods that conserve nutritive value, flavor and appearance and shall be attractively served at the proper temperatures, and in a form to meet the individual needs. A file of tested recipes, adjusted to appropriate yield shall be maintained. Food shall be cut, chopped or ground to meet individual needs. If a patient refuses foods served, nutritional substitutions shall be offered.

e. All opened containers or left over food items shall be covered and dated when refrigerated.

5. Serving of food. When a patient cannot be served in the dining room, trays shall be provided for bedfast patients and shall rest on firm supports such as overbed tables. Sturdy tray stands of proper height shall be provided for patients able to be out of bed.

a. Correct positioning of the patient to receive his tray shall be the responsibility of the direct patient care staff. Patients requiring help in eating shall be assisted

within a reasonable length of time.

b. Adaptive self-help devices shall be provided to contribute to the patient's independence in eating.

6. Sanitation. All facilities shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005 (Kentucky's Food Service Establishment Act and Food Service Code).

(b) Housekeeping and maintenance services.

1. The facility shall maintain a clean and safe facility free of unpleasant odors. Odors shall be eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans and other obvious sources.

2. An adequate supply of clean linen shall be on hand at all times. Soiled clothing and linens shall receive immediate attention and shall not be allowed to accumulate. Clothing or bedding used by one (1) patient shall not be used by another until it has been laundered or dry cleaned.

3. Soiled linen shall be placed in washable or disposable containers, transported in a sanitary manner and stored in separate, well-ventilated areas in a manner to prevent contamination and odors. Equipment or areas used to transport or store soiled linen shall not be used for handling or storing of clean linen.

4. Soiled linen shall be sorted and laundered in the soiled linen room in the laundry area. Handwashing facilities with hot and cold water, soap dispenser and paper towels shall be provided in the laundry area.

5. Clean linen shall be sorted, dried, ironed, folded, transported, stored and distributed in a sanitary manner.

6. Clean linen shall be stored in clean linen closets on each floor, close to the nurses' station.

7. Personal laundry of patients or staff shall be collected, transported, sorted, washed and dried in a sanitary manner, separate from bed linens.

8. Patients' personal clothing shall be laundered as often as is necessary. Laundering of patients' personal clothing shall be the responsibility of the facility unless the patient or the patient's family accepts this responsibility. Patient's personal clothing laundered by or through the facility shall be marked to identify the patient-owner and returned to the correct patient.

9. Maintenance. The premises shall be well kept and in good repair. Requirements shall include:

a. The facility shall insure that the grounds are well kept and the exterior of the building, including the sidewalks, steps, porches, ramps and fences are in good repair.

b. The interior of the building including walls, ceilings, floors, windows, window coverings, doors, plumbing and electrical fixtures shall be in good repair. Windows and doors shall be screened.

c. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

d. A pest control program shall be in operation in the facility. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. The compounds shall be stored under lock.

(c) Room accommodations.

1. Each patient shall be provided a standard size bed or the equivalent at least thirty-six (36) inches wide, equipped with substantial springs, a clean comfortable mattress, a mattress cover, two (2) sheets and a pillow, and such bed covering as is required to keep the patients comfortable. Rubber or other impervious sheets shall be placed over the mattress cover whenever necessary. Beds occupied by patients shall be placed so that no patient may experience discomfort because of proximity to radiators, heat outlets, or by exposure to drafts.

2. The facility shall provide window coverings, bedside tables with reading lamps (if appropriate), comfortable chairs, chest or dressers with mirrors, a night light, and storage space for clothing and other possessions.

3. Patients shall not be housed in unapproved rooms or unapproved detached buildings.

4. Basement rooms shall not be used for sleeping rooms for patients.

5. Patients may have personal items and furniture when it is physically feasible.

6. There shall be a sufficient number of tables provided that can be rolled over a patient's bed or be placed next to a bed to serve patients who cannot eat in the dining room.

7. Each living room or lounge area and recreation area shall have an adequate number of reading lamps, and tables and chairs or settees of sound construction and satisfactory design.

8. Dining room furnishings shall be adequate in number, well constructed and of satisfactory design for the patients.

9. Each patient shall be permitted to have his own radio and television set in his room unless it interferes with or is disturbing to other patients.

WILLIAM M. GARDNER, Inspector General

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: October 31, 1986

FILED WITH LRC: November 12, 1986 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 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 December 17, 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: Delano Miller

(1) Type and number of entities affected: Would impact three long term care licensure categories.

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

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: Long term care facilities admitting residents with diseases that have a low risk of transmission would be required to meet three stipulations established by the cabinet.

(2) Effects on the promulgating administrative

body: The Cabinet for Human Resources would indirectly bear some of the costs through the Medicaid program.

(a) Direct and indirect costs or savings: (See above)

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: (Minimal increase)

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The alternative was to maintain the status quo, and bar victims of reportable diseases from admission to long term care facilities.

(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: No TIERING: Was tiering applied? No. These are licensure standards. All services are required to meet the same requirements.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: There are no federal standards pursuant to this subject.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. This proposed amendment loosens admission standards by removing barriers from admission to long term care facilities.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: A person who has been infected with a disease which has a low risk of transmission can be admitted to a long term care facility only after the facility has met three criteria established by the cabinet.

CABINET FOR HUMAN RESOURCES Office of the Inspector General Certificate of Need and Licensure Board (Proposed Amendment)

902 KAR 20:051. Operation and services; intermediate care.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990[(1)(2)]

PURSUANT TO: KRS 216B.040, 216B.105(3), Executive Order 86-366

NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) mandate that the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board regulate health facilities and health services. Executive Order 86-366 transferred the authority to regulate health services and health facilities from the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board to the

Office of the Inspector General. This regulation provides for the licensure requirements for the operation of intermediate care facilities and the services to be provided by intermediate care facilities.

Section 1. Scope of Operations and Services. Intermediate care facilities are establishments with permanent facilities including inpatient beds. Services provided include twenty-four (24) hour supervision of patients, services including physician, nursing, pharmaceutical, personal care, activities and residential services. Patients in an intermediate care facility must have a physical or mental condition that requires intermittent nursing services along with continuous supervision of the activities of daily living.

Section 2. Definitions. (1) "Activities of daily living" means activities of self-help (e.g., being able to feed, bathe and/or dress oneself), communication (e.g., being able to place phone calls, write letters and understanding instructions) and socialization (e.g., being able to shop, being considerate of others, working with others and participating in activities).

(2) "Administrator" means a person who is licensed as a nursing home administrator pursuant to KRS 216A.080.

(3) "Board" means the Commission on Health Economics Control in Kentucky [Health Facilities and Health Services Certificate of Need and Licensure Board].

(4) "Facility" means an intermediate care facility.

(5) "License" means an authorization issued by the Board for the purpose of operating an intermediate care facility and offering intermediate care services.

(6) "PRN medications" means medications administered as needed.

(7) "Protective devices" means devices that are designed to protect a person from falling, to include side rails, safety vest or safety belt.

(8) "Qualified dietician" or "nutritionist" means:

(a) A person who has a bachelor of science degree in foods and nutrition, food service management, institutional management or related services and has successfully completed a dietetic internship or coordinated undergraduate program accredited by the American Dietetic Association (ADA) and is a member of the ADA or is registered as a dietician by ADA; or

(b) A person who has a master's degree in nutrition and is a member of ADA or is eligible for registration by ADA; or

(c) A person who has a bachelor of science degree in home economics and three (3) years of work experience with a registered dietician.

(9) "Restraint" means any pharmaceutical agent or physical or mechanical device used to restrict the movement of a patient or the movement of a portion of a patient's body.

Section 3. Administration and Operation. (1) Licensee. The licensee shall be legally responsible for the facility and for compliance with federal, state and local laws and regulations pertaining to the operation of the facility.

(2) Administrator.

(a) All facilities shall have an administrator who is responsible for the operation of the facility and who shall delegate such responsibility in his absence. The administrator shall not be the nursing services supervisor in a facility with more than sixty (60) beds.

(b) The licensee shall contract for professional and supportive services not available in the facility as dictated by the needs of the patient. The contract shall be in writing.

(3) Administrative records.

(a) The facility shall maintain a bound, permanent, chronological patient registry showing date of admission, name of patient, and date of discharge.

(b) The facility shall require and maintain written recommendations or comments from consultants regarding the program and its development on a per visit basis.

(c) Menu and food purchase records shall be maintained.

(d) A written report of any incident or accident involving a patient (including medication errors or drug reactions), visitor or staff shall be made and signed by the administrator or nursing service supervisor, and any staff member who witnessed the incident. The report shall be filed in an incident file.

(4) Policies. The facility shall establish written policies and procedures that govern all services provided by the facility. The written policies shall include:

(a) Patient care and services to include physician, nursing, pharmaceutical (including medication stop orders policy), and residential services.

(b) Adult and child protection. The facility shall have written policies which assure the reporting of cases of abuse, neglect or exploitation of adults and children to the Department for Human Resources pursuant to KRS Chapter 209 and KRS 199.335.

(c) Use of restraints. The facility shall have a written policy that addresses the use of restraints and a mechanism for monitoring and controlling their use.

(d) Missing patient procedures. The facility shall have a written procedure to specify in a step-by-step manner the actions which shall be taken by staff when a patient is determined to be lost, unaccounted for or on other unauthorized absence.

(5) Patient rights. Patient rights shall be provided for pursuant to KRS 216.510 to 216.525.

(6) Admission.

(a) Patients shall be admitted only upon the referral of a physician. The facility shall admit only persons who have a physical or mental condition which requires intermittent nursing services and continuous supervision of activities of daily living. The facility shall not admit persons whose care needs exceed the capability of the facility.

(b) Upon admission the facility shall obtain the patient's medical diagnosis, physician's orders for the care of the patient and the transfer form. Within seventy-two (72) hours after admission the facility shall obtain a medical evaluation from the patient's physician including current medical findings, medical history and physical examination. The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital or long-term facility if done within

fourteen (14) days prior to admission.

(c) Before admission the patient and a responsible member of his family or committee shall be informed in writing of the established policies of the facility including fees, reimbursement, visitation rights during serious illness, visiting hours, type of diets offered and services rendered.

(d) The facility shall provide and maintain a system for identifying each patient's personal property and facilities for safekeeping of his declared valuables. Each patient's clothing and other property shall be reserved for his own use.

(7) Discharge planning. The facility shall have a discharge planning program to assure the continuity of care for patients being transferred to another health care facility or being discharged to the home.

(8) Transfer procedures and agreements.

(a) The facility shall have written transfer procedures and agreements for the transfer of patients to other health care facilities which can provide a level of inpatient care not provided by the facility. Any facility which does not have a transfer agreement in effect but which documents a good faith attempt to enter into such an agreement shall be considered to be in compliance with the licensure requirement. The transfer procedures and agreements shall specify the responsibilities each institution assumes in the transfer of patients and establish responsibility for notifying the other institution promptly of the impending transfer of a patient and arrange for appropriate and safe transportation.

(b) When the patient's condition exceeds the scope of services of the facility, the patient, upon physician's orders (except in cases of emergency), shall be transferred promptly to a hospital or a skilled nursing facility, or services shall be contracted for from another community resource.

(c) When changes and progress occur which would enable the patient to function in a less structured and restrictive environment, and the less restrictive environment cannot be offered at the facility, the facility shall offer assistance in making arrangements for patients to be transferred to facilities providing appropriate services.

(d) Except in an emergency, the patient, his next of kin, or guardian, if any, and the attending physician shall be consulted in advance of the transfer or discharge of any patient.

(e) When a transfer is to another level of care within the same facility, the complete medical record or a current summary thereof shall be transferred with the patient.

(f) If the patient is transferred to another health care facility or home to be cared for by a home health agency, a transfer form shall accompany the patient. The transfer form shall include at least: physician's orders (if available), current information relative to diagnosis with history of problems requiring special care, a summary of the course of prior treatment, special supplies or equipment needed for patient care, and pertinent social information on the patient and his family.

(9) Tuberculosis Testing. All employees and patients shall be tested for tuberculosis in accordance with the provisions of 902 KAR 20:200, Tuberculosis testing in long term care facilities.

(10) Personnel.

(a) Job descriptions. Written job descriptions shall be developed for each category of personnel, to include qualifications, lines of authority and specific duty assignments.

(b) Employee records. Current employee records shall be maintained and shall include a resume of each employee's training and experience, evidence of current licensure or registration where required by law, health records, records of in-service training and ongoing education, and the employee's name, address and social security number.

(c) Staffing requirements.

1. The facility shall have adequate personnel to meet the needs of the patients on a twenty-four (24) hour basis. The number and classification of personnel required shall be based on the number of patients and the amount and kind of personal care, nursing care, supervision and program needed to meet the needs of the patients as determined by medical orders and by services required by this regulation.

2. When the staff/patient ratio does not meet the needs of the patients, the Division for Licensing and Regulation shall determine and inform the administrator in writing how many additional personnel are to be added and of what job classification and shall give the basis for this determination.

3. A responsible staff member shall be on duty and awake at all times to assure prompt, appropriate action in cases of injury, illness, fire or other emergencies.

4. Volunteers shall not be counted to make up minimum staffing requirements.

5. Supervision of nursing services shall be by a registered nurse or licensed practical nurse employed on the day shift seven (7) days per week. The supervisor shall have training in rehabilitative nursing. When a licensed practical nurse serves as the supervisor, consultation shall be provided by a registered nurse at regular intervals, not less than four (4) hours weekly. The responsibilities of the nursing services supervisor shall include:

a. Developing and maintaining nursing service objectives, standards of nursing practice, nursing procedure manuals, and written job descriptions for each level of nursing personnel.

b. Recommending to the administrator the number and levels of nursing personnel to be employed, participating in their recruitment and selection and recommending termination of employment when necessary.

c. Assigning and supervising all levels of nursing care.

d. Participating in planning and budgeting for nursing care.

e. Participating in the development and implementation of patient care policies.

f. Coordinating nursing services with other patient care services.

g. Participating in the screening of prospective patients in terms of required nursing services and nursing skills available.

h. Assuring that a written monthly assessment of the patient's general condition is completed.

i. Assuring that the establishment, review and modification of nursing care plans for each patient is done by licensed nursing personnel.

j. Assuring that all medications are administered by licensed personnel or by other personnel who have completed a state-approved training program.

k. Assuring that a monthly review of each patient's medications is completed and notifying the physician when changes are appropriate.

6. The facility shall employ a licensed pharmacist on a full-time, part-time or consultant basis to direct pharmaceutical services.

7. Each facility shall have a full-time person designated by the administrator, responsible for the total food service operation of the facility and on duty a minimum of thirty-five (35) hours each week.

8. Each facility shall designate a person for the following areas who will be responsible for:

a. Medical records;

b. Arranging for social services; and

c. Developing and implementing the activities program and therapeutic recreation.

9. Supportive personnel, consultants, assistants and volunteers shall be supervised and shall function within the policies and procedures of the facility.

(d) Health requirements. No employee contracting an infectious disease shall appear at work until the infectious disease can no longer be transmitted.

(e) Orientation program. The facility shall conduct an orientation program for all new employees to include review of all facility policies (that relate to the duties of their respective jobs), services and emergency and disaster procedures.

(f) In-service training.

1. All employees shall receive in-service training and ongoing education to correspond with the duties of their respective jobs.

2. All nursing personnel shall receive in-service or continuing education programs at least quarterly.

(11) Medical records.

(a) The facility shall develop and maintain a system of records retention and filing to insure completeness and prompt location of each patient's record. The records shall be held confidential. The records shall be in ink or typed and shall be legible. Each entry shall be dated and signed. Each record shall include:

1. Identification data including the patient's name, address and social security number (if available); name, address and telephone number of referral agency; name and telephone number of personal physician; name, address and telephone number of next of kin or other responsible person; and date of admission.

2. Admitting medical evaluation by a physician including current medical findings, medical history, physical examination and diagnosis. (The medical evaluation may be a copy of the discharge summary or history and physical report from a hospital, skilled nursing facility if done within fourteen (14) days prior to admission.)

3. The physician's dated and signed orders for medication, diet, and therapeutic services.

4. Physician's progress notes describing significant changes in the patient's condition, written at the time of each visit.

5. Findings and recommendations of consultants.

6. A medication sheet which contains the date, time given, name of each medication dosage, name of prescribing physician and name of person who administered the medication.

7. Nurse's notes indicating changes in patient's condition, actions, responses, attitudes, appetite, etc. Nursing personnel

shall make notation of response to medications, response to treatments, mode and frequency of PRN medications administered, condition necessitating administration of PRN medication, reaction following PRN medication, visits by physician and phone calls to the physician, medically prescribed diets and preventive, maintenance or rehabilitative nursing measures.

8. Written assessment of the patient's monthly general condition.

9. Reports of dental, laboratory and x-ray services (if applicable).

10. Changes in patient's response to the activity and therapeutic recreation program.

11. A discharge summary, signed and dated by the attending physician within one (1) month of discharge from the facility.

(b) Retention of records. After patient's death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years or, in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is the longest.

Section 4. Provision of Services. (1) General requirements.

(a) Patient care equipment. There shall be a sufficient quantity of patient care equipment of satisfactory design and in good condition to carry out established patient care procedures. The equipment shall include:

1. Wheelchairs with brakes;
2. Walkers;
3. Bedside rails;
4. Bedpans and urinals (permanent or disposable);
5. Emesis basins and wash basins (permanent or disposable);
6. Footstools;
7. Bedside commodes;
8. Foot cradles;
9. Foot boards;
10. Under-the-mattress bed boards;
11. Trapeze frames;
12. Transfer board; and
13. An autoclave for sterilization of nursing equipment and supplies or an equivalent alternate method of sterilization.

(b) Communicable diseases.

1. Except as provided by subparagraphs 2, 3 and 4 of this paragraph, no patient who is infected [shall knowingly be admitted to the facility] with a communicable disease which is reportable to the health department, pursuant to KRS Chapter 214 and applicable regulations, [except]

2. The following specific diseases, although reportable, do not preclude a person from being admitted to a facility, and do not necessitate any special procedures on the part of the facility upon patient admission: animal bites, asbestosis, botulism, histoplasmosis, Kawasaki's disease, lead poisoning, Lyme disease, mesothelioma, pneumoconiosis, Reye's syndrome, Rocky Mountain spotted fever, silicosis, toxic shock syndrome, and trichinosis.

3. A facility may admit a (non-infectious) tuberculosis patient under continuing medical supervision for his tuberculosis disease.

4. The following specific diseases, although reportable, also do not preclude a person from being admitted to a facility: acquired immune deficiency syndrome (AIDS), hepatitis B or non-A non-B, herpes (genital), leprosy, malaria and

syphilis (late latent only); however, if a facility chooses to admit persons with these diseases, the following conditions shall be met: [; provided, however, that a "facility" may admit persons having Acquired Immune Deficiency Syndrome (AIDS) provided that the following conditions are met:]

a. Staff of facility have completed a training program approved by the cabinet. In addition, the facility shall have appropriately registered or licensed nurses on a twenty-four (24) hour basis in order to meet the needs of these residents.

b. The facility has developed strict written procedures and protocols for staff to follow in order to avoid exposure to blood or body fluids of the affected residents [AIDS patient]; and to follow if such an exposure occurs.

c. The facility must apprise the public and the residents of the facility, that persons having one (1) or more of these specific disease(s) in subparagraph 4 of this paragraph [AIDS patients] are admissible to that facility, and which disease(s) are involved. [; but] Identifying information on these residents [AIDS patients] shall not be disclosed except as provided by law or regulation of the Cabinet for Human Resources.

5. [2.] If, after admission, a patient is suspected of having a communicable disease that would endanger the health and welfare of other patients the administrator shall assure that a physician is contacted and that appropriate measures are taken on behalf of the patient with the communicable disease and the other patients.

(c) Use of restraints or protective devices.

1. If a patient becomes disturbed or unmanageable, the patient's physician shall be notified in order to evaluate and direct the patient's care.

2. No form of restraints or protective devices shall be used except upon written orders of the attending physician.

a. Protective devices. Protective devices may be used to protect the patient from falling from a bed or chair. The least restrictive form of protective device shall be used which affords the patient the greatest possible degree of mobility. In no case shall a locking device be used.

b. Physical restraint. Restraints that require lock and key shall not be used. In an emergency, restraints may be used temporarily, but in no case for a period to exceed twelve (12) hours. Restraints shall be applied only by personnel trained in the proper application and observation of this equipment. Restraints shall be checked at least every one-half (1/2) hour and released at least ten (10) minutes every two (2) hours. The checks and releases of restraints shall be recorded in the patient's medical record as they are completed. Such records shall document the rationale or justification for the use of the procedure, a description of the specific procedures employed, and the physician's order. Restraints shall be used only as a therapeutic measure to prevent the patient from causing physical harm to self or others. Restraints shall not be used as a punishment, as discipline, as a convenience for the staff, or as a mechanism to produce regression. Restraints shall be comfortable and easily removed in case of an emergency.

c. Chemical restraints. Chemical restraints shall not be used as punishment, for the

convenience of the staff, as a substitute for programs, or in quantities that interfere with the patient's habilitation.

(2) Physician services. All patients shall be under the medical supervision of a licensed physician. These services shall include:

(a) Physician's visit for medical evaluation as often as necessary and in no case less often than every sixty (60) days, unless justified and documented by the attending physician in the patient's medical report.

(b) Physician services for medical emergencies available on a twenty-four (24) hour, seven (7) days-a-week basis.

(3) Nursing services. Nursing services shall include:

(a) The establishment of a nursing care plan for each patient. Each plan shall be reviewed and modified as necessary, or at least quarterly. Each plan shall include goals and nursing care needs;

(b) Rehabilitative nursing care to achieve and maintain the highest degree of function, self-care and independence. Rehabilitative measures shall be practiced on a twenty-four (24) hour, seven (7) day week basis. Those procedures requiring medical approval shall be ordered by the attending physician. Rehabilitative measures shall include:

1. Positioning and turning. Nursing personnel shall encourage and assist patients in maintaining good body alignment while standing, sitting, or lying in bed.

2. Exercises. Nursing personnel shall assist patients in maintaining maximum joint range of motion or active range of motion.

3. Bowel and bladder training. Nursing personnel shall make every effort to train incontinent patients to gain bowel and bladder control.

4. Training in activities of daily living. Nursing personnel shall encourage and when necessary teach patients to function at their maximum level in appropriate activities of daily living for as long as, and to the degree that, they are able.

5. Ambulation. Nursing personnel shall assist and encourage patients with daily ambulation unless otherwise ordered by the physician.

(c) Administration of medications including oral, rectal, hypodermic, and intramuscular;

(d) Written monthly assessment of the patient's general condition by licensed nursing personnel;

(e) Treatments such as: enemas, irrigations, catheterizations, applications of dressings or bandages, supervision of special diets;

(f) The recording of any changes, as they occur, in the patient's condition, actions, responses, attitudes, appetite, etc.

(g) Implementing a regular program to prevent decubiti with emphasis on the following:

1. Procedures to maintain cleanliness of the patient, his clothes and linens shall be followed each time the bed or the clothing is soiled. Rubber, plastic, or other type of linen protectors shall be properly cleaned and completely covered to prevent direct contact with the patient.

2. Special effort shall be made to assist the patient in being up and out of bed as much as his condition permits, unless medically contraindicated. If the patient cannot move himself, he shall have his position changed as often as necessary but not less than every two

(2) hours.

(4) Pharmaceutical services.

(a) The facility shall provide appropriate methods and procedures for obtaining, dispensing, and administering drugs and biologicals, developed with the advice of a licensed pharmacist or a pharmaceutical advisory committee which includes one (1) or more licensed pharmacists.

(b) If the facility has a pharmacy department, a licensed pharmacist shall be employed to administer the pharmacy department.

(c) If the facility does not have a pharmacy department, it shall have provision for promptly obtaining prescribed drugs and biologicals from a community or institutional pharmacy holding a valid pharmacy permit issued by the Kentucky Board of Pharmacy, pursuant to KRS 315.035.

(d) An emergency medication kit approved by the facility's professional personnel shall be kept readily available. The facility shall maintain a record of what drugs are in the kit and document how the drugs are used.

(e) Medication requirement and services.

1. Conformance with physician's orders. All medications administered to patients shall be ordered in writing. Oral orders shall be given only to a licensed nurse or pharmacist, immediately reduced to writing, and signed. Medications not specifically limited as to time or number of doses, when ordered, shall be automatically stopped in accordance with the facility's written policy on stop orders. A registered nurse or the pharmacist shall review each patient's medical profile monthly. Medications shall be reviewed at least quarterly by the attending or staff physician. The patient's attending physician shall be notified of stop order policies and contacted promptly for renewal of such orders so that continuity of the patient's therapeutic regimen is not interrupted. Medications shall be released to patients on discharge or visits only after being labeled appropriately and on the written authorization of the physician.

2. Administration of medications. All medications shall be administered by licensed nurses or personnel who have completed a state-approved training program. Each dose administered shall be recorded in the medical record. Intramuscular injections shall be administered by a licensed nurse or a physician. If intravenous injections are necessary they shall be administered by a licensed physician or registered nurse.

a. The nursing station shall have items required for the proper administration of medications.

b. Medications prescribed for one (1) patient shall not be administered to any other patient.

c. Self-administration of medications by patients shall not be permitted except on special order of the patient's physician and a predischARGE program under the supervision of a licensed nurse.

d. Medication errors and drug reactions shall be immediately reported to the patient's physician and pharmacist and an entry thereof made in the patient's medical record as well as on an incident report.

3. The facility shall provide up-to-date medication reference texts for use by the nursing staff (e.g., Physician's Desk Reference).

4. Labeling and storing medications. All medications shall be plainly labeled with the

patient's name, the name of the drug, strength, name of pharmacy, prescription number, date, physician name, caution statements and directions for use except where accepted modified unit dose systems conforming to federal and state laws are used. The medications of each patient shall be kept and stored in their original containers and transferring between containers shall be prohibited. All medicines kept by the facility shall be kept in a locked place and the persons in charge shall be responsible for giving the medicines and keeping them under lock and key. Medications requiring refrigeration shall be kept in a separate locked box of adequate size in the refrigerator in the medication area. Drugs for external use shall be stored separately from those administered by mouth and injection. Provisions shall also be made for the locked separate storage of medications of deceased and discharged patients until such medication is surrendered or destroyed in accordance with federal and state laws and regulations.

5. Controlled substances. Controlled substances shall be kept under double lock (e.g., in a locked box in a locked cabinet). There shall be a controlled substances record, in which is recorded the name of the patient; the date, time, kind, dosage, balance remaining and method of administration of all controlled substances; the name of the physician who prescribed the medications; and the name of the nurse who administered it, or staff who supervised the self-administration. In addition, there shall be a recorded and signed schedule II controlled substances count daily, and schedule III, IV and V controlled substances count once per week by those persons who have access to controlled substances. All controlled substances which are left over after the discharge or death of the patient shall be destroyed in accordance with KRS 218A.230, or 21 CFR 1307.21, or sent via registered mail to the Controlled Substances Enforcement Branch of the Kentucky Cabinet for Human Resources.

(5) Personal care services.

(a) All facilities shall provide services to assist patients to achieve and maintain good personal hygiene including the level of assistance necessary with:

1. Bathing of the body to maintain clean skin and freedom from offensive odors. In addition to assistance with bathing, the facility shall provide soap, clean towels, and wash cloths for each patient. Toilet articles such as brushes and combs shall not be used in common.

2. Shaving.

3. Cleaning and trimming of fingernails and toenails.

4. Cleaning of the mouth and teeth to maintain good oral hygiene as well as care of the lips to prevent dryness and cracking. All patients shall be provided with tooth brushes, a dentifrice, and denture containers, when applicable.

5. Washing, grooming, and cutting of hair.

(b) The staff shall encourage and assist the patients to dress in their own street clothing (unless otherwise indicated by the physician).

(6) Dental services. The facility shall assist patients in obtaining dental services. Conditions necessitating dental services shall be noted and such dental procedures and services provided shall be recorded in the patient's record.

(7) Social services. The facility shall

provide or arrange for social services as needed by the patient.

(a) Social services shall be integrated with other elements of the plan of care.

(b) A plan for such care shall be recorded in the patient's record and periodically evaluated in conjunction with the patient's total plan of care.

(c) Social services records shall be maintained as an integral part of case record maintained on each patient.

(8) Activities and therapeutic recreation.

(a) All facilities shall provide a program to stimulate physical and mental abilities to the fullest extent, to encourage and develop a sense of usefulness and self respect and to prevent, inhibit or correct the development of symptoms of physical and mental regression due to illness or old age. The program shall provide sufficient variety to meet the needs of the various types of patients in the facility. When possible, the patient shall be included in the planning of activities.

(b) All facilities shall meet the following program requirements:

1. Staff. A person designated by the administrator shall be responsible for the program.

2. A program shall be developed for each patient and shall be incorporated in the patient's plan of care and revised according to the patient's needs. Changes in his response to the program shall be recorded in the medical record.

3. There shall be a planned and supervised activity period each day. The schedule shall be current and posted.

4. The program shall be planned for group and individual activities, both within and outside of the facility, weather permitting.

5. The person responsible for activities shall maintain a current list of patients on which precautions are noted regarding a patient's condition that might restrict or modify his participation in the program.

6. A living or recreation room and outdoor recreational space shall be provided for patients and their guests.

7. The facility shall provide supplies and equipment for the activities program.

8. Reading materials, radios, games and TV sets shall be provided for the patients.

9. The program may include religious activities for each patient if it is the desire of the patient to participate. Requests from a patient to be seen by a clergyman shall be acted upon as soon as possible, and an area of private consultation shall be made available.

10. The facility shall allow the patient to leave the facility to visit, shop, attend church, or other social activities provided this does not endanger his health or safety.

(9) Transportation.

(a) If transportation of patients is provided by the facility to community agencies or other activities, the following shall apply:

1. Special provision shall be made for patients who use wheelchairs.

2. An escort or assistant to the driver shall be provided in transporting patients to and from the facility if necessary for the patient's safety.

(b) The facility shall arrange for appropriate transportation in case of medical emergencies.

(10) Residential care services. All facilities

shall provide residential care services to all patients including: room accommodations, housekeeping and maintenance services, and dietary services. All facilities shall meet the following requirements relating to the provision of residential care services.

(a) Room accommodations.

1. Each patient shall be provided a standard size bed at least thirty-six (36) inches wide, equipped with substantial springs, a clean comfortable mattress, a mattress cover, two (2) sheets and a pillow, and such bed covering as is required to keep the patients comfortable. Rubber or other impervious sheets shall be placed over the mattress cover whenever necessary. Beds occupied by patients shall be placed so that no patient may experience discomfort because of proximity to radiators, heat outlets, or by exposure to drafts.

2. The facility shall provide window coverings, bedside tables with reading lamps (if appropriate), comfortable chairs, chest or dressers with mirrors, a night light, and storage space for clothing and other possessions.

3. Patients shall not be housed in unapproved rooms or unapproved detached buildings.

4. Basement rooms shall not be used for sleeping rooms for patients.

5. Patients may have personal items and furniture when it is physically feasible.

6. There shall be a sufficient number of tables provided that can be rolled over a patient's bed or be placed next to a bed to serve patients who cannot eat in the dining room.

7. Each living room or lounge area and recreation area shall have an adequate number of reading lamps, and tables and chairs or settees of sound construction and satisfactory design.

8. Dining room furnishings shall be adequate in number, well constructed and of satisfactory design for the patients.

9. Each patient shall be permitted to have his own radio and television set in his room unless it interferes with or is disturbing to other patients.

(b) Housekeeping and maintenance services.

1. The facility shall maintain a clean and safe facility free of unpleasant odors. Odors shall be eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans and other obvious sources.

2. An adequate supply of clean linen shall be on hand at all times. Soiled clothing and linens shall receive immediate attention and shall not be allowed to accumulate. Clothing or bedding used by one (1) patient shall not be used by another until it has been laundered or dry cleaned.

3. Soiled linen shall be placed in washable or disposable containers, transported in a sanitary manner and stored in separate, well-ventilated areas in a manner to prevent contamination and odors. Equipment or areas used to transport or store soiled linen shall not be used for handling or storing of clean linen.

4. Soiled linen shall be sorted and laundered in the soiled linen room in the laundry area. Handwashing facilities with hot and cold water, soap dispenser and paper towels shall be provided in the laundry area.

5. Clean linen shall be sorted, dried, ironed, folded, transported, stored and distributed in a sanitary manner.

6. Clean linen shall be stored in clean linen closets on each floor, close to the nurses'

station.

7. Personal laundry of patients or staff shall be collected, transported, sorted, washed and dried in a sanitary manner, separate from bed linens.

8. Patients' personal clothing shall be laundered by the facility as often as is necessary. Patients' personal clothing shall be laundered by the facility unless the patient or the patient's family accepts this responsibility. Patients capable of laundering their own personal clothing and wishing to do so may, instead, be provided the facilities to do so. Patient's personal clothing laundered by the facility shall be marked to identify the patient-owner and returned to the correct patient.

9. Maintenance. The premises shall be well kept and in good repair. Requirements shall include:

a. The facility shall insure that the grounds are well kept and the exterior of the building, including the sidewalks, steps, porches, ramps and fences are in good repair.

b. The interior of the building including walls, ceilings, floors, windows, window coverings, doors, plumbing and electrical fixtures shall be in good repair. Windows and doors shall be screened.

c. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

d. A pest control program shall be in operation in the facility. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. The compounds shall be stored under lock.

(c) Dietary services. The facility shall provide or contract for food service to meet the dietary needs of the patients including modified diets or dietary restrictions as prescribed by the attending physician. When a facility contracts for food service with an outside food management company, the company shall provide a qualified dietician on a full-time, part-time or consultant basis to the facility. The qualified dietician shall have continuing liaison with the medical and nursing staff of the facility for recommendations on dietetic policies affecting patient care. The company shall comply with all of the appropriate requirements for dietary services in this regulation.

1. Therapeutic diets. If the designated person responsible for food service is not a qualified dietician or nutritionist, consultation by a qualified dietician or qualified nutritionist shall be provided.

2. Dietary staffing. There shall be sufficient food service personnel employed and their working hours, schedules of hours, on duty and days off shall be posted. If any food service personnel are assigned duties outside the dietary department, the duties shall not interfere with the sanitation, safety or time required for regular dietary assignments.

3. Menu planning.

a. Menus shall be planned, written and rotated to avoid repetition. Nutrition needs shall be met in accordance with the current recommended dietary allowances of the Food and Nutrition Board of the National Research Council adjusted for age, sex and activity, and in accordance

with physician's orders.

b. Meals shall correspond with the posted menu. Menus must be planned and posted one (1) week in advance. When changes in the menu are necessary, substitutions shall provide equal nutritive value and the changes shall be recorded on the menu and kept on file for thirty (30) days.

c. The daily menu shall include daily diet for all modified diets served within the facility based on an approved diet manual. The diet manual shall be a current manual with copies available in the dietary department, that has the approval of the professional staff of the facility. The diet manual shall indicate nutritional deficiencies of any diet. The dietician shall correlate and integrate the dietary aspects of the patient care with the patient and patient's chart through such methods as patient instruction, recording diet histories and participation in rounds and conferences.

4. Food preparation and storage.

a. There shall be at least a three (3) day supply of food to prepare well balanced palatable meals.

b. Food shall be prepared with consideration for any individual dietary requirement. Modified diets, nutrient concentrates and supplements shall be given only on the written orders of a physician.

c. At least three (3) meals per day shall be served with not more than a fifteen (15) hour span between the substantial evening meal and breakfast. Between-meal snacks to include an evening snack before bedtime shall be offered to all patients. Adjustments shall be made when medically indicated.

d. Foods shall be prepared by methods that conserve nutritive value, flavor and appearance and shall be attractively served at the proper temperatures, and in a form to meet the individual needs. A file of tested recipes, adjusted to appropriate yield shall be maintained. Food shall be cut, chopped or ground to meet individual needs. If a patient refuses foods served, nutritional substitutions shall be offered.

e. All opened containers or left-over food items shall be covered and dated when refrigerated.

5. Serving of food. When a patient cannot be served in the dining room, trays shall be provided for bedfast patients and shall rest on firm supports such as overbed tables. Sturdy tray stands of proper height shall be provided for patients able to be out of bed.

a. Correct positioning of the patient to receive his tray shall be the responsibility of the direct patient care staff. Patients requiring help in eating shall be assisted.

b. Adaptive self-help devices shall be provided to contribute to the patient's independence in eating.

6. Sanitation. All facilities shall comply with all applicable provisions of KRS 219.011 to KRS 219.081 and 902 KAR 45:005 (Kentucky's Food Service Establishment Act and Food Service Code).

Section 5. Separability. If any clause, sentence, paragraph, section or part of these regulations shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence,

paragraph, section or part thereof, directly involved in the controversy in which the judgment was rendered.

WILLIAM M. GARDNER, Inspector General

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: October 31, 1986

FILED WITH LRC: November 12, 1986 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 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 December 17, 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: Delano Miller

(1) Type and number of entities affected: Would impact three long term care licensure categories.

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

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: Long term care facilities admitting residents with diseases that have a low risk of transmission would be required to meet three stipulations established by the cabinet.

(2) Effects on the promulgating administrative body: The Cabinet for Human Resources would indirectly bear some of the costs through the Medicaid program.

(a) Direct and indirect costs or savings: (See above)

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: (Minimal increase)

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The alternative was to maintain the status quo, and bar victims of reportable diseases from admission to long term care facilities.

(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: No
TIERING: Was tiering applied? No. These are licensure standards. All services are required to meet the same requirements.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: There are no federal standards pursuant to this subject.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. This proposed amendment loosens admission standards by removing barriers from admission to long term care facilities.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: A person who has been infected with a disease which has a low risk of transmission can be admitted to a long term care facility only after the facility has met three criteria established by the cabinet.

CABINET FOR HUMAN RESOURCES
Commission for Health Economics Control
(Proposed Amendment)

902 KAR 25:010. Section 1122 Review.

RELATES TO: KRS 194.025(3), 194.050(1)

PURSUANT TO: KRS 194.050(1)

NECESSITY AND FUNCTION: KRS 194.050 requires the Secretary for Human Resources to adopt, administer and enforce all rules and regulations necessary to operate the programs and fulfill the responsibilities vested in the Cabinet for Human Resources. This regulation implements the agreement between the Cabinet and the Secretary of the Department of Health and Human Services to carry out the provisions of Section 1122 of the Social Security Act.

Section 1. Purpose. The purpose of this regulation is to assure that federal funds appropriated under Titles V, XVIII, and XIX of the Social Security Act are not used to support unnecessary capital expenditures made by or on behalf of health facilities which are reimbursed under any of these titles and that, to the extent possible, reimbursement under these titles shall support planning activities with respect to health facilities in Kentucky.

Section 2. Definitions. Except as otherwise provided herein, the meanings of all terms used in this regulation shall be the same as the definitions of corresponding terms used in the certificate of need law, KRS Chapter 216B and regulations promulgated thereunder, as amended.

(1) "Bed capacity" means licensed bed capacity of a given facility, and includes hemodialysis stations.

(2) "Cabinet" means the Cabinet for Human Resources acting as the designated planning agency pursuant to its contract with the Secretary of the Department of Health and Human Services, under Section 1122 of the Social Security Act, as amended.

(3) "Health facility" means a hospital, psychiatric hospital, tuberculosis hospital, skilled nursing facility, kidney disease treatment center, including a freestanding hemodialysis unit, intermediate care facility and ambulatory surgical facility, but does not include Christian Science sanatoriums operated or listed and certified by the First Church of Christ, Scientist, Boston, Massachusetts.

(4) "Local health planning agency" means a health planning agency organized for a designated geographical area of the Commonwealth and recognized by the Governor, in whose

designated area the subject capital expenditure is to be obligated.

(5) "Secretary for HHS" means the Secretary of the Department of Health and Human Services and any officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

Section 3. Coverage. (1) Any capital expenditure proposed by or on behalf of a health facility is subject to review which:

(a) Substantially changes the health service provided; or

(b) Increases [or decreases] the bed capacity of the facility; or

(c) Exceeds \$600,000 [100,000].

(2) The cost of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion or replacement of the plant and equipment for which the expenditure is made shall be included in determining whether the capital expenditure is reviewable.

(3) Where a person acquires by lease or comparable arrangement, or by donation, any health facility or part thereof or equipment for a health facility, that acquisition shall be subject to review if by purchase at fair market value it would have been subject to review.

(4) Except as provided for in Section 8 of this regulation, any change in a proposed capital expenditure which meets the criteria set forth in this section shall be subject to review.

(5) A determination by the department that a capital expenditure is subject to review may be appealed to the Secretary of HHS.

(6) Review will not be necessary when the estimated cost of the project is certified by a licensed architect or engineer, within sixty (60) days of the date on which the obligation is incurred, to be \$600,000 [100,000] or less; provided that where the actual cost of the project exceeds \$600,000 [100,000], the health facility shall submit a written application, with a copy of the certified estimate, to the cabinet not more than thirty (30) days after the date the capital expenditure is obligated.

(7) [Pursuant to 42 CFR 100.106(a)(4), the cabinet elects not to review any capital expenditure which does not require a certificate of need under KRS Chapter 216B and regulations promulgated thereunder, as amended; provided that] The cabinet shall review any capital expenditure for acquisition of a health facility which meets the criteria of this section.

(8) Review shall be waived if the capital expenditure exceeds \$600,000 but is less than the Kentucky certificate of need capital expenditure threshold and does not involve a substantial change in health services or an increase in bed capacity.

Section 4. Findings and Recommendations. (1) With respect to each capital expenditure proposed by or on behalf of a health facility, the cabinet shall submit to the Secretary of HHS its findings as to whether:

(a) A timely application was submitted in accordance with required procedures; and

(b) The capital expenditure is or is not inconsistent with the appropriately established standards, criteria, or plans developed for review of certificate of need applications pursuant to KRS Chapter 216B and regulations promulgated thereunder, as amended (or the

Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963).

(2) The cabinet shall consider any recommendation of the respective local health planning agency in making its finding.

(3) If the cabinet finds that the proposed capital expenditure is not consistent with prescribed standards, criteria, or plans, it shall:

(a) Submit to the Secretary of HHS the findings and recommendations of the local health planning agency, if any;

(b) Recommend whether the Secretary of HHS should either:

1. Exclude expenses related to such capital expenditure in determining the federal payments to be made under Titles V, XVIII, and XIX with respect to services furnished in the health facility for which such capital expenditure is made; or

2. Not exclude such expenses, on the ground that the health facility has demonstrated proof of its capability to provide comprehensive health services efficiently, effectively, and economically, and that such an exclusion would discourage the operation or expansion of the health facility.

(4) If the cabinet's findings are contrary to the recommendation of the local health planning agency, it will submit to the Secretary of HHS a statement of the reasons for the contrary finding.

