Administrative Register of Kentucky

LEGISLATIVE RESEARCH COMMISSION
FRANKFORT, KENTUCKY

VOLUME 13, NUMBER 10
WEDNESDAY, APRIL 1, 1987

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UNLESS WRITTEN NOTIFICATION OF INTENT TO ATTEND A PUBLIC HEARING IS RECEIVED BY THE PROMULGATING AGENCY AT LEAST FIVE (5) DAYS BEFORE THE HEARING DATE, THE HEARING MAY BE CANCELLED.

MEETING NOTICE: The next meeting of the Administrative Regulation Review Subcommittee is April 13 and 14, 1987. See tentative agenda on pages 1695-1696 of this Administrative Register.

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

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

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

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

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

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

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA
April 13, 1987
(Rm. 110, Capitol Annex @ 2 p.m.)

KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

Kentucky Loan Program
11 KAR 3:050. Student eligibility.
KHEAA Grant Program
11 KAR 5:020. Definitions.
Incentive Loan Program
11 KAR 7:010. Math/science incentive loan program.
11 KAR 7:020. Deferment.
Teacher Scholarship Program
11 KAR 8:010. Teacher scholarship program.
11 KAR 8:020. Deferment.
Distinguised Student Recognition and Scholarship Award Program
11 KAR 9:010. Distinguished student recognition and scholarship award program; selection committee; award selection criteria.
Congressional Teacher Scholarship Program
11 KAR 10:010. Congressional teacher scholarship program.
11 KAR 10:020. Deferment.

GENERAL GOVERNMENT CABINET

Board of Medical Licensure
201 KAR 9:083. Certification and supervision of physician assistants.
Board of Speech-Language Pathology and Audiology
201 KAR 17:030 and E. License fees.
Kentucky Athletic Commission
201 KAR 27:016. Bond required to cover compensation of officials and boxers.

TOURISM CABINET
Department of Fish and Wildlife Resources

Game
301 KAR 2:040. Upland game shooting preserves.
301 KAR 2:230. Shoot to retrieve field trial permits and procedures. (Repeals 301 KAR 2:120)
Hunting and Fishing
301 KAR 3:021. Hunting and fishing license fees.
Wildlife
301 KAR 4:060. Fishtrap Lake WMA restrictions.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Administration
400 KAR 1:060. Confidentiality of records or other information furnished to or obtained by the Natural Resources and Environmental Protection Cabinet.

Department for Environmental Protection
Division for Air Quality

Air Pollution - General Administrative Procedures
401 KAR 50:035. Permits.

Department for Natural Resources

Division of Water Patrol
402 KAR 4:030. Registration decals.
402 KAR 4:050. Safety equipment required.
402 KAR 4:060. Lighting equipment.
402 KAR 4:070. Signaling devices.
402 KAR 4:090. Fire extinguisher equipment.
402 KAR 4:130. Safety standards.
402 KAR 4:150. Passengers riding in dangerous positions prohibited.
402 KAR 4:170. Prohibited operation of vessels at locks, dams and power dams.
402 KAR 4:180. Zoning and marking of streams and lakes.

PUBLIC PROTECTION AND REGULATION CABINET
State Racing Commission

Thoroughbred Racing Rules
810 KAR 1:022. Health and welfare fund.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA
April 14, 1987
(Rm. 110, Capitol Annex @ 10 a.m.)

CORRECTIONS CABINET

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

TRANSPORTATION CABINET
Department of Vehicle Regulation

Coal Transportation
601 KAR 35:060. Extended weight coal haul decals.
601 KAR 35:070. License plates for trucks operated under cooperative agreements.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Alcoholic Beverage Control

Retail Premises
804 KAR 7:010. Location in cities of first class.

Department of Housing, Buildings and Construction

Elevator Safety
815 KAR 4:010. Elevators, dumbwaiters, escalators and moving walks standards.
Kentucky Building Code
815 KAR 7:020. Building code.
815 KAR 7:070 & E. Requirements for certification of Kentucky Building Code inspectors. (Deferred from March)
Plumbing
815 KAR 20:075. Installation recommendations for polybutylene tubing for hot and cold water distribution systems.
815 KAR 20:120. Water supply and distribution.
Hazardous Materials
815 KAR 30:021. Repeal of 815 KAR 30:020.
815 KAR 30:031. Repeal of 815 KAR 30:030.
815 KAR 30:050. Fireworks; approval of exempted novelties.

CABINET FOR HUMAN RESOURCES
Department for Health Services

Hospitalization of Mentally Ill and Mentally Retarded
902 KAR 12:080. Policies and procedures for mental health/mental retardation facilities.

Department for Manpower Services

Unemployment Insurance
903 KAR 5:260 and E. Unemployment insurance procedures.

Department for Social Insurance

Public Assistance
904 KAR 2:140. Supplementary policies for programs administered by the Department for Social Insurance.
904 KAR 2:170. Incorporation by reference of materials relating to the Child Support Program.
Food Stamp Program
904 KAR 3:090. Incorporation by reference of materials relating to Food Stamp Program.

REGULATION REVIEW PROCEDURE

Filing and Publication

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

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

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

Public Hearing

The administrative body shall schedule a public hearing on proposed administrative regulations, proposed amendments to administrative regulations, and proposed repeal of administrative regulations to be held not less than twenty (20) nor more than thirty (30) days following publication of the administrative regulation. The time, date, and place of the hearing and the name and address of the agency contact person shall be included on the last page of the administrative regulation when filed with the Compiler's office.

Any person interested in attending the scheduled hearing must submit written notification of such to the administrative body at least five (5) days before the scheduled hearing. If no written notice is received at least five (5) days before the hearing, the administrative body may cancel the hearing.

If the hearing is cancelled, the administrative body shall notify the Compiler immediately by telephone of the cancellation with a follow-up letter and the Compiler will place the letter of cancellation in the file of the original administrative regulation. If the hearing is held, the administrative body shall submit within fifteen (15) days following the hearing a statement of consideration summarizing the comments received at the hearing and the administrative body's responses to the comments.

No transcript of the hearing need be taken unless a written request for a transcript is made, and the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript.

If an administrative body has several proposed administrative regulations published at the same time, the proposed administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings.

Review Procedure

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

EMERGENCY REGULATIONS NOW IN EFFECT

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

STATEMENT OF EMERGENCY

The requirement that the decal evidencing payment of the Supplemental Highway Users Tax be on a truck was effective February 1, 1987. The decals for 1987 were all required to be placed on the windshield. However, because the windshields of trucks are frequently broken, it is necessary that a provision be instituted for the replacement of a destroyed or vandalized decal. This emergency regulation is promulgated to allow the Transportation Cabinet to issue replacement decals under certain conditions. It will be replaced by an ordinary regulation as soon as possible.

MARTHA LAYNE COLLINS, Governor
C. LESLIE DAWSON, Secretary

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Carriers

601 KAR 9:110E. Supplemental highway user's tax; decal.

RELATES TO: KRS 138.655 to 138.725
PURSUANT TO: KRS 138.660, 138.661, 138.725
EFFECTIVE: March 9, 1987
NECESSITY AND FUNCTION: KRS 138.660 requires that supplemental highway user's tax [to] be paid for all vehicles with a combined license weight in excess of 59,999 pounds which use Kentucky's public highways. This administrative regulation sets forth the administrative procedures to be followed in paying this tax and applying for the decal which serves as proof of payment of the tax.

Section 1. (1) All motor carriers, as defined by KRS 138.655(5), that operate, or cause to be operated, motor vehicles with a combined licensed weight in excess of 59,999 pounds upon the public highways of Kentucky, shall pay, or insure the payment of, the supplemental highway use tax imposed by KRS 138.660(4) in respect to each such vehicle; and, shall obtain for, and properly display on, each such vehicle an appropriate tax decal evidencing payment thereof, commensurate with the estimated mileage to be operated by each such vehicle in Kentucky.

(2) The term "combined licensed weight" shall have the meaning defined by KRS 138.655(14). The term "current registration period" as used in KRS 138.655(14), for purposes of the supplemental highway use tax imposed by KRS 138.660(4), shall mean the registration of the vehicle with the Department of Vehicle Regulation for the payment of the supplemental highway use tax imposed by KRS 138.660(4) for the period from February 1 of each year, beginning February 1, 1987, through January 31 of the succeeding year.

(3) Registration for the current registration period, and for the payment of the supplemental highway use tax shall be made on the forms prescribed and furnished by the Department of Vehicle Regulation. Each such application shall be completed in full, and shall be accompanied by payment in full at the time the application is filed.

(4) Payments for the supplemental highway use tax made by check, or money order, shall be payable to "Kentucky State Treasurer." Any applicant for payment of the supplemental highway use tax that does not hold an active KYU license in good standing at the time of application shall remit the tax amount due by cash, certified check, cashiers check or money order. The department may require those holding an active KYU license to make supplemental highway use tax payment by cash, certified check, cashiers check or money order. All supplemental highway use tax payments shall be in United States dollars.

(5) No decal issued by the department evidencing payment of the supplemental highway use tax imposed by KRS 138.660(4) shall be sold, assigned, leased, or otherwise bartered. Notwithstanding, such a decal which has been properly affixed to a motor vehicle shall remain with said vehicle, and shall remain valid upon a transfer of ownership of the vehicle for the remaining of the supplemental highway use tax year.

(6) In the event that the motor vehicle, for which a decal has been issued by the department evidencing payment of the supplemental highway use tax imposed by KRS 138.660(4), becomes destroyed, stolen, or disabled, within thirty (30) days next subsequent to the application for such decal, such unused decal may be returned to the department and the application therefor withdrawn. The withdrawal request must be accompanied by a properly executed affidavit of the taxpayer setting forth the circumstances and reasons why the application should be withdrawn. If such conditions are met, the decal payment may be returned to the applicant.

(7) However, in those circumstances where a decal has been rendered unusable due to theft, vandalism or accidental destruction of the decal, the Division of Motor Carriers may issue a replacement decal. A request for a replacement decal must be made in writing to the Division of Motor Carriers setting forth the circumstances giving rise to the request. Such request must be accompanied by appropriate documentation substantiating the claim. Such documentation may be in the form of the return of the unusable decal; return of portions of the unusable decal which must include the entire decal number or the entire alpha prefix of the decal; or in circumstances where the decal has been stolen or vandalized the carrier shall attach a copy of the police report.

(8) [(7)] Motor vehicle equipment lessors, whose motor vehicles are subject to the supplemental highway use tax imposed by KRS 138.660(4), may pay such taxes due thereupon, and obtain the decals evidencing such tax payment, in respect to the motor vehicles leased by them.

(9) [(8)] On or before July 31 of each year following the tax year of the supplemental highway use tax imposed by KRS 138.660(4), every liable supplemental highway use taxpayer shall file with the department, on forms prescribed and furnished by the department, a supplemental highway use tax report covering only those vehicles which were operated by the taxpayer during the preceeding supplemental highway use tax year, and which have exceeded the estimated mileages for such vehicles during that period. The additional supplemental highway use taxes due shall be paid in full with such tax report.

Section 2. (1) Payment of the supplemental highway use tax imposed by KRS 138.660(4) shall be evidenced by the issuance of an appropriate tax decal by the department to the taxpayer. The tax imposed by KRS 138.660(4) shall be assessed on a per vehicle basis and shall require only one (1) properly displayed decal per vehicle per year.

(2) It shall be the responsibility of the motor carrier, as defined by KRS 138.655(5) under whose KYU license the vehicle is operated on the public highways in Kentucky, to insure that all vehicles operating on its behalf have been currently and properly covered by the applicable supplemental highway use tax payment, and that all such vehicles have properly displayed thereon the decal evidencing such tax payments.

(3) Such decal shall be affixed to, and displayed upon, only vehicles of the mileage tax class for which it was issued. The mileage class of a motor vehicle shall consist of the estimated mileage that it will operate upon the public highways to Kentucky from February 1 of each year through the succeeding January 31 of the following year as hereinafter set forth:

VEHICLE CLASS	TAX YEAR MILEAGES
Class A	0 mi. to 9,999 mi.
Class B	10,000 mi. to 19,999 mi.
Class C	20,000 mi. to 29,999 mi.
Class D	30,000 mi. to 39,999 mi.
Class E	40,000 mi. to unlim. mi.

(4) The supplemental highway use tax decal must be permanently affixed, by means of the decal adhesive, to the interior of the vehicle windshield, near the bottom, no more that six (6) inches from the center of the windshield.

Section 3. This administrative regulation shall have an effective date of January 1, 1987.

C. LESLIE DAWSON, Secretary
JOHN K. PENROD, Commissioner
APPROVED BY AGENCY: March 6, 1987
FILED WITH LRC: March 9, 1987 at 9 a.m.

STATEMENT OF EMERGENCY

Under KRS Chapter 13A, the administrative body is required to implement this regulation in order for the state to be in compliance with the federal laws governing vocational rehabilitation (P.L. 93-112 as amended). The Office of Vocational Rehabilitation, through the State Board of Education, needs to implement this emergency regulation in order for the policies regarding clarification of terms relating to eligibility to be uniformly practiced by agency staff in a timely manner. If approved, a more restrictive, but more appropriate, standard of eligibility approved by the federal government will be put into effect immediately and individuals truly needing, in order to complete an Individualized Written Rehabilitation Program vocational rehabilitation services and counseling - and not just medical treatment to correct temporary or easily ameliorated disabilities - will remain eligible. This emergency regulation will be replaced by an ordinary administration regulation.

MARTHA LAYNE COLLINS, Governor
ALICE McDONALD, Superintendent

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Vocational Rehabilitation

706 KAR 1:010E. Three-year plan for vocational rehabilitation services.

RELATES TO: KRS 156.010, 156.031, 163.140, 163.160
PURSUANT TO: KRS 163.140
EFFECTIVE: March 9, 1987
NECESSITY AND FUNCTION: Section 101, Title I, P.L. 93-112, as amended, requires the submission of a three (3) year state plan for Vocational Rehabilitation Services to the Secretary, United States Department of Education. The plan must be approved in order for a state to be eligible for grants from the allotments of funds under Title I, P.L. 93-112, as amended by P.L. 93-516, P.L. 95-602, [and] P.L. 98-221, and P.L. 99-506 and this regulation adopts the pertinent state plan developed and approved by the Department of Education and sets forth rules governing the services, personnel, and administration of the Office of Vocational Rehabilitation.

Section 1. Pursuant to the authority vested in the Kentucky State Board of Education by KRS 163.140, the revised Kentucky State Plan for Vocational Rehabilitation Services for the period October 1, 1985 through September 30, 1988, as amended on March 4, 1987 [May 7, 1986], is presented herewith for filing with the Legislative Research Commission, and incorporated by reference. A copy of said plan can be obtained from the Office of Vocational Rehabilitation, Department of Education.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: March 4, 1987
FILED WITH LRC: March 9, 1987 at 9 a.m.

STATEMENT OF EMERGENCY

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

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

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services

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

RELATES TO: KRS 205.520
PURSUANT TO: KRS 194.050
EFFECTIVE: February 26, 1987
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the cabinet for skilled nursing care facility services and intermediate care facility services.

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

Section 2. Basic Principles of Reimbursement. (1) Payment shall be on the basis of rates which are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to

provide care and services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

(2) Payment amounts shall be arrived at by application of the reimbursement principles developed by the cabinet (Kentucky Medical Assistance Program Intermediate Care/Skilled Nursing Facility Reimbursement Manual, revised January 1, 1987 [July 1, 1986, and amended pursuant to a hearing, which is hereby incorporated by reference]) and supplemented by the use of the Title XVIII-A reimbursement principles.

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

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

(2) The prospective rate shall not exceed, on a facility by facility basis, an administratively established maximum payment for that type of facility. The state will set a uniform rate year for SNFs and ICFs (July 1-June 30) by taking the latest audited cost data available as of May 16 of each year and trending the facility costs to July 1 of the rate year. (Unaudited, partial year, and/or budgeted cost data may be used if a full year's audited data is unavailable. Unaudited reports are subject to adjustment to the audited amount, and will be used when an audited cost report ending within twenty-four (24) months of the 30th of April preceding the rate year is not available. Facilities paid on the basis of partial year or budgeted cost reports shall have their reimbursement settled back to allowable cost, with usual upper limits applied. Facilities beginning program participation on or after July 1, 1984 whose rates are subject to settlement back to cost will not be included in the arrays until such time as the facilities are no longer subject to cost settlement.) After allowable costs are indexed for inflation for the rate year, freestanding (non-hospital based) facilities will be arrayed and the maximum set at 102 percent of the median for the class (SNF or ICF). In recognition of the higher costs of hospital based SNFs, their upper limit shall be set at 135 percent of 102 percent of the median of allowable trended and indexed costs of all other SNFs, however, such upper limit shall not exceed 102 percent of the median of the array of allowable trended and indexed costs of hospital based SNFs. The maximum payment amounts will be adjusted each July 1, beginning with July 1, 1985, so that the maximum payment amount for the prospective uniform rate year will be at 102 percent of the median per diem allowable costs for the class (SNF or ICF) on July 1 of that year. For purposes of administrative ease in computations normal rounding may be used in establishing the maximum payment amount, with the maximum payment amount rounded to the nearest five (5) cents. Upon being set, the arrays and upper limits will not be altered due to revisions or corrections of data. For ICF-MRs, a prospective rate will be set in the same manner as for freestanding SNFs and basic ICFs, except that the maximum (upper limit) shall be set at 125 [110] percent of the median of the array. Effective January 1, 1987, and continuing through the rate years beginning July 1, 1987, and July 1, 1988, the allowable cost for each facility shall include a patient care labor intensity factor of two and six-tenths (2.6) percent applied to that portion of the facilities' operating costs attributable (based on averages for the class of facility) to labor costs. This allowance is generally intended for the purpose of direct service staff improvements to enhance patient care. Effective with the rate year beginning on July 1, 1987, that portion of the facilities' operating costs attributable (based on averages for the class of facility) to labor costs shall be indexed for the rate year by a labor cost intensity factor based on the state employee annual salary increment; this indexing shall be in lieu of the usual indexing for inflation of such labor costs, however, the labor cost intensity factor shall be not less than the usual indexing factor and, if necessary, shall be increased to an amount equal to the usual indexing factor. This adjustment is designed to allow for salary and staffing improvements to improve patient care.

(3) The reasonable direct cost of ancillary services provided by the facility as a part of total care shall be compensated on a reimbursement cost basis as an addition to the prospective rate except for ventilator therapy services which shall be paid on a prospective rate basis. Ancillary services reimbursement shall be subject to a year-end audit, retroactive adjustment and final settlement. Ancillary costs may be subject to maximum allowable cost limits under federal regulations. Any percentage reduction made in payment of current billed charges shall not exceed twenty-five (25) percent, except in the instance of individual facilities where the actual retroactive adjustment for a facility for the previous year reveals an overpayment by the cabinet exceeding twenty-five (25) percent of billed charges, or where an evaluation by the

cabinet of an individual facility's current billed charges shows the charges to be in excess of average billed charges for other comparable facilities serving the same area by more than twenty-five (25) percent. A refund will be requested from a facility if the amount paid to the facility for legend drugs, covered legend devices and non-legend drugs, if applicable, exceeds the program's computed maximum allowable cost. The amount of refund will be determined by conducting a statistically accurate sample of the Medicaid patients for the facility's fiscal year. The percentage that a facility is over the computed maximum allowable cost will be multiplied by the amount paid by the program for drugs for the fiscal year under review.

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

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

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

(c) For both paragraphs (a) and (b) of this subsection, interest on a principal amount used to purchase goodwill or other intangible assets will not be considered an allowable cost.

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

(6) The allowable cost for services or goods purchased by the facility from related organizations shall be the cost to the related organization, except when it can be demonstrated that the related organization is in fact equivalent to any other second party supplier, i.e., a relationship for purposes of this payment system is not considered to exist. A relationship will be considered to exist when an individual or individuals possess five (5) percent or more of ownership or equity in the facility and the supplying business; however, an exception to the relationship will be determined to exist when fifty-one (51) percent or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

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

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

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

(b) Facilities participating in the Medicaid program prior to April 1, 1981, shall be classified as newly participating facilities (solely for purposes of this subsection) when either of the following occurs on or after April 1, 1981: first, when the facility expands its bed capacity by expansion of its currently existing plant or, second, when a multi-level facility (one providing more than one (1) type of care) converts existing personal care beds in the facility to either skilled nursing or intermediate care beds, and the number of additional or converted personal care beds equals or exceeds (in the cumulative) twenty-five (25) percent of the Medicaid certified beds in the facility as of March 31, 1981. Facilities participating in the Medicaid program prior to April 1, 1981 shall not be classified as newly participating facilities solely because of changes of ownership.

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

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

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

(9) Certain costs not directly associated with patient care will not be considered allowable costs. Costs which are not allowable include political contributions, travel and related costs for trips outside the state (for purposes of conventions, meetings, assemblies, conferences, or any related activities), specified vehicle costs as shown in the Reimbursement Manual, and legal fees for unsuccessful lawsuits against the cabinet. However, costs (excluding transportation costs) for training or educational purposes outside the state are allowable costs unless such costs are incurred by administrators or owners.

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

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

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

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

(d) A sale is any bona fide transfer of legal ownership from an owner(s) to a new owner(s) for reasonable compensation, which is usually fair market value. Lease-purchase agreements and/or other similar arrangements which do not result in transfer of legal ownership from the original owner to the new owner are not considered sales until such time as legal ownership of the property is transferred.

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

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

(a) No increase will be allowed in capital costs.

(b) The allowable historical base for depreciation for the purchaser will be the lesser of the allowable historical cost of the seller less any depreciation allowed to the seller in prior periods, or the actual purchase price.

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

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

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

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

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

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

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

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

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

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

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

(c) A facility is sold and the funded depreciation account is not transferred to the purchaser.

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

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

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

(19) Each ICF which admits a recipient from an SNF during the period of September 1, 1985 through January 31, 1986 shall receive an incentive payment of seven (7) dollars and fifty (50) cents for each day of covered care rendered such recipient, subject to the following conditions:

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

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

(20) When a recipient in a SNF changes patient status (from SNF to ICF) on or after February 1, 1986 and is admitted to an ICF within the permitted transfer period for the recipient (i.e., while the recipient still qualifies for coverage at the skilled rate), the ICF shall receive an incentive payment of seven (7) dollars and fifty (50) cents for each day of covered care rendered the recipient; such incentive payment shall be paid for no more than ninety (90) days of care.

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

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

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

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

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

(23) SNF's which on February 1, 1986 continued to care for recipients who were classified as meeting SNF patient status criteria as of August 31, 1985 only because of non-availability of an ICF bed, where the recipient is on the waiting list of an ICF, may receive the usual SNF rate for those recipients subject to the following transitional reimbursement standards and criteria:

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

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

(c) Payment under this transitional reimbursement provision shall continue only until such time as the Commission for Health Economics Control in Kentucky (CHECK) [Certificate of Need Authority (CONA)] has acted on the application and any appropriate licensure action has been effected.

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

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

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

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

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

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

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

(Effective 1-1-87 [7-1-86])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$29.99 & below [28.99]	$.92	$.58
30.00 - 30.99 [29.00 - 29.99]	$.86	$.50
31.00 - 31.99 [30.00 - 30.99]	$.78	$.41
32.00 - 32.99 [31.00 - 31.99]	$.70	$.32
33.00 - 33.99 [32.00 - 32.99]	$.61	$.21
34.00 - 34.99 [33.00 - 33.99]	$.51	$.09
35.00 - 36.14 [34.00 - 35.58]	$.35	-

Maximum Payment $36.14 [35.58]

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

(Effective 1-1-87 [7-1-86])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$86.99 & below [69.99]	$1.38	$.87
87.00 - 92.99 [70.00 - 75.99]	$1.29	$.75
93.00 - 98.99 [76.00 - 81.99]	$1.18	$.62
99.00 -104.99 [82.00 - 87.99]	$1.06	$.47
105.00 -110.99 [88.00 - 93.99]	$ .92	$.31
111.00 -116.99 [94.00 - 99.99]	$ .76	$.13
117.00 -123.49 [100.00 - 106.81]	$ .53	-

Maximum Payment $123.49 [106.81]

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

(Effective 1-1-87 [7-1-86])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$39.99 & below [38.99]	$.92	$.58
40.00 - 41.99 [39.00 - 40.99]	.86	.50
42.00 - 43.99 [41.00 - 42.99]	.78	.41
44.00 - 45.99 [43.00 - 44.99]	.70	.32
46.00 - 47.99 [45.00 - 46.99]	.61	.21
48.00 - 49.99 [47.00 - 48.99]	.51	.09
50.00 - 51.93 [49.00 - 51.04]	.35	-

Maximum Payment $51.93* [51.04*]

*The maximum payment for hospital based skilled nursing facilities is set at $70.11 [68.90].

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

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

(1) First recourse shall be for the facility to request in writing to the Director, Division of Reimbursement and Contracts, a re-evaluation of the point at issue. This request must be received within forty-five (45) days following notification of the prospective rate or forwarding of the audited cost report by the program. The director shall review the matter and notify the facility of any action to be taken by the cabinet (including the retention of the original application of policy) within twenty (20) days of receipt of the request for review or the date of the program/vendor conference, if one is held, except that additional time may be taken as necessary to secure further information or clarification pertinent to the resolution of the issue.

(2) Second recourse shall be for the facility to request in writing to the Commissioner, Department for Medicaid Services, a review by a

standing review panel to be established by the commissioner. This request must be postmarked within fifteen (15) days following notification of the decision of the Director, Division of Reimbursement and Contracts. Such panel shall consist of three (3) members: one (1) member from the Division of Reimbursement and Contracts, one (1) member from the Kentucky Association of Health Care Facilities, and one (1) member from the Department for Medicaid Services (but not within the Division of Reimbursement and Contracts) as designated by the Commissioner, Department for Medicaid Services, with such designated member to act as chairperson of the review panel. A date for the reimbursement review panel to convene will be established within twenty (20) days after receipt of the written request. The panel shall issue a binding decision on the issue within thirty (30) days of the hearing of the issue, except that additional time may be taken as necessary to secure further information or clarification pertinent to the resolution of the issue. In carrying out the intent and purposes of the program the panel may take into consideration extenuating circumstances which must be considered in order to provide for equitable treatment and reimbursement of the provider. The attendance of the representative of the Kentucky Association of Health Care Facilities at review panel meetings shall be at the cabinet's expense.

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

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

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

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

(b) Physical, occupational and speech therapy.

(c) Laboratory procedures.

(d) X-ray.

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

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

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

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

(4) The "basic per diem cost" is the computed rate arrived at when otherwise allowable costs are trended and adjusted in accordance with the inflation factor, the occupancy factor, and the median cost center per diem upper limits.

(5) "Inflation factor" means the comparison of allowable routine service costs, not including fixed or capital costs, with an inflation rate to arrive at projected current year cost increases, which when added to allowable costs, including fixed or capital costs, yields projected current year allowable costs. The inflation factor shall be included for rates computed on August 3, 1985 and thereafter.

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

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

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

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

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

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

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

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

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

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

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

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

(f) Other items or services generally

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

(13) The first twenty (20) cents of cost of each disposable incontinent brief shall be considered to be ancillary costs when such briefs are provided upon a physician's orders, with the balance of the cost of such briefs considered to be routine costs.

Section 7. Implementation Date. The amendments to [provisions of] this regulation[, as amended,] shall be effective on January 1, 1987, or as otherwise specified herein [with regard to services provided on or after July 1, 1986].

R. HUGHES WALKER, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: February 12, 1987
FILED WITH LRC: February 26, 1987 at 9 a.m.

AS AMENDED

DEPARTMENT OF AGRICULTURE
(As Amended)

302 KAR 31:010. Hearings upon denial, suspension, modification, or revocation of licenses.

RELATES TO: KRS Chapter 217B
PURSUANT TO: KRS Chapter 217B, 217B.050
NECESSITY AND FUNCTION: To clarify procedures for the license hearings held pursuant to KRS [217B.103, 217B.540, or] 217B.545.

Section 1. Commencement of Action. [Hearings.] (1) The department, prior to a license hearing, shall prepare a detailed report outlining the allegations against a licensee. The report shall be in the form of an administrative complaint which shall allege facts constituting violations and contain a prayer for relief. [When conducting license hearings under KRS 217B.103, 217B.540 or 217B.545, the pest control advisory board shall have the authority to:]

[(a) Administer oaths according to law;]

[(b) Issue subpoenas authorized by law;]

[(c) Rule upon offers of proof and receive relevant evidence;]

[(d) Take or cause depositions to be taken whenever the ends of justice would be service thereby;]

[(e) Regulate the course of the hearing; and]

[(f) Make recommendations and issue orders.]

(2) An action shall be deemed commenced when a true copy of the administrative complaint has been served upon the licensee or his registered agent for service of process. [The department, prior to a license hearing, will prepare a detailed report in the form of an administrative complaint concerning the denial, suspension, modification, or revocation. Copies of the report will be presented to the board prior to the actual hearing. A copy of the report will be sent to the licensee at least fifteen (15) days prior to the actual hearing so that he may be apprised of all the allegations therein. Every party shall have the right to present his case or defense by oral or documentary evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.]

(3) Service of process shall be made by either personal delivery by an agent of the department or any law enforcement agency or by certified mail, return receipt requested. [The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, shall constitute the exclusive record for decision. Where the decision rests upon official notice of a material fact not appearing in the evidence in the record, any party shall on timely request be afforded an opportunity to show the contrary.]

(4) If the licensee intends to contest the allegations contained in the complaint, the licensee shall have twenty (20) days from the date of service of process to answer the complaint by delivering his written response thereto to the department and shall have ten (10) days from the date of service of process to request a hearing before the board.