(5) If the cabinet finds that the proposed capital expenditure is consistent with prescribed standards, criteria or plans, but that a timely application was not submitted, it shall recommend to the Secretary of HHS that the applicant not be cited for untimely notice if it finds that:

(a) The capital expenditure has been obligated in response to an emergency so that:

1. Delay for the filing of a timely application would have placed in jeopardy the health or safety of the patients of the facility;

2. The capital expenditure was not for a new health facility or the expansion of capacity of an existing health service of the facility; and

3. The applicant filed the application within sixty (60) days after the obligation occurred; or

(b) The applicant made a reasonable effort to determine from the cabinet whether the expenditure was subject to review, and the cabinet did not inform the applicant within sixty (60) days of its inquiry that the expenditure was subject to review.

Section 5. Review Procedures. (1) The applicant shall apply on the form developed by the cabinet, simultaneously submitting the original application and one (1) copy to the cabinet and two (2) copies to the appropriate local health planning agency, if any. A complete application must be filed not less than sixty (60) days prior to the obligation of the capital expenditure.

(2) If the proposed capital expenditure also requires a certificate of need, the applicant may utilize the same application if he provides written consent that the cabinet review his application under the certificate of need review cycle, including applicable time limitations, and the application shall be processed accordingly. If the applicant does not so consent, a separate application must be submitted.

(3) The review shall be completed within ninety (90) days of receipt of a complete application except:

(a) When the applicant elects to have his Section 1122 and certificate of need applications processed concurrently;

(b) When the applicant states in writing that he will incur the obligation prior to the ninetieth day, then the review shall be completed within sixty (60) days of receipt of a complete application; or

(c) When the applicant waives the ninety (90) day requirement.

(4) Upon receipt of an application, the cabinet shall acknowledge receipt and consult with the local health planning agency, if any, to determine if the application is complete:

(a) If the application is deemed complete upon receipt, the applicant will be notified within fifteen (15) days. If the application is incomplete, the cabinet shall notify the applicant of any additional relevant information required, within fifteen (15) days after receipt of the application, and shall inform the applicant that the review period shall not commence until it is provided or until the applicant notifies the cabinet that he elects for the application to be processed as originally submitted;

(b) If the applicant provides only part of the additional information requested, the cabinet shall, within fifteen (15) days, notify the applicant that the application is still incomplete but the review will commence.

(5) The review cycle commences when a complete application is received or when the applicant has responded by providing additional information or by indicating that he elects for the application to be processed as originally submitted.

(6) The cabinet shall notify the applicant of the commencement of the review and shall make available through public information channels notice of its receipt of the application and of the commencement of the review, after it has been determined to be complete.

(7) Within the time prescribed in subsection (3), the cabinet shall notify the applicant in writing whether the proposed capital expenditure is in conformity with prescribed standards, criteria, and plans, or that the department has elected not to review the proposed capital expenditure. Where the cabinet has determined that the proposed capital expenditure would not be in conformity with the standards, criteria or plans described in Section 4(1)(b) of this regulation, notification of this decision shall be accompanied by a statement of the cabinet's proposed recommendation to the Secretary of HHS and the reasons therefor, a summary of the findings and recommendations of the local health planning agency, if any, and shall provide an opportunity for a fair hearing with respect to the findings and recommendations of the cabinet at the request of the person proposing such capital expenditure. Notice of the cabinet's findings shall be deemed complete upon mailing.

(8) The cabinet shall send a copy of its findings to the local health planning agency, if any, and shall make its findings available through public information channels.

(9) Any applicant may withdraw his application, without prejudice, by filing simultaneous written notice with the cabinet and the local health planning agency, if any, prior

to receipt of notice of the cabinet's findings.

Section 6. Fair Hearings. (1) Within thirty (30) days of the date of notice of an adverse finding by the cabinet, the applicant may file a written request for a hearing.

(2) The hearing shall be commenced within thirty (30) days after receipt of the request for the hearing, or later with the consent of the applicant.

(3) The hearing shall be conducted by an agency or person designated by the Governor, but shall not be conducted by the cabinet or any agency which, or any person who, has taken part in any prior consideration of or action upon the application.

(4) The hearing shall be public and the cabinet shall make available through public information channels details of the scheduled hearing except notice to the applicant and the local health planning agency, if any, shall be by mail.

(5) The applicant, the local health planning agency and other interested parties, including representatives of consumers of health services, shall be permitted to give testimony and present arguments in the hearing.

(6) All testimony shall be recorded but need not be transcribed. Copies of records of the proceedings shall be furnished to any person upon request and payment of costs of reproduction.

(7) No more than forty-five (45) days after the conclusion of the hearing, the hearing officer shall serve notice of his decision to the applicant, the cabinet, the local health planning agency, if any, and other interested parties who participated in the hearing. Notice shall be deemed complete upon mailing. The cabinet shall make the decision of the hearing officer available through public information channels.

(8) The hearing officer shall affirm, reverse or modify the findings and recommendations of the cabinet, and may remand the matter to the cabinet for further action, with specified time limits.

(9) The cabinet shall transmit its findings and recommendations, together with the hearing officer's decision, to the Secretary of HHS.

Section 7. Resubmission. (1) An applicant whose project was excluded from reimbursement by the Secretary of HHS may reapply to the department for reconsideration upon a showing that:

(a) There has been a substantial change (since the previous finding) in existing or proposed health facilities or services of the type proposed in the area served;

(b) There has been a substantial change (since the previous finding) in the need for health facilities or services of the type proposed in the area served, as reflected in the plans, criteria, or standards; or

(c) At least three (3) years have elapsed from the date of the most recent negative finding of the department.

(2) An application shall be submitted on the form prescribed by the cabinet. If the cabinet finds that good cause has been shown as described in this section, the application shall be reviewed in the same manner as an original application.

Section 8. Escalations. (1) An applicant whose approved capital expenditure has escalated in excess of \$100,000 since its review by the cabinet may request exemption from review of the escalated amount, upon demonstrating to the cabinet that:

(a) The capital expenditure has not been obligated in excess of the amount approved;

(b) The project has not changed from that originally approved; and

(c) The amount of the escalation does not exceed the maximum permitted under 902 KAR 20:006, as amended.

(2) The escalation request shall be submitted on a form prescribed by the cabinet.

Section 9. Approvals. (1) An approval of an application by the Secretary of HHS shall be valid for one (1) year, subject to a six (6) month extension by the cabinet if the applicant has a valid certificate of need, if required by KRS Chapter 216B.

(2) If a project proposes a long-term construction plan under which a series of obligations for capital expenditures for discrete components will be incurred, over a period longer than one (1) year, the cabinet may grant an approval which is valid for three (3) years.

Section 10. Plans. Hospitals shall submit to the cabinet plans which detail capital expenditures for at least a three (3) year period and shall update the plans annually on or before July 1.

E. AUSTIN, JR., Secretary

JACK S. LESSHAFFT, SR., Commissioner

APPROVED BY AGENCY: October 29, 1986

FILED WITH LRC: November 12, 1986 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 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 December 17, 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: Jack S. Lesshafft, Sr.

(1) Type and number of entities affected: All health facilities covered by Section 1122 of the Social Security Act.

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

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: Requires hospitals to submit three-year capital expenditure plans.

(2) Effects on the promulgating administrative body: Minimal

(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:

Increased capital expenditure threshold will decrease the number of proposals requiring review.

(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:

TIERING: Was tiering applied? No. Section 1122 applies equally to hospitals and certain other health facilities when reimbursement under Titles XVIII and XIX is anticipated.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: Public Law 98-21: Section 1122(g) changes the dollar unit in the definition of "capital expenditure" from \$100,000 to \$600,000; Section 1861(z)(2) requires hospitals to submit three-year capital expenditure plans to an agency designated in accordance with Section 1122(b) of the Act. In Kentucky, that agency is the Cabinet for Human Resources.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: The proposed amendments will bring 902 KAR 25:010 into compliance with federal requirements.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

CABINET FOR HUMAN RESOURCES Department for Employment Services Division of Unemployment Insurance (Proposed Amendment)

903 KAR 5:260. Unemployment insurance procedures.

RELATES TO: KRS 341.005 through 341.990

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

NECESSITY AND FUNCTION: Title III of the Social Security Act authorizes the states to implement an unemployment insurance program. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the procedures required to administer the unemployment insurance program in accordance with applicable state and federal laws and regulations.

Section 1. In order to facilitate the administration of the unemployment insurance program as authorized by Title III of the Social Security Act and KRS Chapter 341, the following

operating manuals are adopted by reference:

(1) Unemployment Insurance Local Office Manual as issued February, 1984 and last revised October 15 [May 8], 1986. This manual includes procedures: for requiring proper identification of persons filing claims for benefits; for taking and processing initial, additional, reactivated and continued claims for benefits; for assigning claimants to the appropriate group for the eligibility review program; for conducting the eligibility review program; for stopping and releasing payment of benefits; for entering claim history and benefit payment information into the data base; for taking and processing interstate claims, combined wage claims, claims by former federal employees and ex-servicemembers, and claims for extended benefits; for conducting supplemental compensation benefits; for conducting investigations and issuing determinations regarding a claimant's separation, ability to work, availability for work, active search for work, benefit entitlement, and deductions from benefits; for processing employers' protests to claims; for taking requests for reconsideration of monetary eligibility; for establishing benefit overpayments and initiating recovery or recoupment by processing partial payment agreements or issuing liens; for initiating action on lost or returned checks; for detecting and initiating recovery of fraudulent overpayments; for filing appeals to eligibility determinations; for reporting workload time spent; for compiling claims and nonmonetary determination statistics; and for ranking of local offices based on performance criteria.

(2) Unemployment Insurance Benefit Branch Procedures Manual issued May, 1982 and last revised March 7, 1986. This manual includes procedures for administering the payment of unemployment insurance benefits; for maintaining accounts for all benefit income and expenditures; for detecting, establishing and initiating recovery of benefit overpayments; for assigning benefit charges to employer accounts; for conducting a quality review of nonmonetary determinations affecting the payment of benefits; for processing unemployment claims for former federal employees, ex-servicemembers, combined wage claimants, interstate claims, claims for Disaster Unemployment Assistance, claims under the Trade Readjustment Act and claims under the Work Incentive Program; for reconsidering monetary rate determinations; for processing payment for lost or returned benefit checks; and for investigating potential fraud and recommendation of recovery action or criminal prosecution.

(3) Unemployment Insurance Tax Collection and Accounting Branch Manual issued November, 1982 and last revised July [May] 1, 1986. This manual includes procedures: for setting up, transferring and cancelling employer contribution and reimbursement accounts; for collecting quarterly taxes from contributory employers and for billing reimbursing employers for benefits paid; for auditing quarterly wages and tax reports by making adjustments, assessing additional payment and penalties and crediting tax overpayments; for adjusting wages if required when a reconsideration of monetary benefit eligibility is filed; and for collecting delinquent taxes by filing tax liens, recommending suits and temporary restraining orders, garnishing wages, filing claims in

bankruptcy or against monies due to delinquent employers from state agencies.

(4) Unemployment Insurance Administrative Support Branch Manual issued December, 1983 and last revised November 9, 1984. This manual includes procedures: for maintaining files of benefit claims, employer records, appeals, and unemployment insurance commission orders; for maintaining mail security operations for all checks received by the division; for gathering statistics and conducting statistical studies; for verifying workload items for the budget process; for publishing statistical reports for the division and for general publication; for maintaining and distributing federal and state-released procedures; for maintaining all procedures manuals; for conducting the unemployment insurance quality appraisal; for training division personnel; for retaining and disposing of records; for providing data processing liaison services; for preparing state and federal budgets; for operating the Cost Model Management System; for maintaining the Cost Information System; for controlling forms control; and for monitoring purchases, expenditures and repairs.

(5) Unemployment Insurance Field Audit Manual issued February, 1984 and last revised January 11, 1985. This manual includes procedures for handling matters which cannot be handled directly or expediently by the central office tax branch, such as procedures: for locating employers; for conducting investigations of employers, and their payrolls and employment records; for determining an employer's status under the law; for assessing contributions and collecting delinquent contributions; for serving legal papers; for conducting property investigations; for auditing employer records; and for furnishing technical assistance to employers.

(6) Unemployment Insurance Director's Office Manual issued November 18, 1983, and last revised December 12, 1984. This manual includes procedures for operating the Fraud Investigations and Internal Security Unit such as procedures for: administering the unit; detecting fraud; prosecuting fraud cases; closing out fraud cases; preventing fraud; maintaining internal security; and conducting other investigations.

(7) Kentucky Unemployment Insurance Commission Administrative Branch Manual issued September 1, 1985. This manual includes procedures for the daily operations of the branch. Such procedures include staff duties and responsibilities, the review of cases, the conduct of hearings, the preparation of decisions and the proper handling of records and reports.

Section 2. All documents incorporated by reference herein are on file for public inspection in the Office of the Commissioner for Employment Services, 275 East Main Street, Frankfort, Kentucky 40621 and in local unemployment insurance offices located throughout the state.

Section 3. Summary of Amendment. Unemployment Insurance Local Office Manual. (1) Chapter 2000. Initial Claims [8000, Appeals], strike pages (2020-2020(2)) - (2020-2030) dated 3-5-86 [contents dated 10-30-85], and substitute in lieu thereof pages (2020-2020(2)) - (2020-2030) dated 6-5-86, which advises program 4T is no

longer available on IMS [contents dated 5-5-86]. Strike pages (2010-2020) - (2020-2020) dated 3-10-86, (2020-2020(2)) - (2020-2030) dated 6-5-86, (2170-2220) - (2220-2240), dated 8-30-85 and substitute in lieu thereof pages (2010-2020) - (2020-2020), (2020-2020(2)) - (2020-2030) and (2170-2220) - (2220-2240) each dated 8-8-86, which instruct the local offices to enter any earnings reported by the claimant on the payorder card completed by the claimant at the time he files an initial or additional claim for benefits. Strike pages (2020-2020(2)) - (2020-2030) dated 8-8-86, and (2030-2040) dated 3-5-86, and insert in lieu thereof page (2020-2020(2)) - (2030-2040) dated 8-11-86, which directs the local offices to refer additional claimants for work registration. Strike contents page dated 3-10-86, and pages (2010-2020) - (2020-2020) dated 8-8-86, (2020-2020(2)) - (2030-2040), dated 8-11-86, (2040-2040) - (2050-2060) dated 8-30-85, (2060-2060) - (2060-2060(2)) dated 2-7-86, (2060-2060(3)) - (2060-2060(6)) dated 8-30-86, and (2060-2070) - (2070-2070) dated 2-7-86, and insert in lieu thereof contents page dated 9-15-86 and pages (2010-2020) - (2070-2070) dated 9-15-86, which describe procedures for completing the revised notice of initial claim. Strike pages (2060-2060(6)) - (2060-2070) dated 9-15-86, (2070-2080) - (2090-2130) dated 8-30-85, and (2130-2140) - (2140-2170) dated 8-30-85, and insert in lieu thereof identically numbered pages dated 9-23-86, which updates the manual references in accordance with previous procedural changes. Strike pages (2050-2060) - (2060-2060) dated 9-15-86, (2060-2060(6)) - (2060-2070) dated 9-23-86, (2130-2140) dated 9-23-86, and (2140-2170) dated 8-30-85, and insert in lieu thereof identically numbered pages dated 10-2-86, which corrects an error in a previous manual update and which provides instructions on the completion of forms. [Strike pages (8000-8008) - (8008-8010) dated 4-10-86, and pages (8010-8014) - (8016-8702) dated 10-30-85, and substitute in lieu thereof pages (8000-8008) - (8016-8702) dated 5-5-86, which revises the procedures requiring a sworn statement when the appellant fails to attend a hearing or after the appeal period has expired and wishes to appeal the decision and provides instructions that only a representative of the Appeals Branch can grant a continuance or set up a telephone hearing.]

(2) Chapter 3000. Continued Claim [14000, Charts, Form Letters, Reference Materials], strike pages (3025-3040) - (3045-3045) dated 1-31-86, and (3060-3080) - (3090-3110) dated 10-30-85, and insert in lieu thereof identically numbered pages [contents] dated 8-11-86, which provide instructions on how to verify that a claimant has registered for work. Strike page (3050-3060) - (3060-3060) dated 10-30-85, and insert in lieu thereof the identically numbered page dated 8-4-86, which revises computer entries. Strike page (3060-3080) - (3090-3110) dated 8-11-86, and insert in lieu thereof the identically numbered page dated 10-2-86, which instructs the local office on how to handle the claim of a visiting claimant [2-28-86, and substitute in lieu thereof contents dated 5-8-86, and new pages ((14030)-(14030) - (14030)-(14030(10))), dated 5-8-86, which adds a new section consisting of addresses of state government agencies used in mailing notices of benefit claims].

(3) Chapter 4000, Video Operations, strike pages (4150-4150) - (4150-4200) dated 10-18-85, and substitute in lieu thereof pages (4150-4150) - (4200-4200) dated 6-5-86, which provides instructions for accessing the program on CICS which verifies claimants registration with Employment and Training and provides the DOI code. Strike contents page dated 3-11-86, and substitute in lieu thereof contents page dated 6-5-86. Strike page (4215-4215(2)) - (4215(2)-4216) dated 4-7-86, and substitute in lieu thereof the identically numbered page dated 8-4-86, which adds a new computer entry code.

(4) Chapter 5000, Interstate and Combined Wage Claims, strike pages (5250-5260) - (5270-5270) dated 4-1-86, and insert in lieu thereof pages (5250-5260) - (5270-5270) dated 6-2-86, which revises procedures in the local office manual in accordance with procedures in the ET Handbook regarding interstate claims. Strike pages (5040-5070) - (5070-5090) dated 4-1-86, and substitute in lieu thereof pages (5040-5070) - (5070-5090) dated 6-24-86, which removes the exception of Minnesota's claimants as they are now participating in the double bypass system for interstate claims. Strike page (5098-5099) - (5104-5104) dated 4-1-86, and insert in lieu thereof the identically numbered page dated 9-10-86, which lists new codes for states participating in the Internet System.

(5) Chapter 6000, Claims Investigation, strike pages (6015-6016) - (6016-6016) dated 3-14-86, and insert in lieu thereof pages (6015-6016) - (6016-6016) dated 6-2-86, which revises procedures regarding chargeability of benefits paid to school employees between two (2) school terms. Strike pages (6033-6033) - (6039-6040) dated 4-22-86, and insert in lieu thereof pages (6033-6033) - (6039-6040) dated 6-2-86, which adds instructions disallowing the deduction of social security benefits retroactively. Strike pages (6033-6033) - (6033-6034) dated 6-2-86, and insert in lieu thereof pages (6033-6033) - (6033-6034) dated 6-18-86, which adds instructions disallowing the deduction of all pension payments retroactively. Strike pages (6106-6106) - (6106-6106(2)) dated 9-16-85, and pages (6043-6048) - (6048-6050) dated 9-16-85, and insert in lieu thereof pages (6106-6106) - (6106-6106(2)) dated 6-24-86, and pages (6043-6048) - (6048-6050) dated 6-24-86, which amends procedures for completing chargeability forms to indicate when protest is untimely. Strike page (6193-6200) - (6200-6202) dated 3-7-86, and insert in lieu thereof the identically numbered page dated 7-11-86, which states that an overpayment is not recoverable if it was established during the appeals process. Strike page (6034-6038) - (6039-6040) dated 6-2-86, and insert in lieu thereof the identically numbered page dated 8-11-86, which advises that claimants must register for work as part of the claims process. Strike contents page dated 12-11-85, and insert in lieu thereof contents page dated 7-21-86. Strike page (6017-6017(2)) - (6017-6019) dated 12-11-85, and insert in lieu thereof page (6017-6017(2)) - (6018-6019) dated 7-21-86, which clarifies a claimant's eligibility for benefits during a regularly scheduled shutdown. Strike pages (6090-6090) - (6090-6092) dated 10-22-85, and (6092-6092) - (6092-6097) dated 9-16-85, and insert in lieu thereof identically numbered pages dated 8-7-86, which describe the correct form to use when ruling on the termination of a

benefit disqualification. Strike page (6040-6041) - (6041-6042) dated 9-16-85, and insert in lieu thereof the identically numbered page dated 8-15-86, which describes the routing of intradepartmental memorandums. Strike page (6090-6090) - (6090-6092) dated 8-7-86, and insert in lieu thereof identically numbered page dated 8-15-86, which clarifies previous instructions concerning proper forms usage. Strike page (6068-6075) - (6075-6080) dated 9-16-85, and insert in lieu thereof page (6068-6075) - (6080-6080) dated 8-11-86, which instructs the local office to advise claimants that their statements may be used against them. Strike page (6015-6016) - (6016-6016) dated 6-2-86, and insert in lieu thereof the identically numbered page dated 9-10-86, which negates previous instructions concerning the chargeability of benefits awarded to educational employees. Strike page (6032-6032) - (6032-6033) dated 3-5-86, and insert in lieu thereof the identically numbered page dated 10-14-86, which clarifies the manual's references to SUB plans.

(6) Chapter 7000, Fraud, strike page (7030-7040) - (7040-7040) dated 10-18-85, and insert in lieu thereof the identically numbered page dated 8-11-86, which instructs the fraud investigator to read to the claimant his rights (mirando).

(7) Chapter 8000, Appeals, strike contents page dated 5-5-86, and insert in lieu thereof contents page dated 9-15-86. Strike page (8010-8014) - (8016-8702) dated 5-5-86, and insert in lieu thereof pages (8010-8014) - (8700-8702) dated 9-15-86, which defines the Appeals Branch's responsibility for entering stop codes.

(8) Chapter 12000, Personnel Time Distribution Section, strike pages (12000-12002) - (12040-12100) dated 11-15-85, and insert in lieu thereof pages (12000-12002) - (12040-12100) dated 6-24-86, which replaces the old three (3) character program codes with the new four (4) character program codes, deletes instructions for the completion of scanners and adds instructions on the use of the PTL system for employee time reporting.

(9) Chapter 13000, Statistical Reports, strike contents dated 11-14-85, and substitute in lieu thereof contents dated 6-24-86. Strike pages (13000-13010) - (13200-13220) dated 11-14-85, and insert in lieu thereof pages (13000-13200) - (13205-13220) dated 6-24-86, which deletes instructions for completion of the ES-203.1 since this information is available in the computer database. Strike page (13220-13360) - (13360-13360) dated 11-14-85, and insert in lieu thereof the identically numbered page dated 7-8-86, which provides mailing instructions to the local office.

Section 4. Summary of Amendment. Tax Collections and Accounting Branch Manual. [(1)] Chapter 5000, Delinquency Control Section, strike entire Chapter 500 dated 9-30-83, and substitute in lieu thereof Chapter 5000 dated 7-1-86, which revises and updates procedures in Chapter 500. [3000, Account and Delinquency Section - Procedures Manual, strike entire Chapter 300 dated 7-29-83, and substitute in lieu thereof Chapter 3000 dated 4-4-86, which removes samples of forms, clarifies the section's operating procedures, and revises the Chapter's format to the standardized Department for Employment Services Manual format.]

[(2) Chapter 4000, Reconsideration Unit, strike entire Chapter 400 dated 5-1-84, and substitute in lieu thereof Chapter 4000 dated 5-1-86, which removes samples of forms, clarifies the unit's operating procedures and revises the chapter's format to the standardized Department for Employment Services Manual format.]

JAMES P. DANIELS, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: November 7, 1986

FILED WITH LRC: November 12, 1986 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 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 December 17, 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: James P. Daniels

(1) Type and number of entities affected: Thousands of U.I. claimants.

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

1. First year: None

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

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

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. All claimants treated equally.

CABINET FOR HUMAN RESOURCES

Department for Social Insurance
Division of Management & Development
(Proposed Amendment)

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

RELATES TO: KRS 194.030(6), Chapter 205

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: KRS 194.010 designates

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

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

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

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

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

(2) Department for Social Insurance Manual of Forms, effective November [August] 1, 1986. The Manual of Forms provides forms with instructions for completion, usage, distribution and files maintenance for use of the department's field staff in implementing programs under the authority of the department, including: aid to families with dependent children; refugee assistance; home energy assistance; [child support enforcement;] state supplementary payments; medical assistance; and the food stamp program.

(3) Department for Social Insurance Income and Eligibility Verification System (IEVS) Manual, effective November 1, 1986. The IEVS manual provides operating instructions, procedural detail, and technical clarification for use by the department's field staff in implementing this federally mandated social security account number (SSAN) matching system.

(4) Department for Social Insurance Field Services Operation Manual, effective November 1, 1986. The operation manual provides instructions, procedural detail, and technical

clarification for use by the department's field staff in implementing the Kentucky Automated Management and Eligibility System (KAMES). The programs included are aid to families with dependent children (AFDC), food stamps, and medical assistance eligibility.

(5) [(3)] Federal regulations at 45 CFR Parts 16, 74, and 95, effective May 1, 1986. Part 16, Procedures of the Departmental Grant Appeals Board, provides requirements and procedures applicable to resolution of certain disputes arising under several assistance programs funded by the United States Department of Health and Human Services. Part 74, Administration of Grants, establishes uniform requirements for the administration of grants provided under the authority of the United States Department of Health and Human Services, and principles for determining costs applicable to activities assisted by Department of Health and Human Services grants. Part 95, General Administration - Grant Programs (Public Assistance and Medical Assistance), establishes requirements of the United States Department of Health and Human Services for various administrative matters relating to grant programs, including time limits for states to file claims, cost allocation plans, and conditions for federal financial participation for automatic data processing equipment and services.

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

MIKE ROBINSON, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: October 29, 1986

FILED WITH LRC: November 12, 1986 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 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 December 17, 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 Miller

(1) Type and number of entities affected: Recipients of benefit programs administered by DSI.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state

and local revenues:

(4) Assessment of alternative methods; reasons why alternatives were rejected:

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Not applicable.

CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management & Development (Proposed Amendment)

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

RELATES TO: KRS 205.795

PURSUANT TO: KRS 194.050

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

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

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

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

(2) Federal Office of Child Support Enforcement Action Transmittals, which provide federal program instructions for the implementation of the child support enforcement program in accordance with federal laws and regulations, as follows: OCSE-AT-75-5, 75-6, 76-1, 76-2, 76-5, 76-7, 76-8, 76-9, 76-14, 76-21, 76-22, 76-23, 77-3, 77-14, 78-2, 78-5, 78-6, 78-8, 78-16, 78-18, 79-2, 79-3, 79-6, 79-7, 79-8, 80-5, 80-9, 80-11, 80-17, 81-7, 81-12, 81-26, 82-17, 83-15, 83-18, 84-05, and 86-04, effective May 1, 1986;

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

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

program, effective October 1, 1985;

(5) Department for Social Insurance Child Support Action Memorandums, which provide program clarifications, instructions, and procedural detail for the implementation of the child support enforcement program, as follows: DCSE-AM-82-07, 82-36, 83-16, 83-21, 83-30, 83-31, 83-38, 83-39, 84-10, 84-16, 84-18, 84-19, [84-20,] 84-29, [84-34,] 84-36, [85-10,] 85-19, [85-22,] 85-30, 85-32 and errata, 85-36, 85-39, 85-42, 86-09, 86-12, 86-14, and 86-15, effective November [August] 1, 1986; and

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

(7) Department for Social Insurance Child Support Manual of Forms, which provides forms with instructions for completion, distribution, and files maintenance for use in implementing the child support enforcement program, effective November 1, 1986.

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

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

APPROVED BY AGENCY: October 28, 1986

FILED WITH LRC: November 12, 1986 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 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 December 17, 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 Miller

(1) Type and number of entities affected: 3,000 estimated additional paternity cases.

(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:

(a) Direct and indirect costs or savings: No costs for providing information to consumer reporting agencies; non-AFDC tax intercept passed on to client - state will get incentives.

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 Child Support Program.

CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management & Development (Proposed Amendment)

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

RELATES TO: KRS 194.030(6)

PURSUANT TO: KRS 194.050

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

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

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

(1) Federal food stamp regulations at 7 CFR Parts 250, 251 and 271-282, which set forth the federal requirements and guidelines for the administration of the Food Stamp Program and federal food stamp general notices published through the Federal Register, effective November [August] 1, 1986;

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

(3) Federal food stamp regional letters, which set forth federal clarification of federal food stamp regulations, as follows: 80-5, 80-5.1, 80-6, 80-7, 80-8, 80-9, 80-10, 80-11, 80-13, 80-15, 80-16, 80-17, 80-19, 80-21, 80-22.1, 80-23, 80-30, 80-31, 80-32, 80-33, 80-34, 80-36, 80-38, 80-39, 80-41.1, 80-42, 80-43, 80-44, 80-47, 80-48, 80-49, 80-50, 80-51, 80-52, 80-53, 80-54, 80-58, 80-58.1, 80-58.2, 80-59, 80-62, 80-67, 80-71, 80-72, 80-73, 80-76.1, 80-77, 80-78, 80-79, 80-80, 80-81, 80-82, 80-83, 80-85, 80-86, 80-87, 80-88, 80-89, 80-91, 80-92, 80-93, 80-96, 80-98, 80-99, 80-100, 80-101, 80-102, 80-103, 80-105, 80-106, 81-3, 81-3.1, 81-3.2, 81-4, 81-4.1, 81-4.2, 81-4.3, 81-5, 81-6, 81-8, 81-9, 81-10, 81-10.1, 81-10.2, 81-11, 81-12, 81-13, 81-14, 81-15, 81-16, 81-17, 81-18,

[81-19,] 81-20, 81-20.1, 81-20.2, 81-21, 81-22, 81-23, 81-24, [81-25,] 81-26, 81-27, 81-28, 81-29, 81-30, 81-30.1, 81-33, 81-34, 81-34.1, 81-36, 81-37, 81-38, [81-39,] 81-40, 81-41, 81-42, 81-43, 81-44, 81-45, [81-46,] 81-46.1, 81-47, 81-48, 81-49, 81-50, 81-51, 81-52, 81-53, 81-54, 81-55, 81-57, 81-57.1, 81-58, [81-59,] 81-60, 81-62, 81-64, [81-65,] 81-66, 81-67, 81-68, [82-2,] 82-3, 82-4, 82-5, 82-6, 82-7, 82-8, 82-9, 82-10, 82-11, 82-12, 82-13, 82-14, 82-15, 82-16, 82-17, 82-18, 82-18.1, 82-19, 82-20, 82-21, 82-23, 82-25, 82-25.1, 82-26, 82-27, 82-29, 82-29.1, 82-30, 82-31, 82-32, 82-35, 82-36, 82-37, 82-38, 82-39, 82-40, 83-1, 83-1.1, 83-1.2, 83-2, 83-2.1, 83-3, 83-4, 83-5, 83-6, 83-7, 83-9, 83-12, [83-14,] 83-15, 83-17, [83-18,] 83-19, 83-21, 83-22, 83-24, 83-25, 83-26, 83-27, 83-28, 83-30, 83-31, 83-33, 83-36, 84-1, 84-2, 84-3, 84-4, 84-5, 84-6, 84-7, 84-8, 84-9, 84-10, [84-11,] 84-12, [84-13,] 84-14, 84-15, 84-16, 84-17, 84-18, 84-19, 84-20, [84-21,] 84-22, 84-23, 84-24, 84-26, 84-27, [84-28, 84-29,] 84-30, [84-31,] 84-32, 84-33, 84-34, 84-35, 84-36, 84-37, 84-38, [84-39,] 84-40, 84-41, 84-42, 84-43, 84-45, 84-46, 84-47, 84-48, and 84-49, effective January 1, 1985.

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

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

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

APPROVED BY AGENCY: October 28, 1986

FILED WITH LRC: November 12, 1986 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 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 December 17, 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: Not significant.

1. First year: Unknown

2. Continuing costs or savings: Unknown

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: The revisions will keep the state's practices in compliance with federal regulations.

(a) Direct and indirect costs or savings:

1. First year: Minimal

2. Continuing costs or savings: Unknown

3. Additional factors increasing or decreasing costs: Unknown

(b) Reporting and paperwork requirements:

Insignificant

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Changes are in compliance with federal regulations.

(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:

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Not applicable to these changes as federal requirements mandate uniform statewide implementation/application of policies.

CABINET FOR HUMAN RESOURCES Department for Social Services Division of Field Services (Proposed Amendment)

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

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

PURSUANT TO: KRS 194.050, 199.420, 200.080, 209.030

NECESSITY AND FUNCTION: P.L. 97-35, "Block Grants for Social Services - Title XX," authorizes grants to states for social services. KRS 194.050 authorizes the Cabinet for Human Resources to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this manual is to implement a statewide social services program.

Section 1. DSS Policies and Procedures Manual. For the purpose of implementing and enforcing those sections of the Kentucky Revised Statutes relating to social service programs for children and adults that apply to the Department for Social Services, the Secretary of the Cabinet for Human Resources hereby adopts, by reference, the Department for Social Services' Policy and Procedural Manual as revised through October 15 [September 1], 1986, as the current policies and procedures of that department. The manual contains policies and procedures relating to management procedures, adult services, support services, family and children's services, and youth services. The Department for Social Services' Policy and Procedures Manual may be reviewed in any departmental field office located in each of the 120 counties or at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky, during regular working hours.

Section 2. Summary of Amendment. (1) In Chapter I, Management Procedures, Section A.1, General Policies, insert pages 16 and 17 which

is new material that identifies various circumstances in which advice and representation from the cabinet's office of counsel will be provided to employees of the department.

(2) In Chapter V, Youth Services, Section B., Community Based, strike the current pages 3 and 4, and substitute in lieu thereof pages 3 and 4 dated 10/86, which revises policy to require children transported to institutions to be accompanied by someone of the same gender.

(3) In Chapter V, Youth Services, Section A.1., Admissions, strike page 5 and substitute in lieu thereof page 5 dated 10/86, which transmits revised technical admissions' policy for residential facilities. [In Chapter I, Management Procedures, Section A.4, Receiving Report - Impressed Cash Vouchers, strike the entire section and substitute in lieu thereof the entire revised Section A.4, dated 7/86, which transmits revised instructions and form DSS-110 necessary for reimbursement of foster care expenditures as they relate to new rates as approved by the General Assembly to become effective July 1, 1986.]

[(2) In Chapter II, Adult Services, Section A, Adult Protective Services, strike pages 1 and 2, and pages 23 through 27, dated 12/82, along with forms 291, 292 and 292A dated 8/82, and substitute in lieu thereof pages 1 and 2, and pages 39 through 57, dated 7/86, along with forms 291 and 292 dated 7/86. These revisions reflect changes in the definitions of "adult" and "exploitation," and incorporates into the manual the forms and procedures necessary for the implementation of the automated Adult Protection Reporting System which is to begin operation on July 1, 1986.]

[(3) In Chapter IV, Family and Children's Services, Section C, Foster Care, strike entire section and insert in lieu thereof entire revised section dated July 1, 1986. The major changes made in this section are as follows:]

[(a) Incorporates foster care rate changes authorized for fiscal year 1987;]

[(b) Minor changes in reporting foster care information;]

[(c) Revises foster care contracts to reflect new per diem rates;]

[(d) Sets up procedures for compliance with Foster Care External Review Boards; and]

[(e) Defines the roles of the Recruitment and Certification staff.]

[(4) In Chapter I, Management Procedures, Section A.5, Fair Hearing Procedures, Civil Rights Discrimination and Service Complaints, strike the entire section dated 10/83 and 5/84, and substitute in lieu thereof Chapter I, Management Procedures, A.5, Fair Hearing Procedures, Civil Rights Discrimination and Service Complaints, dated 7/86, and revised after public hearing. This material revises the method of handling civil rights/service complaints to conform with federal regulations (45 CFR 205.10) and designates that all hearings shall be conducted by the Quality Assurance Branch.]

[(5) In Chapter I, Management Procedures, incorporate Section A.6, Preventative Assistance, dated 7/86, and revised after public hearing, which establishes guidelines for the utilization of emergency funds granted by the 1986 General Assembly.]

[(6) In Chapter I, Management Procedures, incorporate Section A.7, Aging Section, Complaint Hearing, dated 7/86, which sets forth

guidelines for the conduct of hearings as they relate to contracts with the Area Agencies on Aging, service provides and applicants to provide service, and service recipients/applicants.]

ANNA GRACE DAY, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: October 20, 1986

FILED WITH LRC: October 29, 1986 at 1 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1986, at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by December 17, 1986: Ryan Halloran, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Eugenia Jump

(1) Type and number of entities affected: Statewide.

(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: 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. Statewide policy.

CABINET FOR HUMAN RESOURCES Department for Social Services Division of Aging Services (Proposed Amendment)

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

RELATES TO: KRS 205.460

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: KRS 205.460 directs the Cabinet for Human Resources to fund directly or through contracting entity or entities, in each district, a program of essential services for the elderly. KRS 205.460 also provides that the cabinet shall adopt a fee schedule based

upon the elderly person's ability to pay for essential services. The function of this regulation is to set forth the manner in which fees are to be assessed and collected.

Section 1. Schedule of Fees. The following schedule, revised October 1, 1986, shall be utilized in determining the amount of fee to be charged an eligible individual who has received homecare services. The cost of the service unit as determined by the state or contracting entity in accordance with its contract is to be multiplied by the applicable percentage rate based upon income and size of family as set forth below:

Annual Income	Applicable Percentage by Size of Family	
	1	2
7,000 and below	0%	0%
7,001 - 8,000	20%	0%
8,001 - 9,000	40%	20%
9,001 - 10,000	60%	20%
10,001 - 11,000	80%	40%
11,001 - 12,000	100%	60%
12,001 - 13,000		80%
13,001 - 14,000		80%
14,001 - 15,000		100%
[6,000 and below	0%	0%
6,001 - 7,000	20%	0%
7,001 - 8,000	40%	20%
8,001 - 9,000	60%	20%
9,001 - 10,000	80%	40%
10,001 - 11,000	100%	60%
11,001 - 12,000		80%
12,001 - 13,000		80%
13,001 - 14,000		100%]

Section 2. Extraordinary Medical Expense Deduction. In determining the eligible individual's ability to pay a fee in accordance with Section 1 of this regulation, any extraordinary medical expenses may be taken into consideration. For the purpose of this regulation, extraordinary medical expenses means medical or medical-related expenses, including the cost of prescription drugs, which severely affects the income of the individual or the household.

Section 3. Needy Aged. In no event shall a fee be assessed an eligible individual who meets the definition of "needy aged" as set forth in KRS 205.010(6).

Section 4. SSI Recipients. SSI income is not deemed available to other family members. When an applicant is receiving SSI benefits, he/she is to be considered a family of one (1) for the purpose of fee determination.

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

APPROVED BY AGENCY: October 20, 1986

FILED WITH LRC: October 29, 1986 at 1 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1986, at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by December 17, 1986: Ryan Halloran, Office of General Counsel, Cabinet for

Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Eugenia Jump

(1) Type and number of entities affected: All elderly applying for Homecare services.

(a) Direct and indirect costs or savings to those affected: Income levels adjusted by 1,000 for each category thus lowering percentages billed to clients for services. SSI recipients excluded from charges.

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: Minimal to none

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Statewide.

CABINET FOR HUMAN RESOURCES Department for Social Services Division of Aging Services (Proposed Amendment)

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

RELATES TO: 205.455 to 205.465

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: KRS 205.460 directs the Cabinet for Human Resources to provide, within budgetary limitations, in-home services for the aging to include, but not necessarily limited to, homemaker services, chore services, core services, home delivered meal services, and home health aide services. The function of this regulation is to establish policies and procedures for carrying out this mandate.

Section 1. The Cabinet for Human Resources hereby adopts, by reference, the "Homecare Policy Manual for the Elderly," completed as of October 1, 1986 [September 1, 1985], as the operating policies and procedures to be followed by contractors participating in the Department for Social Services Homecare Program. This manual includes instructions regarding extraordinary medical expenses, assessments and reassessments, assessment and case management services, units of service, service definitions, reporting and format procedures, and Title III

program income and other relevant components of the program. The Homecare Policy manual may be reviewed in the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky, or any of the department's field offices located in each of the 120 counties.

Section 2. Summary of Amendments. Strike HC-85-6 Attachment 1 and substitute HC-85-6 Attachment 1 revised October 1, 1986. This change in the Homecare service definition of Home Repair allows pest extermination, cooling and heating devices and smoke detectors, and to increase the allowable expenditure to \$250 per client per year. [HC-83-1 through HC-83-10 and substitute in lieu thereof HC-85-1 through HC-85-10. These policies revise the existing policies related to the operation of the Homecare Program. Strike HC-84-1 through HC-84-3 and substitute in lieu thereof HC-85-11, HC-85-12 and HC-85-13. These policies authorize consideration of extraordinary medical expenses, transmits a form to be used for client assessment, and provides guidelines for transition from one (1) vendor to another. Add HC-85-14 through HC-85-20 which are new policies relating to personnel, quality control and waiting lists. Add HC-86-1 which established homecare quality assurance procedures.]

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

APPROVED BY AGENCY: October 20, 1986

FILED WITH LRC: October 29, 1986 at 1 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1986, at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by December 17, 1986: Ryan Halloran, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Eugenia Jump

(1) Type and number of entities affected: All eligible elderly receiving Homecare services.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

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

(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. Statewide.

CABINET FOR HUMAN RESOURCES Department for Medicaid Services (Proposed Amendment)

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

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

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

Section 1. Acute Care Hospital and Mental Hospital (Including Psychiatric Facility) Inpatient Services. The state agency will pay for inpatient hospital services provided to eligible recipients of Medical Assistance through the use of rates that are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated hospitals to provide services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

Section 2. Establishment of Payment Rates. The policies, methods, and standards to be used by the cabinet in setting payment rates are specified in the cabinet's "Inpatient Hospital Reimbursement Manual" revised October [July] 1, 1986 (retroactive to January 1, 1986), which is incorporated herein by reference. For any reimbursement issue or area not specified in the manual, the cabinet will apply the Medicare standards and principles described in 20 CFR Sections 405.402 through 405.488 (excluding the Medicare inpatient routine nursing salary differential).

Section 3. Compliance with Federal Medicaid Requirements. The cabinet will comply with the requirements shown in 42 CFR 447.250 through 447.280.

Section 4. General Description of the Payment System. (1) Use of prospective rates. Each hospital will be paid using a prospective payment rate based on allowable Medicaid costs and Medicaid inpatient days. The prospective rate will be all inclusive in that both routine and ancillary cost will be reimbursed through the rate. For universal rate years prior to January 1, 1985 the prospective rate will not be subject to retroactive adjustment except to the extent that an audited cost report alters the basis for the prospective rate and/or the projected inflation index utilized in setting the individual rate is different from actual

inflation as determined by the index being used. For universal rate years beginning on or after January 1, 1985, the prospective rate will not be subject to retroactive adjustment except to the extent that facilities with a rate based on unaudited data will have their rate appropriately revised for the rate year when the audited cost report is received from the fiscal intermediary. However, total prospective payments shall not exceed the total customary charges in the prospective year. Overpayments will be recouped by payment from the provider to the cabinet of the amount of the overpayment, or alternatively, by the withholding of the overpayment amount by the cabinet from future payments otherwise due the provider.