(5) No hearing before the Pest Control Advisory Board (hereinafter board) shall be scheduled sooner than twenty-five (25) days after service of process upon the licensee. At least fifteen (15) days prior to that portion of the hearing set before the board for presentation of evidence by both parties, a true copy of the administrative complaint, shall be sent to each member of the board by the prosecuting attorney. The licensee's answer and any motions or requests shall be delivered to each member of the board prior to that portion of the hearing set for presentation of the evidence by both parties.

Section 2. Counsel. (1) An attorney from the department's general counsel office shall act as prosecuting attorney in any disciplinary proceeding unless he shall decline to prosecute, then the board may appoint a special prosecuting attorney in its discretion.

(2) The licensee shall have the right to appear with counsel of his own choosing at all stages of a proceeding against him.

(3) There shall be no ex parte communications between counsel and any member of the board after commencement of a proceeding against a licensee concerning the merits of the allegations or proposed discipline. Counsel shall divulge to his opposing counsel as soon as practicable after any ex parte communications with board members are made the substance of any communication concerning procedural aspects of the proceeding.

(4) The non-voting member of the board from the Attorney General's Office shall serve as advisory counsel to the board during any proceeding and shall be the sole arbitrator of the admissibility of evidence sought to be introduced at hearing.

Section 3. Discovery. (1) Either party may

obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the proceeding at any time after commencement of an action by any of the following methods:

(a) Oral deposition, which may be entered of record in lieu of further testimony by the witness upon motion to the board, and which shall be conducted under the applicable rules of civil procedure used by courts of law in the Commonwealth;

(b) Requests for production of names of witnesses, documents, and other demonstrative evidence;

(c) Requests for synopsis of testimony of any expert witness expected to be called.

(2) The board may issue protective orders as necessary.

(3) Interrogatories shall not be used as a form of discovery.

Section 4. Prehearing Conferences. Upon motion of either party or upon its own initiative, the board may order that a prehearing conference be held. The prehearing conference may be a forum for consideration of any matter properly before the board including all motions, discovery, stipulations, identification of issues, dates of future proceedings and objections.

Section 5. Hearings. (1) Hearings shall be conducted in accordance with the rules of examination applicable in the courts of the Commonwealth. The burden of proof shall be upon the department to show substantial evidence of the violations alleged in the complaint. The rules of evidence applicable in courts of law in the Commonwealth shall not apply. All relevant evidence shall be admitted, including hearsay evidence, that is probative of a fact in issue; except if the prejudicial effect of the evidence outweighs its probative value, then it shall be excluded. Any evidence which is excluded may be entered into the record by offer of proof or avowal. The board shall rule upon all motions or objections and may require the submission of briefs regarding any issues. The board may allow opening and closing statements by either party.

(2) When a hearing will be expedited and the interests of the parties will not be prejudiced substantially, all or part of the evidence may be received in written form upon agreement of the parties. Copies may be introduced if the original documents are not readily available. Upon request, each party must be given the opportunity to compare the copy to the original.

(3) Official notice may be taken of judicially noticeable facts. Notice may be taken also of generally recognized technical or scientific facts within the board's specific knowledge. Each party shall have the opportunity to contest the facts so noticed.

(4) In the conduct of license hearings, the board shall also have authority to administer oaths, and request that the department issue subpoenas, and subpoenas duces tecum. The department shall, for good cause shown, issue the subpoenas and the subpoenas duces tecum requested in any licensing hearing conducted pursuant to this regulation.

(5) The board shall be responsible for compiling a written record of the hearing which shall contain all evidence introduced at the hearing, all motions, responses, pleadings, briefs, rulings, verbatim transcripts, exceptions and any other documents comprising part of the record.

Section 6. Recommendations of the Board. (1) Within thirty (30) days after concluding that portion of the hearing set before the board for presentation of evidence by both parties, the board shall deliberate and make preliminary findings of fact, conclusions of law, and recommendations for disposition of the allegations against the licensee.

(2) Prior to the board rendering preliminary findings, conclusions and recommendations, any party to the proceedings may move the board to allow briefs to be filed with the board. The board may grant the motion and set a time for submission of briefs if it believes that such a procedure would substantially aid the board in its deliberation. The board may also order briefs or proposed findings, conclusions, and recommendations to be submitted by each party upon its own initiative.

(3) The chairman of the board shall serve upon each party a copy of the board's preliminary findings, conclusions, and recommendations at least twenty (20) days prior to the date set for its final determination.

(4) Each party shall have the right to file exceptions to the board's preliminary findings of fact, conclusions of law, and recommendations. Exceptions shall be filed with the board at least seven (7) days prior to the board's final determination.

(5) The board may grant leave to any party to present oral argument upon exceptions properly filed if it believes that such arguments would aid the board in reaching its final determination.

(6) The board shall draft a final version of its findings of fact, conclusions of law, and recommendations for disposition to submit to the commissioner after having considered the whole record, including any briefs or exceptions to its preliminary findings, conclusions of law, and recommendations. The board shall set a date to meet and vote upon the final version which must be approved by a simple majority of the board members and endorsed by the chairman before submission to the commissioner.

(7) The endorsement and submission of the final version of its findings, conclusions, and recommendations to the commissioner shall be the board's final determination of the allegations against the licensee and shall finally conclude the hearing.

(8) Each party may submit exceptions to the board's final determination by tendering exceptions in writing to the commissioner within ten (10) days after the board's findings, conclusions, and recommendations have been submitted to the commissioner for action.

Section 7. Action Upon Recommendations. (1) The commissioner shall either accept or reject the board's findings, conclusions, and recommendations after reviewing the whole record, including any exceptions filed by any party directly with him and he shall notify the board of his decision in writing.

(2) If the commissioner orders suspension, revocation, or modification of the license, he shall issue to the licensee a written order specifying the terms and conditions of the suspension, revocation, or modification, its effective date, and notice of the licensee's

right to appeal his order to the Franklin Circuit Court. If the commissioner does not order suspension, revocation or modification of the license, he shall issue to the licensee a written order dismissing the complaints. [rejects the board's findings, conclusions, and recommendations, he shall issue to the licensee a written order dismissing the complaint(s).]

(3) The issuance of the commissioner's order shall be the final administrative action in the proceeding and the time for appeal therefrom shall begin when the licensee is served with a true copy of the order.

DAVID E. BOSWELL, Commissioner
APPROVED BY AGENCY: February 6, 1987
FILED WITH LRC: February 6, 1987 at 10 a.m.

DEPARTMENT OF AGRICULTURE
(As Amended)

302 KAR 31:011. Settlement [Informal] proceedings.

RELATES TO: KRS Chapter 217B
PURSUANT TO: KRS Chapter 217B, 217B.050
NECESSITY AND FUNCTION: To establish rules regarding [informal] proceedings for the settlement of administrative complaints brought pursuant to KRS 217B.545.

Section 1. Commencement of Settlement [Informal] Proceedings. At any time after the service of an administrative complaint upon a licensee and before hearing, the responding licensee may seek a settlement [an informal dispensation] of any pending allegation [upon signing a waiver that states that the licensee waives his right to raise any constitutional, statutory, or common law objection should the Pest Control Advisory Board reject the informal proposal or if informal proceedings are curtailed by the department's general counsel. The general counsel shall have complete discretion to negotiate with the responding licensee concerning stipulations of fact, conclusions of law, and proposed discipline or dismissal of complaints. The general counsel shall also have discretion to reject any or all offers of informl dispensation and may commence informal proceedings on his own initiative].

Section 2. Presentation of Proposal to Board. Whenever [the general counsel believes that] an appropriate settlement [informal dispensation] has been negotiated it [he] shall [cause to] be presented to the board and if [the responding licensee's signed waiver, stipulations of fact, proposed conclusions of law, and proposed written recommendations for disposition of the complaints, including proposed suspension, revocation or modification of the license. The documents shall include a line for the signature of the chairman of the board and shall become effective upon being] accepted shall be [by the board,] signed by the chairman, and forwarded to the commissioner for action.

Section 3. Effect of Rejection. If the board rejects an offer of settlement [informal dispensation], the matter shall continue to proceed as a formal proceeding pursuant to 302 KAR 31:010, unless the licensee requests that [; or upon the joint request of the parties], the offer [shall] be submitted directly to the commissioner for decision. If requested by the licensee, the offer shall be submitted directly to the commissioner along with the board's reasons for rejecting the offer and a recommendation from the board that the commissioner not approve the offer. The commissioner shall accept or reject the offer after reviewing the whole record. He may allow oral argument on the proposed offer before he makes a decision if either party moves for it and it appears that such argument would substantially contribute to the decision-making process. If the commissioner approves the offer, he shall enter an appropriate order in conformance therewith the proposal. If the commissioner rejects the offer, the matter shall continue to proceed as a formal proceeding pursuant to 302 KAR 31:010. Rejection shall not be taken as a finding or determination of any kind on behalf of the board and no orders or other pleadings shall be filed in regard to any rejected offer [proposal].

Section 4. Action by the Commissioner. If the commissioner approves of the board's recommendation, or a [joint] request by the licensee [parties] for settlement [informal dispensation] after rejection by the board, [then he shall enter an order setting out the terms of the discipline against the licensee] or if the commissioner dismisses [dismissing] the complaint in whole or in part, he shall enter an order in conformance with his findings. If the commissioner rejects the settlement [recommendations] the matter shall continue to proceed as a formal proceeding pursuant to 302 KAR 31:010.

DAVID E. BOSWELL, Commissioner
APPROVED BY AGENCY: November 24, 1986
FILED WITH LRC: December 2, 1986 at 1 p.m.

PROPOSED AMENDMENTS

PERSONNEL BOARD
(Proposed Amendment)

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

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

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

TITLE CODE	JOB CLASSIFICATION	LENGTH OF INITIAL PROBATIONARY PERIOD
2001	Fish and Wildlife Law Enforcement Officer Trainee	12 months
2112	DES Duty Officer	12 months
2113	DES Duty Officer Senior	12 months
2480	Water Patrol Officer Second Class	12 months
2481	Water Patrol Officer First Class	12 months
5105	Vocational Education Instructor	12 months
5108	Industrial and Trade Instructor	12 months
5110	MSHA Instructor	12 months
5126	Teacher of Blind and/or Visually Impaired Rank III	12 months
5127	Teacher of Blind and/or Visually Impaired Rank II	12 months
5128	Teacher of Blind and/or Visually Impaired Rank I	12 months
5131	Teacher of Deaf and/or Hearing Impaired Rank III	12 months
5132	Teacher of Deaf and/or Hearing Impaired Rank II	12 months
5133	Teacher of Deaf and/or Hearing Impaired Rank I	12 months
5141	Education Teacher Rank III	12 months
5142	Education Teacher Rank II	12 months
5143	Education Teacher Rank I	12 months
7203	Forest Guard	12 months
7205	Forest Ranger	12 months
7207	Forest Ranger Unit	12 months
7209	Forest Ranger District	12 months
7213	Forestry District Equipment Supervisor	12 months
7215	Nursery Foreman	12 months
7217	Nursery Superintendent	12 months
7221	Forester	12 months
7222	Forester Senior	12 months
7224	Forester Chief	12 months
7226	Forester District	12 months
7228	Forester Regional	12 months
7231	Rural Fire Suppression Technical Advisor	12 months
7232	Forestry Program Specialist	12 months
7233	Forestry Program Coordinator	12 months
7235	Forestry Program Manager	12 months

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

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

ARTHUR HATTERICK, JR., Secretary
APPROVED BY AGENCY: February 26, 1987
FILED WITH LRC: February 26, 1987 at 1 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation is scheduled for April 21, 1987, at 9:30 a.m., in Room 360 of the Capitol Annex Building. Those interested in attending, please contact: Commonwealth of Kentucky, Personnel Board, Room 372, Capitol Annex Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Arthur Hatterick, Jr.
(1) Type and number of entities affected: All state agencies with classified employees.
(a) Direct and indirect costs or savings to those affected: No appreciable change.
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs: N/A
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. This regulation must apply equally to all classified employees and all state agencies with classified employees.

GENERAL GOVERNMENT CABINET
Board of Hairdressers & Cosmetologists
(Proposed Amendment)

201 KAR 12:030. License required.

RELATES TO: KRS 317A.010, 317A.020, 317A.060
PURSUANT TO: KRS 317A.050
NECESSITY AND FUNCTION: KRS 317A.010 and 317A.020 require anyone practicing cosmetology to be licensed.

Section 1. Every person licensed by this board, with the exception of licensed manicurist or cosmetologist exclusively practicing manicuring in a licensed barber shop, shall practice in an establishment licensed by this board.

Section 2. No establishment or licensee of this board shall employ an unlicensed person to perform or practice cosmetology.

Section 3. Every person renting or leasing space in a beauty salon must complete an application for a salon license provided by the board. Upon receipt of the completed application and payment of the statutory fee for a salon license, the board shall issue a salon license. The board may refuse to issue such a license upon the applicant's failure to comply with the provisions of the statutes or rules and regulations of the board. In the event of a change of location, the leasee must purchase a new license.

CARROLL ROBERTS, Administrator
APPROVED BY AGENCY: March 2, 1987
FILED WITH LRC: March 13, 1987 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on April 24, 1987 at 2 p.m. The hearing will be held at 314 West Second Street, Frankfort, Kentucky. Contact Carroll Roberts, Administrator.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carroll Roberts
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected: Unknown. Statistics not available.
1. First year: Unknown
2. Continuing costs or savings: Unknown
3. Additional factors increasing or decreasing costs (note any effects upon competition): None. No effects on competition.
(b) Reporting and paperwork requirements: No reporting requirements. Complete a salon application.
(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 reporting. Issue salon license.
(3) Assessment of anticipated effect on state and local revenues: Could increase state and local revenues through business or occupational tax and withholding.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternatives would require additional reporting, paperwork and unenforceable policy.
(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.

GENERAL GOVERNMENT CABINET
Board of Physical Therapy
(Proposed Amendment)

201 KAR 22:070. Requirements for foreign-trained physical therapists.

RELATES TO: KRS 327.060
PURSUANT TO: KRS 327.040
NECESSITY AND FUNCTION: This regulation establishes the requirements of a foreign-trained physical therapist to permit the therapist to become licensed in the state of Kentucky. Because of variances in curriculums of foreign countries, specific requirements are needed to assure that the applicant possesses adequate educational and clinical preparation.