(2) Use of a uniform rate year. A uniform rate year will be set for all facilities, with the rate year established as January 1 through December 31 of each year. The first uniform rate year for mental hospitals shall be July 1, 1985 through June 30, 1986; however, effective January 1, 1986 the mental hospital rate year shall be re-established and shall be January 1 through December 31 of each year thereafter. Changes of rates throughout the rate year as a result of policy changes shall not change the rate year, although the facility rates may change. Hospitals are not required to change their fiscal years.

(3) Trending of cost reports. Allowable Medicaid cost as shown in cost reports on file in the cabinet, both audited and unaudited, will be trended to the beginning of the rate year so as to update Medicaid costs. When trending, capital costs and return on equity capital are excluded. The trending factor to be used will be the Data Resources, Inc. rate of inflation for the period being trended.

(4) Indexing for inflation. After allowable costs have been trended to the beginning of the rate year, an indexing factor is applied so as to project inflationary cost in the uniform rate year. The forecasting index currently in use is prepared by Data Resources, Inc. This policy shall be effective August 3, 1985.

(5) Peer grouping. Acute care hospitals will be peer grouped according to bed size. The peer groupings for the payment system will be: 0-50 beds, 51-100 beds, 101-200 beds, 201-400 beds, and 401 beds and up (except that the designated state teaching hospitals affiliated with or a part of the University of Kentucky and the University of Louisville shall not be included in the array for facilities with 401 beds and up unless such facility's primary characteristics are considered essentially the same as the peer group's, and the facility, although not a university teaching hospital as such, is treated in the same manner with regard to the upper limit to recognize the presence of the major pediatric teaching component existing outside the state university hospitals). No facility in the 201-400 peer group shall have its operational per diem reduced below that amount in effect in the 1982 rate year as a result of the establishment of a peer grouping of 401 beds and up. Mental hospitals will not be peer grouped but will have a separate array of mental hospitals only.

(6) Use of a minimum occupancy factor. A minimum occupancy factor will be applied to [operating and] capital costs attributable to the Medicaid program. A sixty (60) percent occupancy factor will apply to hospitals with

100 or fewer beds. A seventy-five (75) percent occupancy factor will apply to facilities with 101 or more beds. [Operating costs are all costs except professional (physician) and capital costs.] Capital costs are interest and depreciation related to plant and equipment. [The minimum occupancy factor is not applicable with regard to operating costs of mental hospitals. Effective January 1, 1986, the operating cost occupancy factor shall be applied in such a manner as not to reduce otherwise allowable payments for operating costs below eighty (80) percent of the appropriate peer group upper limit.]

(7) Use of a reduced depreciation allowance. The allowable amount for depreciation on building and fixtures (not including major movable equipment) shall be sixty-five (65) percent of the reported depreciation amount as shown in the hospital's cost reports. The use of a reduced depreciation allowance is not applicable with regard to mental hospitals.

(8) Use of upper limits. For acute care hospitals, an upper limit will be established on all costs (except Medicaid capital cost) at the weighted median per diem cost for hospitals in each peer group, using the most recent Medicaid cost report available as of December 1 of each year. For mental hospitals, an upper limit will be established on all costs (except Medicaid capital cost) at the weighted median per diem cost for hospitals in the array. Upon being set, the arrays and upper limits will not be altered due to revisions or corrections of data; however the arrays and/or upper limits may be changed as a result of changes of agency policy. The upper limit is established at 120 percent for those acute care hospitals serving a disproportionate number of poor patients (defined as twenty (20) percent or more Medicaid clients as compared to the total number of clients served) and the upper limit is established at 105 percent for those mental hospitals serving a disproportionate number of poor patients (defined as thirty-five (35) percent or more Medicaid clients as compared to the total number of clients served). For the designated state teaching hospitals affiliated with or a part of the University of Kentucky and the University of Louisville, and major pediatric teaching hospitals affiliated thereto, their upper limit shall recognize their status as teaching hospitals traditionally serving a disproportionate number of poor patients, and shall be set at 126 percent of the median of the array for all other hospitals of comparable size (401 beds and up).

(9) Operating costs shall not include professional (physician) costs for purposes of establishing the median based upper limits. Professional costs shall be trended separately.

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

(11) Rate appeals. As specified in the Inpatient Hospital Reimbursement Manual, hospitals may request an adjustment to the prospective rate with the submittal of supporting documentation. The established appeal procedure allows a representative of the hospital group to participate as a member of the rate review panel.

Section 5. Payments to Participating Out-of-State Hospitals. Participating out-of-state hospitals, except those where the other state's Medicaid Program pays on the basis of diagnosis related groupings, shall be reimbursed for covered services rendered eligible Kentucky Medicaid recipients at the lower of the rate paid by the other state's Medicaid Program or the upper limit for Kentucky hospitals in a peer group for hospitals of comparable size (or total array, in the instance of mental hospitals), except that payments shall not exceed charges. For those participating out-of-state hospitals where the other state's Medicaid Program pays on the basis of diagnosis related groupings, reimbursement for covered services rendered eligible Kentucky Medicaid recipients shall be at the lower of eight (80) percent of the hospital's covered charges or the upper limit for Kentucky hospitals in a peer group for hospitals of comparable size. The operating cost upper limits shall be appropriately adjusted to include capital costs. The appropriate amount to include for capital costs shall be the average allowable per diem capital cost for the peer group (not adjusted for occupancy). Professional costs (i.e., physician fees) shall be paid on the basis of the usual and customary charges of the provider.

Section 6. The amendments shown herein shall be effective with regard to payments for services rendered January 1, 1986, and thereafter.

R. HUGHES WALKER, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: October 22, 1986

FILED WITH LRC: October 29, 1986 at 1 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 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 December 17, 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: All acute care and mental hospitals participating in

the Medicaid Program.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$9,800,000 to \$11,300,000 (costs).

2. Continuing costs or savings: \$9,800,000 to \$11,300,000 (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: 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.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The federal mandate, with regard to hospital payments under the Medicaid Program, is contained in federal regulations at 42 CFR 447.250-447.280. The state regulation implements the minimum requirements contained in 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. The state has wide latitude in developing its reimbursement system for hospital payments, but does not exceed mandated federal standards.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

PROPOSED REGULATIONS RECEIVED THROUGH NOVEMBER 15

REVENUE CABINET

Department of Professional & Support Services

103 KAR 5:130. Annual expense allowances and travel expenses.

RELATES TO: KRS 132.597

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: This regulation outlines procedures to be followed in providing

a \$3,600 annual expense allowance to property valuation administrators and in administering the annual requirement that each property valuation administrator participate in a minimum of thirty (30) classroom hours of professional instruction conducted by the Revenue Cabinet. This regulation implements KRS 132.597 (House Bill 245 - 1986 General Assembly).

Section 1. Each property valuation

administrator will receive a check for \$300 for the month of July, 1986, and every month thereafter as long as the qualifications outlined in Section 2 of this regulation are met. The check will be issued between the 15th and the last day of each month.

Section 2. Each property valuation administrator must complete a minimum of thirty (30) classroom hours of instruction as outlined in Section 5 of this regulation during the year ending June 30, 1987, and annually thereafter.

Section 3. Any property valuation administrator failing to meet the requirements of Section 2 of this regulation will not receive the \$3,600 expense allowance for the subsequent year.

Section 4. The Revenue Cabinet may, upon request, grant an extension of time up to six (6) months for completion of required instruction. Such extension may be granted only in cases of serious long-term personal illness or personal injury. The \$300 monthly check will be suspended until the property valuation administrator has met the requirements. At that time, all withheld payments will be issued retroactively.

Section 5. Training and educational sessions shall be conducted by the Revenue Cabinet. Subsequent to each session a certificate of attendance will be issued by the Property Tax Department identifying the dates of attendance and the number of hours of participation. Educational courses held outside the Commonwealth may, upon request, be approved by the cabinet provided that a final examination is offered and that any property valuation administrator requesting such approval submits proof of successful completion to the cabinet.

Section 6. The Revenue Cabinet will provide adequate notification to all property valuation administrators of educational events and training sessions and will provide advance notice of the number of hours of credit to be offered.

Section 7. The Revenue Cabinet will maintain detailed records of instructional session attendance and will provide attendance notification to each property valuation administrator.

Section 8. Travel expenses incurred by the property valuation administrator in attending education and training events conducted by the Revenue Cabinet in which credit is given for meeting the requirements of this regulation are reimbursable under the provisions of the travel expense and reimbursement regulations issued by the Finance and Administration Cabinet.

Section 9. Travel expenses incurred by the property valuation administrator within his county, within the state, or outside the state as a result of activities directly associated with the assessment of specific real property, tangible personal property, or intangible personal property in his particular county are reimbursable under the provisions of the travel expense and reimbursement regulations issued by the Finance and Administration Cabinet.

Section 10. Travel expenses incurred by the property valuation administrator in attending technical, administrative, or informational events and meetings called by, sponsored by, or approved by the Revenue Cabinet for the purpose of enhancing the property valuation administrator's knowledge and skill in managing the assessment of property in his particular county are reimbursable under the provisions of the travel expense and reimbursement regulations issued by the Finance and Administration Cabinet.

Section 11. Travel expenses incurred by the property valuation administrators in areas other than Sections 8, 9, and 10 of this regulation are the responsibility of the individual and shall be defrayed from the allowances provided for under the provisions in Section 1 of this regulation.

GARY W. GILLIS, Secretary

APPROVED BY AGENCY: November 6, 1986

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

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 24, 1986 at 10 a.m. in Room 406 of the Capitol Annex, Frankfort, Kentucky. If no written notice of intent to attend the public hearing is received within five days before the scheduled hearing, the hearing will be cancelled. Those interested in attending shall notify in writing: Scott Akers, Revenue Cabinet, Division of Tax Policy and Legal Services, New Capitol Annex Building, Frankfort, Kentucky 40620.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Scott Akers

(1) Type and number of entities affected: The 1986 General Assembly enacted House Bill 245 to provide an expense allowance to each property valuation administrator (PVA) upon completion of thirty (30) hours of classroom instruction by the Revenue Cabinet. The regulation applies to all 120 property valuation administrators.

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

1. First year: Provides \$3,600 to each PVA for reimbursement of qualifying expenses.

2. Continuing costs or savings: Same.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Each PVA is required to attend thirty (30) hours of classroom instruction sponsored by the Revenue Cabinet.

(b) Reporting and paperwork requirements: Minimal

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: \$432,000 per year plus nominal administrative costs including cost of required classroom instruction.

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Minimal

(3) Assessment of anticipated effect on state and local revenues: Possible slight increase due to value of instruction.

(4) Assessment of alternative methods; reasons why alternatives were rejected: None. A statutory change was required to authorize expense allowance.

(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 since the regulation applied equally to all property valuation administrators.

**GENERAL GOVERNMENT CABINET
Board of Occupational Therapy**

201 KAR 28:010. Definitions and Abbreviations.

RELATES TO: KRS 319A.010 through 319A.210

PURSUANT TO: KRS 319A.070(3)

NECESSITY AND FUNCTION: KRS Chapter 319A and pertinent parts of KRS 319A.070(3) require the Kentucky Occupational Therapy Board, hereinafter referred to as the board, to promulgate regulations pertaining to the practice and licensure of occupational therapists and occupational therapy assistants. This regulation sets forth the definition of terms and phrases which will be used by the board in enforcing and interpreting the provisions of Chapter 319A and the regulations promulgated pursuant thereto.

Section 1. Definitions. Unless otherwise specifically defined or otherwise clearly indicated by their context, terms in Title 201, Chapter 28, shall have the meanings given in this regulation.

(1) "Accessory joint mobilization" means the specific therapeutic movement of variable amplitude as applied to a joint which causes the joint to exceed its anatomical limit of motion, but does not include other generic forms of movement of a joint through its pathological range.

(2) "Act" means the Kentucky Occupational Therapy Practice Act and the provisions of KRS Chapter 319A.

(3) "Assessment of integrity" means, within the context of assessment of integrity and pathology of muscle, soft tissue, and joint capsule, an evaluation of muscle, soft tissue or joint capsule through invasive procedures including minor surgery, biopsy or EMG.

(4) "Board" means the Kentucky Occupational Therapy Board and its staff, if any.

(5) "Certified occupational therapy assistant" means a person who is certified by the A.O.T.A. as having met the educational requirements, supervised field work, and examination standards required for certification as a C.O.T.A.

(6) "Electromodalities" means an electric device attached to a plug or socket and is used as a treatment method for the facilitation of improved functioning, but does not mean or include those devices which are battery operated or other devices which are used as adjuncts to occupational therapy treatment and which require no specialized training in their use.

(7) "Gait training" means the instruction of proper walking patterns but does not include instruction as to transfer functions or any instruction which is considered to be a part of occupational therapy as otherwise defined in these regulations or in KRS 319A.010(2).

(8) "Occupational therapist" means a person licensed in accordance with the provisions of the Act and regulations to practice occupational therapy under this chapter.

(9) "Occupational therapist registered" means a person who is certified by the A.O.T.A. as having met the educational requirements, supervised field work, and examination standards required for certification as an O.T.R.

(10) "Occupational therapy" means the use of goal directed activities with individuals who are limited by physical limitations due to injury or illness, psychiatric and emotional disorders, developmental or learning disabilities, poverty and cultural differences or the aging process, in order to maximize independence, prevent disability, and maintain health. The practice encompasses evaluation, treatment, and consultation. Occupational therapy services include: teaching daily living skills; developing perceptual-motor skills and sensory integrative functioning; developing play skills and prevocational and leisure capacities; designing, fabricating or applying selective orthotic and prosthetic devices or selective adaptive equipment; using specifically designed crafts and therapeutic activities to enhance functional performance; administering and interpreting tests such as manual muscle and range of motion; and consulting in the adaptation of the environment for the handicapped. These services shall be provided individually, in groups or through medical, health, educational, and social systems. The practice of occupational therapy shall not include gait training; the use or application of thermal or electromodalities; accessory joint mobilizations; assessment of integrity and pathology of muscle, soft tissue and joint capsule; and postural or biomechanical analysis.

(11) "Occupational Therapy Aide" means a person not licensed who assists in the practice of occupational therapy under the direct supervision of a licensed occupational therapist or occupational therapy assistant and who is required to have an understanding of occupational therapy but is not required to have professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy.

(12) "Occupational therapy assessment" means, within the scope of occupational therapy and the practice thereof, the process of determining the need for, nature of, and estimated time of treatment; determining the needed coordination with other persons involved; and the documentation of such activities with all assessments, including screening, patient-related consultation, evaluation, and reassessment.

(13) "Occupational therapy assistant" means a person licensed in accordance with the provisions of the Act and regulations to assist in the practice of occupational therapy under this chapter, and who works under the supervision of an occupational therapist.

(14)(a) "Occupational therapy treatment" means in its broadest sense the use of specific activities, methods or exercises which are intended to develop, improve, restore the skills in performance areas of function, compensate for dysfunction or minimize debilitation, and also means the planning and documentation of treatment performances.

(b) Within the context of occupational therapy treatment, the following definitions shall apply:

1. "Independent and daily living skills" means the skill and performance of functions which are treated, including but not limited to: physical daily living skills (grooming and hygiene, feeding and eating, dressing, functional mobility, functional communication, object manipulation), psychological or emotional daily living skills (self-concept and self-identity, situational coping, community involvement), work (homemaking, child care/parenting, dependent care, and employment preparation), and play or leisure.

2. "Sensorimotor components" means the skill and performance of patterns of sensory and motor behavior of a person undergoing treatment with such skills, including but not limited to: neuromuscular activity (reflex integration range emotion, gross and fine coordination, strength and endurance), and sensory integration (sensory awareness, visual-spatial awareness, body integration).

3. "Cognitive components" means the skill and performance of the mental processes necessary to know or comprehend by understanding with such skills including but not limited to: orientation, conceptualization, and comprehension (concentration, attention span, memory), and cognitive integration (generalization, problem-solving).

4. "Psychosocial component" means the skill and performance in self-management, interaction skills with such skills including but not limited to: self-expression, self-control, interaction with another person, and interaction with groups of three (3) or more people.

5. "Therapeutic adaptation" means the selecting, obtaining, fitting, and fabricating of equipment by a L.O.T.R. or a L.O.T.A.; the instruction of the person undergoing treatment, family or staff in the proper use and care of such equipment; and minor repair of such equipment; and minor modification to correct fit, position or use. This term encompasses orthotics, prosthetics, and assistive equipment, their application, instruction, and use.

6. "Prevention" means the skill and the performance of the person to minimize debilitation with such treatment focusing on energy conservation (activity restriction, work simplification, time management), joint protection and body mechanics (proper posture and body mechanics, avoidance of excessive weight bearing), positioning and coordination of daily living activities.

(15) "Person(s)" means any individual, partnership, unincorporated organization or corporation.

(16) "Postural and biomechanical analysis" means the evaluation of posture with respect to spinal alignment, and gait pattern for the purpose of observing or determining:

(a) Malalignment of body segments;

(b) Distorted weight bearing line;

(c) Identification of presence of lordosis, kyphosis or scoliosis; and

(d) Identification of structural back disorders, but such analysis as defined herein does not include the treatment of postural and biomechanical deficiencies by splinting, positioning, use or fitting of adaptive equipment or determinations of a person's strength or endurance.

(17) "Rules" as used in Chapter 319A means

those regulations as promulgated in accordance with the provisions of Chapter 13A of the Kentucky Revised Statutes.

(18) "States" means any states of the United States of America, its territories, treaty mandates or the District of Columbia.

(19) "Substantially equal" or "At least as stringent as," within the context of KRS 319A.090 and KRS 319A.140, both mean, whichever is applicable, those states which have a licensure law requiring for licensure the following:

(a) An attestation as to good moral character.

(b) Evidence of satisfactorily completing the academic requirements of an educational program in occupational therapy with such program being accredited by the Committee on Allied Health, Education, and Accreditation of the American Medical Association and approved by the American Occupational Therapy Association.

(c) A minimum of six (6) months of supervised field work for an occupational therapist or a minimum of four (4) months of supervised field work for an occupational therapy assistant.

(d) Evidence that the applicant has successfully completed or passed the National Certification Exam for occupational therapist registered or certified occupational therapy assistants as prepared and administered by a duly authorized agent of the board.

(20) "Supervised field work" means the clinical training and direct contact with patients under the direct supervision of an occupational therapist registered or in an approved educational program.

(21) "Therapeutic activities" means those activities which encompass a variety of exercises or other practices, training or regimes which are used in the normal course of occupational therapy treatment and which for the purposes of compensation by any state or federal agency or by a private health services organization or insurance company are its functional or compensatory equivalent.

(22) "Thermalmodalities" means any cold or hot (heat) applications used for the purpose of deep penetration of the muscle or skin tissue including the use of ultraviolet light, ultrasound, and diathermy treatment but the application of thermalmodalities does not include the application or use of superficial agents or adjuncts to occupational therapy treatments.

(23) "Written examination approved by a board" means the National Certification Exam for occupational therapist registered and certified occupational therapy assistants as prepared by an authorized agent of the board or as certified and approved by the board.

Section 2. Abbreviations. As used in Title 201, Chapter 28, the following abbreviations shall have the meanings given below:

(1) "A.O.T.A." - American Occupational Therapy Association.

(2) "L.O.T.R." - licensed occupational therapist registered.

(3) "L.O.T.A." - licensed occupational therapy assistant.

(4) "O.T." - occupational therapy.

(5) "O.T.R." - occupational therapist registered.

(6) "C.O.T.A." - certified occupational therapy assistant.

THOMAS FISHER, Chairman

APPROVED BY AGENCY: November 5, 1986

FILED WITH LRC: November 14, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: Pursuant to KRS 13A.270, a public hearing concerning this regulation will be held at 3 p.m. (EST) on December 22, 1986, in Room 107, Capitol Annex, Frankfort, Kentucky 40601. Anyone interested in attending this hearing shall notify the following at least five days before the hearing. In the event no one notifies the following of his or her interest in attending this hearing, the hearing shall be cancelled: Thomas Fisher, Chairman, P.O. Box 23562, Lexington, Kentucky 40523.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thomas Fisher

(1) Type and number of entities affected: There are approximately 130 occupational therapists who qualify for licensure as a licensed occupational therapist registered and approximately 30 occupational therapy assistants who qualify for licensure as a licensed occupational therapy assistant.

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

1. First year: N/A. Regulation merely sets forth definitions to be used by the board.

2. Continuing costs or savings: N/A. Regulation merely sets forth definitions to be used by the board.

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

(b) Reporting and paperwork requirements: N/A. Regulation only sets forth definitions.

(2) Effects on the promulgating administrative body: Regulation will enable board to administer regulatory program in a uniform and consistent manner.

(a) Direct and indirect costs or savings:

1. First year: N/A. See (1)(a).

2. Continuing costs or savings: N/A. See (1)(a).

3. Additional factors increasing or decreasing costs: N/A. See (1)(a).

(b) Reporting and paperwork requirements: N/A

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Regulatory program requires a consistent set of definitions of technical terms. No other alternative exists.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Regulation defines "Board," "Occupational Therapy," "Occupational Therapist," "Occupational Therapy Assistant," "Occupational Therapy Aide," and "Person" which are also defined in KRS 319A.010.

(a) Necessity of proposed regulation if in conflict: Rather than have two sources to review for applicable definitions, regulation incorporates statutory regulations along with other definitions needed to define the scope of the program.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None - no conflict.

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. There are no identifiable groups which require the

application of tiering as set forth in KRS 13A.210.

GENERAL GOVERNMENT CABINET Board of Occupational Therapy

201 KAR 28:020. General provisions.

RELATES TO: KRS 319A.080, 319A.110, 319A.120, 319A.130, 319A.140

PURSUANT TO: KRS 319A.070(3)
NECESSITY AND FUNCTION: KRS 319A.070(3) authorizes the board to promulgate such regulations as are needed to enforce the provisions of KRS Chapter 319A which makes illegal, except in certain specific instances, the practice of occupational therapy without a license and requires the licensure of all persons desiring to practice occupational therapy. This regulation sets forth the necessity of a license and the minimum requirements of the approved forms to be used in applying for a license.

Section 1. License Required. Except as provided in KRS 319A.090, any individual desiring to practice as a L.O.T.R. or a L.O.T.A. in the Commonwealth of Kentucky shall, prior to practicing occupational therapy, apply to the board for a license, pay the requisite fees, and pass a written examination as approved by the board. Any person practicing occupational therapy or engaging in occupational therapy treatment without a valid active license, in good standing, and who does not qualify for an exemption under KRS 319A.090, or does not have a temporary permit as required under KRS 319A.100, shall be subject to the penalties prescribed in KRS 319A.990.

Section 2. Forms. All applicants for licensure shall submit to the board the information requested on the official forms as approved by the board which at a minimum shall provide for:

(1) The name, business address, if any, permanent address, and telephone number of the applicant;

(2) A statement as to whether the applicant has been convicted of any felony offense denominated as such in any state or has been convicted during the past five (5) years of a misdemeanor or civil violation denominated as such involving an offense of moral turpitude in any state;

(3) A statement as to whether the applicant has been adjudged in a civil suit of a court in competent jurisdiction in any state of malpractice or negligence in the practice of occupational therapy; and

(4) A statement as to whether the applicant has had a license as an O.T.R. or an O.T.A., as issued by another state, revoked, suspended or probated during the past five (5) years.

Section 3. Completion of Forms. Applications for licensure shall be personally completed by the applicant and signed by the applicant under oath with an acknowledgement that the making of a material false statement is subject to punishment as perjury in the second degree as defined in KRS 523.030.

THOMAS FISHER, Chairman

APPROVED BY AGENCY: November 5, 1986

FILED WITH LRC: November 14, 1986 at 10 a.m.
PUBLIC HEARING SCHEDULED: Pursuant to KRS 13A.270, a public hearing concerning this regulation will be held at 3 p.m. (EST) on December 22, 1986, in Room 107, Capitol Annex, Frankfort, Kentucky 40601. Anyone interested in attending this hearing shall notify the following at least five days before the hearing. In the event no one notifies the following of his or her interest in attending this hearing, the hearing shall be cancelled: Thomas Fisher, Chairman, P.O. Box 23562, Lexington, Kentucky 40523.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thomas Fisher

(1) Type and number of entities affected: There are approximately 130 occupational therapists who qualify for licensure as a licensed occupational therapist registered and approximately 30 occupational therapy assistants who qualify for licensure as a licensed occupational therapy assistant.

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

1. First year: N/A. Regulation sets forth necessity of obtaining a license and the completion of forms in applying for such license.

2. Continuing costs or savings: N/A. Regulation sets forth necessity of obtaining a license and the completion of forms in applying for such license.

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A. Regulation sets forth necessity of obtaining a license and the completion of forms in applying for such license.

(b) Reporting and paperwork requirements: N/A. Regulation provides for the submission of an application to obtain a license as a licensed occupational therapist registered or as a licensed occupational therapy assistant; to renew said license; to apply for a late renewal or to be reinstated. Forms will also be used for exempted practice of limited duration, see 201 KAR 28:030, and for the filing of any administrative complaints.

(2) Effects on the promulgating administrative body: Board will have to prepare standard forms and to maintain appropriate records and files.

(a) Direct and indirect costs or savings:

1. First year: N/A. See (1)(a).

2. Continuing costs or savings: N/A. See (1)(a).

3. Additional factors increasing or decreasing costs: N/A. See (1)(a).

(b) Reporting and paperwork requirements: N/A. Regulation provides for the submission of an application to obtain a license as a licensed occupational therapist registered or as a licensed occupational therapy assistant; to renew said license; to apply for a late renewal or to be reinstated. Forms will also be used for exempted practice of limited duration, see 201 KAR 28:030, and for the filing of any administrative complaints.

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: By necessity standardized forms are required for orderly administration of licensure program.

(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. There are no identifiable groups which require the application of tiering as set forth in KRS 13A.210.

GENERAL GOVERNMENT CABINET Board of Occupational Therapy

201 KAR 28:030. Exemptions from licensing.

RELATES TO: KRS 319A.090

PURSUANT TO: KRS 319A.070(3)

NECESSITY AND FUNCTION: KRS 319A.090 provides that certain persons may be exempt from the licensure requirements of KRS Chapter 319A. This regulation sets forth the requirements for determining whether a person is exempt from obtaining a license.

Section 1. Exemptions. The requirement for a license as a L.O.T.R. or a L.O.T.A. does not apply to a person who is:

(1) Licensed in accordance with the provisions of another law of this Commonwealth and is practicing a profession or occupation for which the person is licensed;

(2) Directly employed as an O.T.R. or a C.O.T.A. in a full-time capacity by the United States Government, is solely under the direction or control of the federal organization by which an individual is employed, and is not practicing occupational therapy outside the scope of employment of the federal organization by which the individual is employed;

(3) A person pursuing a course of study leading to a degree or certificate in occupational therapy at an accredited or approved educational program, provided the activities and services are part of the supervised course study and the person is wearing a badge or other emblem designating by title the fact that such person is a student or trainee and not a licensed occupational therapist or occupational therapy assistant;

(4) A person fulfilling the supervised field work experience requirements of KRS 319A.110 provided that such activities and services constitute a part of the experience necessary to meet the requirements of the educational program; and

(5) Any person employed as an occupational therapy aide.

Section 2. Exemption for Limited Practice. (1) The requirement for a license as an occupational therapist registered or an occupational therapy assistant does not apply to an individual who is performing occupational therapy services in the Commonwealth for no more than sixty (60) days in a calendar year in association with a L.O.T.R. provided that such person is licensed under the laws of another state which has licensure requirements at least as stringent as or substantially equal to the requirements of KRS Chapter 319A, and who meets the requirements for certification as an O.T.R. or a C.O.T.A. as

established by the American Occupational Therapy Association.

(2) Any individual who intends to practice occupational therapy in the Commonwealth of Kentucky under the provisions of subsection (1) of this section shall submit to the board on a form approved by the board all of the following information:

(a) Name, permanent address, address in Kentucky, and telephone number or number where the individual can be reached.

(b) The name, business address, and phone number of the L.O.T.R. with whom the individual is associated.

(c) The estimated number of calendar days intended to practice in Kentucky.

(d) A copy of the individual's license from the state in which the individual is licensed along with a statement from the licensing authority that the individual is in good standing.

(e) A copy of the regulations or state law under which the individual is licensed.

(f) A copy of the certificate issued by the American Occupational Therapy Association stating that the individual meets the requirements for certification as an O.T.R. or a C.O.T.A.

(3) The form and information as described in subsection (2) of this section shall be submitted to the board prior to the commencement of practice and shall be sent certified mail, return receipt requested, to the office of the board whose address is P.O. Box 23562, Lexington, Kentucky 40523. If after seven (7) working days from the delivery of the signed receipt the request for exemption is not disapproved, the individual may commence occupational therapy practice provided that such practice does not last more than sixty (60) calendar days.

THOMAS FISHER, Chairman

APPROVED BY AGENCY: November 5, 1986

FILED WITH LRC: November 14, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: Pursuant to KRS 13A.270, a public hearing concerning this regulation will be held at 3 p.m. (EST) on December 22, 1986, in Room 107, Capitol Annex, Frankfort, Kentucky 40601. Anyone interested in attending this hearing shall notify the following at least five days before the hearing. In the event no one notifies the following of his or her interest in attending this hearing, the hearing shall be cancelled: Thomas Fisher, Chairman, P.O. Box 23562, Lexington, Kentucky 40523.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thomas Fisher

(1) Type and number of entities affected: Insufficient data exists for determining how many applications will be filed under this regulation. It is anticipated that there will be very few such applications.

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

1. First year: Under Section 2, an out-of-state practitioner who practices occupational therapy in this state for less than sixty days per calendar year will not have to obtain a license. If not qualified, licensing fees and application fees will apply. See RIA for 201 KAR 28:080.

2. Continuing costs or savings: Under Section 2, an out-of-state practitioner who practices occupational therapy in this state for less than sixty days per calendar year will not have to obtain a license. If not qualified, licensing fees and application fees will apply. See RIA for 201 KAR 28:080.

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

(b) Reporting and paperwork requirements: Section 2 requires out-of-state practitioners to submit a form requesting an exemption. If not disapproved within seven working days, exemption goes into effect.

(2) Effects on the promulgating administrative body: Board will have to review applications and decide whether to disapprove within seven working days per Section 2 of the regulation. Board will also have to maintain files and appropriate records.

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: None anticipated.

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

(b) Reporting and paperwork requirements: Section 2 requires out-of-state practitioners to submit a form requesting an exemption. If not disapproved within seven working days, exemption goes into effect.

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: By necessity standardized forms are required for orderly administration of licensure program.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Regulation to a certain extent copies statutory language of KRS 319A.090. Reciting the statutory exemption gives the regulation coherence and allows the entire exemption process to be set forth in one place.

(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. There are no identifiable groups which require the application of tiering as set forth in KRS 13A.210.

GENERAL GOVERNMENT CABINET Board of Occupational Therapy

201 KAR 28:040. Waiver of Examination.

RELATES TO: KRS 319A.120, 319A.140

PURSUANT TO: KRS 319A.070(3)

NECESSITY AND FUNCTION: KRS 319A.120 and 319A.140 allow an individual to be exempt from the examination requirements of KRS 319A.120. This regulation provides a method by which an applicant can request a waiver of the examination.

Section 1. Qualification for Waiver. Any individual who meets the requirements of KRS

319A.110, who pays the fee, and applies for license as a L.O.T.R. or a L.O.T.A. prior to July 15, 1987, and who has been practicing as an O.T.R. or as a C.O.T.A. prior to January 15, 1986, shall be exempt from the provisions of KRS 319A.120 and shall not be required to take the written examination approved by the board.

Section 2. Notorization Required. Any individual submitting an application for licensure under the provisions of 201 KAR 28:050 and who desires an exemption from the written examination shall submit to the board, along with the application, a notarized affidavit stating that he has been practicing as an O.T.R. or as a C.O.T.A. prior to January 15, 1986.

THOMAS FISHER, Chairman

APPROVED BY AGENCY: November 5, 1986

FILED WITH LRC: November 14, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: Pursuant to KRS 13A.270, a public hearing concerning this regulation will be held at 3 p.m. (EST) on December 22, 1986, in Room 107, Capitol Annex, Frankfort, Kentucky 40601. Anyone interested in attending this hearing shall notify the following at least five days before the hearing. In the event no one notifies the following of his or her interest in attending this hearing, the hearing shall be cancelled: Thomas Fisher, Chairman, P.O. Box 23562, Lexington, Kentucky 40523.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thomas Fisher

(1) Type and number of entities affected: Any person who was practicing occupational therapy as an occupational therapist registered or as an occupational therapy assistant prior to January 15, 1986, will be exempt from taking the required examination. Insufficient data exists as to how many applicants might qualify for this exemption.

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

1. First year: Examination fee is approximately \$100.

2. Continuing costs or savings: Exemption will no longer apply after July 15, 1987.

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

(b) Reporting and paperwork requirements: Section 2 requires that applicant request the exemption and submit a notarized affidavit setting forth qualification for exemption.

(2) Effects on the promulgating administrative body: Regulation will enable board to administer regulatory program in a uniform and consistent manner. Board will also have to maintain files and appropriate records.

(a) Direct and indirect costs or savings:

1. First year: Exemption will have no financial impact on agency.

2. Continuing costs or savings: N/A

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

(b) Reporting and paperwork requirements: Section 2 requires that applicant request the exemption and submit a notarized affidavit setting forth qualification for exemption.

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons

why alternatives were rejected: Only way to ensure compliance is to require applicant to submit the request and to submit a sworn statement.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Note accompanying KRS 319A.110 is the same exemption with slightly different language.

(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: Board believes that KRS 319A.120 and KRS 319A.140 are not in conflict.

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. There are no identifiable groups which require the application of tiering as set forth in KRS 13A.210.

GENERAL GOVERNMENT CABINET Board of Occupational Therapy

201 KAR 28:050. Special licensure requirements.

RELATES TO: KRS 319A.110, 319A.120, 319A.140

PURSUANT TO: KRS 319A.070(3)

NECESSITY AND FUNCTION: KRS Chapter 319A and pertinent parts of KRS 319A.070(3) require the board to establish a procedure for the licensure of those persons who either have been practicing as an O.T.R. or a C.O.T.A. and were certified by the A.O.T.A. prior to the effective date of this Act or have been licensed as an O.T.R. or a C.O.T.A. by another state with licensure requirements substantially equal or at least as stringent as that of the Act. This regulation sets forth the procedures by which such applicants shall apply for a license under the provisions of KRS Chapter 319A.

Section 1. Licensure of an O.T.R. or a C.O.T.A. Any individual who was certified as an O.T.R. or a C.O.T.A. by the A.O.T.A. prior to July 15, 1986, and who desires to be licensed as an L.O.T.R. or an L.O.T.A. under the provisions of KRS 319A.140(1) must by no later than July 15, 1987, fulfill the following requirements:

(1) Submit to the board an application for licensure on a form approved by the board;

(2) Submit with the application a check payable to the Kentucky State Treasurer in the amount of seventy-five (75) dollars which is not refundable;

(3) Submit to the board a certified or true copy of the applicant certificate as an O.T.R. or a C.O.T.A. as issued prior to July 15, 1986, by the A.O.T.A.;

(4) Submit a statement from an authorized agent of the A.O.T.A. that the applicant is a member and is in good standing with the association.

Section 2. Persons Licensed by Another State. Any individual desiring to be licensed as a L.O.T.R. or a L.O.T.A. under the provisions of KRS 319A.140(2) shall fulfill the following requirements:

(1) Submit to the board an application for licensure on a form approved by the board;

(2) Submit with the application a check payable to the Kentucky State Treasurer in the amount of seventy-five (75) dollars which is not refundable;

(3) Submit a certified copy of the individual's license, registration or certification from the state in which the individual was licensed along with a statement from the licensing authority that the individual is in good standing as either an O.T.R. or an O.T.A.;

(4) Submit a current copy of the regulations and state law under which the individual is licensed; and

(5) Submit a copy of the certificate issued by the A.O.T.A. stating that the individual meets the requirements of a certification as an O.T.R. or a C.O.T.A.

Section 3. Waiver of Examination. Any provision to the contrary notwithstanding in 201 KAR 28:040, any individual who qualifies for licensure under the provisions of this regulation shall be exempt from taking a written examination.

Section 4. Approval Required. Any application submitted by an applicant in accordance with these regulations shall be approved if the board believes that applicant qualifies for licensure under the provisions of KRS 319A.140(1) or (2). The board shall give notice in writing to the applicant of its decision and if approved, a license shall be issued in accordance with the provisions of 201 KAR 28:080 and upon payment to the Kentucky State Treasurer of the appropriate licensing fee.

THOMAS FISHER, Chairman

APPROVED BY AGENCY: November 5, 1986

FILED WITH LRC: November 14, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: Pursuant to KRS 13A.270, a public hearing concerning this regulation will be held at 3 p.m. (EST) on December 22, 1986, in Room 107, Capitol Annex, Frankfort, Kentucky 40601. Anyone interested in attending this hearing shall notify the following at least five days before the hearing. In the event no one notifies the following of his or her interest in attending this hearing, the hearing shall be cancelled: Thomas Fisher, Chairman, P.O. Box 23562, Lexington, Kentucky 40523.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thomas Fisher

(1) Type and number of entities affected: Insufficient data exists to determine how many applicants might qualify for the exemption under Sections 1 and 2.

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

1. First year: Regulation sets forth criteria for licensing without requirement of submitting transcript or other educational information. Regulation also allows out-of-state practitioners who are licensed under a statutory scheme substantially equal to that of Kentucky to be licensed by virtue of having already been licensed. In either event, written examination and showing of supervised field work is not required. Regulation calls for a payment of a \$75 processing fee which is not refundable.

2. Continuing costs or savings: See above.

3. Additional factors increasing or decreasing costs (note any effects upon competition): See above.

(b) Reporting and paperwork requirements: Applicant must submit a form which must be accompanied by the items specified in the regulation, to wit, a true copy of applicant's certificate as an occupational therapist registered or as a certified occupational therapy assistant or a copy of state license.

(2) Effects on the promulgating administrative body: Forms will have to be reviewed and acted upon in accordance with Section 4. Board will also have to maintain files and appropriate records.

(a) Direct and indirect costs or savings:

1. First year: Fees are payable to the board which will provide a source of revenue for board operations.

2. Continuing costs or savings: It is expected that income from year to year will remain the same.

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

(b) Reporting and paperwork requirements: Applicant must submit a form which must be accompanied by the items specified in the regulation, to wit, a true copy of applicant's certificate as an occupational therapist registered or as a certified occupational therapy assistant or a copy of state license.

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No other feasible alternative exists. Regulation is needed to determine which applicants properly qualify for an exemption.

(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. There are no identifiable groups which require the application of tiering as set forth in KRS 13A.210.

GENERAL GOVERNMENT CABINET Board of Occupational Therapy

201 KAR 28:060. Regular licensure requirements/temporary permits of L.O.T.R.s and L.O.T.A.s.

RELATES TO: KRS 319A.100, 319A.110, 319A.130
PURSUANT TO: KRS 319A.070(3)

NECESSITY AND FUNCTION: KRS Chapter 319A and pertinent parts of KRS 319A.070(3) require the board to establish a procedure for the licensure of persons who wish to practice in this state as an occupational therapist registered and an occupational therapy assistant. This regulation sets forth the procedure by which such applicants shall apply for a license under the provisions of Chapter 319A, and the procedure for the issuance of a temporary permit by the board to an applicant.

Section 1. Licensure of L.O.T.R.s. (1) All individuals who do not qualify for licensure as a L.O.T.R. under the provisions of 201 KAR 28:050 shall, in order to be licensed as a L.O.T.R., meet all of the following requirements:

(a) Submit an application on a form approved by the board and submit a check payable to the board in the amount of seventy-five (75) dollars which is not refundable.

(b) Submit a certified copy of the applicant's transcript indicating that the applicant for a L.O.T.R. has a baccalaureate, postbaccalaureate certificate or master's degree in occupational therapy from an occupational therapy program accredited by the Committee on Allied Health, Education, and Accreditation of the American Medical Association and approved by the American Occupational Therapy Association.

(c) Submit a statement by the applicant's supervisor in the applicant's educational program that the applicant has successfully completed a minimum of six (6) months of supervised field work.

(d) Pass a written examination approved by the board.

(e) Submit a statement of recommendation from two (2) L.O.T.R.s in this state or two (2) O.T.R.s as licensed in states with licensing requirements as stringent as those of this state attesting to the applicant's good moral character.

(2) An applicant for licensure as an O.T.R. may in lieu of submitting a transcript as set forth in subsection (1)(b) of this section submit to the board a certified copy of the applicant's certification by the A.O.T.A. as an occupational therapy assistant (C.O.T.A.) demonstrating that the applicant has been practicing as a certified occupational therapy assistant for four (4) years.

Section 2. Licensure of L.O.T.A.s. All individuals who do not qualify for licensure as a L.O.T.A. under the provisions of 201 KAR 28:050 shall, in order to be licensed as a L.O.T.A., meet all of the following requirements:

(1) Submit an application on a form approved by the board and submit a check payable to the board in the amount of seventy-five (75) dollars which is not refundable.

(2) Submit a certified copy of the applicant's transcript indicating that the applicant for a L.O.T.A. has successfully graduated from an educational program approved by the American Occupational Therapy Association.

(3) Submit a statement by the applicant's supervisor in the education program that the applicant has successfully completed a minimum of four (4) months of supervised field work.

(4) Pass a written examination approved by the board.

(5) Submit a statement of recommendation from two (2) L.O.T.R.s licensed in this state or two (2) O.T.R.s as licensed in states with licensing requirements as stringent as those of this state attesting to the applicant's good moral character.

Section 3. Temporary Permit. (1) Upon submission of the application on a form approved by the board as provided in Sections 1 or 2 of this regulation, the board upon payment of the initial application fee may issue to the applicant a temporary permit which shall allow the applicant for licensure to practice

occupational therapy under the supervision of a L.O.T.R. in accordance with the applicable provisions of 201 KAR 28:130.

(2) Temporary permits shall be valid until the application for licensure is approved or denied by the board but shall in any event expire thirty (30) days following the first examination offered (whether taken or not) subsequent to the filing of the application for licensure.

(3) No more than one (1) temporary permit shall be granted per applicant regardless of the number of times an applicant may file for licensure as a L.O.T.R. or L.O.T.A.

Section 4. Approval Required. Any application submitted by an applicant in accordance with these regulations shall be approved if the board believes that applicant qualifies for licensure under the provisions of KRS 319A.110. The board shall give notice in writing to the applicant of its decision and if approved, a license shall be issued in accordance with the provisions of 201 KAR 28:080 and upon payment to the Kentucky State Treasurer of the appropriate licensing fee.

THOMAS FISHER, Chairman

APPROVED BY AGENCY: November 5, 1986

FILED WITH LRC: November 14, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: Pursuant to KRS 13A.270, a public hearing concerning this regulation will be held at 3 p.m. (EST) on December 22, 1986, in Room 107, Capitol Annex, Frankfort, Kentucky 40601. Anyone interested in attending this hearing shall notify the following at least five days before the hearing. In the event no one notifies the following of his or her interest in attending this hearing, the hearing shall be cancelled: Thomas Fisher, Chairman, P.O. Box 23562, Lexington, Kentucky 40523.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thomas Fisher

(1) Type and number of entities affected: There are approximately 130 occupational therapists who qualify for licensure as a licensed occupational therapist registered and approximately 30 occupational therapy assistants who qualify for licensure as a licensed occupational therapy assistant.

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

1. First year: Application fee is \$75. Upon approval of application, license fee for licensed occupational therapist registered will be \$50. License for a licensed occupational therapy assistant will be \$35.

2. Continuing costs or savings: Provision in 201 KAR 28:090 provides for yearly renewal of license which is set at \$50 per year.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Late renewals, i.e., renewal applications not timely submitted, will be assessed an additional \$75.

(b) Reporting and paperwork requirements: Issuance of license is dependent upon filing of application. Renewal of licenses will also require an application.

(2) Effects on the promulgating administrative body: Board will have to review each application and determine whether license should be issued. Board will also have to maintain files and appropriate records.

(a) Direct and indirect costs or savings:

1. First year: Majority of board revenue which will be used to offset administrative costs for processing and board expenses will be derived from the application and license fees.

2. Continuing costs or savings: After initial round of applications are processed, majority of board revenue will be derived from renewal fees.

3. Additional factors increasing or decreasing costs: Late renewals, i.e., renewal applications not timely submitted, will be assessed an additional \$75.

(b) Reporting and paperwork requirements: Issuance of license is dependent upon filing of application. Renewal of licenses will also require an application.

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Other than requiring the submission of an application and providing documentation warranting issuance of license, no other alternative exists for administering the program.

(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. There are no identifiable groups which require the application of tiering as set forth in KRS 13A.210.

GENERAL GOVERNMENT CABINET Board of Occupational Therapy

201 KAR 28:070. Examination.

RELATES TO: KRS 319A.120

PURSUANT TO: KRS 319A.070(3), 319A.120(4)

NECESSITY AND FUNCTION: KRS Chapter 319A, in pertinent part, requires the board to establish regulations for the taking of an examination by an applicant for licensure. This regulation describes the procedure by which an applicant shall fulfill the requirements and necessity for taking of an examination.

Section 1. Necessity of Examination. (1) Except as provided in 201 KAR 28:040 and 201 KAR 28:050, any applicant for licensure as a L.O.T.R. or a L.O.T.A. shall take an examination as administered by a duly authorized agent of the board and shall receive a minimum passing score, as established by the board, on such examination in order to qualify for licensure.

(2) It shall be the responsibility of the applicant to make arrangements to sit for the examination, pay the requisite examination fee, and to ensure that the board receives the result of the examination.

(3) An applicant may retake the examination by sitting for the examination, paying the requisite fee, and ensuring the forwarding of the examination results to the board. An applicant may not take an exam more than two (2) times every two (2) years.

Section 2. Review of Tests. Applicants for

licensure may review the results of the examination as administered by the duly authorized agent of the board at the office of the board by requesting such a review in writing. Requests shall be mailed to P.O. Box 23562, Lexington, Kentucky 40523. Upon receipt of the request, the executive secretary or the secretary of the board shall arrange for a mutually convenient time not to exceed ten (10) calendar days from the date of the request for the applicant to review the examination, the results, provided a copy has been obtained by applicant from the authorized agent of the board, and, if in the possession of the board, the graded examination paper.

THOMAS FISHER, Chairman

APPROVED BY AGENCY: November 5, 1986

FILED WITH LRC: November 14, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: Pursuant to KRS 13A.270, a public hearing concerning this regulation will be held at 3 p.m. (EST) on December 22, 1986, in Room 107, Capitol Annex, Frankfort, Kentucky 40601. Anyone interested in attending this hearing shall notify the following at least five days before the hearing. In the event no one notifies the following of his or her interest in attending this hearing, the hearing shall be cancelled: Thomas Fisher, Chairman, P.O. Box 23562, Lexington, Kentucky 40523.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thomas Fisher

(1) Type and number of entities affected: There are approximately 130 occupational therapists who qualify for licensure as a licensed occupational therapist registered and approximately 30 occupational therapy assistants who qualify for licensure as a licensed occupational therapy assistant.

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

1. First year: Applicants will have to pay the examination fee which is approximately \$75.

2. Continuing costs or savings: Once licensed, no further examination costs will be incurred.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Under certain circumstances, as outlined in 201 KAR 28:040 and 201 KAR 28:050, examinations may be waived.

(b) Reporting and paperwork requirements: Applicants will be responsible for taking the examination and ensuring that the board receives the results of the examination. In cases where the applicant wants to review results of examination, a written request must be filed.

(2) Effects on the promulgating administrative body: Board will have to review and approve an examination to be taken by the applicant.

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: N/A

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS 319A.120 requires the taking of an examination. No other alternative available.

(5) Identify any statute, administrative

regulation or government policy which may be in conflict, overlapping, or duplication: None

(a) Necessity of proposed regulation if in conflict: 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. There are no identifiable groups which require the application of tiering as set forth in KRS 13A.210.

GENERAL GOVERNMENT CABINET Board of Occupational Therapy

201 KAR 28:080. Licenses.

RELATES TO: KRS 319A.110, 319A.130, 319A.140, 319A.150

PURSUANT TO: KRS 319A.070(3)

NECESSITY AND FUNCTION: KRS Chapter 319A, in pertinent part, provides for the issuance of licenses to qualified occupational therapists registered and occupational therapy assistants upon approval of the application by the board and payment of the requisite fees. This regulation provides for the manner in which such licenses shall be issued.

Section 1. Requirements for Issuance. Upon filing of a properly completed application on a form approved by the board, and after review of the application, the examination results, and the requirements of Chapter 319A, the board may notify the applicant that the applicant is qualified to receive a license upon payment of the appropriate fee as set forth in 201 KAR 28:110. Once the requisite fee is submitted, the board shall within ten (10) working days issue the appropriate license which shall be signed by both the chairman and secretary of the board.

Section 2. Effect of Issuance. Issuance of a license shall allow the applicant to use the initials L.O.T.R. if the license is for an occupational therapist registered, or L.O.T.A. if the license is for an occupational therapy assistant.

Section 3. Prohibitions. The board shall not issue a license to a partnership, unincorporated association, corporation or similar business organization.

Section 4. Validity. Any license issued by the board shall be valid for only one (1) full year from date of issuance unless renewed in accordance with the provisions of 201 KAR 28:090.

Section 5. Expiration Date. Each license, shall state the name of the license-holder, the date of issuance, and other appropriate information as determined by the board.

THOMAS FISHER, Chairman

APPROVED BY AGENCY: November 5, 1986

FILED WITH LRC: November 14, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: Pursuant to KRS 13A.270, a public hearing concerning this regulation will be held at 3 p.m. (EST) on December 22, 1986, in Room 107, Capitol Annex, Frankfort, Kentucky 40601. Anyone interested in

attending this hearing shall notify the following at least five days before the hearing. In the event no one notifies the following of his or her interest in attending this hearing, the hearing shall be cancelled: Thomas Fisher, Chairman, P.O. Box 23562, Lexington, Kentucky 40523.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thomas Fisher

(1) Type and number of entities affected: There are approximately 130 occupational therapists who qualify for licensure as a licensed occupational therapist registered and approximately 30 occupational therapy assistants who qualify for licensure as a licensed occupational therapy assistant.

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

1. First year: N/A. Regulation simply describes issuance of license once application is approved. Fees for licensing are described in the RIA for 201 KAR 28:070.

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: Board will issue a certificate to the applicant.

(2) Effects on the promulgating administrative body: Agency will be required to prepare a certificate for issuance upon approval. Board will also have to maintain files and appropriate records.

(a) Direct and indirect costs or savings:

1. First year: There will be a small amount of expense to the board in preparing certificates for issuance.

2. Continuing costs or savings: Minimal expense for renewal certificates.

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

(b) Reporting and paperwork requirements: Board will issue certificates to approved applicants. Register of licensed occupational therapist registered and licensed occupational therapy assistants will have to be maintained by the board.

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Statute requires issuance of license. No other alternative available.

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

(a) Necessity of proposed regulation if in conflict: 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. There are no identifiable groups which require the application of tiering as set forth in KRS 13A.210.

**GENERAL GOVERNMENT CABINET
Board of Occupational Therapy**

201 KAR 28:090. Renewals.

RELATES TO: KRS 319A.160

PURSUANT TO: KRS 319A.070(3), 319A.160(1)

NECESSITY AND FUNCTION: KRS Chapter 319A provides, in pertinent part, that the board shall establish regulations for the annual renewal of licenses. This regulation provides for a procedure by which such licenses shall be renewed.

Section 1. General Provisions. In order to continue the practice of occupational therapy as a L.O.T.R. or a L.O.T.A., each license as issued by the board must be annually renewed by the board no later than one (1) full year from date of issuance.

Section 2. Requisites for Renewal. To qualify for a renewal of licenses previously issued by the board, the license holder, sixty (60) calendar days prior to the expiration of the license, shall comply with all of the following requirements:

(1) File with the board a properly completed application for renewal on a form approved by the board and mail the application to the office of the board whose address is P.O. Box 23562, Lexington, Kentucky 40523.

(a) An application for renewal shall be deemed timely received if the envelope contains a properly completed application for renewal and bears a postmark indicating the application was mailed at least sixty (60) calendar days prior to the expiration of the license.

(b) Failure to timely file an application or to properly complete the application shall result in the rejection of the application and may submit the license holder to the provisions of 201 KAR 28:100.

(2) File with the application a check payable to the board in the amount of fifty (50) dollars for renewal of the license.

Section 3. Issuance of Renewal License. Upon receipt of a timely filed, properly completed application and upon presentment and honoring of the tendered check, the board, after a review of the application for renewal and the requirements of KRS 319A.190, shall notify the applicant within sixty (60) calendar days of the receipt of the application whether the license will be renewed.

Section 4. Denial of Renewals. (1) In the event the board, for whatever reason, denies a timely application for renewal, the board shall notify the licensee, in writing, and shall send such notice, certified mail, return receipt requested, to the address given by the applicant in the application for renewal. The notice of denial shall state the reasons for the denial of the application of renewal, the right of the license holder to request a hearing within thirty (30) calendar days from receipt of the notice, and a warning that if a hearing is not requested, the license is subject to being revoked.

(2) If after thirty (30) calendar days from the return of the certified receipt notifying the applicant that the application for renewal has been denied, a request for a hearing is not

timely filed, the board shall issue an order, signed by the chairman, revoking the license. A copy of the order shall be mailed to the license holder and to his employer, if any.

(3) If a hearing is requested, the license holder may continue to practice as a L.O.T.R. or a L.O.T.A. until a final order of the board is entered disposing the matter.

(4) The provisions of this regulation shall not apply to the denial of an application for late renewal as provided in 201 KAR 28:100.

Section 5. Suspended Licenses. Suspended licenses or licenses on probation shall be subject to the provisions of this regulation, but the issuance of a renewal license during the period of suspension shall not permit the license holder to practice occupational therapy as a L.O.T.R. or a L.O.T.A. until such time as the terms of the suspension have been satisfied or the period of probation has expired or the license has been reinstated.

THOMAS FISHER, Chairman

APPROVED BY AGENCY: November 5, 1986

FILED WITH LRC: November 14, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: Pursuant to KRS 13A.270, a public hearing concerning this regulation will be held at 3 p.m. (EST) on December 22, 1986, in Room 107, Capitol Annex, Frankfort, Kentucky 40601. Anyone interested in attending this hearing shall notify the following at least five days before the hearing. In the event no one notifies the following of his or her interest in attending this hearing, the hearing shall be cancelled: Thomas Fisher, Chairman, P.O. Box 23562, Lexington, Kentucky 40523.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thomas Fisher

(1) Type and number of entities affected: There are approximately 130 occupational therapists who qualify for licensure as a licensed occupational therapist registered and approximately 30 occupational therapy assistants who qualify for licensure as a licensed occupational therapy assistant.

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

1. First year: No renewals expected in the first year of the program.

2. Continuing costs or savings: Renewal fees are \$50 per license.

3. Additional factors increasing or decreasing costs (note any effects upon competition): If renewal application is not timely submitted, issuance of license is subject to an additional \$75 fee.

(b) Reporting and paperwork requirements: Applications for renewal will be on a form approved by the board.

(2) Effects on the promulgating administrative body: Board will have to process applications for renewal and issue renewal certificates. Board will also have to maintain files and appropriate records.

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: Administrative costs of unknown amount for processing. Majority of board revenues will be derived from the renewal fees.

3. Additional factors increasing or decreasing

costs: None anticipated.

(b) Reporting and paperwork requirements: Board will have to issue a renewal certificate.

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS 319A.060 calls for an annual renewal of license. Orderly administrative process requires submission of a form. No other alternative exists.

(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. There are no identifiable groups which require the application of tiering as set forth in KRS 13A.210.

GENERAL GOVERNMENT CABINET Board of Occupational Therapy

201 KAR 28:100. Late renewal of licenses.

RELATES TO: KRS 319A.160(1)

PURSUANT TO: KRS 319A.070(3), 319A.160(1)

NECESSITY AND FUNCTION: KRS Chapter 319A provides, in pertinent part, that the board shall promulgate regulations for the late renewal of licenses. This regulation sets forth the procedure by which applications for late renewal of licenses are handled.

Section 1. Determination of Late Renewal. The license shall be deemed late for renewal if:

(1) An application for renewal is not submitted sixty (60) days prior to the expiration of the license; or

(2) An incomplete application or an application lacking the appropriate payment is filed and rejected and the refiled application is not submitted thirty (30) days prior to the expiration of the license; or

(3) The check accompanying the application is upon presentment returned unpaid or dishonored.

Section 2. Notice of Expiration. If for any reason listed in Section 1 of this regulation a license is not renewed, the board shall notify the license holder in writing that the license is expired and the licensee shall within ten (10) calendar days from the mailing of the notice cease practice as an occupational therapist registered or as an occupational therapy assistant and not resume practice until such time as a renewed license is issued by the board. Such notice shall be sent to the last known address of the applicant for renewal and shall be mailed certified, return receipt requested.

Section 3. Application. Applications for a late renewal of license shall be filed in accordance with the provisions of 201 KAR 28:090 and shall be subject to an additional late renewal fee as prescribed in 201 KAR 28:110.

Section 4. Revocation. (1) If, after sixty

(60) days from the date of the notice by the board that the license has not been renewed, an application for late renewal has not been filed and approved, the board in accordance with 201 KAR 28:150 may conduct a hearing to determine whether the license should be revoked. Such hearing shall be held in accordance with the provisions of 201 KAR 28:160.

(2) Late renewal of licenses shall not be allowed for any license which has been expired for a period of five (5) years or longer.

THOMAS FISHER, Chairman

APPROVED BY AGENCY: November 5, 1986

FILED WITH LRC: November 14, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: Pursuant to KRS 13A.270, a public hearing concerning this regulation will be held at 3 p.m. (EST) on December 22, 1986, in Room 107, Capitol Annex, Frankfort, Kentucky 40601. Anyone interested in attending this hearing shall notify the following at least five days before the hearing. In the event no one notifies the following of his or her interest in attending this hearing, the hearing shall be cancelled: Thomas Fisher, Chairman, P.O. Box 23562, Lexington, Kentucky 40523.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thomas Fisher

(1) Type and number of entities affected: Unknown. It is expected most licenses will renew on time.

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

1. First year: N/A. Renewals will not occur in first year of program.

2. Continuing costs or savings: Failure to timely renew will result in the assessment of an additional \$75 fee.

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

(b) Reporting and paperwork requirements: Late renewals will require the filing of an application which is the same form used for renewal of licenses.

(2) Effects on the promulgating administrative body: Board will be required to review late renewals and if approved issue renewal certificates. Board will also have to maintain files and appropriate records.

(a) Direct and indirect costs or savings:

1. First year: See (1)(a)1.

2. Continuing costs or savings: Administrative expenses of an unknown amount will be expended for processing renewal applications and issuance of renewal certificates.

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

(b) Reporting and paperwork requirements: Late renewal applications will have to be processed and if approved a renewal certificate will have to be issued.

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS 319A.160 requires a late fee to be assessed. Use of postmark for determination of deadline was determined to be the most feasible way to impose a definite cut-off date.

(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. There are no identifiable groups which require the application of tiering as set forth in KRS 13A.210.

**GENERAL GOVERNMENT CABINET
Board of Occupational Therapy**

201 KAR 28:110. Fees.

RELATES TO: KRS 319A.170

PURSUANT TO: KRS 319A.070(3), 319A.170

NECESSITY AND FUNCTION: KRS Chapter 319A provides, in pertinent part, for the assessment of fees for the application, licensure of occupational therapist registered and occupational therapy assistants, and other fees as deemed appropriate by the board. This regulation provides for such fees.

Section 1. Fees. The following are the fees, payable to the Kentucky State Treasurer, which shall be collected by the board:

(1) The application fee shall be seventy-five (75) dollars and shall not be refundable regardless of circumstances.

(2) Initial licensure of an occupational therapist registered is to be fifty (50) dollars.

(3) Initial licensure of an occupational therapy assistant shall be thirty-five (35) dollars.

(4) Applications for renewal shall be fifty (50) dollars.

(5) Applications for late renewal shall be seventy-five (75) dollars.

Section 2. Miscellaneous Costs. The following shall be the costs assigned by the board for the following activities:

(1) Issuance of a duplicate license - five (5) dollars.

(2) Photocopying of any material not otherwise privileged and in the custody of the board - twenty-five (25) cents per page.

THOMAS FISHER, Chairman

APPROVED BY AGENCY: November 5, 1986

FILED WITH LRC: November 14, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: Pursuant to KRS 13A.270, a public hearing concerning this regulation will be held at 3 p.m. (EST) on December 22, 1986, in Room 107, Capitol Annex, Frankfort, Kentucky 40601. Anyone interested in attending this hearing shall notify the following at least five days before the hearing. In the event no one notifies the following of his or her interest in attending this hearing, the hearing shall be cancelled: Thomas Fisher, Chairman, P.O. Box 23562, Lexington, Kentucky 40523.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thomas Fisher

(1) Type and number of entities affected: There are approximately 130 occupational

therapists who qualify for licensure as a licensed occupational therapist registered and approximately 30 occupational therapy assistants who qualify for licensure as a licensed occupational therapy assistant.

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

1. First year: N/A. Regulation merely prescribes the fees for various licenses and renewals of licenses as well as miscellaneous costs.

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A. Fees are set at statutory maximum.

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body: No effect.

(a) Direct and indirect costs or savings:

1. First year: N/A. See (1)(a)1.

2. Continuing costs or savings: N/A. See (1)(a).

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

(b) Reporting and paperwork requirements: N/A

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Board is required to set appropriate fees. Regulation informs applicant of the various fees entailed in applying for and being issued a license.

(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. There are no identifiable groups which require the application of tiering as set forth in KRS 13A.210.

**GENERAL GOVERNMENT CABINET
Board of Occupational Therapy**

201 KAR 28:120. Applications by foreign trained O.T.R.s and O.T.A.s.

RELATES TO: KRS 319A.180

PURSUANT TO: KRS 319A.070(3)

NECESSITY AND FUNCTION: KRS Chapter 319A, in pertinent part, provides for the licensure of occupational therapist registered and occupational therapy assistants who are either licensed in a country other than the United States or who have completed their education requirements and training at an educational institution located in a country other than the United States. This regulation provides for licensure of such applicants.

Section 1. Scope. The provisions of this regulation shall apply to all applicants for licensure as a L.O.T.R. or as a L.O.T.A. who are:

(a) Of foreign nationality; or

(b) Educated or trained at an educational facility in a country or nation other than the United States. This regulation also applies to any citizen of the United States who received

training in occupational therapy at an educational facility in a country or nation other than the United States.

Section 2. Requirements for Licensure. (1) All applicants applying for a license under this section shall:

(a) Complete an application on a form approved by the board.

(b) Present proof of a good moral character as set forth in 201 KAR 28:060.

(c) Present proof of having completed an educational program substantially similar to the requirements of 201 KAR 28:060.

(d) Pay the application fee of seventy-five (75) dollars as required under 201 KAR 28:110.

(e) If English is not the native language of the applicant, submit the results of a Test of English as a Foreign Language (TOEFL) with a score of at least 550 or the Test of Spoken English (TSE) with a total score of at least 220.

(f) Provide evidence of legal permission as furnished by the U.S. Department of Immigration for employment in the United States or submit evidence, such as a birth certificate or certificate of naturalization, that the applicant is a United States citizen.

(g) Successfully pass an examination approved by the board as required under 201 KAR 28:070.

(2) Any applicant who files for a license under the provisions of this regulation may satisfy the educational requirement of subsection 1(c) of this section by:

(a) Submitting with the application a certified copy of the applicant's degree in an education program approved by the World Federation of Occupational Therapists; or

(b) Submitting a certified copy of a transcript and a certified copy of a degree in an educational program having the minimum educational requirements required for certification as an O.T.R. or a C.O.T.A. by the A.O.T.A. Applications filed under this provision shall be reviewed by the board for comparison to the educational program approved by the A.O.T.A.

(3) Issuance of licenses and temporary permits shall be in accordance with the provisions of 201 KAR 28:080 and 201 KAR 28:060, Section 3. Once licensed, licenses issued pursuant to this regulation shall be subject to all provisions of Chapter 28 and KRS Chapter 319A.

Section 3. Exemptions. Any applicant who satisfies the criteria of KRS 319A.140 may, in lieu of applying for a license under this regulation, apply for a license under the provisions of 201 KAR 28:050.

THOMAS FISHER, Chairman

APPROVED BY AGENCY: November 5, 1986

FILED WITH LRC: November 14, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: Pursuant to KRS 13A.270, a public hearing concerning this regulation will be held at 3 p.m. (EST) on December 22, 1986, in Room 107, Capitol Annex, Frankfort, Kentucky 40601. Anyone interested in attending this hearing shall notify the following at least five days before the hearing. In the event no one notifies the following of his or her interest in attending this hearing, the hearing shall be cancelled: Thomas Fisher, Chairman, P.O. Box 23562, Lexington, Kentucky 40523.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thomas Fisher

(1) Type and number of entities affected: Insufficient data exist to determine how many applications may be filed under this regulation. It is anticipated that there will be less than ten such applications.

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

1. First year: Applicants will have to file an application, pay the application fee, take an examination, and if application is approved by action of the board, pay a licensing fee.

2. Continuing costs or savings: Same as above.

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

(b) Reporting and paperwork requirements: Applicants will have to apply on a form approved by the board and submit the documentation required for licensure as set forth in the regulation. If English is not the native language of the applicant, applicant will also have to submit the results of Tests of English as a Foreign Language or Tests of Spoken English.

(2) Effects on the promulgating administrative body: It is anticipated that less than ten applications will be filed pursuant to this application. Board will also have to maintain files and appropriate records.

(a) Direct and indirect costs or savings:

1. First year: A minimal amount of revenue will be derived from applications filed pursuant to this regulation. Minimal expense will result from processing such applications and issuing licenses.

2. Continuing costs or savings: Same as above.

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

(b) Reporting and paperwork requirements: Board will have to review and process applications and issue certificates.

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS 319A.180 specifically requires licensure of foreign-trained occupational therapists registered and occupational therapy assistants. Procedure for licensure is similar to that of 201 KAR 28:060. No other alternative exists for the orderly administration of this program.

(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. There are no identifiable groups which require the application of tiering as set forth in KRS 13A.210.

GENERAL GOVERNMENT CABINET
Board of Occupational Therapy

201 KAR 28:130. Supervision of occupational therapy assistants and occupational therapy aides.

RELATES TO: KRS 319A.010(4), (5), 319A.100

PURSUANT TO: KRS 319A.070(3)

NECESSITY AND FUNCTION: KRS Chapter 319A provides, in pertinent part, that a L.O.T.A., an occupational therapy aide or an individual issued a temporary permit may only practice occupational therapy under the supervision of a L.O.T.R. This regulation sets forth the terms and requirements of such supervision.

Section 1. Supervision of Licensed Occupational Therapy Assistants. (1) All L.O.T.A.s shall assist in the practice of occupational therapy only under the supervision of a L.O.T.R.

(2) Supervision by a L.O.T.R. of a L.O.T.A. shall consist of at least eight (8) hours per month of one-to-one supervision for each occupational therapy assistant with such supervision including:

(a) The evaluation of each patient by a L.O.T.R. prior to treatment by the L.O.T.A.

(b) A treatment plan written by the supervising L.O.T.R. outlining the elements which have been delegated to the L.O.T.A.

(c) The monitoring of a patient's progress by the L.O.T.R.

(d) Evaluation of the treatment plan and determination of treatment termination by the L.O.T.R.

(3) The L.O.T.R. shall ensure that the L.O.T.A. is assigned only those duties and responsibilities for which the assistant has been specifically trained and which the L.O.T.A. is qualified to perform.

(4) The provisions as enumerated in subsections (1), (2), and (3) shall apply to any individual holding a temporary permit as issued by the board.

Section 2. Supervision of Occupational Therapy Aides. (1) A L.O.T.R. shall perform the following functions with respect to an occupational therapy aide who meets the qualifications set forth in KRS 319A.010(5) and 201 KAR 28:010(11):

(a) Evaluation of each patient by the L.O.T.R.

(b) Determination of the treatment plan with delegation of such treatment set forth in writing.

(c) Availability at all times on the premises for purposes of rendering advice, instruction, and assistance to the occupational therapy aide.

(d) Monitoring of patient progress, change of treatment plan as indicated, and termination of the treatment with written report indicating evaluation data and progress made.

(2) Care rendered by an occupational therapy aide shall not be held out as and shall not be charged as occupational therapy unless on-premises supervision is provided by the L.O.T.R.

Section 3. Temporary Permits. Any individual issued a temporary permit under the provisions of 201 KAR 28:060, Section 3, shall be supervised in accordance with the requirements of Section 1 of this regulation.

THOMAS FISHER, Chairman

APPROVED BY AGENCY: November 5, 1986

FILED WITH LRC: November 14, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: Pursuant to KRS 13A.270, a public hearing concerning this regulation will be held at 3 p.m. (EST) on December 22, 1986, in Room 107, Capitol Annex, Frankfort, Kentucky 40601. Anyone interested in attending this hearing shall notify the following at least five days before the hearing. In the event no one notifies the following of his or her interest in attending this hearing, the hearing shall be cancelled: Thomas Fisher, Chairman, P.O. Box 23562, Lexington, Kentucky 40523.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thomas Fisher

(1) Type and number of entities affected: Only licensed occupational therapy assistants and those individuals issued temporary permits will fall under the scope of this regulation.

(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): N/A

(b) Reporting and paperwork requirements: Regulation provides for preparation of written plans by person being supervised detailing treatment of client/patient. Monitoring reports will be filled out by supervisor. Plans and reports are not to be submitted to the board.

(2) Effects on the promulgating administrative body: N/A

(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: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS 319A.160 specifically calls for supervision of licensed occupational therapy assistants and those individuals issued temporary permits. Requirements are considered by the board to be the absolute minimum for adequate supervision.

(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. There are no identifiable groups which require the application of tiering as set forth in KRS 13A.210.

GENERAL GOVERNMENT CABINET
Board of Occupational Therapy

201 KAR 28:140. Grounds for probation, suspension or revocation of license.

RELATES TO: KRS 319A.160, 319A.190

PURSUANT TO: KRS 319A.070(3), 319A.190(1), (6)

NECESSITY AND FUNCTION: KRS Chapter 319A provides, in pertinent part, for the probation, suspension or revocation of a license for various violations of the Act or violation of the regulations promulgated pursuant thereto. This regulation describes the type of violations which may result in the probation, suspension or revocation of a license and the application of appropriate sanctions, the sanctions which may be imposed, and the procedure for reinstatement of a license.

Section 1. Grounds for Probation, Suspension or Revocation. (1) The board may revoke or suspend a license or place a license holder on probation for any of the following statutory reasons set forth in KRS 319A.190:

(a) Fraud or misrepresentation or concealment of material facts in the obtaining of the license.

(b) Unprofessional conduct as defined in Section 2 of this regulation.

(c) Being convicted of a felony offense denominated as such in any court of competent jurisdiction if the act for which the license holder was convicted is determined by the board after a hearing to have a direct bearing on whether the license holder should be entrusted to serve the public in the capacity of a L.O.T.R. or a L.O.T.A.

(d) Violating any order or regulation rendered or promulgated by the board.

(e) Failing to timely renew a license.

(f) Violating any provision of KRS Chapter 319A et seq.

(2) The board may revoke or suspend a license or place a license holder on probation for engaging in unprofessional conduct which is defined as the failure of the L.O.T.R. or the L.O.T.A. to comply with the following rules of ethical conduct and practice for occupational therapy and violation of any of the following provisions, if proven, shall constitute a danger to the health, safety or welfare of the public:

(a) A L.O.T.R. or a L.O.T.A. shall not practice outside the scope of his or her license.

(b) When the L.O.T.R. or the L.O.T.A. does not possess the skill to evaluate a patient, plan the treatment program or carry out the treatment, the L.O.T.R. or the L.O.T.A. shall inform the referring practitioner and assist in identifying a professional qualified to perform the service.

(c) The L.O.T.R. or the L.O.T.A. shall not delegate to an unlicensed employee or person under his or her control or supervision a service which requires the skill, knowledge or judgment of a L.O.T.R. or a L.O.T.A., whichever is appropriate.

(d) The L.O.T.R. or the L.O.T.A. shall inform the referring source when any requested treatment procedure is inadvisable or contraindicated, and shall refuse to carry out the orders of a referring practitioner when the requested treatment is inadvisable or contraindicated.

(e) Treatment shall not be continued beyond the point of possible benefit to the patient or by treating more frequently than necessary to obtain the maximum therapeutic effect.

(f) The L.O.T.R. or the L.O.T.A. shall not directly or indirectly request, receive or participate in the dividing, transferring, assigning, rebating or refunding of an unearned

fee or to profit by means of a credit or other valuable consideration as an unearned commission, discount or gratuity in connection with the furnishing of occupational therapy assessment or treatment.

(g) The L.O.T.R. or the L.O.T.A. shall not exercise influence on patients to purchase equipment produced or supplied by a company in which the L.O.T.R. or the L.O.T.A. owns stock or has any other direct or indirect financial interest.

(h) A L.O.T.R. or a L.O.T.A. shall not permit another person to use his or her license for any purpose.

(i) A L.O.T.R. or a L.O.T.A. shall not obtain, possess, or attempt to obtain or possess a controlled substance without lawful authority, or sell, prescribe, give away, or administer controlled substances in the practice of occupational therapy.

(j) A L.O.T.R. or L.O.T.A. shall not verbally or physically abuse a patient.

(k) A L.O.T.R. or a L.O.T.A. shall not engage in unethical business practices, consisting of any of the following:

1. False or misleading advertising.

2. Betrayal of a professional confidence.

3. Falsifying patients' records.

(l) A L.O.T.R. or a L.O.T.A. shall report a change of name or address to the board within thirty (30) days after it occurs.

(m) At such time as the regulations provide for mandatory continuing education as a requirement for renewal, a L.O.T.R. or a L.O.T.A. shall not submit a false report of continuing education or fail to submit the annual report on continuing education.

(n) A L.O.T.R. or a L.O.T.A. shall notify the board within thirty (30) days after occurrence of any judgment or settlement of a malpractice claim or action.

(o) A L.O.T.R. or a L.O.T.A. shall comply with any subpoena issued by the board.

(p) A L.O.T.R. or a L.O.T.A. shall report to the board any violation of these regulations or of the act committed by another licensee in the presence of the licensee.

(3) The following activities or conditions, if proven, shall constitute grounds for revocation or suspension of license or placing a L.O.T.R. or a L.O.T.A. on probation as presenting a danger to the health, welfare or safety of the public or individual client patient:

(a) Professional incompetency as determined after an investigation and hearing by the board.

(b) Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public with proof of actual injury not needing to be established.

(c) Habitual intoxication or addiction to the use of any controlled substance or alcohol.

(d) Fraudulent representation as to the skill or ability.

(e) The use of untruthful or improbable statements in any advertisement authorized by the statutes of the Commonwealth of Kentucky.

(f) Mental or physical inability reasonably related to and adversely affecting a license holder's ability to practice in a safe and competent manner as determined by investigation and after a hearing by the board.

(g) Involuntary commitment by reason of judicial order for treatment of mental illness,

drug addiction or alcoholism.

(h) Practicing of the profession while a license is suspended.

(i) Suspension or revocation of license by another state.

(j) Negligence by the license holder in the practice of the profession which includes, but is not limited to, the failure to exercise due care (including negligent delegation to or supervision of employees or other individuals) whether or not injury results; or any conduct, practice or conditions which may impair the license holder's ability to safely and skillfully practice the profession of occupational therapy.

(k) Failure to comply with 201 KAR 28:130 pertaining to the supervision of occupational therapy assistants and occupational therapy aides.

Section 2. Sanctions. (1) After a hearing, as provided under 201 KAR 28:150 and 201 KAR 28:160, the board may, in its discretion, revoke or suspend a license for such period of time as the board believes to be warranted by the facts and circumstances of the violation. Such findings and determinations shall be rendered in accordance with the provisions of 201 KAR 28:160.

(2) After a hearing, as provided under 201 KAR 28:150 and 201 KAR 28:160, the board may, in lieu of revoking or suspending a license, place the licensee on probation for a period not to exceed one (1) year, except that if the adjudication of the violation is the second such adjudication within five (5) years, the licensee shall not be entitled to probation.

Section 3. Reinstatement. (1) A suspended license shall be reinstated upon the filing of an application for reinstatement by the licensee and a determination by the board that the period of suspension has expired and, if applicable, that the licensee has renewed his license in accordance with the provisions of 201 KAR 28:090.

(2)(a) A revoked license shall only be reinstated if the applicant has fully complied with all of the provisions of 201 KAR 28:060.

(b) An individual whose license has been revoked may not apply for reinstatement under the provisions of this regulation for a period of one (1) year from the entry of the order of the board or, if the decision is appealed, from the date the appeal is finally resolved or an endorsement of finality is entered by the appropriate appellate court. Hearings upon application for reinstatement shall be held in accordance with the provisions of 201 KAR 28:160.

THOMAS FISHER, Chairman

APPROVED BY AGENCY: November 5, 1986

FILED WITH LRC: November 14, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: Pursuant to KRS 13A.270, a public hearing concerning this regulation will be held at 3 p.m. (EST) on December 22, 1986, in Room 107, Capitol Annex, Frankfort, Kentucky 40601. Anyone interested in attending this hearing shall notify the following at least five days before the hearing. In the event no one notifies the following of his or her interest in attending this hearing, the hearing shall be cancelled: Thomas Fisher, Chairman, P.O. Box 23562, Lexington, Kentucky 40523.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thomas Fisher

(1) Type and number of entities affected: There are approximately 130 occupational therapists who qualify for licensure as a licensed occupational therapist registered and approximately 30 occupational therapy assistants who qualify for licensure as a licensed occupational therapy assistant.

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

1. First year: N/A. Regulation describes the grounds for probation, suspension or revocation of license.

2. Continuing costs or savings: N/A. See above.

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: Regulation will be consulted by board in the event an allegation of impropriety is made against a license. Board will also have to maintain files and appropriate records.

(a) Direct and indirect costs or savings:

1. First year: N/A. See (1)(a).

2. Continuing costs or savings: N/A. See (1)(a).

3. Additional factors increasing or decreasing costs: N/A. See (1)(a).

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: In order to fairly determine whether a licensee has breached his duty as a licensed occupational therapist registered or as a licensed occupational therapy assistant, specific rules of proscribed conduct or activities were deemed necessary so as to inform licensees of behavior which might result in a disciplinary action.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Regulation duplicates to a certain extent language set forth in KRS 319A.190. Regulation sets forth the statutory elements of unprofessional conduct. This duplication is necessary so that all grounds for proscribed professional misconduct might be reflected in one place.

(a) Necessity of proposed regulation if in conflict: No 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. There are no identifiable groups which require the application of tiering as set forth in KRS 13A.210.

GENERAL GOVERNMENT CABINET Board of Occupational Therapy

201 KAR 28:150. Disciplinary proceedings.

RELATES TO: KRS 319A.190

PURSUANT TO: KRS 319A.070(3), 319A.190

NECESSITY AND FUNCTION: KRS Chapter 319A, in pertinent parts, requires the board to

promulgate regulations establishing a procedure by which the board will institute actions against a L.O.T.R. or a L.O.T.A. for violation of the Act, and the regulations promulgated thereto or for professional misconduct. This regulation sets forth the procedure and process by which such complaints shall be instituted.

Section 1. Definitions. The following definitions, in conjunction with the provisions of 201 KAR 28:010, shall apply to this regulation as well as 201 KAR 28:160:

- (1) "Chairman" means the chairman of the board.
- (2) "Committee" means the L.O.T.R. or the L.O.T.A. review advisory committee appointed by the board, unless otherwise indicated from the context.
- (3) "Board" means the Kentucky Occupational Therapy Board.
- (4) "Grievance" means any allegation in whatever form alleging misconduct by a L.O.T.R. or a L.O.T.A.
- (5) "Charge" means a specific allegation contained in any document issued by the board or its committees alleging a violation of a specified provision of the Kentucky Occupational Therapy Act or regulations.
- (6) "Complaint" means a formal administrative pleading authorized by the board which sets forth charges against a L.O.T.R. or a L.O.T.A., the relief requested, and commences a formal disciplinary proceeding.
- (7) "Hearing officer" means the person designated and given authority by the board to preside over all proceedings pursuant to the issuance of any complaint.
- (8) "Informal proceedings" means proceedings instituted at any stage of the disciplinary process with the intent of reaching an informal dispensation of any matter without further recourse to formal disciplinary procedures.

Section 2. Reception of Grievances; Investigations. (1) Grievances may be submitted by an individual, organization or entity. The board shall approve a written form upon which grievances may be made and any party submitting a grievance shall be required to complete the form and shall give an affidavit acknowledging the truth and veracity to the best of affiant's knowledge and belief of the information contained in the grievance.

(2) All grievances shall be investigated as necessary by the committee unless the circumstances of a particular grievance make it impossible for the committee to timely review a grievance. The committee shall have the authority to direct any investigation and shall possess any and all powers possessed by the board in regard to investigations. The committee shall further be empowered to request the attendance of any person at any meeting of the committee in regard to the investigation of any grievance or consideration of any disciplinary matter. The failure, without good cause, of any L.O.T.R. or L.O.T.A. to appear before the committee when requested shall be considered unprofessional conduct.

(3) The committee shall be empowered to request compliance with the requirements of KRS 319A.010 et seq. and may pursue investigations on its own initiative in regard to acts of non-compliance or any other perceived violation of the Act including but not limited to professional misconduct and unauthorized

practice of occupational therapy without a license.

Section 3. Reports and Recommendations; Petitions. (1) When in the opinion of the committee a grievance does not warrant the issuance of a complaint against a L.O.T.R. or a L.O.T.A., the committee shall submit a written report to the board briefly denoting the committee's findings and recommending an appropriate course of action.

(2) When in the opinion of the committee a grievance warrants the issuance of a complaint against a L.O.T.R. or a L.O.T.A., the committee shall cause a complaint to be prepared together with a petition requesting a hearing, signed by the chairman of the committee, stating the committee's belief that the charges are based upon reliable information and requesting the board to authorize the issuance of the complaint.

(3) When in the opinion of the chairman a grievance warrants the issuance of a complaint against a L.O.T.R. or a L.O.T.A. and circumstances do not allow the timely review of the grievance by the committee, the chairman shall cause a complaint to be prepared together with a petition requesting a hearing, signed by the chairman stating the chairman's belief that the charges are based upon reliable information and requesting the board to authorize the issuance of the complaint.

(4) When in the opinion of the committee a grievance warrants the issuance of a complaint against a person who is practicing occupational therapy without a license, the committee shall cause a complaint to be prepared together with a petition requesting a hearing, signed by the chairman of the committee, stating the committee's belief that the charges are based upon reliable information and requesting the board to authorize the issuance of the complaint. Such complaint shall be forwarded to the county attorney of the county of residence of the person allegedly practicing occupational therapy without a license with a request that appropriate action be taken under KRS 319A.990.

(5) Nothing in this section shall be construed to limit the board's power to deny a license to any applicant without a prior hearing upon a finding that the applicant has violated any provision of the Act.

Section 4. Complaints. (1) The complaint shall be signed by the party petitioning the board for its issuance and shall be dated. The complaint shall be styled in regard to the matter of the license to practice in the Commonwealth of Kentucky held by the named L.O.T.R. or L.O.T.A., shall state the relief requested of the board, and shall be designated by the secretary of the board with an appropriate case number.

(2) The complaint shall set forth the board's jurisdiction in regard to the subject matter of the complaint and shall further set forth, in numerical paragraphs, sufficient information to apprise the named L.O.T.R. or L.O.T.A. of the general nature of the charges.

Section 5. Authorization of Complaint by Board; Orders to Respond. (1) Upon being presented with a petition requesting the issuance of a complaint, the board shall, within sixty (60) days, grant or deny the petition. If the petition is granted, the board shall issue an order and summons authorizing the complaint's

issuance, directing the charged L.O.T.R. or L.O.T.A. to respond within thirty (30) days after receiving notice of the complaint, and informing the L.O.T.R. or the L.O.T.A. that failure to respond shall be taken by the board as an admission of the charges and the relief in the complaint shall be summarily imposed.

(2) If the board denies a petition, the board shall return the complaint to the committee, with or without directions as to the disposal of the complaint.

(3) The board may, in its discretion, grant a petition only in part and may modify a requested complaint prior to authorizing its issuance.

Section 6. Notice and Service of Process. (1) Any notice required by the Act or this regulation shall be in writing, dated and signed by the appropriate person.