Section 1. The following requirements for a foreign-trained physical therapist to become licensed must be fulfilled:
(1) Furnish the board a report of a board approved credientialing agency for educational status. The educational requirements of licensure require an applicant to have satisfactorily completed at least 120 semester credits in a program equivalent to a U.S. Bachelors degree in Physical Therapy. At least sixty (60) of these semester credits must be in professional physical therapy courses as described and distributed in the approved credentials form. At least fifty-eight (58) of these semester credits must be in general education courses as described and distributed in the approved credentials form, of which at least forty-five (45) semester credits must be completed at the time of application. The remaining semester credits in general education would be completed by College Level Entrance Proficiency (CLEP) or at a board approved educational institution.
(2) The applicant for licensure by examination must have English as his native language or have submitted 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.
(3) Submit a satisfactorily completed application and appropriate fee.
(4) Successful completion of one (1) year, totaling at least 1000 clock hours of supervised practice under a physical therapist licensed under this chapter. The supervised practice will be in an acute care facility serving both in and out patients that has been approved by the board. The board shall approve Kentucky facilities which serve as clinical education sites for students enrolled in an accredited program in physical therapist education. The applicant will work only with on-site

supervision until a minimum score of three and five-tenths (3.5) with no ones (1) or twos (2) on a four (4.0) point scale has been achieved utilizing the board provided clinical evaluation form. Evaluations will be submitted to the board quarterly by the clinical supervisor. The applicant will work under supervision, as do other applicants with a temporary permit after achieving the required score of three and five-tenths (3.5) except that when the foreign-trained applicant has also passed the physical therapist licensure examination his physical therapy records will no longer need to be cosigned by the supervising physical therapist. This requirement may be satisfied by one (1) year of supervised practice in a state with license requirements at least comparable to those of Kentucky or by the consent of the board. Evidence of that experience in a comparable facility outside Kentucky must be in writing confirming successful completion and satisfactory performance.

(5) Successful completion of the examination as specified in KRS 327.050. The examination, when next offered by the board for other candidates, shall be taken after the applicant becomes a candidate for licensure, unless excused by the board.

Section 2. The following pertain to temporary permits:

(1) Following completion of Section 1(1) to (3) of this regulation and submission of an approved Supervisory Agreement Statement, and applicant by examination, an applicant who needs to complete his general education requirements and/or an applicant who has not yet satisfactorily completed a year of supervised practice as a physical therapist will be issued a temporary permit to practice under the supervision of a designated Kentucky licensed therapist.

(2) All requirements for licensure shall be completed within the maximum period of twenty-one (21) months in which an applicant may work as a physical therapist with a temporary permit. If not completed within that time period, the temporary permit is revoked and the applicant may no longer work in Kentucky as a physical therapist. An applicant who has failed to pass the examination may reapply in one (1) year as per 201 KAR 22:031, Section 3. Applicants who have failed to complete general education requirements may reapply when those requirements have been met.

DEBORAH BRYANT THARP, Chairman

APPROVED BY AGENCY: February 23, 1987

FILED WITH LRC: March 4, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on April 21, 1987 at 10 a.m. in Room 107 of the Capitol Annex. Anyone interested in attending this hearing shall contact in writing by April 16, 1987: Nancy Brinly, Executive Secretary, Kentucky State Board of Physical Therapy, 1614 Dunbarton Wynde, Louisville, KY 40205-2778.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Nancy Brinly, Executive Secretary

(1) Type and number of entities affected: Approximately ten applicants for initial US licensure/year when applicants are educated outside the United States.

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

1. First year: Savings is in time of supervisor which of course carries a significant savings over a period of many months.

2. Continuing costs or savings: No cost factors.

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

(b) Reporting and paperwork requirements: Greatly reduced for supervisors of applicants who have both passed the licensure exam and been deemed clinically competent.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: No effect.

2. Continuing costs or savings: No effect.

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

(b) Reporting and paperwork requirements: No effect.

(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: Not applicable.

(6) Any additional information or comments: The requirement of having all physical therapy recordings cosigned by the supervising therapist was written for applicants working with a temporary permit who had not yet successfully completed the licensure exam. KRS 327.060 requires applicants for licensure who are educated outside the United States to work one year under supervision (temporary permit). An assessment of clinical skills assures this board that the applicant can function clinically. The licensure exam assures the applicant has entry level competence. The board does not feel applicants who have achieved the status of having both passed the exam and being clinically cleared should be treated the same as U.S. educated therapists who have not yet successfully completed the licensure exam. Other amendments are for clarification purposes.

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

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

301 KAR 1:085. Mussel shell harvesting.

RELATES TO: KRS 150.025, 150.110, 150.170, 150.175, 150.190, 150.510, 150.520

PURSUANT TO: KRS 13A.150, 150.025

NECESSITY AND FUNCTION: It is necessary to regulate the manner of taking mussels because of the value and susceptibility of these animals for overharvest. This amendment is necessary to reduce conflicts between mussel harvesters and other resource user groups and to increase the

minimum size limit on selected mussel species.

Section 1. Conforming with KRS 150.170, all persons who actively participate in the harvesting and sale of mussels or mussel shells, whether or not they own or possess the gear being used in the harvest of mussels or mussel shells, must have an appropriate license. Those persons having a valid mussel buyers license are authorized to sell mussels and mussel shells. No boat can be used in musseling operations without a licensed operator in the boat.

Section 2. The mussel season is open year round in all streams and on all beds, except as specified in this section [in the area directly below Kentucky Dam downstream to river mile 17.8 in the Tennessee River which is hereby established as a sanctuary and musseling is prohibited. Musseling is also prohibited within the stream segments 200 yards below any dam on any stream and within the area on the Cumberland River below Barkley Dam downstream to U.S. 62 bridge].

(1) Musseling is prohibited in the Tennessee River from Kentucky Dam downstream to river mile seventeen and eight-tenths (17.8), an area established as a mussel sanctuary.

(2) Musseling is prohibited within the stream segments 200 yards below any dam on any stream.

(3) Musseling is prohibited on the Cumberland River from Barkley Dam downstream to the U.S. Highway 62 bridge.

(4) Musseling is prohibited in all embayments on Barkley and Kentucky Lakes.

Section 3. Musseling is permitted during the hours of 6 a.m. and 6 p.m. daily except in Barkley and Kentucky Lakes where the hours are 8 a.m. to 6 p.m. [Musseling is prohibited during any other time.]

Section 4. The statewide size limits for taking of mussels shall be as follows. All mussels smaller than these minimum sizes must immediately be returned to the water from which taken. [No mussel, except the Asiatic clam, Corbicula sp., the greatest measurement of which is less than two and one-half (2 1/2) inches may be taken. All mussels, except Corbicula, smaller than two and one-half (2 1/2) inches, as measured at their greatest lengths or width, must be returned immediately to the water from which taken.]

(1) Washboard mussels, Megalonaias gigantea, shall be large enough so as not to be able to pass through a circular ring or opening having a diameter of three and three-fourths (3 3/4) inches.

(2) Three (3) ridge mussels, Amblema plicata, shall be large enough so as not to be able to pass through a circular ring or opening having a diameter of two and three-fourths (2 3/4) inches.

(3) All other mussels, except the Asiatic clam, Corbicula sp. shall be large enough so as not to be able to pass through a circular ring or opening having a diameter of two and one-half (2 1/2) inches.

(4) The Asiatic clam, Corbicula sp., may be taken at any size.

Section 5. Mussel harvesting from the waters of the Commonwealth of Kentucky, except as otherwise provided, shall be by brail only. No more than two (2) brails each sixteen (16) feet or less in length may be simultaneously operated from any boat. More than two (2) brails may be carried aboard the boat.

Section 6. Mussel brail hooks when used must be constructed of wire of at least fourteen (14) gauge; smaller wire is prohibited.

Section 7. Prongs of hooks must be no longer than one and one-fourth (1 1/4) inch in size as measured from the tip of point to place on hook where the prongs are joined.

Section 8. The Commissioner may designate as disaster areas waters in which all live mussels have been killed, and may issue a special permit allowing the use of various harvest methods. [The harvesting of mussels except the Asiatic clam (Corbicula sp.) by dredges, forks, rakes, and other apparatus and/or by any and all underwater diving methods, whether the diver is assisted by breathing apparatus or not is prohibited except in areas designated by the Commissioner as disaster areas in which all live mussels have been killed and only dead shells remain. In these areas, the Commissioner may issue a special permit allowing the use of various methods of harvest.]

Section 9. No mussels designated as endangered may be taken after such designation has been made by regulation and duly advertised.

DON R. McCORMICK, Commissioner
G. WENDELL COMBS, Secretary
CHARLES E. PALMER, JR., Chairman
APPROVED BY AGENCY: March 12, 1987
FILED WITH LRC: March 12, 1987 at 4 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on April 28, 1987 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, Commissioner

(1) Type and number of entities affected: Approximately 250 commercial musselers on Kentucky and Barkley Lakes.

(a) Direct and indirect costs or savings to those affected: Should have minimal impact.

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 additional.

(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 acceptable

alternative methods.
(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

LOCAL MANDATE IMPACT STATEMENT

Regulation No.: 301 KAR 1:085
SUBJECT/TITLE: Mussel shell harvesting.
SPONSOR: Kentucky Department of Fish and Wildlife Resources.
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: No
TYPE OF MANDATE:
LEVEL(S) OF IMPACT:
BUDGET UNIT(S) IMPACT:
FISCAL SUMMARY:
MEASURE'S PURPOSE:
PROVISION/MECHANICS:
FISCAL EXPLANATION:

DEPARTMENT OF AGRICULTURE
(Proposed Amendment)

302 KAR 45:010. Ginseng, general provisions.

RELATES TO: KRS 246.650, 246.660
PURSUANT TO: KRS Chapter 13A, 246.660
NECESSITY AND FUNCTION: KRS 246.660 authorized the Department of Agriculture to adopt rules and regulations relating to the administration of a program for Wild American Ginseng. This regulation sets forth general provisions which apply in this chapter with regard to definitions, harvest season, and cooperative agreements.

Section 1. (1) "Ginseng Dealer" means any person engaged in the business of buying ginseng roots from ginseng collectors, ginseng cultivators, and other ginseng dealers for resale to ginseng exporters or to other ginseng dealers or any person who sells ginseng in any form in interstate commerce.
(2) "Commissioner" means the Commissioner of Agriculture.
(3) "Department" unless otherwise specified means the Kentucky Department of Agriculture.
(4) "State" means the Commonwealth of Kentucky.

Section 2. Registration. (1) No person shall be a ginseng dealer without first obtaining a certificate of registration issued by the department.
(2) Certificates of registration will be issued for a period of one (1) year, and will expire on the 30th day of June each year.
(3) Completed applications for certification of registration, issued by the department, must be returned prior to June 30th of each year.

Section 3. Record Keeping. (1) All ginseng dealers shall keep records, on forms furnished by the department, of all purchases and sales of ginseng. These records will include month purchased, month dug, county where dug, weight of purchase, and signature and address of digger or seller.
(2) Retention. All persons required to maintain records under this section shall retain the records for a period of three (3) years.
(3) Availability. Records required under this section shall be made available to the department upon request.

Section 4. Annual Report. All ginseng dealers will file an annual report with the department by April [June] 30th. The annual report shall include the listing of each purchase and sale of ginseng made by the dealer since July 1 the previous year.

Section 5. All ginseng dealers will file a report with the department at least every calendar-year quarter if the dealer has any commerce in ginseng originating from any state other than Kentucky. The report must be sent within fifteen (15) days of the end of any calendar-year quarter and shall list each purchase and sale of out-of-state ginseng made by the dealer during that quarter.

Section 6. [5.] Harvest Season. Wild ginseng will only be dug between August 15th and December 1st of each year. Any seeds adhering to a plant taken during the season shall be planted within fifty (50) feet of the location of the plant with no tool used other than the finger.

Section 7. [6.] All sales of ginseng by dealers shall be certified for sale during the ginseng selling season beginning August 15th of each year and extending until March 31st of the following year.

Section 8. All ginseng unsold by March 31st of the year after harvest must be weighed by the department and the dealer given a weight receipt. Any future export certification of this stock will only be issued against the weight receipt.

Section 9. [7.] All ginseng dealers holding a certificate of registration hereunder must obtain a certificate of legal taking issued by the department after inspection by an official of the department identifying the origin, year of taking, and weight of any shipment of ginseng to a destination outside the Commonwealth of Kentucky. The certificate shall also state whether the ginseng is Wild American Ginseng or whether the ginseng has been cultivated or propagated by a grower. Such certification shall be issued to the dealer on triplicate forms issued by the department. A copy of such certification must be enclosed with the shipment subject of the certification. A copy of such certificate shall be retained for a minimum of three (3) years by the licensed ginseng dealer and a copy of the certificate shall be retained by the certifying agent of the department and submitted in accordance with internal procedures of the department.

Section 10. No ginseng which is uncertified in its state of origin shall be allowed to enter Kentucky.

Section 11. [8.] (1) Any ginseng which is obtained in contravention of laws for the protection of the species or in violation of any other law shall not be purchased, sold, shipped,

or transported within the Commonwealth of Kentucky.

(2) The Kentucky Department of Agriculture may enforce the provisions of Section 11 [8] of this regulation herein as provided in KRS 260.030.

DAVID E. BOSWELL, Commissioner
APPROVED BY AGENCY: February 20, 1987
FILED WITH LRC: February 20, 1987 at 3 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on April 24, 1987 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: Chris Kring
(1) Type and number of entities affected: All ginseng dealers in Kentucky.
(a) Direct and indirect costs or savings to those affected: No change.
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: Same
(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: Amendment to existing forms.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Best feasible alternative.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: 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. Will apply throughout ginseng industry.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This amendment will bring Kentucky into compliance with changes in the federal mandate contained in 50 CFR Part 23.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. This amendment will make the state regulation as strict as the federal requirements but not stricter than the federal requirements.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:020. 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 March 13 [January 14], 1987 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 [(Amended 1/14/87)]
1.12	Operation of Motor Vehicles by Corrections Cabinet Employees
2.1	Inmate Canteen
2.10	Surplus Property
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
4.3	Firearms and Chemical Agents Training
4.4	Educational Assistance Program
6.1	Open Records Law
7.2	Asbestos Abatement
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
9.9	Transportation of Inmates [(Amended 1/14/87)]
9.10	Security Inspections
9.11	Tool Control
9.15	Institutional Entry and Exit Policy and Procedures
9.18	Informants

9.19 Found Lost or Abandoned Property (Added 3/13/87)
10.1 Inmates Serving a Sentence of Death
10.2 Special Management Inmates
10.3 Safekeepers
10.4 Special Needs Inmates
11.2 Nutritional Adequacy of the Diet for Inmates
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 3/13/87)
15.1 Hair and Grooming Standards
15.2 Offenses and Penalties
15.3 Meritorious Good Time (Amended 3/13/87)
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 [(Amended 1/14/87)]
16.3 Telephone Calls
16.4 Inmate Packages (Amended 3/13/87)
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
18.15 Protective Custody
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 (Amended 3/13/87)
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
27.18 Absconder Procedures
27.19 Technical Violators
27.20 Intensive Supervision (Amended 3/13/87)
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

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: March 13, 1987
FILED WITH LRC: March 13, 1987 15 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for April 23, 1987 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: 2075 employees of the Corrections Cabinet, 6347 inmates, 10,768 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 6:030. Kentucky State Reformatory.

RELATES TO: KRS Chapters 196, 197, 439
PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640
NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the

secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on March 13 [February 9], 1987 and hereinafter should be referred to as Kentucky State Reformatory Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

KSR 01-00-09	Public Information and News Media Relations
KSR 01-00-10	Entry Authorization for All Cameras and Tape Recorders Brought into the Institution
KSR 01-00-14	Extraordinary Occurrence Report
KSR 01-00-15	Cooperation and Coordination with Oldham County Court
KSR 01-00-19	Personal Service Contract Personnel
KSR 01-00-20	Consent Decree Notification to Inmates
KSR 02-00-01	Inmate Canteen
KSR 02-00-03	Screening Disbursements from Inmate Personal Accounts
KSR 02-00-11	Inmate Personal Accounts
KSR 02-00-12	Institutional Funds and Issuance of Checks
KSR 03-00-01	Shift Assignment/Reassignment
KSR 03-00-02	Employee Dress and Personal Appearance
KSR 03-00-05	Intra-Agency Promotional Opportunity Announcements
KSR 03-00-06	Employee Time and Attendance
KSR 03-00-07	Travel Expense Reimbursement
KSR 03-00-08	Employee Tuition Assistance Reimbursement
KSR 03-00-10	Workers' Compensation
KSR 03-00-11	Equal Employment Opportunity Complaints
KSR 03-00-12	Employee Greivance Procedure
KSR 03-00-14	Prohibited Employee Conduct, Disciplinary Actions, and Appeal Process
KSR 03-00-15	Affirmative Action Program (Amended 3/13/87)
KSR 03-00-16	Confidentiality of Personnel Records
KSR 03-00-19	Establishment of Personnel Records and Employee Right to Challenge Information Contained Therein
KSR 03-00-20	Personnel Selection, Retention and Promotion
KSR 03-00-21	Equal Employment Opportunities for Institutional Job Assignments and Job Classification Promotions
KSR 03-00-23	Work Planning and Performance Review (WPPR)
KSR 03-00-24	Inclement Weather and Employee Work Attendance
KSR 03-00-25	Medical Examination Requirements for New Employees
KSR 04-00-02	Staff Training and Development
KSR 05-00-02	Research Activities
KSR 05-00-03	Management Information Systems
KSR 06-00-01	Inmate Master File
KSR 06-00-02	Records Audit
KSR 06-00-03	Kentucky Open Records Law
KSR 07-00-02	Institutional Tower Room Regulations
KSR 07-00-03	Guidelines for Contractors
KSR 07-00-04	Handling of PCB Articles and Containers
KSR 08-00-07	Inmate Family Emergency - Life Threatening Illness or Death in Inmate's Immediate Family
KSR 08-00-08	Death of an Inmate/Notification of Inmate Family in Case of Serious Injury, Critical Medical Emergency, Major Surgery[, or Death of an Inmate] (Amended 3/13/87)
KSR 08-00-09	Emergency Preparedness Training
KSR 09-00-04	Horizontal Gates/Box 1 Entry and Exit Procedure
KSR 09-00-05	Gate I Entrance and Exit Procedure
KSR 09-00-14	Use of Force
KSR 09-00-21	Crime Scene Camera
KSR 09-00-22	Collection, Preservation, and Identification of Physical Evidence
KSR 09-00-23	Drug Abuse Testing
KSR 09-00-25	Inmate Motor Vehicle Operator's License
KSR 09-00-26	Contraband Outside Institutional Perimeter
KSR 10-00-02	Special Management Inmates Operations, Rules and Regulations for Unit D
KSR 10-00-03	Special Needs Unit
KRS 10-00-04	Unit D Admission/Release Ticket
KSR 11-00-01	Meal Planning for the General Population (Amended 3/13/87)
KSR 11-00-02	Special Diets
KSR 11-00-03	Food Service Inspections
KSR 11-00-04	Dining Room Dress Code for Inmates
KSR 11-00-06	Health Standards/Regulations for Food Service Employees
KSR 11-00-07	Early Chow Line Passes for Medically Designated Inmates (Amended 3/13/87)
KSR 12-00-01	Inmate Summer Dress Regulations
KSR 12-00-02	Sanitation and General Living Conditions
KSR 12-00-03	State Items Issued to Inmates
KSR 12-00-07	Regulations for Inmate Barbershop
KSR 13-00-01	Identification of Mentally Retarded Inmates
KSR 13-00-02	Hospital Operations, Rules and Regulations [Regulations for Hospital Patients] (Amended 3/13/87)
KSR 13-00-03	Medication for Inmates Leaving Institution Grounds
KSR 13-00-04	Dental Care for Inmates (Amended 3/13/87)
KSR 13-00-05	Medical and Dental Sick Call (Amended 3/13/87)
KSR 13-00-07	Referral of Inmates Considered to Have Severe Emotional Disturbances
KSR 13-00-08	Institutional Laboratory Procedures (Amended 3/13/87)
KSR 13-00-09	Institutional Pharmacy Procedures (Amended 3/13/87)
KSR 13-00-10	Requirements for Medical Personnel
KSR 13-00-11	Preliminary Health Evaluation and Establishment of Inmate Medical Record (Amended 3/13/87)
KSR 13-00-12	Vision Care/Optometry Services
KSR 13-00-14	Periodic Health Examinations for Inmates
KSR 13-00-15	Medical Alert System
KSR 13-00-16	Suicide Prevention and Intervention Program
KSR 14-00-01	Inmate Rights

KSR 14-00-02	A/C Center and Unit D Inmate Access to Legal Aide Services
KSR 14-00-04	Inmate Grievance Procedure
KSR 15-00-01	Operational Procedures and Rules and Regulations for Unit A, B, and C
KSR 15-00-02	Regulations Prohibiting Immate Control or Authority Over Other Inmate(s)
KSR 15-00-03	Governor's Meritorious Good Time Award
KSR 15-00-04	Restoration of Forfeited Good Time
KSR 15-00-05	Differential Status for SU (QUIT) Inmates
KSR 15-00-06	Inmate I.D. Cards
KSR 15-00-07	Inmate Rules and Discipline - Adjustment Committee Procedures (Amended 3/13/87)
KSR 15-00-08	Firehouse Living Area (Amended 3/13/87)
KSR 16-00-01	Visiting Regulations
KSR 16-00-02	Inmate Correspondence and Mailroom Operations
KSR 16-00-03	Inmate Access to Telephones
KSR 17-00-01	Housing Unit Assignment
KSR 17-00-03	Notifying Inmates' Families of Admission and Procedures for Mail and Visiting
KSR 17-00-04	Assessment/Classification Center Operations, Rules and Regulations
KSR 17-00-05	Dormitory 10 Operations
KSR 17-00-06	Identification Department Admission and Discharge Procedures
KSR 17-00-07	Inmate Personal Property
KSR 18-00-01	Special Management Inmates - Unit D Classification (Amended 3/13/87)
KSR 18-00-04	Returns from Other Institutions
KSR 18-00-05	Transfer of Residents to Kentucky Correctional Psychiatric Center
KSR 18-00-06	Classification
KSR 18-00-07	Special Notice Form
KSR 19-00-01	Inmate Work Incentives
KSR 19-00-02	On-the-Job Training Program
KSR 19-00-03	Safety Inspections of Inmate Work Assignment Locations
KSR 20-00-01	Vocational School Referral and Release Process
KSR 20-00-03	Academic School Programs
KSR 20-00-04	Criteria for Participation in Jefferson Community College Program
KSR 20-00-08	Integration of Vocational and Academic Education Programs
KSR 21-00-01	Legal Aide Office and Law Library Services and Supervision
KSR 21-00-02	Inmate Library Services
KSR 21-00-03	Library Services for Unit D
KSR 22-00-03	Inmate Organizations
KSR 22-00-07	Inmate News Magazine [(Added 2/9/87)]
KSR 23-00-02	Chaplain's Responsibility and Inmate Access to Religious Representatives
KSR 23-00-03	Religious Programming (Amended 3/13/87)
KSR 25-00-01	Discharge of Residents to Hospital or Nursing Home
KSR 25-00-02	Violations of Law or Code of Conduct by Inmates on Parole Furlough
KSR 25-00-03	Pre-Parole Progress Report

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: March 13, 1987
FILED WITH LRC: March 13, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for April 23, 1987 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: 497 employees of the Kentucky State Reformatory, 1468 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 6:040. 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 March 13 [February 9], 1987 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 020000-24 Educational Assistance Program
KSP 020000-29 Promotional Opportunity Announcement Program
KSP 030000-01 Inventory Records and Control
KSP 030000-04 Requisition and Purchase of Supplies and Equipment
KSP 030000-05 Inmate Personal Funds (Amended 3/13/87)
KSP 030000-06 Inmate Commissary Program (Amended 3/13/87)
KSP 040000-02 Inmate Records
KSP 040000-08 Inmate Equal Opportunity Policy
KSP 050000-14 Searches and Preservation of Evidence
KSP 060000-01 Special Security Unit (Amended 3/13/87)
KSP 060000-02 Operational Procedures for Disciplinary Segregation, Administrative Segregation, Administrative Control and Behavioral Control Units (Amended 3/13/87)
KSP 060000-04 Protective Custody Unit (Amended 3/13/87)
KSP 060000-11 Criteria for Disciplinary Segregation and Incentive Time Reduction Program
KSP 060000-12 Maximum Protective Custody
KSP 070000-01 Hospital Services
KSP 070000-02 Sick Call
KSP 070000-03 Health Evaluations
KSP 070000-04 Consultations
KSP 070000-05 Emergency Medical Procedure
KSP 070000-13 Pharmacy Procedures
KSP 070000-14 Medical Records
KSP 070000-16 Psychiatric and Psychological Services
KSP 070000-17 Dental Services for Special Management Units
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 3/13/87)
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 Inmate Mail and Packages
KSP 100000-07 Inmate Telephone Access
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 Cell Standards for Fire Safety, Sanitation and Security
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 110000-03 Governor's Meritorious Good Time Award Committee
KSP 110000-04 Pre-Parole Progress Report
KSP 110000-06 General Guidelines of the Classification Committee
KSP 110000-07 Statutory Good Time Restoration
KSP 110000-08 Award of Meritorious Good Time
KSP 110000-10 Special Needs Inmates
KSP 110000-11 Classification Committee - Transfer Requests
KSP 110000-12 Classification Committee - Inmate Work Assignments
KSP 110000-13 Classification Document
KSP 110000-14 Vocational School Placement
KSP 110000-15 Transfers to Kentucky Correctional Psychiatric Center (KCPC)
KSP 110000-16 Consideration of Further Treatment Requirements for Inmates Prior to Release
KSP 110000-19 Custody/Security Guidelines
KSP 120000-04 Academic Education (Amended 3/13/87)
KSP 120000-07 Community Center Program
KSP 120000-08 Inmate Furloughs
KSP 120000-11 Religious Services - Staffing
KSP 120000-18 Religious Services - Religious Programming
KSP 120000-20 Marriage of Inmates
KSP 120000-24 Muslim Services
KSP 120000-31 Extended Furloughs
KSP 120000-32 Discharge of Inmates by Shock Probation
KSP 130000-10 Execution Plan (Amended 3/13/87)

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: March 13, 1987
FILED WITH LRC: March 13, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for April 23, 1987 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: 310 employees of the Kentucky State Penitentiary, 755 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 6:050. Luther Luckett 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 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 March 13 [February 9], 1987 and hereinafter should be referred to as Luther Luckett Correctional Complex 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.

LLCC 01-08-01	Institutional Legal Assistance
LLCC 01-09-01	Public Information and News Media Access
LLCC 01-12-01	Duty Officer Responsibilities [(Amended 2/9/87)]
LLCC 02-01-02	Fiscal Management: Accounting Procedures
LLCC 02-01-03	Fiscal Management: Agency Funds
LLCC 02-01-04	Fiscal Management: Insurance
LLCC 02-03-01	Fiscal Management: Audits
LLCC 02-06-01	Property Inventory
LLCC 03-01-01	General Guidelines for LLCC Employees
LLCC 03-01-02	Service Regulations, Attendance Accumulation and use of Leave
LLCC 03-02-01	Proper Dress for Uniformed Personnel
LLCC 03-02-02	Replacement of Damaged or Destroyed Personal Property
LLCC 03-03-01	Employee Grievance Mechanism
LLCC 03-04-01	Employee Records
LLCC 03-05-01	Personnel Registers
LLCC 03-06-01	Work Planning: Employee Evaluations and Evaluation Control
LLCC 03-08-01	Shift Transfers
LLCC 03-08-02	Rotation of Correctional Officers Between Central Security and Unit Management Staff
LLCC 03-09-01	Promotion Board
LLCC 03-10-01	Affirmative Action: EEO
LLCC 03-12-01	Confidentiality of Information Roles and Services of Consultants, Contract Personnel and Volunteers
LLCC 08-01-01	Offender Records
LLCC 08-04-01	Storage of Expunged Records
LLCC 10-03-09	Duties and Responsibilities of Building 1 and 2 Officer
LLCC 11-03-01	LLCC Population Categories
LLCC 11-07-01	Adjustment Procedures for Minor Rule Violations
LLCC 11-09-01	Rules and Regulations of the Unit (Amended 3/13/87)
LLCC 11-13-01	Inmate Dress and Use of Access Areas
LLCC 11-15-01	Post-Parole Furloughs
LLCC 11-16-01	Restoration of Forfeited Good Time
LLCC 11-18-02	Use of Monitor Telephone
LLCC 11-19-01	Unit Shakedowns/Control of Excess Property
LLCC 11-20-01	Program Services for "Special Needs"/Mentally Ill Inmates
LLCC 12-01-01	Special Management Inmates (Amended 3/13/87)
LLCC 12-04-01	Guidelines for (7E) PC Unit/General Living Conditions
LLCC 13-01-01	Dining Room Guidelines
LLCC 13-04-01	Food Service: Meals
LLCC 13-04-02	Food Service: Menu, Nutrition and Special Diets
LLCC 13-05-02	Medical Screening of Food Handlers
LLCC 13-06-01	Food Service: Inspections and Sanitation
LLCC 13-07-01	Food Service: Purchasing, Storage and Farm Products
LLCC 13-08-01	OJT Food Service Training Placement (Added 3/13/87)
LLCC 14-01-01	Sanitation, Living Condition Standards, and Cloting Issue
LLCC 14-05-01	Institutional Inspections
LLCC 15-01-01	Health Maintenance Services; Sick Call and Pill Call
LLCC 15-02-01	Mental Health/Psychological Services
LLCC 15-03-01	Pharmacy