(2) Service of notice and other process shall be made by hand-delivery or delivery by certified mail, return receipt requested, to the L.O.T.R.'s or the L.O.T.A.'s last known address of which the board has record or, if known, by such service on the named L.O.T.R.'s or L.O.T.A.'s attorney of record. Refusal of service if by certified mail, avoidance of service if hand-delivered or any failure of the named L.O.T.R. or L.O.T.A. to receive actual notice after execution of the prescribed service shall not prevent the board from pursuing proceedings as may be appropriate.

(3) When notice of the initial date for the administrative hearing is given by either the board or the hearing officer, such notice shall be sent to the appropriate person at least twenty (20) days prior to the date of the hearing.

THOMAS FISHER, Chairman

APPROVED BY AGENCY: November 5, 1986

FILED WITH LRC: November 14, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: Pursuant to KRS 13A.270, a public hearing concerning this regulation will be held at 3 p.m. (EST) on December 22, 1986, in Room 107, Capitol Annex, Frankfort, Kentucky 40601. Anyone interested in attending this hearing shall notify the following at least five days before the hearing. In the event no one notifies the following of his or her interest in attending this hearing, the hearing shall be cancelled: Thomas Fisher, Chairman, P.O. Box 23562, Lexington, Kentucky 40523.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thomas Fisher

(1) Type and number of entities affected: There are approximately 130 occupational therapists who qualify for licensure as a licensed occupational therapist registered and approximately 30 occupational therapy assistants who qualify for licensure as a licensed occupational therapy assistant.

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

1. First year: N/A. Regulation describes the procedure by which the board might bring an administrative action against the licensee.

2. Continuing costs or savings: N/A. See above.

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

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body: Regulation establishes the procedure by which the board through its committee will take action against the licensee for unprofessional conduct. Board will also have to maintain files and appropriate records.

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: Board will incur expense in reviewing allegations of misconduct. Based on the experience of other licensing boards, it is expected that no more than five complaints requiring review will be made per year. Insufficient data exist for determining the expense of such reviews.

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

(b) Reporting and paperwork requirements: Committee will report to the board as to whether allegation of misconduct should be pursued. In such event, a petition requesting a hearing accompanied by an administrative complaint will be filed. All pleadings will be served on the licensee.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Constitutional due process requires that a licensee be informed of the allegations being made and that he be given adequate notice of such pleadings. Procedure set forth in regulation was deemed by the board to be the best alternative for fulfilling this obligation.

(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. There are no identifiable groups which require the application of tiering as set forth in KRS 13A.210.

GENERAL GOVERNMENT CABINET Board of Occupational Therapy

201 KAR 28:160. Administrative hearings.

RELATES TO: KRS 319A.190, 319A.200

PURSUANT TO: KRS 319A.070(3), 319A.190

NECESSITY AND FUNCTION: KRS Chapter 319A and pertinent parts of KRS 319A.190 provide for promulgation of regulations governing the conduct of administrative hearings authorized by the Act. This regulation sets forth the procedure by which such hearings are to be conducted.

Section 1. Procedure. (1)(a) The board shall appoint a hearing officer who will be empowered to preside at any and all proceedings to issue subpoenas, to rule upon all motions and objections, to prepare and submit proposed findings of fact, conclusions of law and disciplinary measures to the board, and to perform any other act necessary to the proper conduct of the proceedings.

(b) If in the discretion of the board it is

determined that the case is of sufficient complexity and that the service of an attorney is needed, the board shall appoint an attorney who shall prosecute the complaint before the hearing officer; otherwise the board shall appoint a member of the committee to prosecute the complaint.

(2) Pleadings shall be in any form provided that all pleadings must be legible, dated, and signed by the offering party. The original of all pleadings must be filed with the executive director or secretary for entry into the official record and copies must be served on the hearing officer, the opposing party, and any other person who might be designated by the hearing officer.

(3) Upon motion of either party or upon the initiative of the hearing officer, a prehearing conference may be held. The prehearing conference shall be the forum for consideration of any matter properly before the hearing officer, including all motions, discovery, stipulations, identification of issues, dates of future proceedings, and objections.

(4)(a) Either party may at any time after the issuance of a complaint move the hearing officer to order that discovery from the other party be allowed, which shall be limited to the following methods:

1. Oral depositions;
2. Request for more definite statement;
3. Request for production of names of witnesses, documents and other demonstrative evidence; and
4. Request for a brief synopsis of the testimony expected to be given by any expert witness.

(b) The hearing officer may limit or allow discovery of any matter relevant to the issues and may issue protective orders as necessary. Material which is privileged or deemed confidential under the laws of the Commonwealth or which constitutes an attorney's work product shall not be discoverable.

(c) Depositions, upon motion and upon good reason for the non-availability of the deponent as a witness, may be used in lieu of the witness' testimony.

Section 2. Hearings. (1) At the hearing the defendant has the right to be present and to be represented by counsel. The hearing officer may or may not wish to follow formal rules of evidence, but the hearing officer may exclude irrelevant or repetitious evidence. The hearing may include the calling of witnesses and the production of pertinent documents. Testimony shall be under oath or affirmation and shall be recorded. All documents accepted by the hearing officer, including the investigative file, shall be made part of the record of the hearing.

(2)(a) The hearing officer shall be charged with the responsibility of compiling a written summary of the proceedings which shall contain all evidence introduced at the hearing and all pleas, motions, objections, responses, rulings, and other legal documents which the hearing officer deems properly part of the record.

(b) Transcripts of the proceedings shall not be prepared unless requested in writing by either of the parties. Any person or other interested party requesting a transcript shall be responsible for the cost of the transcript and shall make suitable arrangements with the court reporter for payment for such transcript

or for copies of same.

Section 3. Hearing Officer's Proposed Findings, Conclusions, and Recommendations. (1) The hearing officer shall present the record, proposed findings of fact, conclusions of law, and recommendations to the chairman for deliberation by the board. The hearing officer shall serve a copy of such findings, conclusions, and recommendations on all parties or if represented by counsel, upon the parties' attorney, at least thirty (30) days from the date of the hearing, or if a transcript is requested, from the date the court reporter certified that the transcript is complete. All parties shall have the right to file exceptions to the hearing officer's findings, conclusions, and recommendations ten (10) days from the entry of the hearing officer's report.

(2) Any party to the proceeding may move the board to allow briefs to be filed with the board prior to the board's final determination. The hearing officer may grant the motion and establish a briefing schedule if the hearing officer believes that such a procedure would substantially aid the board in its deliberations. Briefs shall not exceed ten (10) pages in length unless otherwise allowed by the hearing officer.

(3) Oral argument. Any party to the proceeding may move the board to allow oral argument before the board prior to the board's final determination. The board may order oral arguments on its own initiative.

Section 4. Board's Findings of Fact, Conclusions of Law, and Final Order, Remand. Within sixty (60) days from the entry of the hearing officer's findings, conclusions, and recommendations, the board shall convene to consider the hearing officer's report. At the conclusion of its deliberations the board may adopt the hearing officer's proposed findings, conclusions, and recommendations of action in whole or in part or may reject them and prepare its own. The board shall enter a final order dated and signed by the chairman of the board stating its ultimate determination. Prior to, during or subsequent to any deliberations the board may remand the matter to the hearing officer for further proceedings as directed.

Section 5. Appeals. (1) Any person aggrieved by the final decision of the board may appeal, in accordance with KRS 319A.200, the board's determination to the Franklin Circuit Court. Such appeals must be filed with the Franklin Circuit Court within thirty (30) days of the entry of the board's final decision, and shall designate the board as the appellee in the appeal. If a transcript is requested, the aggrieved party shall pay for the preparation of the transcript and shall make suitable arrangements with the court reporter at the time the request for a transcript is made.

(2) All appeals shall be considered by the Franklin Circuit Court in accordance with the provisions of KRS 319A.200.

THOMAS FISHER, Chairman

APPROVED BY AGENCY: November 5, 1986

FILED WITH LRC: November 14, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: Pursuant to KRS 13A.270, a public hearing concerning this regulation will be held at 3 p.m. (EST) on

December 22, 1986, in Room 107, Capitol Annex, Frankfort, Kentucky 40601. Anyone interested in attending this hearing shall notify the following at least five days before the hearing. In the event no one notifies the following of his or her interest in attending this hearing, the hearing shall be cancelled: Thomas Fisher, Chairman, P.O. Box 23562, Lexington, Kentucky 40523.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thomas Fisher

(1) Type and number of entities affected: There are approximately 130 occupational therapists who qualify for licensure as a licensed occupational therapist registered and approximately 30 occupational therapy assistants who qualify for licensure as a licensed occupational therapy assistant.

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

1. First year: N/A. This regulation describes the procedure by which administrative hearings involving allegations of misconduct are conducted. Assuming the board decides to suspend or revoke a license, licensee would no longer be able to practice occupational therapy or to derive any income from such practice. Licensee might incur the expense of having an attorney represent him at a hearing.

2. Continuing costs or savings: N/A, see above.

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

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body: Board will conduct hearings through the services of a hearing officer who does not have to be an attorney. Upon submission of findings and recommendations, board will have to prepare a document adopting or rejecting the findings of the hearing officer. Board will also have to maintain files and appropriate records.

(a) Direct and indirect costs or savings:

1. First year: None anticipated.

2. Continuing costs or savings: Some administrative costs of an indefinite amount will result from the conduct of administrative hearings. It is anticipated, however, given the small body of projected licensees, that there will be very few administrative hearings.

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

(b) Reporting and paperwork requirements: Upon receiving findings and recommendations from the hearing officer, board will have to review such findings and issue appropriate orders.

(3) Assessment of anticipated effect on state and local revenues: No effect.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The statute provides for revocation, suspension or probation of license after a hearing. This regulation, in the opinion of the board, is the best alternative for implementing that statutory mandate.

(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. There are no identifiable groups which require the application of tiering as set forth in KRS 13A.210.

STATE BOARD OF AGRICULTURE Kentucky Department of Agriculture

302 KAR 20:056. Qualifications and eligibility requirements on state brucellosis indemnity payments for negative exposed cattle.

RELATES TO: KRS 257.020, 257.030, 257.110, 257.120, 257.140

PURSUANT TO: KRS 257.030, 257.110, 257.120, 257.140

NECESSITY AND FUNCTION: The regulation is necessary to explain the conditions under which a cattle herd owner may collect state indemnity which is available only for sero negative exposed adult breeding cattle and heifer calves from within a brucellosis infected herd which are sent directly to slaughter.

Section 1. General Conditions for Eligibility. (1) The state veterinarian shall determine the eligibility of cattle (genus Bos) and bison for the payment of state indemnity funds.

(2) State indemnity funds, if available, shall be paid only for the following classes of cattle that are sent directly to slaughter and in the following amounts:.

(a) Seventy-five (75) dollars for each adult breeding cow from a brucellosis infected herd that have been exposed to the disease and branded with a "B" brand but that has been tested negative to an approved brucellosis blood test.

(b) Fifty (50) dollars for each heifer cow from a brucellosis infected herd that has been exposed to the disease. For purposes of this section a heifer cow shall mean a female bovine or bison that has never calved.

(3) In order to be eligible, any animal on which indemnity is requested must have been in Kentucky for at least six (6) months prior to the time of the test which shall determine eligibility for state indemnity and if tested eligible must have been negative to an approved brucellosis test upon entry into Kentucky.

(4) Any animal on which a state indemnity claim is made must be properly tagged and branded within fifteen (15) days of signing of a required state depopulation agreement, sold for slaughter within fifteen (15) days of branding, and proof of slaughter obtained from meat inspection. Home slaughter by the original owner for his home consumption is allowed but proof of slaughter must be supplied. The fifteen (15) day requirement for branding, tagging and slaughter may be extended by the state veterinarian upon written request and for good cause shown.

(5) In order to be eligible for state indemnity funds pursuant to this regulation a written depopulation agreement shall be signed by the owner seeking state indemnity. Authorization for depopulation and for the receipt of state indemnity shall be approved by the state veterinarian and the amount of indemnity is to be mutually agreed upon prior to signing of the agreement.

(6) The following criteria may be considered

by the state veterinarian in determining which infected herds qualify for available state indemnity funds:

- (a) The percentage of known reactors found in an infected herd;
- (b) The clinical evidence of brucellosis infection in the herd;
- (c) Culture and isolation of the brucella organism in the herd;
- (d) Possibility of spread of brucellosis infection to neighboring herds;

Section 2. Exclusions from Eligibility for State Indemnity Payments. Indemnity shall not be paid on the following classes of cattle:

- (1) Any test eligible animal that moved into Kentucky without a negative blood test for brucellosis or without an approved health certificate and/or permit when applicable, or in violation of any health requirement for admission or in violation of any law or regulation of the board.
- (2) Any animal imported into Kentucky that originated from a known infected or quarantined herd, or determined otherwise to be an exposed animal.
- (3) Cattle moving in trade channels in Kentucky which are owned by dealers or traders whether or not said owners are currently licensed by the department.
- (4) No state indemnity funds shall be paid to an owner whose cattle are found to be in violation of any state or federal law, regulation, or agreement.

DAVID E. BOSWELL, Chairman

APPROVED BY AGENCY: November 10, 1986

FILED WITH LRC: November 12, 1986 at 1 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1986 at 1:30 p.m. in Room 713 of the Capital Plaza Tower, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Thomas M. Troth, General Counsel, Department of Agriculture, Room 705, Capital Plaza Tower, Frankfort, Kentucky 40601. Unless written notification of intent to attend a public hearing is received by the promulgating agency at least five days before the hearing date, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Michael J. McDonald

(1) Type and number of entities affected: Kentucky cattle herds infected with brucellosis.

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

1. First year: Indirect savings would be in preventing further loss in value of infected animals.

2. Continuing costs or savings: N/A

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

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Direct costs will be \$75/cow and \$50/heifer purchased. Indirect savings will be in the elimination of testing requirements had the cattle remained.

2. Continuing costs or savings: Continued savings will be in the form of less spread of infection requiring testing.

3. Additional factors increasing or decreasing costs: Dependent upon the number of herd owners accepting payments and the number of newly infected herds found.

(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: This method has been proven successful by its use in other states.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: KRS 257.120

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments: N/A
TIERING: Was tiering applied? No. This regulation will apply evenly to all Kentucky cattle herds infected with brucellosis.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: Federal Mandate - Code of Federal Regulations - Title 9, Chapter I, Part 51. Brucellosis Eradication - Uniform Methods and Rules. State compliance standards to receive depopulation indemnity payments are in accordance with the minimum federal standards.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: This regulation requires that animals have been in Kentucky for six (6) months prior to the time of the test which shall determine eligibility for state indemnity, see KRS 257.120. Animals must have met health regulations for admission to Kentucky and not found in willful violation of any Kentucky law or regulation. The state veterinarian must also approve animals for payment of state indemnity funds.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: The added requirements are necessary to insure payment is issued only on Kentucky cattle of which the owner is not at fault in permitting the animals to become exposed to brucellosis.

STATE BOARD OF AGRICULTURE Kentucky Department of Agriculture

302 KAR 20:057. Brucellosis quarantine requirements.

RELATES TO: KRS 257.020, 257.030, 257.040, 257.050

PURSUANT TO: KRS 257.020, 257.030, 257.040, 257.050

NECESSITY AND FUNCTION: The purpose of the regulation is to delineate the procedures for quarantine and quarantine release of brucellosis infected and exposed herds.

Section 1. Definitions. As used in this

regulation unless the context clearly requires:

(1) "Herd" shall mean all cattle (genus Bos), bison, including calves maintained on common ground for any purpose or two (2) or more groups of cattle (genus Bos), bison under common ownership or supervision, geographically separated but which have an interchange or movement of animals without regard to health status.

(2) "Individual herd plans" shall mean an approved brucellosis control program of the herd under quarantine for the purpose of eliminating brucellosis from the herd, preventing spread to other herds, and preventing reintroduction after the herd has become free of brucellosis.

(3) "Contact/adjacent herds" shall mean herds sharing common premises, herds within one (1) mile of the quarantined infected herds, or herds containing purchases from or exchanges with the quarantined infected herds.

Section 2. Requirements for Quarantine Release. All cattle, (genus Bos), bison herds infected with or exposed to brucellosis may be quarantined by the state veterinarian until the following options for quarantine release are complied with:

(1) Complete depopulation. Quarantine of a herd that has been depopulated in accordance with a state and/or federal depopulation agreement shall be released ninety (90) days after all designated cattle in the herd have been sent to slaughter, the cleaning and disinfection procedure set out in KRS 257.140 has been completed, and the depopulation agreement has been otherwise fully complied with.

(2) Minimum requirements of the individual herd plan and quarantine release.

(a) Adult vaccinated herds. All herds which are adult vaccinated shall be quarantined a minimum of 180 days after the last reactor has been removed from the herd and all requirements of the state/federal adult vaccination agreement have been complied with.

(b) Other quarantined herds. Other quarantined herds shall remain under quarantine for a minimum of 300 days after the removal of the last reactor. A minimum of three (3) negative tests will be required with the third test to be administered at day 300. The herd owner is encouraged to test at more frequent intervals. The 300 day quarantine period may be shortened by the state veterinarian provided a complete epidemiological investigation of the herd is conducted and there is no evidence of brucella infection or exposure found.

1. All calves in infected herds shall remain under quarantine until:

a. Bull calves are castrated or isolated from the remainder of the infected herd for 180 days and tested negative;

b. Heifers are spayed and identified with a "spade" brand;

c. Calves are "S" branded and tagged and shipped to a state/federal quarantined feedlot or to slaughter on permit;

d. Heifer calves not "S" branded or spayed:

(i) Must be quarantined and held separate and apart from the affected adult herd after weaning until they are negative on an official test between fifteen (15) and forty-five (45) days following the completion of their first calving; or

(ii) If the heifer calves remain in the affected adult herd, the entire herd shall not

be released from quarantine until all the heifer calves have matured and calved, then the entire herd must be tested negative for brucellosis to qualify for quarantine release.

(c) Contact/adjacent herds. All contact/adjacent herds shall be tested within thirty (30) days of the date of classification of the reactor herd or quarantined until a complete negative herd test is made.

(d) Individual herd management plan requirements shall be met except when the designated brucellosis epidemiologist authorizes the modifications of the plan consistent with sound brucellosis eradication principles. Testing, tagging, and branding may be rendered without expense to the owner however, owners are to provide for the handling of their cattle.

DAVID E. BOSWELL, Chairman

APPROVED BY AGENCY: November 10, 1986

FILED WITH LRC: November 12, 1986 at 1 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1986 at 1:30 p.m. in Room 713 of the Capital Plaza Tower, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Thomas M. Troth, General Counsel, Department of Agriculture, Room 705, Capital Plaza Tower, Frankfort, Kentucky 40601. Unless written notification of intent to attend a public hearing is received by the promulgating agency at least five days before the hearing date, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Michael J. McDonald

(1) Type and number of entities affected: Kentucky cattle industry.

(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): N/A

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

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

(b) Reporting and paperwork requirements: No additional paperwork required.

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: This regulation is compatible with federal uniform methods and rules.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments: N/A
TIERING: Was tiering applied? No. This regulation will apply evenly to the entire cattle industry.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: Federal Mandate - Code of Federal Regulations - Title 9, Chapter I, Part 51. Brucellosis Eradication - Uniform Methods and Rules. State compliance standards for quarantine requirements are in accordance with the minimum federal standards.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: This regulation requires 300 day quarantine while federal uniform methods and rules requires a minimum of 180 days. Given the lengthy incubation period of the disease, a 180 day quarantine period is not adequate.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: The lengthening of the minimum quarantine period is an essential part of strengthening our efforts to eradicate brucellosis in Kentucky. We must be confident that an infected herd is free from the disease before the quarantine release to prevent further spread of the infection.

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

401 KAR 63:040. Certification of asbestos abatement entities.

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 from asbestos abatement projects through the certification of asbestos abatement entities.

Section 1. Applicability. (1)(a) Except as provided in paragraph (b) of this subsection, the provisions of this regulation shall apply to each asbestos abatement entity which is involved in any asbestos abatement project as defined in Section 2 of this regulation.

(b) An asbestos abatement entity shall not be required to obtain the certificate as required in Section 3 of this regulation or attend the training required in Section 10 of this regulation in order to conduct asbestos abatement projects which are not subject to the provisions of 401 KAR 57:011, however, entities shall comply with the provisions of Sections 4(3) and 12 of this regulation when performing such projects.

(2) Any person may request that the cabinet determine whether a project is an asbestos abatement project subject to the requirements of this regulation. Such a request shall include the type of disturbance involved, a description of the friable asbestos materials, and laboratory data sheets with bulk sample results, methods of analysis, and the signature of the analyst. The cabinet shall make its determination, in writing, not later than ten

(10) working days after it has received a written request with complete and accurate information adequate to make a determination.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010 or 401 KAR 57:011.

(1) "Asbestos abatement project" means any renovation or demolition activity at a facility which may cause a disturbance of friable asbestos material.

(2) "Asbestos abatement entity" means any partnership, firm, association, corporation, sole proprietorship, or other business concern, any governmental agency, or any other organization, composed of one (1) or more employees or members, or any individual involved in any of the asbestos-related activities specified in subsection (1) of this section.

(3) "Certificate" means a permit issued by the cabinet pursuant to KRS 224.033(19) to allow an asbestos abatement entity to engage in asbestos abatement projects, including the use of equipment or practices that control the emissions of asbestos fibers into the atmosphere.

(4) "Certification fee" means a fee established by the cabinet pursuant to KRS 224.033(20) for the issuance of certificates to asbestos abatement entities according to the provisions of this regulation.

(5) "Clean room" means an uncontaminated area or room which is part of the worker decontamination enclosure system with provisions for storage of workers' street clothes and clean protective equipment.

(6) "Clearance air monitoring" means the monitoring of air conducted inside the work area after cleanup of an asbestos abatement project has been completed.

(7) "Demolition" means the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations.

(8) "Emergency operation" means a renovation or demolition operation that was not planned but results from a sudden, unexpected event. This term includes operations necessitated by nonroutine failures of equipment.

(9) "Equipment room" means a contaminated area or room which is part of the worker decontamination enclosure system with provisions for storage of contaminated clothing and equipment.

(10) "Facility" means any institutional, commercial, or industrial structure, installation, or building, excluding apartment buildings having no more than four (4) dwelling units.

(11) "Friable asbestos material" means any material containing more than one (1) percent asbestos by weight that hand pressure can crumble, pulverize, or reduce to powder when dry.

(12) "HEPA filtration" means high efficiency particulate air filtration found in respirators and vacuum systems capable of filtering three-tenths (0.3) micron particles with 99.97 percent efficiency, for use in asbestos-contaminated environments.

(13) "HVAC" means a heating, ventilation, and air conditioning system.

(14) "OSHA" means the Occupational Safety and Health Administration.

(15) "Polyethylene sheeting" means sheeting of

polyethylene plastic with a thickness of six (6) mils or more.

(16) "Publicly owned facility" means any facility owned by the state, or any political subdivision thereof, municipality, or other public entity.

(17) "Renovation" means altering in any way one (1) or more facility components. Operations in which load-supporting structural members are wrecked or taken out are excluded.

(18) "Shower room" means a room between the clean room and the equipment room in the worker decontamination enclosure with hot and cold running water controllable at the tap and suitably arranged for complete showering during decontamination.

(19) "Structural component" means any pipe, duct, boiler, tank, reactor, turbine, or furnace at or in a facility or any structural member of a facility.

(20) "Structure" means a whole facility, building, or a major portion thereof, such as a building wing.

Section 3. Prohibition. No asbestos abatement entity shall engage in any asbestos abatement project which is subject to the provisions of 401 KAR 57:011 after August 1, 1987, unless a certificate to so engage in such projects has been issued by the cabinet in accordance with the provisions of this regulation, and is currently in effect. The provisions of this section shall not apply during the demonstration of compliance required in Section 6(2) of this regulation.

Section 4. Work Practice Standards. (1) Any asbestos abatement entity that engages in any asbestos abatement project, including emergency operations, which is determined to be subject to the provisions of 401 KAR 57:011 and involves renovation shall comply with the following work practice requirements:

(a) All movable objects shall be removed from the work area. All contaminated items shall be cleaned if necessary and feasible. All non-movable objects in the work area shall be covered with polyethylene sheeting secured in place. All openings, including windows, doorways, elevator openings, corridor entrances, drains, ducts, grills, grates, diffusers, and skylights, shall be sealed between the work area and uncontaminated areas. Contaminated areas shall be separated from uncontaminated areas by barriers. Such barriers shall be constructed of polyethylene sheeting attached securely in place.

(b) Floor sheeting shall consist of two (2) layers of polyethylene sheeting. Floor sheeting shall extend up sidewalls at least twelve (12) inches and be sized to minimize seams. No seams shall be located at wall-to-floor joints.

(c) Wall sheeting shall consist of two (2) layers of polyethylene sheeting. It shall be installed to minimize seams and shall extend beyond each wall-to-floor joint at least twelve (12) inches. No seams shall be located at wall-to-wall joints.

(d) A worker decontamination enclosure system shall be provided, consisting of a clean room, shower room, and equipment room, each separated from each other and from the work area by airlocks and accessible through doorways protected with two (2) overlapping polyethylene sheets.

(e) All HVAC equipment in or passing through

the work area shall be shut down and locked out. All intake and exhaust openings and any seams in system components shall be sealed with polyethylene sheeting and waterproof tape. All HVAC system filters shall be replaced and ventilation system ductwork interiors shall be decontaminated at the completion of the project and all old filters shall be disposed of as asbestos waste, according to the requirements in paragraph (s) of this subsection.

(f) Caution signs shall be displayed at all approaches to any location where airborne fiber levels can be expected to exceed background levels. Such signs shall be of a vertical format measuring twenty (20) inches in length and fourteen (14) inches in width, and shall contain the following information which shall be printed in letters of sufficient size and contrast as to be readily visible and legible:

DANGER
ASBESTOS
CANCER AND LUNG DISEASE HAZARD
AUTHORIZED PERSONNEL ONLY
RESPIRATORS AND PROTECTIVE CLOTHING
ARE REQUIRED IN THIS AREA

(g) All friable asbestos material shall be thoroughly wetted through to the substrate prior to removal.

(h) Facility components shall be removed intact or in large sections whenever possible and shall be carefully lowered to the floor.

(i) Friable asbestos material shall be removed in small sections and shall be containerized while wet. At no time shall material be allowed to accumulate or become dry. Structural components shall be thoroughly wetted prior to wrapping in polyethylene sheeting for disposal.

(j) Material shall not be dropped or thrown to the floor level. For materials located at heights greater than fifty (50) feet above the floor, a dust-tight, enclosed chute shall be constructed to transport removed material to containers on the floor. Friable asbestos material may be dropped to a raised scaffold or containerized at elevated levels for disposal. Materials located at heights greater than fifteen (15) feet above the floor shall be dropped onto inclined chutes or scaffolding or containerized at their elevated levels for eventual disposal.

(k) For porous surfaces that have been stripped of friable asbestos materials, a coating of an encapsulating agent shall be applied to securely seal any residual fibers that may be present. The encapsulating agent should be chosen so as to be compatible with subsequent covering.

(l) Following abatement, a sequence of wet cleaning, surface drying, and HEPA filtration vacuuming shall be performed and repeated at twenty-four (24) hour intervals until no visible residue is observed in the work area.

(m) Negative pressure ventilation units with HEPA filtration and in sufficient number to provide one (1) workplace air change every fifteen (15) minutes shall be operated continuously for the duration of the project. The duration of the project for this requirement shall be considered to be from the time that barrier construction is completed through the time that acceptable final clearance air monitoring results are obtained.

(n) All asbestos-containing waste shall be thoroughly wetted before being placed into containers for disposal. Disposal shall occur at

locations identified in paragraph (s) of this subsection.

(o) Wet asbestos waste shall be double bagged in polyethylene having a thickness of six (6) mils or more and placed in sealed, rigid containers (for example: steel drums, fiber drums, or heavy cardboard boxes) for transport to the approved landfill identified in paragraph (s) of this subsection. Large components or structural members may be removed intact and wrapped in two (2) layers of polyethylene sheeting which is secured with waterproof tape for disposal.

(p) All containers (boxes, drums, and wrapped components) shall be labeled according to the provisions of 40 CFR 61.152, filed by reference in 401 KAR 57:011.

(q) Clearance air monitoring shall be performed. At least five (5) samples of air per work area, or one (1) sample per room, whichever is greater, shall be obtained for the clearance air monitoring. A sample volume of 3,000 liters of air shall be used. The air samples shall be obtained when the air is being artificially circulated so that the fibers remain airborne during the sampling. Barriers shall not be dismantled until the final samples show asbestos concentrations of less than 0.01 fibers per cubic centimeter of air. The method for determining compliance with the provisions of this paragraph shall be either of the methods specified in Appendix M to "Guidance for Controlling Asbestos-Containing Materials in Buildings" (U.S. Environmental Protection Agency, Office of Pesticides and Toxic Substances, EPA 560/5-85-024, June 1985). Appendix M, "Detailed Specifications for Sampling and Analyzing Airborne Asbestos," is hereby adopted and filed herein by reference.

1. Copies of Appendix M to "Guidance for Controlling Asbestos-Containing Materials in Buildings" 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 offices of the Division of Air Pollution Control as listed in 401 KAR 50:015.

(r) Transport and disposal of asbestos waste shall occur in a manner that will not permit the release of asbestos fibers into the air.

(s) Disposal shall occur at a site that has approval from the Division of Waste Management to accept asbestos waste according to the provisions of Title 401, Chapter 47, and shall meet all other applicable local, state, and federal laws.

(t) Submit copies of all results of sampling obtained during clearance air monitoring and all disposal receipts to the building owner and the cabinet.

(2) Any asbestos abatement entity that engages in any asbestos abatement project, including emergency operations, which is determined to be subject to 401 KAR 57:011 and involves demolition shall comply with the following work practice requirements:

(a) Any demolition of a structure or portion of a structure which contains structural members or components composed of or covered by friable asbestos material shall be preceded by a removal of all such materials prior to demolition, according to the requirements of subsection (1) of this section.

(b) In lieu of the requirements specified in subsection (1)(a), (b), (c), (e), and (k) of this section, asbestos abatement entities engaging in demolition activities shall comply with the following requirements:

1. Before beginning a demolition project, all doors, windows, floor drains, vents, and other openings to the outside of the building and to areas within the building that do not contain asbestos materials, shall be sealed off with polyethylene sheeting and waterproof tape; and

2. If a structure is to be partially demolished, all HVAC equipment in the demolition area or passing through it but servicing areas of the building which will remain, shall be shut down and locked out and thoroughly sealed with polyethylene sheeting and waterproof tape.

(c) Clearance air monitoring as described in subsection (1)(q) of this section shall be required, following abatement activities conducted for demolition purposes, prior to demolition.

(d) All other requirements of subsection (1) of this section, unless specifically deleted in paragraph (b) of this subsection, shall apply to demolition abatement activities.

(3) Any asbestos abatement entity engaged in an asbestos abatement project, including emergency operations, not subject to the requirements of subsections (1) and (2) of this section shall take reasonable precautions to prevent the release of asbestos fibers to the environment. Such precautions shall include, but not be limited to:

(a) Construction of adequate barriers to contain asbestos fibers released within the work area;

(b) Wetting of all friable asbestos materials prior to removal and keeping them wet until containerized;

(c) Use of HEPA filtration vacuum equipment and wet cleaning techniques to clean up the work area following the project until there is no visible residue;

(d) Containerizing waste in appropriately-labeled impermeable containers (polyethylene sheeting, boxes, or fiber or metal drums); and

(e) Transportation to and disposal at a location identified in subsection (1)(s) of this section in a manner that does not release fibers into the air.

(4) The cabinet may, on a case-by-case basis, approve alternative work practice standards for an asbestos abatement project provided that the asbestos abatement entity submits the alternative standards to the cabinet, in writing, and demonstrates to the satisfaction of the cabinet that compliance with the standards prescribed in this section is not practical or not feasible and that the proposed alternative standards provide an equivalent control of asbestos and are not in conflict with any applicable local, state, or federal law.

Section 5. Applications. (1) No asbestos abatement entity shall be considered for certification unless the training requirements of Section 10 of this regulation have been completed prior to application.

(2) Applications for certification required under Section 3 of this regulation shall be made on a form prepared by the cabinet for such purpose and shall contain such information as the cabinet shall deem necessary to determine whether the certificate should be issued.

(3) Applications for certification shall be signed by a duly authorized agent of the asbestos abatement entity. Such signature shall constitute personal affirmation that the statements made in the application are true and complete.

(4) Failure to supply information required or deemed necessary by the cabinet to enable it to act upon the certification application shall result in denial of the certificate.

(5) Any asbestos abatement entity which submits an application for certification shall include with the application a filing fee, as specified in Section 8 of this regulation.

Section 6. Consideration of Applications. (1) Within thirty (30) days after receipt of an application for certification, the cabinet shall advise the asbestos abatement entity as to whether or not the application is complete, and if not complete, what additional information is necessary in order to evaluate the application.

(2) Within fifteen (15) days after receipt of a complete application for certification, the cabinet shall contact the asbestos abatement entity to establish a date when the cabinet can witness an asbestos abatement project which will be performed by the entity to demonstrate compliance with the provisions of this regulation.

(3) The cabinet shall make its determination concerning the application, including its approval or denial, within thirty (30) days after attendance at the asbestos abatement project demonstration, unless the cabinet determines that an additional period of time is necessary to adequately review the application or its evaluation of the demonstration. The cabinet shall notify the asbestos abatement entity, in writing, of its determination and shall set forth its reasons for any denials.

(4) If the application is approved, the asbestos abatement entity shall submit the certification fee, as specified in Section 8 of this regulation. Upon receipt of the certification fee, the cabinet shall issue to the asbestos abatement entity the certificate to engage in asbestos abatement projects, according to the provisions of this regulation.

(5) The cabinet shall deny an application for certification if the cabinet determines that any provision of any applicable regulation is not met, or if the asbestos abatement entity willfully made any misstatements in the application.

(6) Certificates issued hereunder shall be subject to such terms and conditions as set forth and embodied in the certificate as the cabinet shall deem necessary to ensure compliance with the requirements of this regulation and of 401 KAR 57:011.

Section 7. Duration and Renewal of Certificates. (1) Unless the cabinet revokes a certificate, that certificate, including renewal of certification, shall remain in effect for one (1) year after the date of issuance.

(2) No asbestos abatement entity shall be considered for renewal of certification unless the training requirements of Section 10 of this regulation have been completed prior to application.

(3) Applications for renewal of certification shall be made on a form prepared by the cabinet for such purpose and shall contain such

information as the cabinet shall deem necessary to determine whether the certificate should be issued. Applications for renewal shall be submitted not earlier than ninety (90) days and not later than thirty (30) days before the date of expiration.

(4) Applications for renewal of certification shall be signed by a duly authorized agent of the asbestos abatement entity. Such signature shall constitute personal affirmation that the statements made in the application are true and complete.

(5) Failure to supply information required or deemed necessary by the cabinet to enable it to act upon the renewal application shall result in denial of that renewal.

(6) Any asbestos abatement entity which submits an application for renewal of certification shall include with the application a filing fee, as specified in Section 8 of this regulation.

(7) The cabinet shall make its determination concerning the application, including its approval or denial, within thirty (30) days of receipt of a complete renewal application. The cabinet shall notify the asbestos abatement entity, in writing, of its determination and shall set forth its reasons for any denials.

(8) If the renewal is approved, the asbestos abatement entity shall submit the fee for renewal of certification, as specified in Section 8 of this regulation. Upon receipt of the fee, the cabinet shall issue to the asbestos abatement entity the renewed certificate to engage in asbestos abatement projects, according to the provisions of this regulation.

(9) The cabinet may deny an application for renewal of certification if the asbestos abatement entity has failed to comply fully with all applicable requirements and regulations during the year preceding the renewal application.

Section 8. Fees. The provisions of this section shall not apply to any publicly owned facility, as defined in Section 2 of this regulation. All fees shall be submitted to the cabinet as certified check or money order, payable to the Kentucky State Treasurer.

(1) Filing fee. Each asbestos abatement entity shall submit with the application for certification or renewal of certification, a filing fee, as specified in paragraph (a) or (b) of this subsection. Such fee is not refundable if the certification is denied or the application is withdrawn. The filing fee, shall be applied toward the certification or renewal fee when the certificate is issued, pursuant to Section 6 or 7 of this regulation.

(a) The filing fee for certification shall be \$100.

(b) The filing fee for renewal of certification shall be fifty (50) dollars.

(2) Certification or renewal fee. A fee as specified in paragraph (a) or (b) of this subsection, shall be submitted to the cabinet prior to the issuance of the certificate or renewed certificate to any asbestos abatement entity.

(a) The certification fee shall be \$500.

(b) The fee for renewal of certification shall be \$250.

Section 9. Certification Revocation. The cabinet may revoke any certification issued

under this regulation if the asbestos abatement entity:

- (1) Willfully makes any misstatements or knowingly omits information in the certification application, renewal application, or any amendments thereto;
- (2) Fails to comply with the terms or conditions of the certification;
- (3) Fails to comply with the work practice standards in Section 4 of this regulation; or
- (4) Fails to properly dispose of friable asbestos materials.

Section 10. Training Requirements. (1) As a part of the certification as required in Section 3 of this regulation, the asbestos abatement entity shall provide at least one (1) supervisory person who will be involved in the planning, execution, or inspection of asbestos abatement projects with an initial training course approved by the cabinet, and an annual re-training course approved by the cabinet.

(2) Persons identified in subsection (1) of this section shall be required to successfully complete a written examination, administered by the training sponsors, at the completion of the training or re-training course in order to demonstrate familiarity with those issues relevant to the safe performance of asbestos abatement activities. Correct response to at least seventy (70) percent of the examination questions shall be necessary to meet the requirements of this subsection.

(3) As a part of the certification as required in Section 3 of this regulation, persons identified in subsection (1) of this section shall attend an orientation program sponsored by the cabinet, concerning the requirements, procedures, and standards established by this regulation.

Section 11. Training Course Requirements. (1) The initial training course required in Section 10(1) of this regulation shall provide, as a minimum, information on the following topics:

- (a) The physical characteristics of asbestos, including fiber size, aerodynamic characteristics, and physical appearance;
- (b) The health hazards of asbestos;
- (c) Employee personal protective equipment;
- (d) Recommended medical monitoring procedures, benefits of medical monitoring, and employee access to records;
- (e) Air monitoring procedures;
- (f) State-of-the-art work practices for asbestos abatement activities;
- (g) Personal hygiene;
- (h) Additional safety hazards that may be encountered during abatement activities and how to deal with them;
- (i) The requirements, procedures, and standards established by federal regulations;
- (j) Contract specifications and bidding procedures, liability insurance and bonding, legal consideration related to asbestos abatement; and
- (k) Establishing respiratory protection programs, medical surveillance programs, and U.S. EPA and OSHA recordkeeping requirements.

(2) The yearly re-training course required in Section 10(1) of this regulation shall, as a minimum, adequately review the topics in subsection (1) of this section, update information on state-of-the-art procedures and equipment, and review regulatory changes and

interpretations.

(3) The course entitled "Supervision of Asbestos Abatement Projects," as approved by the U.S. EPA, shall satisfy the requirements for initial training and re-training courses, as specified in subsections (1) and (2) of this section.

(4) Training courses, other than the course referenced in subsection (3) of this section, may be approved by the cabinet on a case-by-case basis. The cabinet may approve such training courses, based on the cabinet's determination that the course would provide equivalent training as the course specified in subsection (3) of this section. A prospective course sponsor shall submit, as a minimum, the following information:

- (a) Information about the course sponsor;
- (b) Course location and fees;
- (c) Copies or description of course handouts;
- (d) A detailed description of course content and the amount of time allotted to each major topic;
- (e) A description of teaching methods to be utilized and a list of all audio-visual materials;
- (f) A list of all personnel to be involved in course preparation and presentation and a brief description of the background, special training, and qualifications of each;
- (g) A description of student evaluation methods to be used;
- (h) A description of course evaluation methods to be used;
- (i) Any restriction on attendance (language, etc.); and
- (j) A copy of the written examination which will be administered at completion of the course.

Section 12. Records. (1) Each asbestos abatement entity shall maintain records of all asbestos abatement projects which it performs and shall make these records available to the cabinet upon request. The asbestos abatement entity shall retain the records for at least six (6) years.

(2) The asbestos abatement entity shall record the following information for each project:

- (a) Name and address of supervisor responsible for each project;
- (b) The location and description of the project and the estimated amount of asbestos removed at each project;
- (c) Starting and completion date. If the completion date differs from that originally scheduled, include reasons for delay;
- (d) Summary of the procedures used to comply with all applicable requirements, including copies of all notifications, if applicable;
- (e) Name and address of the asbestos waste disposal site and disposal receipts, including the amount of material disposed; and
- (f) Results of all air sampling conducted during the asbestos abatement project, if applicable, including personal, area, and clearance samples.

Section 13. Penalties. Any asbestos abatement entity which violates any provision of this regulation shall be subject to the appropriate enforcement action as provided under KRS 224.994.

CHARLOTTE E. BALDWIN, Secretary

APPROVED BY AGENCY: November 14, 1986

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

PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed regulation will be conducted on December 30, 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: The division has a present regulation (401 KAR 57:011) which provides for the control of asbestos emissions from asbestos mills, roadways, manufacturing and fabricating operations, demolition and renovation, spray application, insulation installation, and waste disposal. This present regulation has been applied to the control of asbestos emissions primarily from specific-sized demolition and renovation operations, due, in part, to the small number of asbestos mills, and manufacturing and fabricating processes in the Commonwealth. This proposed regulation will refine the control of asbestos emissions from those demolition and renovation operations and will apply to asbestos abatement entities which will be involved in that kind of disturbance of friable asbestos materials. Since recordkeeping began in January 1983, approximately 125 individual asbestos abatement entities, including companies conducting their own abatement projects, have identified themselves. All such entities will be affected by this regulation, in addition to entities involved in smaller abatement projects.

This regulation specifies that entities that engage in asbestos abatement projects that are not subject to the provisions of 401 KAR 57:011 shall not be required to obtain a certificate for such projects or attend the training specified in the regulation. However, all entities shall be required to follow specified work practice standards when performing such projects and maintain records of such projects.

(a) Direct and indirect costs or savings to those affected: The proposed regulation requires attendance at training courses and payment of certification fees for entities which engage in asbestos abatement projects that are subject to the provisions of 401 KAR 57:011. It will be assumed that training expenses will be new costs resulting from this regulation and will be applied to only one supervisory person, however, in many cases, the asbestos abatement entity will already be providing the training for its employees as a matter of routine operating procedures.

Entities will also be required to purchase and maintain equipment and supplies in order to perform the asbestos abatement projects.