LLCC 15-03-02	Use of Psychotropic Medications
LLCC 15-04-01	Dental Services
LLCC 15-05-02	Licensure and Training Standards
LLCC 15-06-02	Specialized Health Services
LLCC 15-06-03	Emergency Medical/Dental Care Services
LLCC 15-06-04	First Aid/CPR Training Program
LLCC 15-06-05	Suicide Prevention and Intervention Program
LLCC 15-07-01	Health Records
LLCC 15-08-01	Special Diets
LLCC 15-12-01	Special Needs Unit
LLCC 15-14-01	Informed Consent
LLCC 15-15-01	Medical Restraints
LLCC 15-16-01	Health Education/Special Health Programs
LLCC 16-01-01	Inmate Rights and Responsibilities
LLCC 16-02-01	Inmate Grievance Procedure
LLCC 16-03-01	Inmate Legal Services
LLCC 17-01-01	Due Process/Disciplinary Procedure
LLCC 18-01-01	Inmate Correspondence
LLCC 18-01-02	Issuance of Legal Mail to Inmate Population
LLCC 18-02-01	Inmate Visiting
LLCC 18-02-03	Extended Visit and Furloughs
LLCC 18-02-04	Meritorious Visits (Amended 3/13/87)
LLCC 18-03-03	Inmate Visiting (DSU/ASU)
LLCC 20-01-01	Personal Property Control
LLCC 20-02-01	Authorized Inmate Personal Property
LLCC 20-03-01	Unauthorized Items
LLCC 20-04-02	Inmate Canteen
LLCC 20-05-01	Inmate Control of Personal Funds
LLCC 20-05-02	Storage and Disposition of Monies Received on Weekends, Holidays, and Between 4 p.m. and 8 a.m. Weekdays
LLCC 20-06-01	Procedure for Sending Appliances to Outside Dealers for Repair
LLCC 21-02-01	Classification/Security Levels
LLCC 21-03-01	Classification Process
LLCC 22-01-01	OJT/Job Assignments
LLCC 23-01-01	Academic School
LLCC 26-01-01	Religious Services
LLCC 28-01-01	Privileged Trips
LLCC 28-03-01	Temporary Release/Community Center Release
LLCC 28-04-01	Pre-Parole Progress Report
LLCC 28-04-02	Parole Eligibility Dates

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: March 13, 1987
FILED WITH LRC: March 13, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for April 23, 1987 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: 211 employees of the Luther Luckett Correctional Complex, 582 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 March 13 [February 9], 1987 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 (Amended 3/13/87)
NTC 02-02-02	Warden's Participation in the Agency Budgeting Process [(Added 2/9/87)]
NTC 02-03-01	Fiscal Management: Audits [(Amended 2/9/87)]

NTC 02-04-01	Internal Control and Monitoring of Accounting Procedures [(Added 2/9/87)]
NTC 02-08-01	Inmate Canteen
NTC 02-10-01	Insurance Coverage [(Added 2/9/87)]
NTC 02-12-01	Inmate Personal Accounts [(Amended 2/9/87)]
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
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
NTC 04-04-01	Firearms and Chemical Agents Training
NTC 06-01-01	Offender Records [(Amended 2/9/87)]
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 [(Amended 2/9/87)]
NTC 08-06-01	Safety Officer
NTC 10-01-01	Special Management Inmates
NTC 10-01-02	Legal Aide Visits for Special Management Inmates
NTC 10-02-01	Security Guidelines for Special Management Inmates
NTC 10-03-01	Protective Custody [(Added 2/9/87)]
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
NTC 12-02-01	Personal Hygiene for Inmates; Clothing and Linens [(Amended 2/9/87)]
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
NTC 13-02-01	Administration and Authority for Health Services
NTC 13-03-01	Sick Call and Pill Call
NTC 13-04-01	Pharmacy
NTC 13-05-01	Dental Services
NTC 13-06-01	Licensure and Training Standards
NTC 13-07-01	Provisions for Health Care Delivery
NTC 13-08-01	Medical and Dental Records
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
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
NTC 13-19-03	Suicide Prevention and Intervention Program
NTC 13-20-01	Infectious Disease
NTC 13-21-01	Vision Care/Optometry Services
NTC 13-22-01	Informed Consent
NTC 13-23-01	Special Needs Inmates
NTC 14-01-01	Legal Services Program
NTC 14-02-01	Inmate Grievance Procedure
NTC 14-03-01	Inmate Rights and Responsibilities
NTC 14-04-01	Inmate Search Policy
NTC 15-01-01	Restoration of Forfeited Good Time
NTC 15-02-01	Due Process/Disciplinary Procedures
NTC 15-02-02	Extra Duty Assignments
NTC 15-02-03	Hearing Officer
NTC 15-03-01	Rules for Inmates Assigned to Outside Detail
NTC 15-03-02	Rules and Regulations for Dormitories
NTC 15-04-01	Inmate Identification (Amended 3/13/87)
NTC 16-01-01	Mail Regulations [(Amended 2/9/87)]
NTC 16-02-01	Visiting
NTC 16-02-03	Honor Dorm Visiting
NTC 16-03-01	Inmate Furloughs
NTC 16-05-01	Telephone Use and Control (Amended 3/13/87)
NTC 17-01-01	Personal Property Control [(Amended 2/9/87)]
NTC 17-01-02	Authorized Inmate Personal Property [(Amended 2/9/87)]
NTC 17-01-03	Unauthorized Inmate Property [(Amended 2/9/87)]
NTC 17-01-04	Disposition of Unauthorized Property [(Amended 2/9/87)]
NTC 17-03-01	Assessment/Orientation
NTC 18-01-01	Pre-Parole Progress Report
NTC 18-02-01	Classification
NTC 18-02-02	Classification - 48 Hour Notification
NTC 18-03-01	Special Notice Form
NTC 18-05-01	Transfers of Inmates
NTC 18-05-02	Transfer of Inmates to Kentucky Correctional Psychiatric Center
NTC 19-01-01	Inmate Work Program
NTC 19-01-02	Restricted Outside Work Crew
NTC 19-01-03	Temporary Leave from Job Assignment
NTC 19-02-01	Correctional Industries
NTC 20-01-01	Academic School Program
NTC 21-01-01	Library Services
NTC 22-03-01	Conducting Inmate Organizational Meetings and Programs (Amended 3/13/87)
NTC 23-01-01	Religious Services
NTC 23-03-01	Marriage of Inmates
NTC 24-04-01	Honor Status [(Amended 2/9/87)]

NTC 24-05-01	Unit Management [(Amended 2/9/87)]
NTC 25-01-01	Release Preparation Program [(Amended 2/9/87)]
NTC 25-01-02	Temporary Release/Community Center Release [(Amended 2/9/87)]
NTC 25-01-03	Graduated Release (Added 3/13/87)
NTC 25-02-01	Funeral Trips and Bedside Visits [(Amended 2/9/87)]
NTC 25-03-01	Inmate Release Procedure [(Amended 2/9/87)]
NTC 26-01-01	Citizen Involvement and Volunteer Services Program (Added 3/13/87)
[NTC 26-01-02	Certification of Volunteers and Guests (Deleted 3/13/87)]

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: March 13, 1987
FILED WITH LRC: March 13, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for April 23, 1987 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: 234 employees of the Northpoint Training Center, 681 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 March 13 [February 9], 1987 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
FCDC 01-05-01	Duties and Responsibilites of FCDC Duty Officer [(Added 2/9/87)]
FCDC 02-09-01	Inmate Account Draw and Savings Deposit Transactions Between Inmates [(Added 2/9/87)]
FCDC 02-10-01	Fiscal Management and Control
FCDC 02-11-01	Fiscal Management: Accounting Procedures
FCDC 02-12-01	Fiscal Management: Checking Accounts
FCDC 02-13-01	Purchasing and Receiving
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
FCDC 11-01-01	Special Diets
FCDC 11-02-01	Menu Preparation [(Added 2/9/87)]
FCDC 11-03-01	Food Services
FCDC 12-03-01	Laundry, Clothing, Hygiene and Grooming Services
FCDC 12-04-01	Sanitation Practices and Inspections [(Added 2/9/87)]
FCDC 13-01-01	Use of Pharmaceutical Products
FCDC 13-01-02	Medical Emergencies
FCDC 13-01-03	Informed Consent
FCDC 13-02-01	Inmate Medical Screenings and Health Evaluations
FCDC 13-03-01	Psychiatric and Psychological Services
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 13-05-01	Family Notification: Serious Illness, Injury or Major Surgery (Added 3/13/87)
FCDC 13-06-01	Chronic and Convalescent Care

FCDC 13-08-01	Sick Call/Physician's Bi-Monthly Clinic
FCDC 13-09-01	Management of Serious and Infectious Diseases
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
FCDC 13-13-01	Physicians Referrals
FCDC 13-14-01	Health Records
FCDC 13-15-01	Routine and Emergency Dental Appointments
FCDC 13-16-01	Routine and Emergency Eye Examinations
FCDC 13-17-01	Inmate Death (Added 3/13/87)
FCDC 14-01-01	Prohibiting Inmate Authority Over Other Inmates
FCDC 14-02-01	Inmate Grievance System
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
FCDC 14-04-01	Legal Services Program
FCDC 15-01-01	Good Time - Credits [(Amended 2/9/87)]
FCDC 15-03-01	Conduct of Adjustment Committee Hearings (Chairperson)
FCDC 16-01-01	Inmate Visiting
FCDC 16-02-01	Mail Policy
FCDC 16-03-01	Inmate Access to Telephones
FCDC 17-01-01	Inmate Property Control
FCDC 17-02-01	Inmate Reception, Orientation, and Discharge
FCDC 18-01-01	Inmate Classification
FCDC 18-02-01	Reclassification Document
FCDC 18-03-01	Instructions for Six Month Review
FCDC 19-01-01	Security and Operation of the Governmental Services Program
FCDC 19-02-01	Inmate Work Program
FCDC 20-01-01	Academic and Vocational Education
FCDC 22-01-01	Privilege Trips
FCDC 22-01-02	Activity Trips
FCDC 22-02-01	Recreation and Inmate Activities
FCDC 23-01-01	Religious Activities
FCDC 24-01-01	Social Service Program
FCDC 24-02-01	Substance Abuse Programs
FCDC 25-01-01	Escorted Leaves
FCDC 25-02-01	Temporary Release/Community Center Program
FCDC 25-03-01	Release Preparation Program

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: March 13, 1987
FILED WITH LRC: March 13, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for April 23, 1987 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: 31 employees of the Frankfort Career Development Center, 73 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None. All of the costs involved with the implementation of the regulation are included in the operational budget.
2. Continuing costs or savings: Same as (2)(a)1.
3. Additional factors increasing or decreasing costs: Same as (2)(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None

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

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:120. Blackburn Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439
PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640
NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on March 13 [February 9], 1987 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 (Amended 3/13/87)

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 (Amended 3/13/87)
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 02-05-01	Property Inventory (Added 3/13/87)
BCC 02-06-01	Purchasing (Added 3/13/87)
BCC 02-07-01	Inmate Personal Accounts (Added 3/13/87)
BCC 04-02-01	Firearms Training [(Added 2/9/87)]
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	Offender Records
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 08-07-01	Facility Furnishings: Exit and Emergency Lights and Non-Combustible Containers (Added 3/13/87)
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 09-06-01	Transportation to Courts (Added 3/13/87)
BCC 09-07-01	Drug Abuse and Intoxicants Testing
BCC 09-09-01	Population Counts [(Added 2/9/87)]
BCC 09-12-01	Use of Physical Force; Prohibitation of Personal Abuse and Corporal Punishment [(Added 2/9/87)]
BCC 09-13-01	Perimeter Patrol (Added 3/13/87)
BCC 09-14-01	Prohibiting Inmate Authority Over Other Inmates (Added 3/13/87)
BCC 11-01-01	Menu and Special Diets
BCC 11-02-01	Food Service: Inspection and Sanitation [(Added 2/9/87)]
BCC 11-03-01	Food Service: Meals
BCC 11-04-01	Dining Room Guidelines
BCC 11-05-01	Food Service Security: Knife & Other Sharp Instrument/Utensil Control
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
BCC 13-03-01	Provisions of Health Care Delivery
BCC 13-04-01	Licensure and Training Standards
BCC 13-05-01	Medical Alert System
BCC 13-06-01	Health Care Practices
BCC 13-08-01	Inmate Health Screening and Evaluation
BCC 13-09-01	Prohibition on Medical Experimentation
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 14-05-01	Inmate Claims [(Added 2/9/87)]
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
BCC 16-01-01	Inmate Furloughs
BCC 16-02-01	Visiting
BCC 16-03-01	Mail Regulations - Packages
BCC 16-03-02	Outgoing Inmate Packages (Added 3/13/87)
BCC 20-01-01	Academic School
BCC 20-02-01	College Programs
BCC 20-04-01	Educational Program Evaluation [(Added 2/9/87)]
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: March 13, 1987
FILED WITH LRC: March 13, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for April 23, 1987 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: 79 employees of the Blackburn Correctional Complex, 345 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.

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

601 KAR 9:110. Supplemental highway user's tax; decal.

RELATES TO: KRS 138.655 to 138.725
PURSUANT TO: KRS 138.660, 138.661, 138.725
NECESSITY AND FUNCTION: KRS 138.660 requires that supplemental highway user's tax [to] be paid for all vehicles with a combined license weight in excess of 59,999 pounds which use Kentucky's public highways. This administrative regulation sets forth the administrative procedures to be followed in paying this tax and applying for the decal which serves as proof of payment of the tax.

Section 1. (1) All motor carriers, as defined by KRS 138.655(5), that operate, or cause to be operated, motor vehicles with a combined licensed weight in excess of 59,999 pounds upon the public highways of Kentucky, shall pay, or insure the payment of, the supplemental highway use tax imposed by KRS 138.660(4) in respect to each such vehicle; and, shall obtain for, and properly display on, each such vehicle an appropriate tax decal evidencing payment thereof, commensurate with the estimated mileage to be operated by each such vehicle in Kentucky.

(2) The term "combined licensed weight" shall have the meaning defined by KRS 138.655(14). The term "current registration period" as used in KRS 138.655(14), for purposes of the supplemental highway use tax imposed by KRS 138.660(4), shall mean the registration of the vehicle with the Department of Vehicle Regulation for the payment of the supplemental highway use tax imposed by KRS 138.660(4) for the period from February 1 of each year, beginning February 1, 1987, through January 31 of the succeeding year.

(3) Registration for the current registration period, and for the payment of the supplemental highway use tax shall be made on the forms prescribed and furnished by the Department of Vehicle Regulation. Each such application shall be completed in full, and shall be accompanied by payment in full at the time the application is filed.

(4) Payments for the supplemental highway use tax made by check, or money order, shall be payable to "Kentucky State Treasurer." Any applicant for payment of the supplemental highway use tax that does not hold an active KYU license in good standing at the time of application shall remit the tax amount due by cash, certified check, cashiers check or money order. The department may require those holding an active KYU license to make supplemental highway use tax payment by cash, certified check, cashiers check or money order. All supplemental highway use tax payments shall be in United States dollars.

(5) No decal issued by the department evidencing payment of the supplemental highway use tax imposed by KRS 138.660(4) shall be sold, assigned, leased, or otherwise bartered. Notwithstanding, such a decal which has been properly affixed to a motor vehicle shall remain with said vehicle, and shall remain valid upon a transfer of ownership of the vehicle for the remaining of the supplemental highway use tax year.

(6) In the event that the motor vehicle, for which a decal has been issued by the department evidencing payment of the supplemental highway use tax imposed by KRS 138.660(4), becomes destroyed, stolen, or disabled, within thirty (30) days next subsequent to the application for such decal, such unused decal may be returned to the department and the application therefor withdrawn. The withdrawal request must be accompanied by a properly executed affidavit of the taxpayer setting forth the circumstances and reasons why the application should be withdrawn. If such conditions are met, the decal payment may be returned to the applicant.

(7) However, in those circumstances where a decal has been rendered unusable due to theft, vandalism or accidental destruction of the decal, the Division of Motor Carriers may issue a replacement decal. A request for a replacement decal must be made in writing to the Division of Motor Carriers setting forth the circumstances giving rise to the request. Such request must be accompanied by appropriate documentation substantiating the claim. Such documentation may be in the form of the return of the unusable decal; return of portions of the unusable decal which must include the entire decal number or the entire alpha prefix of the decal; or in circumstances where the decal has been stolen or vandalized the carrier shall attach a copy of the police report.

(8) [(7)] Motor vehicle equipment lessors, whose motor vehicles are subject to the supplemental highway use tax imposed by KRS 138.660(4), may pay such taxes due thereupon, and obtain the decals evidencing such tax payment, in respect to the motor vehicles leased by them.

(9) [(8)] On or before July 31 of each year following the tax year of the supplemental highway use tax imposed by KRS 138.660(4), every liable supplemental highway use taxpayer shall file with the department, on forms prescribed and furnished by the department, a supplemental highway use tax report covering only those vehicles which were operated by the taxpayer during the preceeding supplemental highway use tax year, and which have exceeded the estimated mileages for such vehicles during that period. The additional supplemental highway use taxes due shall be paid in full with such tax report.

Section 2. (1) Payment of the supplemental highway use tax imposed by KRS 138.660(4) shall be evidenced by the issuance of an appropriate tax decal by the department to the taxpayer. The tax imposed by KRS 138.660(4) shall be assessed on a per vehicle basis and shall require only one (1) properly displayed decal per vehicle per year.

(2) It shall be the responsibility of the motor carrier, as defined by KRS 138.655(5) under whose KYU license the vehicle is operated on the public highways in Kentucky, to insure that all vehicles operating on its behalf have

been currently and properly covered by the applicable supplemental highway use tax payment, and that all such vehicles have properly displayed thereon the decal evidencing such tax payments.

(3) Such decal shall be affixed to, and displayed upon, only vehicles of the mileage tax class for which it was issued. The mileage class of a motor vehicle shall consist of the estimated mileage that it will operate upon the public highways to Kentucky from February 1 of each year through the succeeding January 31 of the following year as hereinafter set forth:

VEHICLE CLASS	TAX YEAR MILEAGES
Class A	0 mi. to 9,999 mi.
Class B	10,000 mi. to 19,999 mi.
Class C	20,000 mi. to 29,999 mi.
Class D	30,000 mi. to 39,999 mi.
Class E	40,000 mi. to unlim. mi.

(4) The supplemental highway use tax decal must be permanently affixed, by means of the decal adhesive, to the interior of the vehicle windshield, near the bottom, no more that six (6) inches from the center of the windshield.

Section 3. This administrative regulation shall have an effective date of January 1, 1987.

C. LESLIE DAWSON, Secretary
JOHN K. PENROD, Commissioner
APPROVED BY AGENCY: March 6, 1987
FILED WITH LRC: March 6, 1987 at 2 p.m.
PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this proposed administrative regulation on April 27, 1987 at 9:30 a.m., local prevailing time. The hearing will be held in the fourth floor hearing room of the State Office Building located at the corner of High and Clinton Streets in Frankfort, Kentucky. Any person who intends to attend this hearing must by April 22, 1987, in writing, so notify: Sandra G. Pullen, Transportation Cabinet, 1003 State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen
(1) Type and number of entities affected: Up to 1,000 truck owners.
(a) Direct and indirect costs or savings to those affected:
1. First year: Up to $150,000 savings.
2. Continuing costs or savings: Up to $150,000 savings.
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Justification for replacement decal must be submitted with the request.
(2) Effects on the promulgating administrative body: Processing time to evaluate each request for a replacement decal.
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not issuing replacement decals was originally considered. However, windshields on trucks are particularly vulnerable and many decals have already been destroyed.
(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 applicants for a replacement decal should be required to supply justification as to why it should be issued.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Local Services
(Proposed Amendment)

702 KAR 1:005. Textbook program plan.

RELATES TO: KRS 156.400 to 156.476, 157.100 to 157.190
PURSUANT TO: KRS 156.410, 156.437, 156.447, 156.474, 156.476, 157.100, 157.110, 157.120, 157.130, 157.140, 157.150, 157.160
NECESSITY AND FUNCTION: KRS 156.400 to 156.476 sets up the Kentucky Textbook Commission and the statutory policies and procedures for the adoption, purchase, use and distribution of textbooks to be utilized in the schools of the Commonwealth. KRS 157.100 to 157.190 require that the Department of Education purchase textbooks for certain grades and set up management procedures for the textbook program. This regulation establishes the standards and procedures which are necessary to carry out such statutory requirements dealing with textbooks.

Section 1. The subjects included in the "Program of Studies for Kentucky Schools" shall be arranged into six (6) groups as follows: Group I--Social Studies K-12; Group II--Language Arts K-12 (except Reading K-8 and Literature K-12); Group III--Science K-12; Group IV--Mathematics K-12; Group V--Reading K-8, Music K-12, Industrial Arts 7-12, Business Education 7-12, (except Introduction to Computers 9-11, Data Processing I 11-12, Data Processing II 12, Word Processing I 11-12, and Word Processing II 12), Vocational Education 7-12, (except Air Conditioning 10-12, Auto Body Repair 10-12, Auto Mechanics 10-12, Electricity 10-12, Electronics 10-12, Machine Shop 10-12, and Radio/TV Repair 10-12), and Trades and Industry 11-12; and Group VI--Literature K-12, Art Education K-12, Foreign Language 3-12, Driver Education 9-12, and Health and Physical Education K-12.

Section 2. (1) The Division of Textbook Services shall requisition and publishers submitting bids shall ship adequate textbook samples to the Division of Textbook Services and individual State Textbook Commission members, reviewers, and curriculum committees during the selection and adoption process. All available textbook samples, program descriptions, list of

gratis items for districts adopting or purchasing books, and other pertinent bid information shall be provided before the bid opening. Samples and information not available at bid opening shall be shipped to the Division of Textbook Services, commission members, reviewers and curriculum committees as soon as possible and not later than the date of the commission hearing held under Section 3 of this regulation.

(2) When the selection process has been completed and the individual commission members, reviewers and curriculum committees have no further need for samples in their possession, such shall be disposed of in the following manner:

(a) Reclaimed by publishers;

(b) Transferred to local school districts, institutions of higher education, or other appropriate agencies; or

(c) Sold by the State Board of Education. All sales and transfers shall be properly receipted and filed in the Division of Textbook Services. Official adoption samples, however, must be disposed of in accordance with KRS 156.470.

Section 3. (1) Each adoption year before the September listing, the State Textbook Commission shall conduct a hearing for the purpose of interviewing publisher agents and representatives and providing an opportunity for agents and representatives to make presentations on textbooks submitted for listing.

(2) The commission shall hear any person or organization that may have complaints or concerns about a textbook being considered for listing at the publisher hearing or the September listing.

(3) Parties desiring to be heard shall file with the Secretary of the State Textbook Commission a request two (2) weeks prior to either meeting to assure a place on the agenda. The request need not be in any prescribed form but must clearly state:

(a) Name and address of the person or organization requesting the hearing;

(b) Title, author and copyright date of the textbook in question;

(c) Sections of the textbook being questioned and nature of concern;

(d) Anticipated problems that would be created if the textbook is placed in use; and

(e) Suggested alternatives.

(4) A reasonable amount of time shall be assigned to the agenda for the hearing and one (1) spokesperson shall represent a group or organization.

(5) The commission's position and/or action shall be forwarded to the concerned parties after the September listing has been concluded.

Section 4. (1) The Kentucky State Textbook Commission has the right to inquire into and ascertain if any publisher has violated this regulation or the Kentucky Revised Statutes; or if the publisher has used undue influence or unethical tactics to secure bids or to assure local adoption. Undue influence or unethical tactics shall include, but not necessarily be limited to, unsolicited contact by agents and representatives of individual publishers with members of the State Textbook Commission and the buying for or giving to State Textbook Commission members and local district selection committee members meals, gifts, trips, or entertainment to assure the listing, adoption, and purchase of their textbooks. If there is sufficient evidence that publishers are guilty of any of the aforementioned, they shall be called before the State Textbook Commission to determine if violations did occur and what course of action should be taken.

(2) Publishers proposing to give local districts free-of-charge items, including but not limited to kits, duplicating masters, workbooks, and extra textbooks, if said district would adopt and purchase their textbooks, shall file a list of gratis items as an official part of their bid.

(3) In addition to textbook sampling required under KRS 156.440, publishers may sample gratis items to local districts for use in the adoption process. Gratis sampling shall be minimal and not be done in a manner to assure the adoption and purchase of a publisher's textbooks.

(4) The State Textbook Commission shall have the right to refuse to execute or to cancel a publisher contract upon discovery that said publisher has violated any part of this regulation or does not have the ability to perform all the terms and conditions of the contract.

(5) All bidders for textbook contracts shall file with the Division of Textbook Services the name of a Kentucky person, firm, or corporation upon whom process may be served. The name of the process agent, together with such other information concerning said agent, shall be made available to the proper authorities for the purpose of serving process.

Section 5. Publishers and local school districts may agree to pilot new textbook programs for one (1) school year on a selective and controlled basis to determine the effectiveness of a particular textbook program. Piloting shall not be conducted during the adoption year (July-April) for a subject being considered for adoption by the local districts. The Superintendent of Public Instruction shall approve all piloting programs. The local school district superintendent shall file the request for approval with the Superintendent of Public Instruction. The request need not be in any prescribed form but shall clearly state:

(1) The publisher that will conduct the pilot;

(2) The purpose of the pilot;

(3) The subject and grade levels in which the pilot will be conducted;

(4) The schools where the pilot will be conducted;

(5) The name of the school district staff member supervising the pilot;

(6) Beginning and ending date of pilot;

(7) Brief summary of evaluation procedures.

Section 6. Any school administrator or teacher that receives directly or indirectly any gift, reward, or promise of a reward for his influence in reviewing and selecting textbooks shall be subject to the penalties of KRS 156.480.

Section 7. (1) The "Manufacturing Standards and Specifications for Textbooks," developed and approved by the National Association of State Textbook Administrators, in consultation with the Association of American Publishers and the Book Manufacturers' Institute, as revised February, 1982, shall apply to all textbooks submitted for adoption in Kentucky. Said edition

is incorporated by reference and is on file in and can be obtained from the Division of Textbook Services.

(2) Publishers who have filed an old copyright with the official bid on or before July 15 may substitute the revised edition at the commission hearing. Publishers may submit a galley proof, incomplete book, or statement of intent with the official bid; however, the book shall be complete and on file with the State Textbook Commission on or before the date of the commission hearing. Ancillary materials, including workbooks and teacher editions, shall be completed on or before the July 1 contract date.

Section 8. Defective binding, workmanship or material shall be reported as soon as detected. Publishers shall be held responsible for all defective textbooks. Textbooks that show manufacturing defects in the first or second year of use shall be replaced by the publisher on a one-for-one basis. After the first two (2) years of use, replacement agreement must be reached with the publishers. School districts shall start the replacement process as soon as it has been determined that textbooks are defective.

Section 9. (1) Request to substitute revised editions of textbooks under contract shall be considered at the regular meetings of the State Textbook Commission to be held on or before May 1 and on or before September 20.

(2) Substitutions shall not be permitted for textbooks to be used the last year of a contract.

(3) The publisher shall agree to supply either the listed or the substituted textbook in accordance with local school district's request.

(4) The revised edition shall be at the same price at which the book is bid and sold elsewhere in the United States at the date of the substitution approval and the content shall be compatible for use with the old edition.

(5) The physical materials and workmanship of the revised edition shall be of equal or better quality than the older edition.

(6) Ancillary materials for a substituted textbook or program shall be available at the time the publisher submits substitution request.

(7) Publishers shall provide thirty (30) days prior to date of the commission meeting a sample textbook and a summary description of the revised edition that compares it with the textbook and/or program presently on the State Multiple List.

Section 10. (1) Multi-volume textbook programs for a single subject or a series for more than one (1) grade level is defined as two (2) or more books initially planned, written, designed, bound, sequential and identifiable as one (1) program.

(2) A district may implement curriculum programs in grades kindergarten through twelve (12) through the purchase of adopted textbooks from one (1), two (2), or three (3) textbook programs for grades kindergarten through eight (8) and up to ten (10) programs for grades nine (9) through twelve (12).

(3) A reading program from one (1) publisher shall consist of a basic reading program of readiness, preprimers, primers, and readers for grades kindergarten through six (6) or kindergarten through eight (8).

Section 11. (1) The wholesale and exchange prices in Kentucky shall not exceed the lowest wholesale and exchange prices at which textbooks are to be bid and sold elsewhere in the United States for the same adoption period. If reductions in prices are made elsewhere in the United States on the same textbooks being sold in Kentucky, publishers shall lower the price in Kentucky.

(2) The retail price to be used in Kentucky shall not be more than twenty (20) percent in excess of the publisher wholesale price.

(3) The publisher contract shall state that upon settlement, the lowest exchange price, except on consumable textbooks, is the price to be paid for textbooks by the state to publishers who during the term of the contract give in exchange an old textbook of corresponding kind and grade, and may be of a different series to that provided for in the contract.

Section 12. (1) Local school districts are hereby authorized, for elementary school use, to use up to thirty (30) percent of the elementary school textbook funds for the optional purchase of supplementary textbooks, print and non-print media materials and audio-visual equipment other than those selected by the State Textbook Commission. Optional textbook funds may be used to purchase basal textbooks or instructional materials to be used in lieu of a basal textbook for the following:

(a) Courses and programs appearing in the "Program of Studies for Kentucky Schools, Grades K-12" for which textbooks are not listed on the State Multiple List;

(b) Courses and programs appearing in the "Program of Studies for Kentucky Schools, Grades K-12" that have organizational patterns and teaching methodology that require a variety of instructional materials;

(c) Kindergarten programs;

(d) Special education classes; and

(e) Courses and programs requiring State Board of Education annual approval.

Basal programs for the aforementioned courses and basal textbooks for all other subjects in the State Board of Education approved "Program of Studies for Kentucky Schools, Grades K-12" shall be purchased before optional textbook funds are used to purchase supplementary materials.