1. First year: Entities which engage in projects which are subject to the provisions of 401 KAR 57:011 will be required to submit a certification fee of \$500, in order to obtain the initial certification. The costs for training of one individual would vary, depending on the location of the course, mode of travel, etc. Costs could range from \$200 to \$1200 or more. The same individual must also attend the

division's orientation course.

2. Continuing costs or savings: Entities which engage in projects which are subject to the provisions of 401 KAR 57:011 will be required to submit an annual certification renewal fee of \$250. At least one designated person is required to attend a re-training course each year, with costs the same as for the first year. The same person must also attend the division's orientation course each year.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Costs can be expected to increase as training and associated expenses rise.

(b) Reporting and paperwork requirements: Each entity will be required to maintain records on all asbestos abatement projects which it performs for at least six years.

There will be no additional reporting requirements beyond those required in 401 KAR 57:011 as a result of this regulation. Annual applications for certificates will require the completion of a single form and the submittal of photocopied training certificates.

(2) Effects on the promulgating administrative body: The implementation of this regulation will have a major impact on the Division of Air Pollution Control in that the division must have the necessary personnel and equipment to initiate and maintain an effective asbestos abatement certification program. Such a program would entail certifying the entities, developing the orientation program, inspecting the asbestos abatement projects, and auditing the entities as they perform their projects. Funding to support such a program, including personnel, has been allocated to the cabinet by the 1986 General Assembly, and by the U.S. Environmental Protection Agency. A total of \$239,500 has been budgeted this year for this program, including amounts from federal and state government, and anticipated certification fees.

(a) Direct and indirect costs or savings:

1. First year: The division will incur costs for establishing a division information program for the asbestos abatement entities, including hand-out materials, audio-visual aids, etc., for the orientation program. These costs are estimated to be \$600.

The division will review and process applications for certification of asbestos abatement entities. Costs of that reviewing and processing will be recovered by a certification fee pursuant to this proposed regulation.

Inspection of the abatement projects of the entities is a part of the division's normal day-to-day operations, where these projects are subject to 401 KAR 57:011, and is budgeted accordingly. Additional inspections will be conducted as necessary and the costs will be absorbed as a part of the operating budget.

Training for six individuals in the division's asbestos program will be done during the first year. The total cost for the training is expected to be approximately \$7000.

2. Continuing costs or savings: The division will review and process applications for certification of new asbestos abatement entities and annual applications for renewal of certificates. Costs for these reviews and processing will be recovered by a certification fee pursuant to this proposed regulation.

Inspection and training expenses are a 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: Review and processing of certification and renewal of certification applications will increase paperwork significantly. The addition of six positions in the asbestos certification program, as allocated in the budget for FY 86-87, will assist in handling this additional paperwork.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The cabinet may consider the alternative of not promulgating this regulation, however, such an action would not protect the citizens of this Commonwealth from the dangers of the release of asbestos fibers to the atmosphere from contractors, companies, or other entities, which do not use the proper techniques in demolition and renovation activities involving friable asbestos material.

Other versions of the regulation were considered. However, this regulation was selected because it is considered the most viable approach and it contains provisions that are recommended by the U.S. Environmental Protection Agency.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Some of these provisions are similar to those used by the U.S. EPA and the Occupational Safety and Health Administration. A provision has been added to the regulation which states that alternative procedures may be allowed, provided that they do not conflict with any other state, federal, or local laws.

This regulation is to be used in conjunction with 401 KAR 57:011, in order to determine the applicability of portions of this regulation.

(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: Recognizing that asbestos has been known to cause cancer and other severe illnesses in humans who breathe or swallow its fibers, the U.S. Environmental Protection Agency (EPA) has identified asbestos as a hazardous air pollutant. The U.S. EPA also promulgated a regulation (40 CFR 61, Subpart M) to control the emissions of asbestos fibers into the ambient air and the Kentucky Division of Air Pollution Control has adopted the federal regulation into its regulation, 401 KAR 57:011.

However, such a regulation does not ensure that the quality of the work performed during demolition and renovation operations is adequate to protect the citizens of the Commonwealth. Companies, contractors, or other entities may be using improper techniques in the removal of asbestos during these operations. Therefore, a comprehensive program is necessary to protect Kentucky's citizens against unethical business practices or incompetent persons or companies involved in renovation and demolition operations. This regulation will ensure that entities which perform asbestos abatement projects, subject to the provisions of 401 KAR 57:011, will be certified to do so, and will be trained in the proper techniques.

TIERING: Was tiering applied? Yes. This regulation applies to entities involved only in renovation and demolition operations at facilities. Also, different work practice standards apply to entities performing smaller renovation and demolition operations.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: Based on information provided to the Commonwealth by the U.S. EPA, there is significant concern about the quality of asbestos abatement projects. The U.S. EPA has determined that its role in this quality assurance is to provide and support as many good sources of asbestos abatement training and contractor certification materials as possible. The role of the state, as seen by the U.S. EPA, is to oversee specific projects, to certify individual contractors, and to require training which meets the needs of that state. This regulation contains provisions to allow the division to certify individual contractors and to require specific training for those contractors which engage in projects that are subject to the provisions of 401 KAR 57:011. These provisions are in accordance with recommendations from 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. There are no federal regulations for this category of sources. This regulation closes a gap in the implementation of 401 KAR 57:011 and imposes requirements that are recommended by the U.S. EPA.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

PUBLIC PROTECTION AND REGULATION CABINET Department of Alcoholic Beverage Control

804 KAR 4:290. Malt beverage sales.

RELATES TO: KRS 244.040

PURSUANT TO: KRS 241.060

NECESSITY AND FUNCTION: KRS 244.040 prohibits brewers or distributors from selling alcoholic beverages on credit except to licensees that are private clubs or voluntary associations. Private clubs that sell distilled spirits and wine by the drink are defined in KRS 243.270, but there is no definition of private club or voluntary association as it applies to malt beverage licensees. This regulation defines those terms as they apply to malt beverage sales.

Section 1. Brewers and distributors may sell malt beverages to licensees that are private clubs or voluntary associations on credit.

Section 2. For the purpose of this regulation a private club or voluntary association shall be defined as a retail beer licensee that also holds a special private club license pursuant to KRS 243.030(17) or a retail beer licensee, holding a license pursuant to KRS 243.040, which is an organization, whether a corporation or otherwise, with an established existence evidenced by articles of incorporation, charter

or like document and which has a limited defined membership, including fraternal and service organizations and churches.

EDWARD A. FARRIS, Commissioner

ROBERT DAVIS, Secretary

APPROVED BY AGENCY: November 3, 1986

FILED WITH LRC: November 4, 1986 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on the above proposed regulation will be held on Tuesday, December 22, 1986, at 1:30 p.m., EST, in the Hearing Room of the Department of Alcoholic Beverage Control, 123 Walnut, Frankfort, Kentucky. Unless requests for a public hearing are received, in writing, five working days before the hearing date, the public hearing will be cancelled. Those who may be interested in attending, please contact: Joyce A. Hall, Secretary to the Board, Alcoholic Beverage Control Board, 123 Walnut, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Edward A. Farris

(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: N/A

TIERING: Was tiering applied? N/A

PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance

806 KAR 13:100. Motor vehicle comprehensive insurance rate discounts for anti-theft devices.

RELATES TO KRS 304.13-051, 304.13-065, 304.14-100, 304.14-110, 304.14-120, 304.20-400 to 304.20-450

PURSUANT TO: KRS 304.2-110

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. This regulation implements the provisions of 1986 Ky. Acts c. 352, which requires insurers to grant discounts in motor vehicle comprehensive insurance rates

for those insureds using anti-theft devices which meet certain criteria.

Section 1. Definitions. As used in this regulation:

(1) "Commissioner" means the Commissioner of the Kentucky Department of Insurance.

(2) "Comprehensive insurance coverage" means a coverage under a motor vehicle insurance policy which provides protection against loss or damage to a motor vehicle except by collision or upset.

(3) "Motor vehicle" has the meaning set forth in KRS 304.39-020(7).

Section 2. Scope. (1) This regulation applies to comprehensive insurance coverage under all motor vehicle insurance policies issued or renewed after January 1, 1987.

(2) The discounts required by KRS 304.20-400 to 304.20-440 must be granted to both commercial and private passenger risks.

Section 3. Approval of Anti-theft Devices. All anti-theft devices which meet the criteria of KRS 304.20-400 to 304.20-440 are approved for discounts as specified in KRS 304.20-400 to 304.20-440.

Section 4. Rate Filings. All insurers issuing or renewing motor vehicle comprehensive insurance coverage in Kentucky after January 1, 1987, shall make a rate filing pursuant to KRS Chapter 304.13 to reflect the discounts required by KRS 304.20-400 to 304.20-440. Such rate filings must be made by January 1, 1987.

Section 5. Notice of Availability of Motor Vehicle Comprehensive Insurance Rate Discounts. (1) All insurers issuing or renewing motor vehicle comprehensive insurance coverage after January 1, 1987, shall provide written notice to insureds or prospective insureds of the right to apply for a discount for anti-theft devices.

(2) Notice to prospective insureds shall be given no later than the time of the taking of the application.

(3) Notice to existing insureds shall be given at the time of the first renewal following January 1, 1987, and on subsequent renewals at the option of the insurer.

Section 6. Application Forms for Discounts. (1) All insurers issuing motor vehicle comprehensive insurance coverage shall develop an application form for discounts in comprehensive insurance coverage pursuant to KRS 304.20-400 to 304.20-440.

(2) Such forms shall be available to insureds upon their request.

(3) Such forms shall be used pursuant to KRS 304.14-100(3), 304.14-110, and all other applicable law. Insurers shall use such forms to determine whether insureds must be granted discounts pursuant to KRS 304.20-400 to 304.20-440.

(4) Insurers must file such forms for approval pursuant to KRS 304.14-120 and 806 KAR 14:005. Such forms shall contain or request at least the following information:

(a) The name of the named insured;

(b) Policy number;

(c) Vehicle description (year, make, model, and vehicle identification number);

(d) A description of the anti-theft device;

(e) Signature by the insured as indication

that the representations in the application are true; and

(f) Any other information desired by the insurer.

Section 7. Severability; Effective Date. (1) If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of this regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

(2) This regulation shall become effective upon completion of its review pursuant to KRS Chapter 13A.

(3) As a courtesy to the Legislative Research Commission, the Department of Insurance states that this regulation is intended to be permanent.

GIL McCARTY, Commissioner

ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: November 5, 1986

FILED WITH LRC: November 12, 1986 at 3 p.m.

PUBLIC HEARING SCHEDULED: Persons with an interest in the subject matter of the proposed regulation may submit their comments at a public hearing to be held December 22, 1986, at 9 a.m. (ET), in the offices of the Kentucky Department of Insurance, 229 West Main Street, Frankfort, Kentucky 40601. Written comments may be submitted to Gil McCarty, Commissioner, Kentucky Department of Insurance, 229 West Main Street, Frankfort, Kentucky 40601. Written comments must be received on or before the date of the public hearing scheduled above in order to receive consideration.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Patrick Watts

Need for the proposed regulation: The proposed regulation is necessary to implement Senate Bill 379 (1986 Ky. Acts c. 352), which requires insurers to provide discounts in motor vehicle comprehensive insurance rates where specified anti-theft devices are in use by the insured. An explanation of the proposed regulation is as follows:

In Section 1, the definition of "comprehensive insurance coverage" is a standardized definition used throughout the industry. The theft of a motor vehicle is covered by the comprehensive insurance coverage relating to that vehicle.

The definition of "motor vehicle" is drawn from KRS 304.39-020(7). In essence, this is the definition of the type of motor vehicle which is required to be registered and insured before it can be operated on Kentucky highways. Cf. KRS 186.010(4).

Section 2(1) provides that the discounts apply to policies issued or renewed after January 1, 1987. This echoes KRS 304.20-450. Section 2(2) makes it clear that the discounts are available to both commercial and private passenger risks. KRS 304.20-450 states that the discounts apply to "motor vehicle insurance policies." Where there is no exception to statutory terms, it is presumed the Legislature intended to make none. Thompson v. Piasta, 661 S.W.2d 223, 226 (Ky.App. 1983).

Section 3 provides that all anti-theft devices which meet the criteria of KRS 304.20-400 to 304.20-440 are approved for discounts as specified in KRS 304.20-400 to 304.20-440. This

merely echoes the provisions of the statutes.

Section 4 requires insurers to make rate filings reflecting the discounts required by KRS 304.20-400 to 304.20-440. There is no authority to waive this filing requirement. See KRS 304.13-051. In most instances, this will merely be a rate manual revision.

Section 5 requires insurers to give written notice to insureds and prospective insureds of the availability of discounts for anti-theft devices. Prospective insureds shall be given notice no later than the time the application is taken. Existing insureds are to be notified on the first renewal following January 1, 1987, and on subsequent renewals at the option of the insurer.

Section 6 requires insurers issuing motor vehicle comprehensive insurance coverage to develop an application for a discount in comprehensive insurance coverage pursuant to KRS 304.20-400 to 304.20-440. Insurers are required to make these forms available to an insured upon the insured's request. Thus, it is envisioned that those insureds who wish to avail themselves of the statutorily required discounts will apply to the insurer for the discount and the insurer will determine whether the anti-theft device meets the statutory criteria.

These application forms will be used pursuant to KRS 304.14-100(3), 304.14-110, and all other applicable law. This means that if an insured does not tell the truth in the application (i.e., makes a material misrepresentation), coverage may be denied. See KRS 304.14-110; State Farm Mutual Automobile Insurance Company v. Crouch, 706 S.W.2d 203 (Ky.App. 1986).

Filing and approval of the application forms is required pursuant to KRS 304.14-120.

Section 6 also lists the minimum amount of information to be contained in application forms. Insurers may include additional information at their option.

(1) Type and number of entities affected: The proposed regulation applies to approximately 550 insurers authorized to transact motor vehicle insurance in Kentucky. Less than that number are actively engaged in writing comprehensive insurance coverage. The proposed regulation will also affect motor vehicle owners seeking discounts for anti-theft devices, but the number of these persons is unknown.

(a) Direct and indirect costs or savings to those affected: The proposed regulation will result in costs to insurers in providing notices and application forms.

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: Filings pursuant to KRS 304.14-120 and 806 KAR 14:005 are required.

(2) Effects on the promulgating administrative body: Application forms must be reviewed and approved.

(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: Form filing fees will be received.

(4) Assessment of alternative methods; reasons

why alternatives were rejected: States which have adopted legislation similar to Senate Bill 379 have adopted various approaches to the implementation of this legislation. Some have followed procedures substantially identical to those in the proposed regulation. Others have required anti-theft devices to be tested in laboratories for effectiveness before discounts will be granted based on the use of these devices. The Department of Insurance received no special appropriation for the implementation of this legislation, and, therefore, sophisticated approaches such as the use of outside experts or independent laboratories is not possible.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict:

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None

(6) Any additional information or comments:

TIERING: Was tiering applied? The proposed regulation attempts to provide general rules for the granting of discounts pursuant to SB 379. Tiering has been recognized only in that insurers are given the option to take certain actions beyond minimums prescribed in the regulation.

PUBLIC PROTECTION AND REGULATION CABINET Department of Insurance

806 KAR 17:080. Long-term health care insurance.

RELATES TO KRS 304.14-130, 304.17-314, 304.18-038, 304.18-110, 304.18-120, 304.32-290, 304.38-220

PURSUANT TO: KRS Chapter 13A, 304.2-110, 304.32-250, 304.38-150

NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.32-250 provides that the Commissioner of Insurance may make reasonable regulations he deems necessary for the proper administration of KRS Chapter 304.32. KRS 304.38-150 provides that the Commissioner may make reasonable regulations deemed necessary for the proper administration of KRS Chapter 304.38. This regulation establishes guidelines for the implementation of 1986 Ky. Acts c. 409 (eff. July 1, 1987), which requires individual and group health insurers, non-profit hospital, medical-surgical, dental, and health service corporations, and health maintenance organizations to make available long-term health care insurance.

Section 1. Definitions. As used in KRS 304.17-314, 304.18-038, 304.32-290, and 304.38-220 and this regulation.

(1) "Insurance policy" means a contract issued by an insurer as defined herein.

(2) "Insurer" means an insurer, a non-profit hospital, medical-surgical, dental, and health service corporation, or a health maintenance organization.

(3) "Custodial care" does not include personal convenience or comfort services for which a separate charge is levied.

(4) "Long-term health care" means treatment at a licensed long-term health care facility as defined in KRS 216.510(1). "Long-term health care" does not include treatment provided to a patient in the patient's home.

(5) "Loss ratio" means the ratio of the sum of incurred losses and the change in policy reserves divided by the earned premiums.

(6) "Skilled care" and "intermediate care" are defined in relation to the licensure or certification requirements and the level of services required for skilled and intermediate care facilities in Kentucky.

(7) "Total cost," in relation to skilled and intermediate care, shall mean reimbursable costs based on usual, customary, and reasonable charges, as formulated by insurers.

Section 2. Applicability. (1) 1986 Ky. Acts c. 409 and this regulation establish minimum standards for long-term health care insurance policies which must be available upon request. 1986 Ky. Acts c. 409 and this regulation do not prohibit insurers from developing long-term health care insurance policies which have provisions which do not meet such minimum standards and offering such policies in Kentucky as long as such policies otherwise comply with the Kentucky Insurance Code.

(2) Only insurers issuing health insurance policies in Kentucky which provide coverage on an expense incurred basis shall be required to develop an insurance policy providing coverage for long-term health care. Insurers issuing indemnity policies which have only incidental expense incurred components shall not be required to develop a long-term health care insurance policy.

(3) Insurers issuing only disability or specific disease insurance policies in Kentucky shall not be required to develop a long-term health care insurance policy.

(4) Conversion health insurance policies issued pursuant to KRS 304.18-110, 304.18-120, 304.32-152, and 304.38-191 are not subject to 1986 Ky. Acts c. 409 except to the extent long-term health care must be offered as an option under a conversion health insurance policy in order to provide benefits which are substantially similar to the benefits under the group contract to which the conversion health insurance policy relates.

(5) 1986 Ky. Acts c. 409 and this regulation apply only to policies delivered or issued for delivery in Kentucky and certificates issued thereunder on or after July 1, 1987.

Section 3. Loss Ratios. Individual long-term health care insurance policies shall have anticipated loss ratios at least as great as forty-five (45) percent.

Section 4. Medical Underwriting; Pre-existing Conditions; Pre-admission Certification. (1) Medical underwriting. Insurers may engage in reasonable medical underwriting in relation to long-term health care insurance policies.

(2) Pre-existing condition clauses. A long-term health care insurance policy may include a clause excluding coverage for health conditions for which medical advice was given or treatment was recommended or received within twelve (12) months before the effective date of coverage. The waiting period for pre-existing conditions shall not be more than twelve (12)

months from the effective date of the policy. As to long-term health care insurance, a pre-existing condition shall not be defined more restrictively than as set forth in this subsection.

(3) Insurance coverage provided for long-term health care may be conditioned upon compliance with an insurer's pre-admission screening requirements. These requirements may include periodic recertification of the medical necessity or the appropriateness of care for a patient's continued confinement in a long-term health care facility.

Section 5. Deductibles, Co-insurance, and Maximum Benefit Limitation. (1) Deductible and co-insurance provisions need not be identical to those contained in other health insurance policies developed by insurers subject to 1986 Ky. Acts c. 409 and this regulation, so long as insurers provide complete coverage on an expense incurred basis and pay at least seventy-five (75) percent of the total cost of covered long-term health care after any deductibles required by the policy. "Complete coverage" refers to the maximum benefit provided by an insurer under the insurance policy.

(2) The requirement that insurers pay at least seventy-five (75) percent of the total cost of covered long-term health care does not preclude an insurer from imposing daily or lifetime maximum benefit limitations in a long-term health care insurance policy.

(3) Insurers may impose their own deductibles in addition to the sixty (60) day waiting period established by 1986 Ky. Acts c. 409. Insurers shall not be liable for reimbursement of excess benefits where it is determined that prices have been increased by providers on the 61st or subsequent day of a patient's confinement to recoup unpaid expenses incurred during the sixty (60) day waiting period.

Section 6. Medicare Beneficiaries. Insurers which provide long-term health care benefits to Medicare beneficiaries may provide a different level of benefits for policyholders who are eligible for Medicare.

Section 7. Outline of Coverage. An outline of coverage shall be provided to applicants for long-term health care insurance no later than the time the application is taken. For direct response insurers, the outline of coverage shall be delivered to applicants no later than the time the policy is delivered to an applicant.

(1) Such outline of coverage shall include:

(a) A description of the principal benefits and coverage provided in the policy;

(b) A statement of the principal exclusions, reductions, and limitations contained in the policy;

(c) A statement of the renewal provisions including any reservation by the insurer of a right to change premium rates;

(d) A statement that the outline of coverage is a summary of the policy issued or applied for, and that the policy should be consulted to determine governing contractual provisions; and

(e) If the policy does not provide coverage for services rendered by long-term health care facilities other than those licensed by the Commonwealth of Kentucky, a statement disclosing this fact.

(2) A certificate issued pursuant to a group

long-term health care insurance policy which is delivered or issued for delivery in Kentucky shall include:

(a) A description of the principal benefits and coverage provided in the policy;

(b) A statement of the principal exclusions, reductions, and limitations contained in the policy; and

(c) A statement that the group master policy should be consulted to determine governing contractual provisions.

(3) With regard to group coverage, once the insurer has notified the master policyholder of the availability of long-term health care insurance coverage, the insurer is not required to provide any further notification to the master policyholder unless the master policyholder requests the coverage in writing.

Section 8. Requirement of Prior Confinement.

(1) Intermediate nursing facilities: A long-term health care insurance policy shall not require prior confinement in a hospital or a skilled nursing facility as a condition of coverage for long-term health care provided in an intermediate care facility.

(2) Other types of long-term health care facilities: Long-term health care insurance policies may require prior confinement in a hospital or skilled nursing facility as a condition to coverage for long-term health care rendered by any other type of long-term health care facility.

Section 9. Annual Advertising Requirement. (1) Insurers' annual advertising on a collective or institutional basis, of the availability of individual long-term health care insurance policies shall satisfy the annual advertising requirement of KRS 304.17-314(4).

(2) Annual advertising pursuant to KRS 304.17-314(4) shall be in at least one (1) newspaper of statewide circulation and on radio and television stations sufficient to reach all areas of the state, such stations to be selected by insurers.

(3) The first advertising shall occur in July, 1987.

Section 10. Affiliated Insurers. Insurers may comply with the provisions of 1986 Ky. Acts c. 409 by offering a long-term health care insurance policy developed by an insurer which is a member of a group of insurers affiliated with the insurer.

Section 11. Severability; Effective Date. (1) If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of this regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

(2) This regulation shall become effective upon completion of its review pursuant to KRS Chapter 13A.

(3) As a courtesy to the Legislative Research Commission, the Department of Insurance states that this regulation is intended to be permanent.

GIL McCARTY, Commissioner
ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: November 10, 1986

FILED WITH LRC: November 12, 1986 at 3 p.m.

PUBLIC HEARING SCHEDULED: Persons with an interest in the subject matter of the proposed regulation may submit their comments at a public hearing to be held December 22, 1986, at 10:30 a.m. (ET), in the offices of the Kentucky Department of Insurance, 229 West Main Street, Frankfort, Kentucky 40601. Written comments may be submitted to Gil McCarty, Commissioner, Kentucky Department of Insurance, 229 West Main Street, Frankfort, Kentucky 40601. Written comments must be received on or before the date of the public hearing scheduled above in order to receive consideration.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Patrick Watts

Need for the proposed regulation: The proposed regulation is necessary to implement Senate Bill 273 (1986 Ky. Acts c. 409), which requires health insurers to offer to the public long-term health care insurance. An explanation of the proposed regulation is as follows:

In Section 1, the definitions of "insurance policy" and "insurer" are necessary to make it clear that the regulation applies to insurers, non-profit hospital, medical-surgical, dental, and health service corporations (i.e., Blue Cross and Blue Shield of Kentucky, Inc.), and health maintenance organizations. The definition of "custodial care" is intended to limit insurers' responsibility to pay for personal convenience or comfort services which are, in essence, not medically necessary. The definitions of "long-term health care," "skilled care," and "intermediate care" are defined in terms of the licensure or certification requirements set forth in other provisions of the Kentucky Revised Statutes. The definition of "loss ratio" is the same as the definition in 806 KAR 17:070 §1(3), which is the regulation on individual health insurance rate filings.

The definition of "total cost" is intended to make it clear that insurers are not responsible to merely pay whatever they are billed by a long-term care facility. In essence, this definition requires insurers to develop a system of usual, customary, and reasonable charges. It had been proposed that these charges be the charges established by Medicaid, but there are questions as to whether such an approach is appropriate for private insurance. Further, long-term care facilities view Medicaid charges as far too low.

Section 2(1) provides that the regulation establishes minimum standards for long-term health care insurance policies which must be available upon request, but does not prohibit insurers from developing other long-term health care insurance policies which have provisions which do not meet the minimum standards established by the regulation. The purpose of this provision is to encourage development of a workable long-term health care insurance policy. This development must be encouraged because, as was noted during the legislative hearings on Senate Bill 273, no one knows whether the standards set forth in Senate Bill 273 will result in an affordable and workable long-term health care insurance policy. Continued competition must be encouraged in order to develop a workable product.

Section 2(2) provides that only insurers issuing health insurance policies in Kentucky which provide coverage on an expense incurred

basis are required to develop a long-term health care insurance policy. This echoes the provisions of KRS 304.17-314(2). This provision of the regulation also exempts indemnity policies which have incidental expense incurred components because requiring coverage for long-term health care under such a policy would be a radical change in the nature of coverage provided by the policy.

Section 2(3) provides that insurers issuing only disability or specific disease insurance policies in Kentucky are not required to develop a long-term health care insurance policy. This follows from the provisions of KRS 304.17-314(2) because disability and specific disease policies are generally not considered to be expense incurred type policies.

Section 2(4) exempts conversion health insurance policies issued pursuant to KRS 304.18-110, 304.18-120, 304.32-152, and 304.38-191 from providing long-term health care coverage unless such coverage is necessary under the conversion policy to provide benefits which are substantially similar to the benefits under the group contract to which the conversion health insurance policy relates. Conversion health insurance policies are issued to persons who have terminated group health insurance coverage. All insurers issuing group health insurance policies covering Kentucky insureds must provide a conversion policy, even if they do not sell individual health insurance policies in the state. Therefore, it is unfair to require long-term health care coverage to be provided in such policies. However, as noted in the regulation, if long-term health care is covered by the group policy, the conversion policy would have to offer the option of long-term health care coverage in order to comply with the requirement of KRS 304.18-110 that the conversion policy provide substantially similar benefits to the benefits under the group contract.

Section 2(5) provides that the legislation and regulation apply to policies delivered or issued for delivery in Kentucky and certificates issued thereunder on or after July 1, 1987. Senate Bill 273 does not go into effect until July 1, 1987. The purpose of the delayed effective date is to permit time for the development of a long-term health care insurance policy. It was proposed that actual development of the policy not begin until July 1, 1987, but this is contrary to the legislative intent as expressed in the legislative hearings concerning Senate Bill 273. In these hearings, it was specifically stated that the purpose of the delayed effective date was to allow time to develop a product. This is not to say that delay in product development would not be beneficial. The National Association of Insurance Commissioners is currently circulating an exposure draft of its industry advisory committee's report on long-term health care insurance. This report includes proposed model legislation which is likely to be adopted within the next six (6) months.

Section 3 provides that long-term health care insurance policies shall have loss ratios at least as great as forty-five (45) percent for individual policies. A loss ratio is an indicator of how much of each premium dollar is being paid in claims and how much of each premium dollar is being paid in expenses, overhead, and profit. Thus, under the proposed

regulation, individual long-term health care insurance policies would be required to pay at least forty-five (45) cents of each premium dollar out as claims. The other fifty-five (55) cents would be paid out as expenses, overhead, and profit.

It has been proposed that long-term health care insurance policies be exempted from the loss-ratio requirements imposed by 806 KAR 17:060 Section and 806 KAR 17:070 Section 5. The basis for this suggestion was that insurers need pricing flexibility to recognize the experimental nature of this insurance product and the lack of credible actuarial data for this type of product.

While there is some merit to these points, it is inappropriate to allow insurers complete discretion as to loss ratios. There must be some measure to determine whether the benefits provided by a policy are reasonable in relation to the premiums charged for that policy. Cf. KRS 304.14-130(1)(d). The loss ratios required by the proposed regulation were drawn from the exposure draft of the National Association of Insurance Commissioners' industry advisory committee's report on long-term health care insurance.

In this report, the industry advisory committee noted that an individual guaranteed renewable loss of income policy must have a loss ratio of at least 50% percent. See 806 KAR 17:070 Section 5(1)(a). The industry advisory committee then stated that, assuming that such a loss ratio is credible, a forty-five (45) percent loss ratio test may be appropriate for long-term health care insurance if additional underwriting controls exist. See Section 4(1). A loss ratio for group policies was considered, but has been deleted as unnecessary. Group business usually involves arms' length bargaining between an insurer and an employer. Further, there is no clear mandate for the regulation of commercial insurers' group rates.

Section 4(1) permits reasonable medical underwriting in relation to long-term health care insurance policies. The restriction that the underwriting be "reasonable" must be emphasized. Insurers should not "go overboard" on underwriting, but some underwriting is necessary to avoid adverse selection.

Section 4(2) permits a long-term health care insurance policy to contain a pre-existing condition clause. A pre-existing condition clause in a health insurance policy provides that there is no coverage for existing health conditions during a specified waiting period. The proposed regulation limits such clauses to the exclusion of coverage for health conditions for which medical advice was given or treatment was recommended or received within twelve (12) months before the effective date of coverage. The proposed regulation further limits the waiting period for pre-existing conditions to no more than the first six (6) months of the policy. Cf. KRS 304.14-520.

Section 4(3) permits insurers to engage in pre-admission screening and periodic recertification of medical necessity as a condition to insurance coverage for long-term health care. This provision recognizes the private nature of an insurance contract. There are two (2) parties to such a contract, the insurer and the insured. As a party to the contract, the insurer has the right to investigate whether the conditions of the

contract are being met by the other party.

Section 5 provides that deductible and co-insurance provisions of long-term health care insurance policies need not be identical to those contained in other health insurance policies developed by insurers subject to SB 273. Of course, insurers must comply with the provisions of KRS 304.17-314(3)(d) and pay 75% of the total cost of covered long-term health care. Section 5(2) recognizes that insurers may impose daily or lifetime maximum benefit limitations in a long-term health care insurance policy. KRS 304.17-314(3)(c) requires insurers to impose maximum benefits limitations. Section 5(3) recognizes that insurers may impose their own deductibles in addition to the sixty day waiting period established by KRS 304.17-314(3)(c). See KRS 304.14-160(3).

Section 6 permits insurers which provide long-term health care benefits to Medicare beneficiaries to provide a different level of benefits to policyholders age 65 and older because they are eligible for Medicare by reason of age. KRS 304.17-314(1)(e) recognizes that, due to the availability of Medicare benefits, a different level of benefits should be provided to persons eligible for Medicare by reason of age. If a person has a Medicare supplement policy, that policy need not provide coverage for long-term health care. The policyholder would have to obtain a separate policy to provide coverage for long-term health care. It was suggested that insurers which do not sell individual policies to Medicare eligible persons should not have to make Medicare beneficiaries eligible to receive long-term health care insurance coverage. However, this would violate KRS 304.17-314(3)(e), which requires insurers to make Medicare beneficiaries eligible to receive long-term health care insurance coverage.

Section 7 provides for an outline of coverage to be provided to all applicants for long-term health care insurance. Generally, the outline of coverage must be provided no later than the time the application is taken, except for direct response insurers, in which case the outline of coverage must be delivered to applicants no later than the time the policy is delivered to the applicant. This distinction is common for direct response insurers because, in their case, no agent is present at the time the application is completed. Cf. 806 KAR 12:080 Section 6(4).

The outline of coverage required by Section 7 is also required by KRS 304.17-314(3)(f). Section 7 is substantially identical to a portion of the exposure draft of the National Association of Insurance Commissioners' Model Act on Long-term Health Care Insurance.

Section 8 prohibits a long-term health care insurance policy from requiring prior confinement in a hospital or skilled nursing facility as a condition of coverage for long-term health care provided in an intermediate care facility. This restriction is required by KRS 304.17-314(3)(g). Section 8(2) permits a long-term health care insurance policy to require prior confinement in a hospital or skilled nursing facility as a condition to coverage for long-term health care rendered by any other type of long-term health care facility. Since the restriction of KRS 304.17-314(3)(g) applies only to admission to an intermediate care facility, a provision such as that described in Section 8(2) is permissible. See KRS 304.14-160(3).

Section 9 provides that insurers may comply with the annual advertising requirement of KRS 304.17-314(4) by advertising on a collective or institutional basis. This means that, for example, insurers may comply by joint advertisements by the Health Insurance Association of America and Blue Cross/Blue Shield plans. Section 9(2) requires advertising to take place in at least one newspaper of statewide circulation and on radio and television stations sufficient to reach all areas of the state, with such stations being selected by insurers. It was proposed that the advertising requirement be met by advertising only in a newspaper of statewide circulation. However, this ignores the fact that, unfortunately, not all persons read newspapers. Lastly, Section 9(3) provides that the first advertising shall occur in July, 1987. It was proposed that the first advertising not occur until July, 1988. However, this ignores the legislative intent that the marketing of long-term health care insurance pursuant to SB 273 begin in July, 1987.

Section 10 permits insurers to comply with SB 273 by offering a long-term health care insurance policy developed by an insurer which a member of a group of insurers affiliated with the insurer. In other words, a group of insurers may segregate its long-term health care insurance into a particular insurer and still be regarded as in compliance with SB 273. The segregation of a particular kind of business into a particular insurer within a group is recognized as a legitimate and useful tool both from a marketing and a solvency point of view. For example, it is common for a group of motor vehicle insurers to insure the best risks in one insurer, the average risks in another insurer, and the worst risks in a third insurer. In this manner, insurers may target particular groups of insureds. Further, those insureds who are poor risks are segregated from those who are not poor risks, thereby enabling insurers to better maintain solvency.

(1) Type and number of entities affected: The regulation applies to approximately 1100 insurers authorized to transact health insurance in Kentucky. However, less than half of these insurers are actively engaged in health insurance business. The proposed regulation also affects Blue Cross and Blue Shield of Kentucky, Inc. (the one non-profit, hospital, medical-surgical, dental, and health service corporation subject to SB 273), and approximately 12 health maintenance organizations. The proposed regulation will also affect all persons seeking to purchase long-term health care insurance pursuant to SB 273. The proposed regulation will also affect the 340 long-term health care facilities operating in Kentucky.

(a) Direct and indirect costs or savings to those affected: The proposed regulation will result in savings in insurers' expenses, and such savings will be passed on to policyholders. The proposed regulation will have an impact on long-term health care facilities because it deals with their reimbursement from private insurance. However, the nature of this impact cannot be determined at this time.

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: Various portions of the proposed regulation will reduce or eliminate paperwork by clarifying what type of form filings will be regarded as acceptable by the Department of Insurance.

(2) Effects on the promulgating administrative body: There will be no fiscal impact. The proposed regulation will be a useful tool in clarifying what the Department of Insurance expects for compliance with SB 273.

(a) Direct and indirect costs or savings:

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The Department of Insurance has received numerous inquiries from insurers regarding compliance with SB 273. Adoption of an administrative regulation not only answers those inquiries, but assures that there are guidelines available to all insurers.

(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: None

(6) Any additional information or comments:

TIERING: Was tiering applied? The regulation attempts to provide general rules for the sale and issuance of long-term health care insurance pursuant to SB 273. Tiering has been recognized in the following aspects of the proposed regulation:

(1) The regulation establishes minimum standards for long-term health care insurance policies issued pursuant to SB 273. Other long-term health care insurance policies may be developed and used in Kentucky.

(2) Group insurers are not required to have individual long-term health care insurance policies available merely because they issue conversion policies because the issuance of conversion policies is merely an incidental requirement of being a group insurer.

(3) There are different procedures for delivery of the outline of coverage for direct response insurers.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings & Construction
Division of Fire Prevention

815 KAR 15:080. Fees for licensing new boiler and pressure vessel contractors.

RELATES TO: KRS Chapter 236

PURSUANT TO: KRS 13A.100, 236.210

NECESSITY AND FUNCTION: KRS 236.210 requires the Commissioner of the Department of Housing, Buildings and Construction upon advice of the Board of Boiler and Pressure Vessel Rules to establish reasonable fees for the licensing of all new boiler and pressure vessel contractors. This regulation is necessary to establish the fees incident to such licensing.

Section 1. All boiler or pressure vessel

contractors who engage in the business of installing, erecting or repairing boilers shall pay the following fees upon application for such license or upon reapplication.

(1) Initial fee - \$100.

(2) Annual renewal fee - seventy (70) dollars.

CHARLES A. COTTON, Commissioner

ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: November 13, 1986

FILED WITH LRC: November 14, 1986 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 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 December 17, 1986, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected: Contractors - 500

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

1. First year: \$22,000
2. Continuing costs or savings: Same
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: N/A
(2) Effects on the promulgating administrative body: Increases total fees received for service provided in an effort to become more self-supporting.

(a) Direct and indirect costs or savings:

1. First year: Same

2. Continuing costs or savings: Same

3. Additional factors increasing or decreasing costs: Cost of program will be better defrayed.

(b) Reporting and paperwork requirements: N/A

(3) Assessment of anticipated effect on state and local revenues: State revenue will increase approximately \$22,000.

(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: 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: None

TIERING: Was tiering applied? Yes.

REPRINT

COMPILER'S NOTE: This regulation is being reprinted due to typographical errors by the agency when resubmitted as "Amended After Hearing."

704 KAR 15:080. Paraprofessional employees and volunteer personnel.

RELATES TO: KRS 161.010, 161.030, 161.044

PURSUANT TO: KRS 156.070, 161.044

NECESSITY AND FUNCTION: KRS 161.010 defines a paraprofessional, KRS 161.030 vests the certification of all teachers and other school personnel with the State Board of Education, and KRS 161.044 directs the State Board to establish a plan for the qualification and utilization of adult paraprofessional employees and adult volunteer personnel in the schools. This regulation prescribes the guidelines by which local school districts may utilize and supervise adult paraprofessional employees and adult volunteer personnel.

Section 1. Local boards of education may utilize adult volunteer and adult paraprofessional employees in accordance with KRS 161.044 and 161.010(4) and (5), and subject to the following provisions:

(1) All teachers' aides working in kindergarten classes and all instructional teachers' aides initially hired by the local board of education after July 1, 1986, except those with teacher certification, shall be subject to the following requirements:

(a) A high school diploma or a high school

equivalency certificate.

(b) A passing score on an achievement test. Beginning with the 1986-87 school year, the Adult Basic Learning Examination (ABLE) shall be utilized to measure achievement in the areas of reading and mathematics. Passing scores on the appropriate subtests of the ABLE shall be those scores which are equivalent to the scores obtained by the norming groups at the twenty-second percentile. [an appropriate test shall be used to measure competence in the areas of reading and mathematics. The Superintendent of Public Instruction shall appoint an advisory committee to assist in the selection of an appropriate test and establishing passing scores for the 1986-87 school year. The passing score shall be submitted to the State Board of Education for approval and incorporation into this regulation.]

(c) Successful completion of an in-service training program. The program shall consist of a minimum of twelve (12) hours of formal, documented instruction to include training in the areas of the role of the paraprofessional, educational terminology, school practices and policies, interpersonal relationships, learning atmosphere and tutorial instruction. Local school districts shall utilize the in-service program designated by the State Board of Education or an alternative program approved by the Department of Education which meets the requirements of this subsection.

(d) An annual evaluation by the appropriate school administrator with input from the supervising teacher or teachers. Local districts

shall adopt a policy which sets forth the evaluation process for teachers' aides and the use to be made of such evaluations in future employment decisions.

(2) All full time noninstructional teachers' aides shall achieve a passing score on an achievement test. The test shall be the same test which is administered to instructional teachers' aides and the passing scores shall be identical to those established for instructional teachers' aides.

(3) Local boards of education shall give preference to an applicant for the position of teacher's aide or paraprofessional who has a regular or emergency teacher certification.

(4) For each paraprofessional employee the local school district shall prepare and maintain an up-to-date job description which outlines the duties that the individual is authorized to perform.

(5) The professional administrative and teaching staff, as well as the paraprofessional employees, shall have copies of the job descriptions of the paraprofessional personnel under their direction and shall limit the work assignment of the paraprofessional personnel to the duties outlined in the job descriptions.

(6) Paraprofessional employees and volunteer personnel may be assigned within the limitations of their competency to assist with classroom and

any otherwise authorized community-based instruction, as appropriately directed and supervised by the professional administrative and teaching staff. Such assistance shall not include the continuing day-to-day responsibility for teaching a particular academic subject or group of pupils in the role ordinarily ascribed to a teacher in the regular, special education, and vocational education program areas, and paraprofessional employees and volunteer personnel involved in regular and remedial classroom instruction shall be personally supervised on a continuing day-to-day basis by the supervising teacher.

Section 2. In the event a local board of education is unable to fully staff an athletic program with qualified personnel under 702 KAR 7:090 Sections 1 and 2, the local district superintendent may request annual approval from the Superintendent of Public Instruction for an alternative staffing arrangement for noncertified paraprofessionals performing routine assignments, pursuant to 702 KAR 7:090, Section 2(2). Appropriate justification shall be submitted in writing on forms provided by the head of the Office of Instruction. (8 Ky.R. 1599; Am. 9 Ky.R. 116; eff. 7-7-82; 11 Ky.R. 1162; eff. 4-9-85; 13 Ky.R. 310; 639; eff. 10-2-86.)

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the November 10-11, 1986 Meeting

The November meeting of the Administrative Regulation Review Subcommittee was held on Monday, November 10, 1986 at 2 p.m. and on Tuesday, November 11, 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 Senator McCuiston, seconded by Senator Quinlan, the minutes of the October 1-2, 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: Representative Adrian K. Arnold; David W. Carby, William Schmidt, KY Board of Medical Licensure; William S. Coakley, Ralph Gouge, Jr., Martha L. Hall, Roger B. McCann, Hisham M. Saaid, Natural Resources and Environmental Protection Cabinet; Michael Bradley, Cheryl Roberts, Doug Sapp, Corrections Cabinet; G. Stephen Anders, Bill Debord, Pat Foley, Jeff Jones, Marjorie Klee, Mary M. Mulloy, Karen Powell, Sandra G. Pullen, Bruce Siria, Bill Wilhoite, Transportation Cabinet; Gary Bale, Jan Horton, Elizabeth Nelli, Department of Education; Carl Van Cleve, Judith G. Walden, Department of Housing, Buildings and Construction; Jayne M. Arnold, Jennifer M. Bryson, Barbara Coleman, Lynne Flynn, Louise H. Greeman, Anne Hager, Jack S. Lesshaft, Sr., Janie Miller, Richard Miller, Patricia K. Nicol, M.D., Angie Scott, Mark Yancey, Cabinet for Human Resources; Leslie Cole, Environmental Quality Commission; David S. Beck, KY Farm

Bureau; Ted Bradshaw, KY Bankers; Jean P. Duncan, KY Nurses' Association; Tom Fitzgerald, KY Resources Council; Gregory T. Guess, KY Petroleum Council; Tony Sholar, KY Chamber of Commerce; John Underwood, KY Association of Health Care Facilities; Michael D. Vance, Mountain Comprehensive Care Center; Renaye Sparks, Richard Stal, Pathways, Inc.

Press: Mark Chellgren, Charles Wolfe, AP; Michael Pulfer, Cincinnati Enquirer; Judy Bryant, Courier-Journal, Tony McVeigh, KY Network; Bill Straub, KY Post; Susan Warren, UPI; Tony Hyatt, WKYT-TV; Mark Hebert, WLEX-TV.

LRC Staff: Susan Wunderlich, Joe Hood, Gregory Karambellas, Donna Valencia, Jerry Deaton, Chris Lilly, Tim Lowry, and Carla Arnold.

The Administrative Regulation Review Subcommittee met on November 10 and 11, 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:

General Government Cabinet: Board of Medical Licensure

201 KAR 9:084 (Fee schedule.) Representative Brinkley stated that KRS Chapter 13A required that fees be specified in a regulation and that new fees could not be charged until the effective date of the regulation in which they appeared. Representative Brinkley pointed out that language in Subsection (9) of Section 1,

that provides for services not specifically required to be provided by these regulations, but which the board deems appropriate to carry out the intent and purpose of these regulations, a fee not to exceed the actual cost of providing the services, exceeded statutory authority. The agency amended the regulation by deleting Subsection (9) of Section 1.

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.) This amendment exempts dry cleaning establishments from the requirements provided in this regulation.

401 KAR 63:022 (New or modified sources emitting toxic air pollutants.) This amendment exempts dry cleaning establishments from the requirements provided in this regulation.

Corrections Cabinet: Office of the Secretary

501 KAR 6:050 (Luther Luckett Correctional Complex.) The reference material in this regulation was amended to include a statute cite.

501 KAR 6:120 (Blackburn Correctional Complex.) The reference material adopted by this regulation was amended to meet objections raised by staff.

Jail Standards

501 KAR 3:070 (Safety; emergency procedures.) Agency personnel agreed to amend this regulation as follows: After the word "Edition", add the following: ", which is hereby incorporated by reference".

501 KAR 3:080 (Sanitation; hygiene.) Agency personnel amended this regulation by deleting the words: "consistent with the state health code".

501 KAR 3:090 (Medical services.) This regulation was amended to replace the word "basic" with the word "standard" when referring to the first-aid requirements of the American Red Cross.

Ninety-six Hour Facilities

501 KAR 4:070 (Safety; emergency procedures.) Agency personnel agreed to amend this regulation as follows: After the word "Edition", add the following: ", which is hereby incorporated by reference".

501 KAR 4:080 (Sanitation; hygiene.) Agency personnel amended this regulation by deleting the words: "consistent with the state health code".

501 KAR 4:090 (Medical services.) Agency personnel agreed to delete "basic" and insert in lieu thereof, "standard" in subsection (9) of Section 1.

Twelve-hour Facilities

501 KAR 5:070 (Safety; emergency procedures.) Agency personnel agreed to amend this regulation as follows: In Subsection (1), Section 2: insert the following: ", which is hereby incorporated by reference" after the word "Edition".

501 KAR 5:080 (Sanitation; hygiene.) Agency personnel amended this regulation as follows: Delete the words: "consistent with the state health code".

501 KAR 5:090 (Medical services.) With regard to the type of first aid training required, agency personnel agreed to amend this regulation to delete the word, "basic" and to insert the word, "standard" in lieu thereof.

Restricted Custody Center

501 KAR 7:070 (Safety; emergency procedures.) Agency personnel agreed to amend this regulation by adding, before the period in the sentence in Subsection (1) of Section 2: "which is hereby incorporated by reference."

501 KAR 7:080 (Sanitation; hygiene.) Agency personnel amended this regulation as follows: Delete the words: "consistent with the state health code".

Transportation Cabinet: Department of Vehicle Regulation: Division of Motor Carriers

601 KAR 1:005 (Safety regulations.) The Subcommittee and agency agreed to amend the regulation by adding the following language: Motor vehicles which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility which is located at a point not more than fifty (50) air miles from the harvest area are not required to comply with the above safety requirements relative to light fixtures when operated during daylight hours. They are, however, required to have two (2) brake lights and mechanical turn signals as set forth in 49 CFR 393.

Public Protection and Regulation Cabinet: Department of Housing, Buildings and Construction: Plumbing

815 KAR 20:070 (Plumbing fixtures.) This regulation was amended due to a typographical error (the temperature referred to in this regulation read "150" and was corrected to "140").

The Subcommittee determined that the following regulations complied with KRS Chapter 13A:

General Government Cabinet: Board of Medical Licensure

201 KAR 9:081 (Disciplinary proceedings.) Rep. Meyer stated that this regulation raised several issues and specifically cited the provision that the Board was not obligated to hold a hearing with regard to the suspension of licenses. He added that the objectionable aspects of the regulation would be considered by the Subcommittee in the drafting of legislation for the next session.

Corrections Cabinet: Office of the Secretary

501 KAR 6:030 (Kentucky State Reformatory.)

501 KAR 6:040 (Kentucky State Penitentiary.)

501 KAR 6:060 (Northpoint Training Center.)

501 KAR 6:090 (Frankfort Career Development Center.)

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 3:100 (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 4:100 (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 5:100 (Food services.)
- 501 KAR 5:110 (Classification.)
- 501 KAR 5:120 (Admission; release.)
- 501 KAR 5:130 (Inmate rights.)

Restricted Custody Center

An objection had been raised that these regulations provided that restricted custody centers are facilities "separate from the jail..." and would be a fourth type of jail. Since only three categories of jails are permitted by statute ("Jails"; "Holds"; and "Regional jails"), these regulations would be proper only if the facility was the jail, and not a new creation. Agency personnel stated that KRS 441.055(2) permits, and the regulations were intended to create, a new classification of jails; that the jurisdiction of jailers and the applicability of statutes governing jails and detention would not be violated or superseded. The Subcommittee had no objection to these regulations.

- 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 7:090 (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.)

Transportation Cabinet: Administration

600 KAR 1:045 (Disciplinary and separation procedures.)

Department of Vehicle Regulation: 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.) Renaye Smith of Pathways, Inc. appeared before the Subcommittee. She objected to the regulation because it was felt that the one day classroom instruction provided for by the regulation was inadequate and did not permit proper evaluation and dispensation of charges by the court. Representative Brinkley pointed out that House Bill 686 enacted during the 1986 regular session permitted an optional one-day period of classroom instruction. He suggested that Ms. Smith and others interested in changing

the statute bring it to the attention of the General Assembly at the next regular session.

Department of Highways: Traffic

- 603 KAR 5:190 (Vehicles prohibited on I-75 & I-71.)
- 603 KAR 5:200 (Vehicles prohibited on I-471.)

Education and Humanities Cabinet: Department of Education: Office of Local Services: School Terms, Attendance and Operation

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

Office of Instruction: 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.)

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 Social Insurance: Public Assistance

- 904 KAR 2:006 (Technical requirements; AFDC.)
- Representative Meyer questioned the determination of paternity procedures. Although the Subcommittee did not object to statutory authority and legislative intent, it recommends that the Interim Joint Committee on Health and Welfare take a strong look at this subject matter for possible action in the 1988 General Assembly.

OTHER BUSINESS

The Subcommittee discussed an information request concerning the failure of a postmark on a tax return received by the Unemployment Commission, resulting in a hearing before the Commission and a charge for penalties and interest. Representative Holloway moved that this request be forwarded to the Interim Joint Committee on Labor and Industry as this committee is currently reviewing this problem.

The motion seconded and passed.

The Subcommittee had no objections to emergency regulations which had been filed.

The Subcommittee adjourned at 11:45 a.m. until December 1, 1986.

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates.....	F2
KRS Index.....	F9
Subject Index to Volume 13.....	F15

LOCATOR INDEX -- EFFECTIVE DATES

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

VOLUME 12

Regulation	12 Ky.R. Page No.	Effective Date	Regulation	12 Ky.R. Page No.	Effective Date
704 KAR 3:325			704 KAR 20:330	1961	8-12-86
Amended	1864	8-12-86	904 KAR 1:013		
704 KAR 15:080			Amended	1922	8-12-86
Amended	1874		Recodified		8-13-86
Withdrawn		8-27-86			

VOLUME 13

Emergency Regulation	13 Ky.R. Page No.	Effective Date	Emergency Regulation	13 Ky.R. Page No.	Effective Date
101 KAR 1:300E	120	7-15-86	101 KAR 2:130E	156	7-15-86
Replaced	390	9-4-86	Replaced	432	9-4-86
101 KAR 1:310E	120	7-15-86	101 KAR 3:005E	157	7-15-86
Replaced	391	9-4-86	Replaced	433	9-4-86
101 KAR 1:320E	121	7-15-86	101 KAR 3:010E	157	7-15-86
Replaced	392	9-4-86	Replaced	434	9-4-86
101 KAR 1:325E	122	7-15-86	101 KAR 3:030E	161	7-15-86
Replaced	393	9-4-86	Replaced	438	9-4-86
101 KAR 1:330E	123	7-15-86	101 KAR 3:040E	161	7-15-86
Replaced	394	10-2-86	Replaced	438	9-4-86
101 KAR 1:340E	125	7-15-86	101 KAR 3:050E	162	7-15-86
Replaced	397	9-4-86	Replaced	439	9-4-86
101 KAR 1:350E	127	7-15-86	301 KAR 2:044E	482	8-14-86
Replaced	399	9-4-86	Replaced	519	10-2-86
101 KAR 1:360E	129	7-15-86	301 KAR 2:047E	484	8-14-86
Replaced	401	9-4-86	Replaced	521	10-2-86
101 KAR 1:370E	132	7-15-86	301 KAR 2:220E	849	9-29-86
Replaced	405	9-4-86	302 KAR 16:010E	164	7-1-86
101 KAR 1:380E	133	7-15-86	Replaced	240	9-4-86
Replaced	406	9-4-86	302 KAR 20:056E	1023	11-13-86
101 KAR 1:390E	134	7-15-86	302 KAR 20:057E	1024	11-13-86
Replaced	407	9-4-86	302 KAR 20:065E	1025	11-13-86
101 KAR 2:005E	135	7-15-86	405 KAR 10:200E	614	9-3-86
Replaced	408	9-4-86	501 KAR 6:020E		
101 KAR 2:010E	136	7-15-86	Replaced	4	5-16-86
Replaced	409	9-4-86	Resubmitted	4	5-16-86
101 KAR 2:020E	136	7-15-86	501 KAR 6:030E	486	7-21-86
Replaced	410	9-4-86	Replaced	525	10-2-86
101 KAR 2:030E	137	7-15-86	501 KAR 6:040E	165	6-16-86
Replaced	411	9-4-86	Replaced	488	7-21-86
101 KAR 2:040E	140	7-15-86	Resubmitted	488	7-21-86
Replaced	414	9-4-86	Replaced	283	9-4-86
101 KAR 2:050E	142	7-15-86	501 KAR 6:070E	166	6-16-86
Replaced	416	9-4-86	Replaced	58	8-12-86
101 KAR 2:060E	144	7-15-86	501 KAR 6:090E	617	9-10-86
Replaced	418	9-4-86	Replaced	744	11-11-86
101 KAR 2:070E	145	7-15-86	501 KAR 6:110E	167	6-16-86
Replaced	420	9-4-86	Replaced	101	8-12-86
101 KAR 2:080E	146	7-15-86	502 KAR 15:020E	489	7-25-86
Replaced	421	9-4-86	Replaced	601	10-2-86
101 KAR 2:090E	148	7-15-86	502 KAR 50:010E	490	8-14-86
Replaced	423	9-4-86	Replaced	602	10-2-86
101 KAR 2:100E	149	7-15-86	600 KAR 1:045E	490	8-14-86
Replaced	425	9-4-86	Replaced	894	11-11-86
101 KAR 2:110E	153	7-15-86	601 KAR 9:074E	168	7-1-86
Replaced	626	9-4-86	Replaced	289	9-4-86
101 KAR 2:120E	154	7-15-86	603 KAR 5:190E	492	7-25-86
Replaced	430	9-4-86	Replaced	602	11-11-86

ADMINISTRATIVE REGISTER - F3

Emergency Regulation	13 Ky.R. Page No.	Effective Date
603 KAR 5:200E	493	7-25-86
Replaced	603	11-11-86
702 KAR 1:010E	172	7-10-86
Replaced	635	10-2-86
702 KAR 3:200E	618	9-8-86
702 KAR 7:065E	619	9-8-86
Replaced	835	11-11-86
702 KAR 7:070E	619	9-8-86
Replaced	749	11-11-86
702 KAR 7:080E	620	9-8-86
Replaced	750	11-11-86
704 KAR 7:070E	621	9-8-86
704 KAR 15:080E	173	7-10-86
Replaced	639	10-2-86
900 KAR 1:006E	5	5-23-86
Replaced	110	8-12-86
900 KAR 1:060E	174	7-15-86
Replaced	465	9-4-86
902 KAR 4:050E	622	8-15-86
Replaced	539	10-2-86
902 KAR 10:110E	493	8-8-86
Replaced	540	10-2-86
902 KAR 20:016E	175	7-14-86
Replaced	645	10-2-86
902 KAR 20:026E	185	7-7-86
Replaced	342	9-4-86
Resubmitted	1027	11-13-86
902 KAR 20:036E	194	7-7-86
Replaced	351	9-4-86
902 KAR 20:048E	199	7-7-86
Replaced	356	9-4-86
Resubmitted	1036	11-13-86
902 KAR 20:051E	207	7-7-86
Replaced	365	9-4-86
Resubmitted	1044	11-13-86
902 KAR 20:220E	214	7-14-86
Replaced	655	10-2-86
903 KAR 5:270E	221	6-16-86
Replaced	89	8-12-86
904 KAR 2:016E	7	5-16-86
Replaced		7-2-86
904 KAR 2:116E	1052	10-16-86
904 KAR 2:140E	494	8-8-86
Replaced	549	10-2-86
904 KAR 2:170E	495	8-8-86
Replaced	550	10-2-86
904 KAR 3:010E	496	7-22-86
Replaced	551	10-2-86
904 KAR 3:020E	853	10-6-86
904 KAR 3:090E	498	8-8-86
Replaced	554	10-2-86
905 KAR 1:180E	11	5-16-86
Replaced		7-2-86
Resubmitted		7-1-86
Resubmitted	222	7-15-86
Replaced	662	10-2-86
Resubmitted	1055	10-19-86
905 KAR 3:030E	223	7-1-86
Replaced	376	9-4-86
905 KAR 8:110E	1056	10-29-86
905 KAR 8:120E	1056	10-29-86
907 KAR 1:004E	856	10-6-86
907 KAR 1:010E	861	10-6-86
907 KAR 1:013E	623	8-27-86
Expired		10-24-86
Resubmitted	1057	10-29-86
907 KAR 1:031E	224	7-1-86
Replaced	380	9-4-86
907 KAR 1:036E	224	7-3-86
Replaced	663	10-2-86
907 KAR 1:045E	231	7-1-86
Replaced	387	9-4-86

Emergency Regulation	13 Ky.R. Page No.	Effective Date
907 KAR 1:055E	232	7-1-86
Replaced	389	9-4-86
907 KAR 1:250E	625	8-15-86
Replaced	555	10-2-86
907 KAR 1:330E	862	10-6-86
907 KAR 1:340E	863	10-6-86
Regulation	13 Ky.R. Page No.	Effective Date
11 KAR 3:040		
Amended	18	8-12-86
11 KAR 5:010		
Amended	19	8-12-86
11 KAR 5:030		
Amended	20	8-12-86
11 KAR 5:031	92	8-12-86
11 KAR 5:032		
Repealed	92	8-12-86
11 KAR 5:035		
Repealed	92	8-12-86
11 KAR 5:060		
Repealed	92	8-12-86
11 KAR 5:070		
Repealed	92	8-12-86
11 KAR 5:080		
Repealed	92	8-12-86
11 KAR 5:085		
Repealed	92	8-12-86
11 KAR 5:090		
Repealed	92	8-12-86
11 KAR 5:100		
Repealed	92	8-12-86
11 KAR 7:010		
Amended	21	
Amended	499	8-12-86
11 KAR 7:020	93	8-12-86
11 KAR 8:010	94	
Amended	503	8-12-86
11 KAR 8:020	96	8-12-86
11 KAR 9:010	98	8-12-86
14 KAR 1:010	557	10-2-86
31 KAR 3:010	559	10-2-86
101 KAR 1:010		
Repealed	120	7-15-86
101 KAR 1:020		
Repealed	120	7-15-86
101 KAR 1:030		
Repealed	120	7-15-86
101 KAR 1:040		
Repealed	135	7-15-86
101 KAR 1:051		
Repealed	135	7-15-86
101 KAR 1:060		
Repealed	120	7-15-86
101 KAR 1:070		
Repealed	120	7-15-86
101 KAR 1:080		
Repealed	120	7-15-86
101 KAR 1:090		
Repealed	120	7-15-86
101 KAR 1:100		
Repealed	120	7-15-86
101 KAR 1:110		
Repealed	120	7-15-86
101 KAR 1:120		
Repealed	120	7-15-86
101 KAR 1:130		
Repealed	120	7-15-86
101 KAR 1:140		
Repealed	120	7-15-86

ADMINISTRATIVE REGISTER - F4

Regulation	13 Ky.R. Page No.	Effective Date	Regulation	13 Ky.R. Page No.	Effective Date
101 KAR 1:145			105 KAR 1:080		
Repealed	135	7-15-86	Repealed	38	8-12-86
101 KAR 1:150			105 KAR 1:090		
Repealed	135	7-15-86	Repealed	38	8-12-86
101 KAR 1:160			105 KAR 1:100		
Repealed	120	7-15-86	Repealed	38	8-12-86
101 KAR 1:170			106 KAR 1:050		
Repealed	120	7-15-86	Amended	233	7-2-86
101 KAR 1:200			201 KAR 6:010		
Repealed	157	7-15-86	Amended	41	8-12-86
101 KAR 1:205			201 KAR 8:005	994	
Repealed	157	7-15-86	201 KAR 9:016		
101 KAR 1:210			Amended	1087	
Repealed	157	7-15-86	201 KAR 9:031		
101 KAR 1:220			Amended	1088	
Repealed	157	7-15-86	201 KAR 9:041		
101 KAR 1:230			Amended	1089	
Repealed	157	7-15-86	201 KAR 9:081		
101 KAR 1:300	390	9-4-86	Amended	670	11-11-86
101 KAR 1:310	391	9-4-86	201 KAR 9:083	805	
101 KAR 1:320	392	9-4-86	Amended	1073	
101 KAR 1:325	393	9-4-86	201 KAR 9:084	808	11-11-86
Amended	899		201 KAR 9:151		
101 KAR 1:330	394	10-2-86	Amended	1090	
101 KAR 1:340	397	9-4-86	201 KAR 12:110		
101 KAR 1:350	399	9-4-86	Amended	237	9-4-86
101 KAR 1:360	401	9-4-86	201 KAR 13:040		
101 KAR 1:370	405	9-4-86	Amended	900	
101 KAR 1:380	406	9-4-86	201 KAR 17:010		
101 KAR 1:390	407	9-4-86	Amended	515	10-2-86
101 KAR 2:005	408	9-4-86	201 KAR 17:011	560	10-2-86
101 KAR 2:010	409	9-4-86	201 KAR 17:012	562	10-2-86
101 KAR 2:020	410	9-4-86	201 KAR 17:015	563	10-2-86
101 KAR 2:030	411	9-4-86	201 KAR 17:041		
101 KAR 2:040	414	9-4-86	Amended	516	10-2-86
101 KAR 2:050	416	9-4-86	201 KAR 17:050		
101 KAR 2:060	418	9-4-86	Repealed	564	10-2-86
101 KAR 2:070	420	9-4-86	201 KAR 17:060		
101 KAR 2:080	421	9-4-86	Repealed	564	10-2-86
101 KAR 2:090	423	9-4-86	201 KAR 17:061	564	10-2-86
101 KAR 2:100	425	9-4-86	201 KAR 18:040		
101 KAR 2:110	428		Amended	1091	
Amended	626	9-4-86	201 KAR 18:050		
101 KAR 2:120	430	9-4-86	Amended	1091	
101 KAR 2:130	432	9-4-86	201 KAR 18:070		
101 KAR 3:005	433	9-4-86	Amended	1092	
101 KAR 3:010	434	9-4-86	201 KAR 20:057		
101 KAR 3:030	438	9-4-86	Amended	239	9-4-86
101 KAR 3:040	438	9-4-86	201 KAR 22:010		
101 KAR 3:050	439	9-4-86	Amended	901	
103 KAR 5:130	1173		201 KAR 22:031		
103 KAR 15:050			Amended	902	
Amended	26	8-12-86	201 KAR 22:052		
103 KAR 16:070			Amended	904	
Amended	27	8-12-86	201 KAR 27:015		
103 KAR 16:080			Amended	905	
Amended	30	8-12-86	201 KAR 27:044	995	
103 KAR 16:090			201 KAR 28:010	1175	
Amended	33	8-12-86	201 KAR 28:020	1177	
103 KAR 17:080			201 KAR 28:030	1178	
Amended	35	8-12-86	201 KAR 28:040	1179	
103 KAR 26:050			201 KAR 28:050	1180	
Amended	1084		201 KAR 28:060	1181	
103 KAR 27:180			201 KAR 28:070	1183	
Amended	1084		201 KAR 28:080	1184	
103 KAR 30:020			201 KAR 28:090	1185	
Amended	1085		201 KAR 28:100	1186	
103 KAR 43:240	99	8-12-86	201 KAR 28:110	1187	
105 KAR 1:010			201 KAR 28:120	1187	
Amended	36	8-12-86	201 KAR 28:130	1189	
105 KAR 1:040			201 KAR 28:140	1189	
Amended	38	8-12-86	201 KAR 28:150	1191	
			201 KAR 28:160	1193	

ADMINISTRATIVE REGISTER - F5

Regulation	13 Ky.R. Page No.	Effective Date	Regulation	13 Ky.R. Page No.	Effective Date
301 KAR 1:055			405 KAR 10:200	809	
Amended	1093		Amended	1076	
301 KAR 1:145			500 KAR 1:010		
Amended	518	10-2-86	Amended	48	8-12-86
301 KAR 2:044			500 KAR 1:020		
Amended	519	10-2-86	Amended	50	8-12-86
301 KAR 2:047			500 KAR 2:010	448	9-4-86
Amended	12	6-10-86	500 KAR 2:020	449	9-4-86
Amended	521	10-2-86	500 KAR 3:010	452	9-4-86
301 KAR 2:140			500 KAR 3:020	453	
Amended	906		Amended	627	9-4-86
301 KAR 2:220			501 KAR 3:010		
Amended	908		Amended	674	11-11-86
301 KAR 3:021			501 KAR 3:020		
Amended	523	10-2-86	Amended	675	11-11-86
301 KAR 3:080	100	8-12-86	501 KAR 3:030		
302 KAR 16:010			Amended	677	11-11-86
Amended	240	9-4-86	501 KAR 3:040		
302 KAR 20:056	1195		Amended	677	11-11-86
302 KAR 20:057	1196		501 KAR 3:050		
302 KAR 20:065			Amended	679	11-11-86
Amended	1094		501 KAR 3:060		
302 KAR 20:180			Amended	684	11-11-86
Amended	1096		501 KAR 3:070		
401 KAR 5:055			Amended	686	11-11-86
Amended	241	9-4-86	501 KAR 3:080		
401 KAR 5:065			Amended	687	11-11-86
Amended	258	9-4-86	501 KAR 3:090		
401 KAR 5:090			Amended	688	11-11-86
Amended	44		501 KAR 3:100		
Amended	505	9-4-86	Amended	689	11-11-86
401 KAR 47:070			501 KAR 3:110		
Amended	913		Amended	690	11-11-86
401 KAR 50:010			501 KAR 3:120		
Amended	920		Amended	691	11-11-86
401 KAR 50:015			501 KAR 3:130		
Amended	267	9-4-86	Amended	692	11-11-86
401 KAR 51:017			501 KAR 3:140		
Amended	924		Amended	694	11-11-86
401 KAR 57:011			501 KAR 3:150		
Amended	934		Amended	696	11-11-86
401 KAR 57:021			501 KAR 4:010		
Amended	995		Amended	699	11-11-86
401 KAR 57:045			501 KAR 4:020		
Amended	997		Amended	700	11-11-86
401 KAR 59:010			501 KAR 4:030		
Amended	271	9-4-86	Amended	702	11-11-86
401 KAR 59:066	999		501 KAR 4:040		
401 KAR 59:068	1001		Amended	703	11-11-86
401 KAR 59:081			501 KAR 4:050		
Repealed	441	9-4-86	Amended	705	11-11-86
401 KAR 59:082	441	9-4-86	501 KAR 4:060		
401 KAR 59:166	1002		Amended	709	11-11-86
401 KAR 59:168	1004		501 KAR 4:070		
401 KAR 59:196			Amended	710	11-11-86
Amended	273	9-4-86	501 KAR 4:080		
401 KAR 59:211	443	9-4-86	Amended	711	11-11-86
401 KAR 59:242	444	9-4-86	501 KAR 4:090		
401 KAR 59:290	446	9-4-86	Amended	712	11-11-86
401 KAR 59:295	1006		501 KAR 4:100		
401 KAR 61:020			Amended	714	11-11-86
Amended	275	9-4-86	501 KAR 4:110		
401 KAR 61:140			Amended	715	11-11-86
Amended	278	9-4-86	501 KAR 4:120		
401 KAR 61:175	1008		Amended	715	11-11-86
401 KAR 63:021	564		501 KAR 4:130		
Amended	864		Amended	717	11-11-86
Amended	1059	11-11-86	501 KAR 4:140		
401 KAR 63:022	574		Amended	718	11-11-86
Amended	870		501 KAR 5:010		
Amended	1062	11-11-86	Amended	719	11-11-86
401 KAR 63:040	1198		501 KAR 5:020		
			Amended	721	11-11-86

ADMINISTRATIVE REGISTER - F6

Regulation	13 Ky.R. Page No.	Effective Date	Regulation	13 Ky.R. Page No.	Effective Date
501 KAR 5:030			501 KAR 7:110	826	11-11-86
Amended	722	11-11-86	501 KAR 7:120	827	11-11-86
501 KAR 5:040			501 KAR 7:130	828	11-11-86
Amended	723	11-11-86	501 KAR 7:140	829	11-11-86
501 KAR 5:050			502 KAR 15:020	601	10-2-86
Amended	725	11-11-86	502 KAR 30:060		
501 KAR 5:060			Amended	288	9-4-86
Amended	728	11-11-86	502 KAR 50:010	602	10-2-86
501 KAR 5:070			600 KAR 1:045		
Amended	730	11-11-86	Amended	533	
501 KAR 5:080			Amended	894	11-11-86
Amended	731	11-11-86	600 KAR 1:080	102	
501 KAR 5:090			Amended	509	9-4-86
Amended	732	11-11-86	600 KAR 3:010	103	8-12-86
501 KAR 5:100			601 KAR 1:005		
Amended	733	11-11-86	Amended	535	
501 KAR 5:110			Amended	895	
Amended	734	11-11-86	Amended	1071	11-11-86
501 KAR 5:120			601 KAR 9:040		
Amended	735	11-11-86	Amended	746	11-11-86
501 KAR 5:130			601 KAR 9:055		
Amended	736	11-11-86	Amended	748	11-11-86
501 KAR 6:020			601 KAR 9:074		
Amended	52	8-12-86	Amended	289	9-4-86
Amended	1099		601 KAR 9:110	831	11-11-86
501 KAR 6:030			601 KAR 12:050	455	9-4-86
Amended	53	8-12-86	601 KAR 13:050		
Amended	281	10-2-86	Amended	537	
Amended	525	10-2-86	Amended	897	11-11-86
Amended	737	11-11-86	602 KAR 50:060		
Amended	935		Amended	293	9-4-86
501 KAR 6:040			602 KAR 50:090		
Amended	55	8-12-86	Amended	294	9-4-86
Amended	283	9-4-86	603 KAR 3:040		
Amended	527	10-2-86	Repealed	509	9-4-86
Amended	739	11-11-86	603 KAR 4:015		
Amended	1100		Repealed	103	8-12-86
501 KAR 6:050			603 KAR 5:050		
Amended	56		Amended	940	
Withdrawn			603 KAR 5:071	1011	
Amended	741	11-11-86	603 KAR 5:190	602	11-11-86
501 KAR 6:060			603 KAR 5:200	603	11-11-86
Amended	284	10-2-86	605 KAR 1:110		
Amended	528	10-2-86	Repealed	509	9-4-86
Amended	742	11-11-86	605 KAR 1:150		
Amended	937		Amended	60	8-12-86
Amended	1102		701 KAR 5:070	832	
501 KAR 6:070			Amended	1079	
Amended	58	8-12-86	702 KAR 1:005		
Amended	286	9-4-86	Amended	295	
501 KAR 6:080			Amended	630	10-2-86
Amended	59	8-12-86	702 KAR 1:010		
Amended	287	9-4-86	Amended	301	
501 KAR 6:090			Amended	635	10-2-86
Amended	530	10-2-86	702 KAR 1:025		
Amended	744	11-11-86	Amended	302	9-4-86
Amended	1103		Amended	1108	
501 KAR 6:110			702 KAR 1:115		
Amended	101	8-12-86	Amended	940	
Amended	531	10-2-86	702 KAR 3:200	834	
Amended	1105		Amended	1081	
501 KAR 6:120			702 KAR 4:080		
Amended	814	11-11-86	Amended	303	9-4-86
Amended	939		702 KAR 5:080		
Amended	1107		Amended	304	9-4-86
501 KAR 7:010			702 KAR 7:065	835	11-11-86
501 KAR 7:020			702 KAR 7:070		
501 KAR 7:030			Amended	749	11-11-86
501 KAR 7:040			702 KAR 7:080		
501 KAR 7:050			Amended	750	11-11-86
501 KAR 7:060			704 KAR 3:005		
501 KAR 7:070			Amended	307	
501 KAR 7:080			Amended	636	10-2-86
501 KAR 7:090					
501 KAR 7:100					

ADMINISTRATIVE REGISTER - F7

Regulation	13 Ky.R. Page No.	Effective Date	Regulation	13 Ky.R. Page No.	Effective Date
704 KAR 3:304			815 KAR 20:030		
Amended	751		Amended	956	
Withdrawn		10-2-86	815 KAR 20:050		
Amended	942		Amended	958	
704 KAR 7:070	836		815 KAR 20:070		
Amended	1082		Amended	785	11-11-86
704 KAR 10:022			815 KAR 20:130		
Amended	1110		Amended	959	
704 KAR 15:080			815 KAR 30:050		
Amended	310		Amended	1123	
Amended	639		900 KAR 1:006	110	8-12-86
Reprint	1212	10-2-86	900 KAR 1:060	465	9-4-86
704 KAR 20:229			902 KAR 4:030		
Amended	752	11-11-86	Amended	786	11-11-86
704 KAR 20:230			902 KAR 4:050		
Amended	753	11-11-86	Amended	539	10-2-86
704 KAR 20:235			902 KAR 6:040		
Amended	754	11-11-86	Amended	963	
704 KAR 20:245			902 KAR 8:020		
Amended	756	11-11-86	Amended	82	8-12-86
704 KAR 20:255			Amended	326	9-4-86
Amended	758	11-11-86	Amended	964	
707 KAR 1:051			902 KAR 10:110		
Amended	312	9-4-86	Amended	540	10-2-86
707 KAR 1:120	838	11-11-86	902 KAR 12:060		
707 KAR 1:130	839	11-11-86	Amended	85	8-12-86
709 KAR 1:030			902 KAR 12:080		
Amended	322	9-4-86	Amended		
725 KAR 1:050	604	10-2-86	Amended	328	9-4-86
801 KAR 2:010			Amended	541	10-2-86
Amended	323	9-4-86	Amended	966	
803 KAR 2:015			Amended	1125	
Amended	61	8-12-86	902 KAR 16:010		
803 KAR 2:020			Amended	86	8-12-86
Amended	78	8-12-86	Amended	971	
803 KAR 3:050	1012		902 KAR 17:010		
804 KAR 2:007			Amended	1130	
Amended	1111		902 KAR 20:006		
804 KAR 4:290	1204		Amended	788	11-11-86
806 KAR 1:010	458		902 KAR 20:008		
Amended	640	10-2-86	Amended	1131	
806 KAR 13:100	1205		902 KAR 20:016		
806 KAR 17:080	1207		Amended	331	
806 KAR 18:030	104		Amended	645	10-2-86
Amended	509	9-4-86	902 KAR 20:026		
806 KAR 20:010	462		Amended	342	9-4-86
Amended	644	10-2-86	Amended	1133	
807 KAR 5:068			902 KAR 20:036		
Amended	235	7-2-86	Amended	351	9-4-86
808 KAR 1:100	463	9-4-86	902 KAR 20:048		
808 KAR 3:060	607	10-2-86	Amended	356	9-4-86
808 KAR 10:210			Amended	1142	
Amended	1112		902 KAR 20:051		
808 KAR 12:010	464	9-4-86	Amended	365	9-4-86
810 KAR 1:013			Amended	1151	
Amended	943		902 KAR 20:132		
811 KAR 1:055			Amended	796	11-11-86
Amended	1114		902 KAR 20:220	467	
811 KAR 1:070			Amended	655	10-2-86
Amended	1116		902 KAR 25:010		
815 KAR 7:020			Amended	1159	
Amended	759	11-11-86	902 KAR 50:010		
Amended	946		Amended	543	10-2-86
815 KAR 7:060			902 KAR 50:070		
Amended	763	11-11-86	Amended	546	10-2-86
815 KAR 15:020			903 KAR 5:260		
Amended	1118		Amended	87	8-12-86
815 KAR 15:080	1211		Amended	372	
815 KAR 20:001			Withdrawn		9-3-86
Amended	237	7-2-86	Amended	547	
815 KAR 20:010			Withdrawn		9-3-86
Amended	779	11-11-86	Amended	1162	
Amended	950		903 KAR 5:270		
			Amended	89	8-12-86

ADMINISTRATIVE REGISTER - F8

Regulation	13 Ky.R. Page No.	Effective Date	Regulation	13 Ky.R. Page No.	Effective Date
903 KAR 5:300	474	9-4-86	905 KAR 7:200		
903 KAR 6:010			Repealed		7-1-86
Amended	971		905 KAR 7:210		
903 KAR 6:040			Repealed		7-1-86
Amended	797		905 KAR 7:220		
Withdrawn		11-5-86	Repealed		7-1-86
904 KAR 1:019			905 KAR 8:110		
Amended	15	6-10-86	Amended	1169	
Recodified		6-10-86	905 KAR 8:120		
904 KAR 1:038			Amended	1170	
Amended	16	6-10-86	907 KAR 1:004		
Recodified		6-10-86	Amended	987	
904 KAR 1:220			907 KAR 1:010		
Amended	17		Amended	992	
904 KAR 2:006			907 KAR 1:011		
Amended	800	11-11-86	Amended	377	9-4-86
904 KAR 2:016			907 KAR 1:013		
Amended	973		Amended	803	
904 KAR 2:020			Withdrawn		10-24-86
Amended	977		Amended	1171	
904 KAR 2:116			907 KAR 1:031		
Amended	980		Amended	380	9-4-86
904 KAR 2:140			907 KAR 1:036		
Amended	549	10-2-86	Amended	381	
Amended	1165		Amended	663	10-2-86
904 KAR 2:170			907 KAR 1:045		
Amended	550	10-2-86	Amended	387	9-4-86
Amended	1166		907 KAR 1:049		
904 KAR 3:010			Amended	993	
Amended	551	10-2-86	907 KAR 1:055		
904 KAR 3:020			Amended	389	9-4-86
Amended	983		907 KAR 1:250		
904 KAR 3:045			Amended	555	10-2-86
Amended	90	8-12-86	907 KAR 1:330	1016	
904 KAR 3:090			907 KAR 1:340	1017	
Amended	554	10-2-86			
Amended	1167				
905 KAR 1:180					
Amended	374				
Amended	662	10-2-86			
Amended	1168				
905 KAR 1:190					
Repealed	11	5-16-86			
905 KAR 3:030					
Amended	376	9-4-86			
905 KAR 7:020					
Repealed		7-1-86			
905 KAR 7:040					
Repealed		7-1-86			
905 KAR 7:050					
Repealed		7-1-86			
905 KAR 7:070					
Repealed		7-1-86			
905 KAR 7:080					
Repealed		7-1-86			
905 KAR 7:110					
Repealed		7-1-86			
905 KAR 7:120					
Repealed		7-1-86			
905 KAR 7:130					
Repealed		7-1-86			
905 KAR 7:140					
Repealed		7-1-86			
905 KAR 7:150					
Repealed		7-1-86			
905 KAR 7:160					
Repealed		7-1-86			
905 KAR 7:170					
Repealed		7-1-86			
905 KAR 7:180					
Repealed		7-1-86			
905 KAR 7:190					
Repealed		7-1-86			

KRS INDEX

KRS Section	Regulation	KRS Section	Regulation
6.525	103 KAR 17:080	18A.202	101 KAR 2:120
Chapter 13A	600 KAR 1:045	21.470	103 KAR 17:080
16.410	502 KAR 50:010	56.610-56.760	600 KAR 3:010
16.505-16.652	105 KAR 1:010	61.315	500 KAR 1:010
	105 KAR 1:040		500 KAR 1:020
17.115	502 KAR 30:060	61.360	500 KAR 3:010
17.140	502 KAR 30:060		500 KAR 3:020
17.147	502 KAR 30:060	61.371-61.379	101 KAR 1:390
17.150	502 KAR 30:060	61.510-61.705	105 KAR 1:010
17.165	502 KAR 30:060		105 KAR 1:040
Chapter 18A	600 KAR 1:045	61.690	103 KAR 17:080
18A.005	101 KAR 2:010	61.900-61.930	500 KAR 2:010
	101 KAR 2:020		500 KAR 2:020
	101 KAR 2:050	61.940	14 KAR 1:010
	101 KAR 2:070	61.945	14 KAR 1:010
18A.020	101 KAR 1:340	61.950	14 KAR 1:010
18A.030	101 KAR 2:030	78.510-78.852	105 KAR 1:010
	101 KAR 2:040		105 KAR 1:040
	101 KAR 2:060	116.085	31 KAR 3:010
	101 KAR 2:090	116.155	31 KAR 3:010
	101 KAR 2:100	117.025	31 KAR 3:010
	101 KAR 2:110	117.225	31 KAR 3:010
18A.045	101 KAR 1:310	Chapter 121	801 KAR 2:010
18A.070	101 KAR 1:310	132.597	103 KAR 5:130
18A.075	101 KAR 1:310	Chapter 138	601 KAR 9:040
	101 KAR 1:320	138.220	103 KAR 43:240
	101 KAR 1:330	138.270	103 KAR 43:240
	101 KAR 1:340	138.565	103 KAR 43:240
	101 KAR 1:350	138.655-138.725	601 KAR 9:074
	101 KAR 1:360		601 KAR 9:110
	101 KAR 1:370	139.050	103 KAR 30:020
	101 KAR 1:380	139.090	103 KAR 26:050
18A.0751	101 KAR 1:320	139.100	103 KAR 27:180
	101 KAR 1:325	139.110	103 KAR 27:180
	101 KAR 1:330		103 KAR 30:020
	101 KAR 1:340	139.120	103 KAR 26:050
	101 KAR 1:350		103 KAR 27:180
	101 KAR 1:360	139.130	103 KAR 27:180
	101 KAR 1:370		103 KAR 30:020
	101 KAR 1:380	139.140	103 KAR 27:180
18A.095	101 KAR 1:340	139.190	103 KAR 26:050
	101 KAR 1:350	139.470	103 KAR 26:050
	101 KAR 1:360		103 KAR 27:180
	101 KAR 3:030	139.472	103 KAR 30:020
18A.110	101 KAR 2:020	139.480	103 KAR 26:050
	101 KAR 2:030	141.021	103 KAR 17:080
	101 KAR 2:040	141.042	103 KAR 15:050
	101 KAR 2:050	141.120	103 KAR 16:070
	101 KAR 2:060		103 KAR 16:080
	101 KAR 2:070		103 KAR 16:090
	101 KAR 2:080	141.170	103 KAR 15:050
	101 KAR 2:090	141.300	103 KAR 15:050
	101 KAR 2:100	150.010	301 KAR 1:055
	101 KAR 2:110		301 KAR 1:145
	101 KAR 2:120		301 KAR 2:044
18A.111	101 KAR 1:320		301 KAR 2:047
	101 KAR 1:325		301 KAR 2:140
18A.115	101 KAR 1:330		301 KAR 2:220
	101 KAR 2:070		301 KAR 3:080
18A.120	101 KAR 2:040	150.015	301 KAR 2:044
	101 KAR 2:050		301 KAR 2:220
	101 KAR 2:070		301 KAR 3:080
18A.140	101 KAR 2:130	150.025	301 KAR 1:145
18A.155	101 KAR 3:010		301 KAR 2:044
	101 KAR 3:030		301 KAR 2:047
	101 KAR 3:040		301 KAR 2:140
	101 KAR 3:050		301 KAR 2:220
18A.165	101 KAR 2:030		301 KAR 3:021
	101 KAR 2:060		301 KAR 3:080

ADMINISTRATIVE REGISTER - F10

KRS Section	Regulation	KRS Section	Regulation
150.120	301 KAR 1:145	161.020	704 KAR 20:229
150.170	301 KAR 1:145		704 KAR 20:230
	301 KAR 2:044		704 KAR 20:235
	301 KAR 2:047		704 KAR 20:245
	301 KAR 2:140		704 KAR 20:255
	301 KAR 2:220	161.020	704 KAR 20:229
150.175	301 KAR 1:145		704 KAR 20:230
	301 KAR 2:047		704 KAR 20:235
	301 KAR 2:140		704 KAR 20:245
	301 KAR 2:220		704 KAR 20:255
	301 KAR 3:021	161.025	704 KAR 20:229
150.176	301 KAR 2:047		704 KAR 20:230
	301 KAR 2:140		704 KAR 20:235
150.225	301 KAR 3:021		704 KAR 20:245
150.235	301 KAR 2:220		704 KAR 20:245
150.237	301 KAR 3:021	161.030	704 KAR 20:255
150.240	301 KAR 2:220		704 KAR 15:080
150.300	301 KAR 2:044		704 KAR 20:229
150.305	301 KAR 2:044		704 KAR 20:230
	301 KAR 2:140		704 KAR 20:235
	301 KAR 2:220		704 KAR 20:245
	301 KAR 2:044	161.044	704 KAR 20:255
150.320	301 KAR 2:140	161.152	704 KAR 15:080
	301 KAR 2:044	161.154	707 KAR 1:120
150.330	301 KAR 2:047	161.790	707 KAR 1:120
	301 KAR 2:140	161.800	707 KAR 1:130
	301 KAR 2:220	162.060	707 KAR 1:130
150.340	301 KAR 2:044	162.160	702 KAR 4:080
	301 KAR 2:047	163.032	702 KAR 4:080
	301 KAR 2:220		707 KAR 1:120
150.360	301 KAR 2:044		707 KAR 1:130
	301 KAR 2:047	164.2871	103 KAR 17:080
	301 KAR 2:140	164.740	11 KAR 3:040
	301 KAR 2:220	164.740-164.764	11 KAR 5:010
	301 KAR 3:080		11 KAR 5:030
150.365	301 KAR 2:140	164.740-164.785	11 KAR 5:031
150.370	301 KAR 2:047	164.744	11 KAR 3:040
150.390	301 KAR 2:140		11 KAR 9:010
150.445	301 KAR 1:145	164.748	11 KAR 3:040
150.450	301 KAR 1:145		11 KAR 9:010
150.470	301 KAR 1:055	164.753	11 KAR 9:010
150.600	301 KAR 2:220	164.766	11 KAR 3:040
	301 KAR 3:080	164.780	11 KAR 5:010
150.603	301 KAR 2:044		11 KAR 5:030
	301 KAR 2:220	164.785	11 KAR 5:010
150.990	301 KAR 1:055		11 KAR 5:030
Chapter 151	401 KAR 5:090	167.015	707 KAR 1:120
156.070	702 KAR 7:065	Chapter 171	707 KAR 1:130
	702 KAR 7:070	174.080	725 KAR 1:050
	702 KAR 7:080		600 KAR 1:045
156.097	701 KAR 5:070		600 KAR 3:010
156.160	702 KAR 5:080	183.024	600 KAR 3:010
	704 KAR 3:304	183.861-183.890	602 KAR 50:060
	704 KAR 10:022	183.869	602 KAR 50:090
156.400-156.476	702 KAR 1:005	183.870	602 KAR 50:090
156.485	709 KAR 1:030	183.871	602 KAR 50:090
156.611	11 KAR 7:010	Chapter 186	601 KAR 9:040
	11 KAR 7:020		601 KAR 9:055
156.613	11 KAR 8:010	186.400-186.640	601 KAR 12:050
	11 KAR 8:020	186.560	601 KAR 13:050
157.100-157.190	702 KAR 1:005	189.221	603 KAR 5:071
157.200-157.290	707 KAR 1:051	189.222	603 KAR 5:071
157.420	702 KAR 1:010	189.231	603 KAR 5:190
157.360	707 KAR 1:051		603 KAR 5:200
157.390	702 KAR 1:025	189.265	603 KAR 5:071
157.622	702 KAR 1:010	189.337	603 KAR 5:050
158.148	704 KAR 7:070	189.450	502 KAR 15:020
158.650-158.740	704 KAR 3:005	189.540	702 KAR 5:080
158.780	702 KAR 3:200	189.752	502 KAR 15:020
158.785	702 KAR 3:200	189.753	502 KAR 15:020
160.180	702 KAR 1:115	189A.070	601 KAR 13:050
161.010	704 KAR 15:080	190.010-190.080	605 KAR 1:150

ADMINISTRATIVE REGISTER - F11

KRS Section	Regulation	KRS Section	Regulation
Chapter 194	902 KAR 17:010	Chapter 208	905 KAR 1:180
194.025	902 KAR 25:010	Chapter 209	905 KAR 1:180
194.030	902 KAR 16:010	209.030	905 KAR 3:030
	903 KAR 6:010	Chapter 210	902 KAR 12:080
	903 KAR 6:040	210.300	902 KAR 6:040
	904 KAR 2:140	210.700-210.760	902 KAR 12:060
	904 KAR 3:090	211.180	902 KAR 4:050
	905 KAR 1:180	211.350-211.380	902 KAR 10:110
194.050	900 KAR 1:060	211.990	902 KAR 10:110
	902 KAR 25:010	Chapter 212	902 KAR 8:020
	904 KAR 2:116	214.155	902 KAR 4:030
	904 KAR 3:010	214.185	902 KAR 4:050
	904 KAR 3:020	Chapter 216A	201 KAR 6:010
	904 KAR 3:045	Chapter 216B	902 KAR 17:010
194.060	905 KAR 1:180	216B.010-216B.130	902 KAR 20:006
Chapter 196	501 KAR 6:020		902 KAR 20:008
	501 KAR 6:030		902 KAR 20:016
	501 KAR 6:040		902 KAR 20:026
	501 KAR 6:050		902 KAR 20:036
	501 KAR 6:060		902 KAR 20:048
	501 KAR 6:070		902 KAR 20:051
	501 KAR 6:080		902 KAR 20:132
	501 KAR 6:090		902 KAR 20:220
	501 KAR 6:110		902 KAR 20:016
	501 KAR 6:120	216B.107	902 KAR 20:006
Chapter 197	501 KAR 6:020	216B.990	902 KAR 20:008
	501 KAR 6:030		902 KAR 20:016
	501 KAR 6:040		902 KAR 20:026
	501 KAR 6:050		902 KAR 20:036
	501 KAR 6:060		902 KAR 20:048
	501 KAR 6:070		902 KAR 20:051
	501 KAR 6:080		902 KAR 20:132
	501 KAR 6:090		902 KAR 20:220
	501 KAR 6:110		902 KAR 50:010
	501 KAR 6:120		902 KAR 50:070
Chapter 198B	815 KAR 7:020	217C.010-217C.990	401 KAR 5:090
	815 KAR 7:060	Chapter 224	401 KAR 5:055
199.011-199.375	905 KAR 1:180	224.020	401 KAR 5:065
199.420	905 KAR 3:030		401 KAR 5:055
199.420-199.990	905 KAR 1:180	224.033	401 KAR 5:065
200.080-200.120	905 KAR 1:180		401 KAR 5:055
Chapter 202A	902 KAR 6:040	224.034	401 KAR 5:065
Chapter 205	904 KAR 2:140		401 KAR 5:055
205.010	904 KAR 2:006	224.060	401 KAR 5:065
205.200	902 KAR 16:010		401 KAR 50:010
	904 KAR 2:006	224.320	401 KAR 50:015
	904 KAR 2:016		401 KAR 51:017
205.201-205.204	905 KAR 1:180		401 KAR 57:011
205.204	905 KAR 3:030		401 KAR 57:021
205.210	904 KAR 2:016		401 KAR 57:045
205.245	902 KAR 16:010		401 KAR 59:010
205.455-205.465	905 KAR 1:180		401 KAR 59:066
	905 KAR 8:120		401 KAR 59:068
205.460	905 KAR 8:110		401 KAR 59:082
205.510-205.990	904 KAR 1:220		401 KAR 59:166
205.520	902 KAR 16:010		401 KAR 59:168
	907 KAR 1:004		401 KAR 59:196
	907 KAR 1:011		401 KAR 59:211
	907 KAR 1:013		401 KAR 59:242
	907 KAR 1:031		401 KAR 59:290
	907 KAR 1:036		401 KAR 59:295
	907 KAR 1:045		401 KAR 61:020
	907 KAR 1:049		401 KAR 61:140
	907 KAR 1:055		401 KAR 61:175
	907 KAR 1:250		401 KAR 63:021
	907 KAR 1:330		401 KAR 63:022
	907 KAR 1:340		401 KAR 63:040
205.550	907 KAR 1:010	224.330	401 KAR 50:010
205.560	907 KAR 1:010		401 KAR 50:015
205.795	904 KAR 2:020		401 KAR 51:017
	904 KAR 2:170		401 KAR 57:011

ADMINISTRATIVE REGISTER - F12

KRS Section	Regulation	KRS Section	Regulation
224.330 (cont'd)	401 KAR 57:021	257.030	302 KAR 20:056
	401 KAR 57:045		302 KAR 20:057
	401 KAR 59:010		302 KAR 20:180
	401 KAR 59:066	257.040	302 KAR 20:057
	401 KAR 59:068	257.050	302 KAR 20:057
	401 KAR 59:082	257.110	302 KAR 20:056
	401 KAR 59:166	257.120	302 KAR 20:056
	401 KAR 59:168	257.140	302 KAR 20:056
	401 KAR 59:196	Chapter 281	601 KAR 1:005
	401 KAR 59:211		601 KAR 9:040
	401 KAR 59:242	281.726	601 KAR 12:050
	401 KAR 59:290	281.735	603 KAR 5:071
	401 KAR 59:295	287.065	808 KAR 1:100
	401 KAR 61:020	290.095	808 KAR 3:060
	401 KAR 61:140	290.585	808 KAR 3:060
	401 KAR 61:175	292.410	808 KAR 10:210
	401 KAR 63:021	294.032	808 KAR 12:010
	401 KAR 63:022	294.060	808 KAR 12:010
	401 KAR 63:040	Chapter 304	405 KAR 10:200
224.340	401 KAR 50:010	304.1-120	806 KAR 1:010
	401 KAR 50:015	304.12-020	806 KAR 20:010
	401 KAR 51:017	304.13-051	806 KAR 13:100
	401 KAR 57:011	304.13-065	806 KAR 13:100
	401 KAR 57:021	304.14-100	806 KAR 13:100
	401 KAR 57:045	304.14-110	806 KAR 13:100
	401 KAR 59:010	304.14-120	806 KAR 13:100
	401 KAR 59:066		806 KAR 20:010
	401 KAR 59:068	304.14-130	806 KAR 17:080
	401 KAR 59:082	304.14-210	806 KAR 20:010
	401 KAR 59:166	304.17-314	806 KAR 17:080
	401 KAR 59:168	304.18-038	806 KAR 17:080
	401 KAR 59:196	304.18-110	806 KAR 17:080
	401 KAR 59:211	304.18-120	806 KAR 17:080
	401 KAR 59:242	304.20-160	806 KAR 20:010
	401 KAR 59:290	304.20-300-304.20-350	806 KAR 20:010
	401 KAR 59:295	304.20-400-304.20-450	806 KAR 13:100
	401 KAR 61:020	304.30-110	806 KAR 20:010
	401 KAR 61:140	304.32-290	806 KAR 17:080
	401 KAR 61:175	304.38-220	806 KAR 17:080
	401 KAR 63:021	304.39-080	806 KAR 1:010
	401 KAR 63:022	311.241-311.247	902 KAR 20:016
	401 KAR 63:040	311.530-311.620	201 KAR 9:016
224.842	401 KAR 47:070		201 KAR 9:031
224.844	401 KAR 47:070		201 KAR 9:041
224.994	401 KAR 5:055		201 KAR 9:081
	401 KAR 5:065		201 KAR 9:083
Chapter 227	815 KAR 30:050		201 KAR 9:084
229.081	201 KAR 27:015	311.650-311.658	201 KAR 9:151
	201 KAR 27:044	311.990	201 KAR 9:031
229.091	201 KAR 27:015		201 KAR 9:041
	201 KAR 27:044		201 KAR 9:081
229.991	201 KAR 27:015		201 KAR 9:083
	201 KAR 27:044		201 KAR 9:084
230.010-230.360	810 KAR 1:013		201 KAR 9:151
230.630	811 KAR 1:055		902 KAR 20:016
	811 KAR 1:070	313.220	201 KAR 8:005
230.640	811 KAR 1:055	314.011	201 KAR 20:057
	811 KAR 1:070	314.193	201 KAR 20:057
230.700	811 KAR 1:070	317A.060	201 KAR 12:110
230.710	811 KAR 1:070	317A.090	201 KAR 12:110
234.320	103 KAR 43:240	Chapter 318	815 KAR 20:010
234.380	103 KAR 43:240		815 KAR 20:030
Chapter 236	815 KAR 15:020		815 KAR 20:050
	815 KAR 15:080		815 KAR 20:070
244.040	804 KAR 4:290		815 KAR 20:130
244.130	804 KAR 2:007	319A.010	201 KAR 28:130
244.510	804 KAR 2:007	319A.010-319A.210	201 KAR 28:010
247.232	302 KAR 16:010	319A.080	201 KAR 28:020
247.234	302 KAR 16:010	319A.090	201 KAR 28:030
Chapter 257	302 KAR 20:065	319A.100	201 KAR 28:060
257.020	302 KAR 20:056		201 KAR 28:130
	302 KAR 20:057		
	302 KAR 20:180		

ADMINISTRATIVE REGISTER - F13

KRS Section	Regulation	KRS Section	Regulation
319A.110	201 KAR 28:020	350.110	405 KAR 10:200
	201 KAR 28:050	350.113	405 KAR 10:200
	201 KAR 28:060	350.130	405 KAR 10:200
	201 KAR 28:080	350.135	405 KAR 10:200
319A.120	201 KAR 28:020	350.151	405 KAR 10:200
	201 KAR 28:040	350.260	405 KAR 10:200
	201 KAR 28:050	350.465	405 KAR 10:200
	201 KAR 28:070	350.700	405 KAR 10:200
319A.130	201 KAR 28:020	350.705	405 KAR 10:200
	201 KAR 28:060	350.710	405 KAR 10:200
	201 KAR 28:080	350.715	405 KAR 10:200
319A.140	201 KAR 28:020	350.720	405 KAR 10:200
	201 KAR 28:040	350.725	405 KAR 10:200
	201 KAR 28:050	350.730	405 KAR 10:200
	201 KAR 28:080	350.735	405 KAR 10:200
319A.150	201 KAR 28:080	350.740	405 KAR 10:200
319A.160	201 KAR 28:090	350.745	405 KAR 10:200
	201 KAR 28:100	350.750	405 KAR 10:200
	201 KAR 28:140	350.755	405 KAR 10:200
319A.170	201 KAR 28:110	350.990	405 KAR 10:200
319A.180	201 KAR 28:120	Chapter 439	501 KAR 6:020
319A.190	201 KAR 28:140		501 KAR 6:030
	201 KAR 28:150		501 KAR 6:040
	201 KAR 28:160		501 KAR 6:050
319A.200	201 KAR 28:160		501 KAR 6:060
322.020	201 KAR 18:050		501 KAR 6:070
322.040	201 KAR 18:040		501 KAR 6:080
	201 KAR 18:070		501 KAR 6:090
322.080	201 KAR 18:070		501 KAR 6:110
322.090	201 KAR 18:040		501 KAR 6:120
	201 KAR 18:070	Chapter 441	501 KAR 3:150
322.100	201 KAR 18:040	441.055	501 KAR 3:010
322.110	201 KAR 18:040		501 KAR 3:020
	201 KAR 18:050		501 KAR 3:030
322.120	201 KAR 18:040		501 KAR 3:040
322.140	201 KAR 18:040		501 KAR 3:050
322.150	201 KAR 18:040		501 KAR 3:060
322.160	201 KAR 18:040		501 KAR 3:070
322.420	201 KAR 18:040		501 KAR 3:080
326.020	201 KAR 13:040		501 KAR 3:090
327.010	201 KAR 22:010		501 KAR 3:100
327.050	201 KAR 22:031		501 KAR 3:110
327.060	201 KAR 22:031		501 KAR 3:120
327.070	201 KAR 22:052		501 KAR 3:130
327.080	201 KAR 22:031		501 KAR 3:140
327.090	201 KAR 22:052		501 KAR 4:010
334A.030	201 KAR 17:010		501 KAR 4:020
334A.050	201 KAR 17:011		501 KAR 4:030
	201 KAR 17:012		501 KAR 4:040
334A.100	201 KAR 17:015		501 KAR 4:050
334A.130	201 KAR 17:010		501 KAR 4:060
334A.180	201 KAR 17:041		501 KAR 4:070
336.1661	803 KAR 3:050		501 KAR 4:080
336.1662	803 KAR 3:050		501 KAR 4:090
336.1663	803 KAR 3:050		501 KAR 4:100
Chapter 338	803 KAR 2:015		501 KAR 4:110
	803 KAR 2:020		501 KAR 4:130
341.005-341.990	903 KAR 5:260		501 KAR 4:140
341.190	903 KAR 5:300		501 KAR 5:010
341.262	903 KAR 5:300		501 KAR 5:020
341.380	903 KAR 5:270		501 KAR 5:030
350.020	405 KAR 10:200		501 KAR 5:040
350.028	405 KAR 10:200		501 KAR 5:050
350.060	405 KAR 10:200		501 KAR 5:060
350.062	405 KAR 10:200		501 KAR 5:070
350.064	405 KAR 10:200		501 KAR 5:080
350.068	405 KAR 10:200		501 KAR 5:090
350.085	405 KAR 10:200		501 KAR 5:100
350.093	405 KAR 10:200		501 KAR 5:110
350.095	405 KAR 10:200		501 KAR 5:120
350.100	405 KAR 10:200		501 KAR 5:130
			501 KAR 7:010

ADMINISTRATIVE REGISTER - F14

KRS Section	Regulation
441.055 (cont'd)	501 KAR 7:020
	501 KAR 7:030
	501 KAR 7:040
	501 KAR 7:050
	501 KAR 7:060
	501 KAR 7:070
	501 KAR 7:080
	501 KAR 7:090
	501 KAR 7:100
	501 KAR 7:110
	501 KAR 7:120
	501 KAR 7:130
	501 KAR 7:140
Acts c. 433, 1986 GA	806 KAR 18:030
SB 16, 1986 GA	600 KAR 3:010
HB 209, 1986 GA	11 KAR 9:010
HB 390, 1986 GA	900 KAR 1:006

SUBJECT INDEX

AGRICULTURE

Amusement rides; 302 KAR Chapter 16
Livestock sanitation; 302 KAR Chapter 20

AIR POLLUTION

Administrative Procedures
Definitions, abbreviations; 401 KAR 50:010
Reference documents; 401 KAR 50:015
Existing Source Standards
Coke by-products; 401 KAR 61:140
Process operations; 401 KAR 61:020
Synthetic organic chemical, polymer manufacturing equipment leaks; 401 KAR 61:175
Hazardous Pollutants
Asbestos standards; 401 KAR 57:011
Glass manufacturing plants; inorganic arsenic emissions; 401 KAR 57:045
Mercury standards; 401 KAR 57:021
New Source Requirements; Non-Attainment Areas
Significant deterioration; 401 KAR 51:017
New Source Standards
Electric arc furnaces; 401 KAR 59:166
Electric arc furnaces, argon-oxygen decarburization vessels; 401 KAR 59:168
Flexible vinyl, urethane coating, printing; 401 KAR 59:211
Kraft pulp plants; 401 KAR 59:082
Metal furniture coating operations; 401 KAR 59:196
Onshore natural gas processing plants; 401 KAR 59:295
Oxygen process furnaces, primary emissions; 401 KAR 59:066
Oxygen process steelmaking facilities, secondary emissions; 401 KAR 59:068
Petroleum dry cleaning plants; 401 KAR 59:242
Process operation; 401 KAR 59:010
Wool fiberglass insulation manufacturing plants; 401 KAR 59:290
Performance Standards, General
Asbestos abatement entities; 401 KAR 63:040
Toxic air pollutants, existing; 401 KAR 63:021
Toxic air pollutants, new; 401 KAR 63:022

AIRPORT ZONING COMMISSION

Application; 602 KAR 50:090
Construction; 602 KAR 50:060

ALCOHOLIC BEVERAGE CONTROL

Advertising Malt Beverages
Inside signs; 804 KAR 2:007
Licensing
Malt beverage sales; 804 KAR 4:290

AMUSEMENT RIDES

Permit; 302 KAR 16:010 and E

ATHLETIC COMMISSION

Officials' appointment; 201 KAR 27:044
Payment of fees, fines, forfeitures; 201 KAR 27:015

BRUCELLOSIS

(See Livestock Sanitation)

CORRECTIONS

Blackburn Correctional Complex; 501 KAR 6:120
Cabinet manuals; 501 KAR 6:080
Frankfort Career Development Center; 501 KAR 6:090 and E
Kentucky Correctional Institution for Women; 501 KAR 6:070 and E
Kentucky State Penitentiary; 501 KAR 6:040 and E

CORRECTIONS (cont'd)

Kentucky State Reformatory; 501 KAR 6:030 and E
Luther Lockett Correctional Complex; 501 KAR 6:050

Northpoint Training Center; 501 KAR 6:060
Policies, procedures; 501 KAR 6:020 and E
Roederer Farm Center; 501 KAR 6:110 and E

DENTISTRY

Advertising; 201 KAR 8:005

EDUCATION AND HUMANITIES CABINET

Exceptional
Exceptional, handicapped programs; 707 KAR Chapter 1
Instruction
Elementary, secondary education act; 704 KAR Chapter 10
Instructional services; 704 KAR Chapter 3
Student services; 704 KAR Chapter 7
Teacher certification; 704 KAR Chapter 20
Teacher education; 704 KAR Chapter 15
Libraries and Archives
Archives; 725 KAR Chapter 1
Local Services
Administration, general; 702 KAR Chapter 1
Buildings, grounds; 702 KAR Chapter 4
Pupil transportation; 702 KAR Chapter 5
School district finance; 702 KAR Chapter 3
School terms, attendance, operation; 702 KAR Chapter 7
Programs, adult education; 709 KAR Chapter 1
Superintendent's Office
Commonwealth Institute for Teachers; 701 KAR 5:070

ELECTIONS, STATE BOARD

Voter's current address; 31 KAR 3:010

EMPLOYEES, STATE

(See Personnel)

EMPLOYMENT SERVICES (HUMAN RESOURCES)

Employment Services
Job Training Partnership Act; 903 KAR 6:040
Work incentive program; 903 KAR 6:010
Unemployment Insurance
Procedures; 903 KAR 5:260
Reports, due dates; 903 KAR 5:300
Weekly benefit rates; 903 KAR 5:270 and E

ENGINEERS, LAND SURVEYORS

Branches; 201 KAR 18:050
Examinations; 201 KAR 18:070
Fees; 201 KAR 18:040

EXCEPTIONAL, HANDICAPPED (EDUCATION)

Contract teachers; 707 KAR 1:120; 707 KAR 1:130
Programs; 707 KAR 1:051

FINANCIAL INSTITUTIONS

Administration
Information to be furnished, maintained by banks; 808 KAR 1:100
Credit Unions
Investment authority; 808 KAR 3:060
Mortgage Loan Companies, Brokers
Corporate surety bond amounts; 808 KAR 12:010
Securities
Registration exemptions, federal regulation D; 808 KAR 10:210

FISH AND WILDLIFE RESOURCES

Fish

Angling, limits and seasons; 301 KAR 1:055
Gear for commercial fishing; 301 KAR 1:145

Game

Migratory birds, hunting seasons; 301 KAR 2:220 and E
Specified areas; seasons, limits; 301 KAR 2:047 and E
Taking migratory wildlife; 301 KAR 2:044 and E
Wild turkey seasons; 301 KAR 2:140
Hunting and Fishing
Lead shot prohibition; 301 KAR 3:080
License fees; 301 KAR 3:021

HAIRDRESSERS, COSMETOLOGISTS

School license; 201 KAR 12:110

HARNESS RACING

Declarations, drawings; 811 KAR 1:055
Licensing; 811 KAR 1:070

HEALTH SERVICES

Boards of Health, Local

Policies, procedures; 902 KAR 8:020

Certificate of Need and Licensure

Dual licensure; 902 KAR 20:220 and E
Fee schedule; 902 KAR 20:008
Hospitals; 902 KAR 20:016 and E
Intermediate care; 902 KAR 20:051 and E
License procedures; 902 KAR 20:008
Minimums; 902 KAR 20:132
Nursing homes; 902 KAR 20:048 and E
Personnel care homes; 902 KAR 20:036 and E
Process; 902 KAR 20:006
Skilled nursing facility; 902 KAR 20:026 and E

Disability Determination

Program; 902 KAR 16:010

Health Economics Control

Section 1122 review; 902 KAR 25:010

Maternal and Child Health

Family planning program; 902 KAR 4:050 and E
Inborn errors of metabolism; 902 KAR 4:030

Mental Health-Mental Retardation

Per diem rate; 902 KAR 12:060
Reference documents; 902 KAR 12:080

Regional Mental Health-Mental Retardation Boards

Hospital district assignments; 902 KAR 6:040

Milk and Milk Products

Definitions; 902 KAR 50:010
Standards of identity; 902 KAR 50:070

Sanitation

Onsite sewage disposal; 902 KAR 10:110 and E
State Health Plan
Plan; 902 KAR 17:010

HIGHER EDUCATION ASSISTANCE AUTHORITY

Distinguished Student Recognition and

Scholarship Award Program

Program; 11 KAR 9:010

Grant Programs

Authority, purpose, name; 11 KAR 5:010
Repeal; 11 KAR 5:031
Student eligibility; 11 KAR 5:030

Incentive Loan Program

Deferment; 11 KAR 7:020
Math/science; 11 KAR 7:010

Kentucky Loan Program

Lender participation; 11 KAR 3:040

Teacher Scholarship Program

Deferment; 11 KAR 8:020
Program; 11 KAR 8:010

HIGHWAYS

Traffic

Bus dimension limits; 603 KAR 5:071
Control devices; 603 KAR 5:050
I-75, I-71 prohibitions; 603 KAR 5:190 and E
I-471 prohibitions; 603 KAR 5:200 and E

HOUSING, BUILDINGS AND CONSTRUCTION

Boilers, Pressure Vessels

Administrative procedures; 815 KAR 15:020
Fees; 815 KAR 15:080

Hazardous Materials

Fireworks; 815 KAR 30:050

Kentucky Building Code

Building code; 815 KAR 7:020
Physically disabled facilities; 815 KAR 7:060

Plumbing

Definitions; 815 KAR 20:010
Fixtures; 815 KAR 20:070
Installation permits; 815 KAR 20:050
License application; 815 KAR 20:030
Piping installation; 815 KAR 20:130

HUMAN RESOURCES

Administration

Cost limitation in contracts; 900 KAR 1:006 and E
Protection of human subjects; 900 KAR 1:060 and E

Employment Services

Employment services; 903 KAR Chapter 6
Unemployment insurance; 903 KAR Chapter 5

Health Services

Boards of health, local; 902 KAR Chapter 8
Certificate of need, licensure; 902 KAR Chapter 20

Disability determination; 902 KAR Chapter 16

Health economics control; 902 KAR Chapter 25

Maternal and child health; 902 KAR Chapter 4

Mental health-mental retardation; 902 KAR Chapter 12

Milk and milk products; 902 KAR Chapter 50

Regional mental health-mental retardation boards; 902 KAR Chapter 6

Sanitation; 902 KAR Chapter 10

State health plan; 902 KAR Chapter 17

Medicaid services; 907 KAR Chapter 1 (recodified from 904 KAR Chapter 1)

Social Insurance

Food stamp program; 904 KAR Chapter 3

Public assistance; 904 KAR Chapter 2

Social Services

Aging services; 905 KAR Chapter 8

Field services; 905 KAR Chapter 1

Program management; 905 KAR Chapter 3

INFORMATION SYSTEMS COMMISSION

Strategic plan; 14 KAR 1:010

INSTRUCTION

Elementary, Secondary Education Act

School standards; 704 KAR 10:022

Instructional Services

Educational Improvement Act; 704 KAR 3:005

Required program of studies; 704 KAR 3:304

Student Services

Dropout prevention; 704 KAR 7:070 and E

Teacher Certification

Hearing impaired; 704 KAR 20:229; 704 KAR 20:230

Learning, behavior disorders; 704 KAR 20:235

Trainable mentally handicapped; 704 KAR 20:245

Visually impaired; 704 KAR 20:255

Teacher Education

Paraprofessionals, volunteers; 704 KAR 15:080 and E

INSURANCE

Casualty Insurance Contracts
 Declination, cancellation, nonrenewal; 806 KAR 20:010
 General Provisions
 Liability self-insurance; 806 KAR 1:010
 Health; Group, Blanket
 Coordination of benefits; 806 KAR 18:030
 Health Insurance Contracts
 Long-term; 806 KAR 17:080
 Rates and Rating Organizations
 Anti-theft device discounts; 806 KAR 13:100

JAIL STANDARDS**Jails**

Administration, management; 501 KAR 3:020
 Admission, release; 501 KAR 3:120
 Classification; 501 KAR 3:110
 Definitions; 501 KAR 3:010
 Fiscal management; 501 KAR 3:030
 Food services; 501 KAR 3:100
 Hearings, procedures, disposition; 501 KAR 3:150
 Inmate programs, services; 501 KAR 3:130
 Inmate rights; 501 KAR 3:140
 Medical services; 501 KAR 3:090
 Personnel; 501 KAR 3:040
 Physical plant; 501 KAR 3:050
 Safety, emergency procedures; 501 KAR 3:070
 Sanitation, hygiene; 501 KAR 3:080
 Security, control; 501 KAR 3:060
 Local Confinement Facilities, 96-Hour
 Administration, management; 501 KAR 4:020
 Admissions, release; 501 KAR 4:120
 Classification; 501 KAR 4:110
 Definitions; 501 KAR 4:010
 Fiscal management; 501 KAR 4:030
 Food services; 501 KAR 4:100
 Inmate programs; 501 KAR 4:130
 Inmate rights; 501 KAR 4:140
 Medical services; 501 KAR 4:090
 Personnel; 501 KAR 4:040
 Physical plant; 501 KAR 4:050
 Safety; 501 KAR 4:070
 Sanitation, hygiene; 501 KAR 4:080
 Security, control; 501 KAR 4:060
 Local Confinement Facilities, 12-Hour
 Administration, management; 501 KAR 5:020
 Admissions, release; 501 KAR 5:120
 Classification; 501 KAR 5:110
 Definitions; 501 KAR 5:010
 Fiscal management; 501 KAR 5:030
 Food services; 501 KAR 5:100
 Inmate rights; 501 KAR 5:130
 Medical services; 501 KAR 5:090
 Personnel; 501 KAR 5:040
 Physical plant; 501 KAR 5:050
 Safety; 501 KAR 5:070
 Sanitation, hygiene; 501 KAR 5:080
 Security, control; 501 KAR 5:060
 Restricted Custody Center
 Administration, management; 501 KAR 7:020
 Admissions, release; 501 KAR 7:120
 Classification; 501 KAR 7:110
 Definitions; 501 KAR 7:010
 Fiscal management; 501 KAR 7:030
 Food services; 501 KAR 7:100
 Inmate programs, services; 501 KAR 7:130
 Inmate rights; 501 KAR 7:140
 Medical services; 501 KAR 7:090
 Personnel; 501 KAR 7:040
 Physical plant; 501 KAR 7:050
 Safety; 501 KAR 7:070
 Sanitation, hygiene; 501 KAR 7:080
 Security, control; 501 KAR 7:060

JUSTICE

Law Enforcement Officers
 Definitions; 500 KAR 2:010
 Filing, processing commissions; 500 KAR 2:020
 Local Peace Officer
 Definitions; 500 KAR 3:010
 Filing, processing commissions; 500 KAR 3:020
 Peace Officer Death Benefits
 Claims; 500 KAR 1:020
 Definitions; 500 KAR 1:010
 State Police
 Criminal history record information system; 502 KAR Chapter 30
 General traffic; 502 KAR Chapter 15
 Trial board proceedings; 502 KAR Chapter 50

LABOR

Occupational safety, health; 803 KAR Chapter 2
 Collective Bargaining, A
 Arbitration; 803 KAR 3:050

LIBRARIES AND ARCHIVES

Archives
 Records management; 725 KAR 1:050

LIVESTOCK SANITATION

Brucellosis, negative exposure; 302 KAR 20:056 and E
 Brucellosis quarantine; 302 KAR 20:057 and E
 Equine viral arteritis; 302 KAR 20:180
 Livestock sale, exhibition; 302 KAR 20:065 and E

LOCAL SERVICES (EDUCATION)

Administration, General
 Board members training; 702 KAR 1:115
 Extended employment; 702 KAR 1:025
 Facilities surveys, plans; 702 KAR 1:010 and E
 Textbook program plan; 702 KAR 1:005
 Buildings, Grounds
 Temporary, supplemental units; 702 KAR 4:080
 Pupil Transportation
 Bus drivers; 702 KAR 5:080
 School District Finance
 Management assistance program; 702 KAR 3:200 and E
 School Terms, Attendance and Operation
 Interscholastic athletics, management; 702 KAR 7:065 and E
 Interscholastic athletics, recruiting; 702 KAR 7:080 and E
 Interscholastic athletics, redshirting; 702 KAR 7:070 and E

MEDICAID SERVICES

Family planning services; 907 KAR 1:049
 Home health; 907 KAR 1:031 and E
 Hospice services; 907 KAR 1:330 and E
 Hospice services, payments; 907 KAR 1:340 and E
 Inpatient service payments; 907 KAR 1:013 and E
 Medically needy; 907 KAR 1:004 and E
 Mental health centers; 907 KAR 1:045 and E
 Physicians' services; 907 KAR 1:010 and E
 Primary care centers; 907 KAR 1:055 and E
 Provider participation, appeals; 907 KAR 1:220
 Reference materials; 907 KAR 1:250 and E
 Skilled nursing, intermediate care facilities; 907 KAR 1:036 and E
 Technical eligibility; 907 KAR 1:011

MEDICAL LICENSURE

Amphetamine, anorectic controlled substances; 201 KAR 9:016
 Disciplinary proceedings; 201 KAR 9:081
 Examinations; 201 KAR 9:031
 Fee schedule; 201 KAR 9:041; 201 KAR 9:084

MEDICAL LICENSURE (cont'd)

Physician assistants; 201 KAR 9:083
Support service contracts; 201 KAR 9:151

MINING

(See Reclamation & Enforcement)

MOTOR VEHICLE COMMISSION

Temporary sales location; 605 KAR 1:150

NATURAL RESOURCES, ENVIRONMENTAL PROTECTION

Environmental Protection
Air pollution; 401 KAR Chapters 50 through 63
Waste management; 401 KAR Chapter 47
Water; 401 KAR Chapter 5
Natural Resources
Reclamation & enforcement, surface mining;
Title 405

NURSING

Advanced registered nurse practitioners; 201 KAR 20:057

NURSING HOME ADMINISTRATORS

Licensure; 201 KAR 6:010

OCCUPATIONAL SAFETY, HEALTH

General industry standards; 803 KAR 2:015
29 CFR Part 1910; 803 KAR 2:020

OCCUPATIONAL THERAPY

Definitions, abbreviations; 201 KAR 28:010
Disciplinary proceedings; 201 KAR 28:150
Examination; 201 KAR 28:070
Examination wavier; 201 KAR 28:040
Exemptions from licensing; 201 KAR 28:030
Fees; 201 KAR 28:110
Foreign applications; 201 KAR 28:120
General provisions; 201 KAR 28:020
Hearings; 201 KAR 28:160
Licenses; 201 KAR 28:080
Probation, suspension, revocation; 201 KAR 28:140
Renewals; 201 KAR 28:090
Renewal, late; 201 KAR 28:100
Special licensure requirements; 201 KAR 28:050
Supervision; 201 KAR 28:130
Temporary licensure requirements; 201 KAR 28:060

OCCUPATIONS AND PROFESSIONS

Athletic commission; 201 KAR Chapter 27
Engineers, land surveyors; 201 KAR Chapter 18
Dentistry; 201 KAR Chapter 8
Hairdressers, cosmetologists; 201 KAR Chapter 12
Medical licensure; 201 KAR Chapter 9
Nursing; 201 KAR Chapter 20
Nursing home administrators; 201 KAR Chapter 6
Occupational therapy; 201 KAR Chapter 28
Ophthalmic dispensers; 201 KAR Chapter 13
Physical therapy; 201 KAR Chapter 22
Speech pathology, audiology; 201 KAR Chapter 17

OPHTHALMIC DISPENSERS

Licensing; 201 KAR 13:040

PERSONNEL

Board

Appeal procedures; 101 KAR 1:360 and E
Appeal right; 101 KAR 1:350 and E
Disciplinary actions; 101 KAR 1:340 and E
Employee actions; 101 KAR 1:330 and E
Employee grievances; 101 KAR 1:370 and E
Investigations; 101 KAR 1:380 and E
Meetings; 101 KAR 1:310 and E
Military duty restoration; 101 KAR 1:390 and E

PERSONNEL (cont'd)

Probationary period; 101 KAR 1:320 and E; 101 KAR 1:325 and E
Repeal; 101 KAR 1:300 and E
Classified Service
Applications, examinations; 101 KAR 2:040 and E
Appointments; 101 KAR 2:070 and E
Classification plan; 101 KAR 2:020 and E
Compensation plan; 101 KAR 2:030 and E
Definitions; 101 KAR 2:010 and E
Detail to special duty; 101 KAR 2:070 and E
Eligibles; certification, selection; 101 KAR 2:060 and E
Employee evaluation plan; 101 KAR 2:110 and E
Incentive programs; 101 KAR 2:120 and E
Layoffs; 101 KAR 2:080 and E
Leave; 101 KAR 2:100 and E
Political activity; 101 KAR 2:130 and E
Registers; 101 KAR 2:050 and E
Repeal; 101 KAR 2:005 and E
Service regulation; 101 KAR 2:090 and E
Unclassified Service
Appeals; 101 KAR 3:030 and E
Classification, compensation plan; 101 KAR 3:040 and E
Leave; 101 KAR 3:010 and E
Promotion, transfer, disciplinary action; 101 KAR 3:050 and E
Repeal; 101 KAR 3:005 and E

PHYSICAL THERAPY, BOARD OF

Licensing procedure; 201 KAR 22:031
Objectives; 201 KAR 22:010
Refusal, revocation, suspension, probation; 201 KAR 22:052

PROGRAMS (EDUCATION)

Adult Education
High school equivalency; 709 KAR 1:030

PUBLIC PROTECTION, REGULATION

Alcoholic Beverage Control
Advertising malt beverages; 804 KAR Chapter 2
Licensing; 804 KAR Chapter 4
Financial Institutions
Administration; 808 KAR Chapter 1
Credit unions; 808 KAR Chapter 3
Mortgage loan companies, brokers; 808 KAR Chapter 12
Securities; 808 KAR Chapter 10
Housing, Buildings and Construction
Boilers, pressure vessels; 815 KAR Chapter 15
Hazardous materials; 815 KAR Chapter 30
Kentucky Building Code; 815 KAR Chapter 7
Plumbing; 815 KAR Chapter 20
Insurance
Casualty insurance contracts; 806 KAR Chapter 20
General provisions; 806 KAR Chapter 1
Health; group, blanket; 806 KAR Chapter 18
Health insurance contracts; 806 KAR Chapter 17
Rates, rating organizations; 806 KAR Chapter 13

Labor

OSHA; 803 KAR Chapter 2
Collective bargaining, arbitration; 803 KAR Chapter 3

Racing

Harness; 811 KAR Chapter 1
Thoroughbred; 810 KAR Chapter 1
Registry of election finance; 801 KAR Chapter 2

RACING

Thoroughbred
Entries, subscriptions, declarations; 810 KAR 1:013

RECLAMATION & ENFORCEMENT (SURFACE MINING)

Bond and Insurance Requirements
Bond pool; 405 KAR 10:200 and E

REGISTRY OF ELECTION FINANCE

Processing complaints, hearings; 801 KAR 2:010

RETIREMENT

KERS

Contributions, interest rates; 105 KAR 1:010
Actuarial assumptions, tables; 105 KAR 1:040

REVENUE

(Also see Taxation)

Ad Valorem Tax

Administration; 103 KAR Chapter 5

Income Tax

Corporations; 103 KAR Chapter 16
General Administration; 103 KAR Chapter 15
Individual; 103 KAR Chapter 17

Sales and Use Tax

General exemptions; 103 KAR Chapter 30
Miscellaneous retailer occupations; 103 KAR Chapter 27

Service, professional occupations; 103 KAR Chapter 26

Selective Excise Tax

Motor fuels; 103 KAR Chapter 43

SOCIAL INSURANCE

Food Stamp Program

Coupon issuance procedures; 904 KAR 3:045
Definitions; 904 KAR 3:010 and E
Eligibility requirements; 904 KAR 3:020 and E
Reference materials; 904 KAR 3:090 and E

Public Assistance

AFDC standards; 904 KAR 2:016 and E
AFDC technical requirements; 904 KAR 2:006
Child support; 904 KAR 2:020
Child support program reference material; 904 KAR 2:170 and E

Home energy assistance program; 904 KAR 2:116 and E

Supplementary policies; 904 KAR 2:140 and E

SOCIAL SERVICES

Aging Services

Homecare fee schedule; 905 KAR 8:110 and E
Homecare policy manual; 905 KAR 8:120 and E

Field Services

DSS policy, procedures; 905 KAR 1:180 and E

Program Management

Matching requirements; 905 KAR 3:030 and E

SPEECH PATHOLOGY, AUDIOLOGY

Board members, expenses; 201 KAR 17:015

Code of ethics; 201 KAR 17:041

Interim licensure requirements; 201 KAR 17:011

Licensure application; 201 KAR 17:010

Licensure requirements; 201 KAR 17:012

Repealer; 201 KAR 17:061

STATE POLICE

Criminal History Record Information System

Dissemination of information; 502 KAR 30:060

General Traffic

Abandoned vehicles, definitions; 502 KAR 15:020 and E

Trial Board Proceedings

Evidence admissibility; 502 KAR 50:010 and E

TAXATION

Ad Valorem Tax, Administration

Annual expense; 103 KAR 5:130

TAXATION (cont'd)

Income Tax, Corporations

Apportionment, payroll factor; 103 KAR 16:090

Apportionment, property factor; 103 KAR 16:080

Apportionment, sales factor; 103 KAR 16:070

Income Tax, General Administration

Filing dates, extensions; 103 KAR 15:050

Income Tax, Individual

Retirement income; 103 KAR 17:080

Sales & Use, General Exemptions

Prescription medicine, prosthetic devices, physical aids; 103 KAR 30:020

Sales & Use; Service, Professional Occupations

Common carriers; 103 KAR 26:050

Sales & Use, Miscellaneous Retail Transactions

Vending machines; 103 KAR 27:180

Selective Excise Tax, Motor Fuels

Highway user motor fuel; 103 KAR 43:240

TOURISM

Fish and Wildlife Resources

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