(2) The following materials are eligible to be purchased with optional textbook funds:

(a) Pre-printed organized materials including reference books, pamphlets, magazines, weekly readers, workbooks, worktexts, textbooks not on the State Multiple List, kits, master units, programmed instructional materials, and similar qualifying materials.

(b) Pre-processed organized audio-visual materials including films, film loops, tapes, slides, filmstrips, recordings, graphic materials, transparencies, globes, maps, charts, art objects, and similar qualifying materials.

(c) Pre-printed or pre-processed programs including kits and materials being used in lieu of textbooks for particular curriculum areas.

(d) Minor audio-visual equipment needed to utilize the audio-visual materials being purchased with optional funds.

(3) The following materials are not eligible to be purchased with optional funds:

(a) Rebinding, equipment other than minor audio-visual, furniture, personnel services,

teachers' guides and manuals, testing programs, library books, supplies and materials consumed in initial use and raw and/or blank materials.

(b) Major audio-visual installations such as public address systems, sound laboratories for language, computers, and televisions (including receiving sets and related equipment).

(4) School districts with special instructional material needs may exceed the designated optional portion of their textbook funds by making written application to the Division of Textbook Services. Annual approval must be obtained before funds are obligated if there is a need to exceed the designated thirty (30) percent option. The application signed by the district superintendent shall include a detailed description stating name of the program or course, rationale for the program, and percent of funds requested.

(5) After acquisition of eligible supplementary textbooks, materials, and equipment and payment of invoices, a request for reimbursement shall be submitted to the Division of Textbook Services on Form FT-21 before March 1. All claims submitted for the purchase of instructional materials for enrichment programs and programs not listed in the "Program of Studies for Kentucky Schools, Grades K-12" must include a copy of the State Board of Education approval of the program and instructional materials to be used.

(6) Regulations relating to the purchase of media materials, audio-visual equipment and all other instructional materials and supplies by local school districts shall contain the following requirements:

(a) Items to be purchased should be identified as consumable or non-consumable;

(b) Each local school district shall establish a per pupil allocation of funds to purchase equipment, materials and supplies, and of this allocation a portion shall be for consumable items and the remainder for non-consumable items;

(c) Local school districts may use all or a portion of student fees as part of the per pupil allocation of funds to purchase instructional equipment, materials and supplies;

(d) Each local school district shall survey teachers to determine their needs for instructional equipment, materials, and supplies. The local district board of education shall take into consideration the survey of teacher needs in the purchase of instructional equipment, materials, and supplies; and

(e) A financial report on allocations to and expenditures for instructional equipment, materials and supplies shall be prepared annually by the school district and shall be a public record.

Section 13. (1) The school districts shall make textbook adoptions for all the subjects in the six (6) adoption groups. The number of adopted textbooks, however, shall not exceed three (3) textbooks and/or programs per subject in any one (1) grade in grades kindergarten through eight (8) and ten (10) textbooks and/or programs per subject in any one (1) grade in grades nine (9) through twelve (12).

(2) School districts shall indicate their tentative first,
second and third choices in grades kindergarten through twelve (12). A summary of the choices shall be provided to the publisher for inventory purposes and shall in no way restrict purchases to any particular choice.

(3) Districts may purchase any or all adopted textbooks and/or programs in any number and combination based on identified pupil needs rather than grade level assignment.

Section 14. (1) Pupils in grades kindergarten through twelve (12) with impaired vision shall be considered eligible for the use of textbooks and materials in clear type of eighteen (18) to twenty-four (24) points upon certification by an eye specialist as follows:

(a) Pupils who cannot read more than 20/70 on a Standard Snellan Chart with the better eye after correction.

(b) Pupils with progressive eye difficulties, including those with progressive myopia, even though glasses may bring the vision nearly to normal, and pupils who suffer from noncommunicable diseases of the eye or diseases of the body that seriously affect the vision.

(2) Certification of pupils' visual impairment shall be made on forms supplied to local school districts by the Bureau of Education for Exceptional Children, Department of Education.

(3) Request for large print textbooks and material shall be directed to the Division of Materials and Curriculum.

(4) The local board of education shall assume responsibility for the care of textbooks and return them to the Resource Bank Distribution Center when no longer needed.

(5) Large print textbooks and materials purchased by the Division of Textbooks Services are not charged to the textbook account of the local school district.

Section 15. (1) The Division of Textbook Services shall prepare textbook budgets annually and allocate funds to local school districts, based upon the Kentucky General Assembly biennial appropriation, for the purpose of purchasing full basal textbook programs during the first year of each adoption and/or funding. After basal textbook needs have been met, surplus funds may be used to purchase supplementary materials.

(2) When allocating funds for the purchase of textbooks, the Division of Textbook Services shall use the pupil membership at the close of the first month of the current school year.

(3) A statement of elementary school funds allocated to each school district shall be mailed to the superintendent after March 1. The statement shall reflect the balances from the previous year, allotment for the ensuing year, sales and fines for the past year, and growth adjustments providing funds to purchase books for new pupils.

(4) School districts shall utilize their textbook allocation by March 1 of the year for which the funds were allocated.

Section 16. (1) Local school districts shall establish and maintain a textbook rental program for grades nine (9) through twelve (12) by renting to pupils all currently adopted, state-provided textbooks purchased prior to July 1, 1984, and purchasing and renting textbooks from each scheduled incoming adoption group beginning in 1984 with Adoption Group IV (Mathematics). This does not prohibit local districts from using local funds to provide a free textbook program.

(2) Local school districts not providing a

free textbook program for grades nine (9) through twelve (12) shall establish annually a textbook rental fee based on the cost of the adoption group scheduled for purchase and the cost of replenishments. The maximum rental fee shall be based on four (4) dollars per two (2) semester course that requires the use of basal textbooks. Local school districts, at their option, may charge a deposit fee not to exceed two (2) dollars per two (2) semester course to be refunded if textbooks are returned in satisfactory condition. Textbook rental fees for pupils enrolled for less than a full school year shall be prorated based on the number of days of membership.

(3) The school district shall requisition textbooks from the State Multiple List for the grades nine (9) through twelve (12) rental program from the Division of Textbook Services. The Division of Textbook Services shall process the requisitions to the different publishers. The textbooks are to be shipped to the local school districts. Publishers shall invoice the local school districts.

(4) Local school districts shall establish and maintain one (1) centralized textbook rental program account subject to audit. All textbook rental monies shall be receipted to pupils and rental monies, requisitions, and payments to publishers shall be processed through the centralized account.

(5) School districts shall purchase a complete basal textbook program for grades nine (9) through twelve (12) the first year of each scheduled adoption for each subject in the adoption group for which basal textbooks are appropriate.

(6) The Division of Textbook Services shall provide local districts with requisition forms, an annual inventory report, and the information necessary for districts to maintain an efficient textbook rental program for grades nine (9) through twelve (12).

(7) All textbook statutes and regulations governing the textbook program for elementary and secondary schools not invalidated by the textbook rental program statutes and regulations shall be applicable to the textbook rental program for grades nine (9) through twelve (12).

Section 17. (1) The Division of Textbook Services shall provide Annual Report and requisition forms to all school districts. These forms shall be prepared in duplicate. The original copy shall be sent to the Division of Textbook Services and the second copy retained by the district. The Annual Report (FT-8) and requisition (FT-9) may be filed after March 1 and shall be filed by June 30.

(2) The Division of Textbook Services, upon receipt and approval of a requisition for textbooks from any school district, shall issue a local purchase order. A copy of the local purchase order shall be sent to the publisher, two (2) copies sent to the local district and two (2) copies retained by the Division of Textbook Services.

(3) All adopted textbooks purchased with state textbook funds shall be purchased through the office of the Division of Textbook Services.

(4) Publishers shall ship direct to local school districts by prepaid freight or United Parcel Service and issue invoices in triplicate to the Division of Textbook Services.

(5) Upon receipt of textbooks, the school district shall check items of shipment against the local purchase order (receiving report) and if all textbooks were received in satisfactory condition, certify this fact by mailing one (1) copy of the local purchase order (receiving report), dated and signed to the Division of Textbook Services. The Division of Textbook Services may then order payment.

(6) All textbooks shall be labeled as property of the Commonwealth of Kentucky. For economy in administration, the uniform label is affixed by the publishers in accordance with the "Manufacturing Standards and Specifications for Textbooks." School districts shall record the purchase date and the issue date on the uniform label.

(7) Textbook uniform labels shall not be completed until an examination of the shipment shows that it agrees in detail with the purchase order. A textbook with label completed is classified as a used textbook.

(8) A complete record shall be kept by the school district for all state-provided textbooks for grades kindergarten through eight (8) and all textbooks purchased with pupil rental fees for grades nine (9) through twelve (12) delivered to teachers or principals of the different schools. Form FT-5 or a comparable form shall be used. Form FT-5 will be furnished upon request in quantities equal to number of teachers or principals.

(9) When textbooks are issued, a requisition card shall be filled out in duplicate for each pupil. Form FT-6 or a comparable form shall be used. Form FT-6 will be furnished upon request in quantities equal to pupil membership.

Section 18. The Division of Textbook Services shall encourage and facilitate the transfer of surplus textbooks that may be in local school districts' textbook depositories. The Division of Textbook Services shall, at appropriate times during a school year, solicit from the districts a list of surplus textbooks and mail to all districts a master list of available textbooks. Districts that need textbooks on the master list will request the Division of Textbook Services to initiate a transfer. The district having possession of the surplus textbooks requested by a district shall ship the books and notify the Division of Textbook Services the number of books shipped and cost of transportation. Upon receipt of the books, the receiving district will notify the Division of Textbook Services. The Division of Textbook Services shall inter-account funds by transferring the cost of the textbooks and transportation cost from the receiving district to the shipping district's textbook account. The cost to the receiving district of all transferred textbooks shall be fifty (50) percent of the wholesale price plus transportation.

Section 19. Pupils or parents shall compensate school districts for textbooks lost, damaged, or destroyed while in their possession and the compensation shall be as follows: 100 percent of retail cost for one (1) and two (2) year old textbooks; seventy-five (75) percent of retail cost for three (3) and four (4) year old textbooks; and twenty-five (25) percent of retail cost for five (5) and six (6) year old textbooks.

Section 20. (1) Textbooks to be rebound shall

not qualify for publisher replacement under Section 8 hereof. Textbooks with five (5) or more years of use shall be rebound only in extreme cases of shortages and emergencies.

(2) Textbooks in need of rebinding shall be reported on Form FT-16 to the Division of Textbook Services with the Annual Report. After approval, the request is forwarded to the bindery under contract with the Commonwealth of Kentucky. The bindery shall pick up books or instruct the districts to ship the books collect. Rebound books shall be returned to the school district by the bindery with shipping charges prepaid. The bindery shall mail the invoice to the Division of Textbook Services for payment. Such payments shall not be charged to the textbook account of local school districts.

Section 21. (1) District superintendents shall make an accurate count of all state-provided textbooks for grades kindergarten through eight (8) and all textbooks purchased with pupil rental fees for grades nine (9) through twelve (12) under adoption that are suitable for classroom instruction and report same on the Annual Report (FT-8).

(2) The Division of Textbook Services shall file an annual exchange report with publishers identifying the titles and number of textbooks purchased to replace textbooks no longer suitable for classroom instruction. A claim requesting credit memorandums in the amount of the difference between the wholesale and exchange price for each textbook purchased shall be filed with publishers. The credit memorandums shall be used in payment of invoices for textbooks purchased from said publishers during the next purchase year. Publishers shall relinquish their claim for exchange textbooks if not claimed within a reasonable period of time after replacement.

(3) The local superintendent shall assume responsibility for the disposal of unclaimed textbooks no longer suitable for classroom instruction and may dispose of them in the following manner:

(a) Make the unclaimed textbooks available to teachers for use in grouping, reference, supplementary and other classroom activities.

(b) Make the unclaimed textbooks available to pupils within the district.

(c) Publicize in the local newspaper that unclaimed textbooks are available to individual residents of the local district. Unclaimed textbooks disposed of in this manner shall not be made available to used textbook dealers.

(d) Make the unclaimed textbooks available to civic organizations for the purpose of distribution to undeveloped countries.

(e) Make the unclaimed textbooks available to recycling operations.

(f) Destroy unclaimed textbooks in any manner that is practical and in the best interest of the state and local school district. Any funds from the sale of unclaimed textbooks shall be paid into the state treasury.

Section 22. (1) No child shall be denied full participation in any educational program due to an inability to purchase any and all necessary textbooks. Beginning with the 1986-87 school year, local school districts shall make available free textbooks to all children in grades nine (9) through twelve (12) who are unable to rent or purchase textbooks, using the guidelines for the free and reduced price lunch program. The parents of such children may be asked to contribute financially toward the rental and deposit cost of their children's textbooks the same percentage that they contribute financially toward the cost of their children's lunches.

(2) Local school districts shall adopt policies and procedures whereby, at the beginning of the school year, pupils or their parents are given written notice of the availability of, and guidelines and procedures for obtaining, free and reduced rental textbooks. Such policies and procedures shall also insure that the following occur:

(a) Any verbal or written communication with students or parents regarding payment of fees for textbooks shall include a statement that free or reduced rental textbooks will be made available to students in accordance with this section and a statement clearly explaining school procedures for obtaining such textbooks; and

(b) Any written communication regarding payment of fees for textbooks shall include a form that parents can use to request waiver or partial waiver of textbook fees.

(3) In exceptional circumstances, at the discretion of a local school district not providing free textbooks to all pupils, pupils who do not meet free or reduced price lunch guidelines may be provided free textbooks.

(4) Local districts shall keep records for documentation and compliance purposes, which shall be made available to the Department of Education upon said department's request. Such records shall include:

(a) The numbers of pupils in grades nine (9) through twelve (12) receiving free lunches and reduced price lunches;

(b) The number of pupils in grades nine (9) through twelve (12) who request or apply for, or whose parents request or apply for, free or reduced rental textbooks and the number of pupils receiving free or reduced rental textbooks.

(c) Copies of any forms, notices or instructions used by schools in the collection of textbook fees or the provision of free or reduced rental textbooks.

(5) In the provision of textbooks to indigent children, no child shall be discriminated against because of race, sex, color, national origin, age, or handicap and there shall be no overt identification of any such children.

Section 23. Every public school student shall have a textbook(s) or facsimile furnished free of charge, to the extent of state textbook funds available, for each subject studied in grades one (1) through eight (8), and, except for students otherwise partially or wholly exempted from the rental fee, shall have such textbook(s) available for the reasonable rental fee set forth in Section 16 of this regulation for each subject studied in grades nine (9) through twelve (12). Materials for kindergarten classes shall be purchased to comply with the minimum equipment and materials list of the state accreditation standards. The only exceptions to this regulation shall be health, physical education, music, and art textbooks, which may be purchased by the school district in classroom sets one (1) through twelve (12) and which may be available to be taken home by students for

further study. Vocational education textbooks may be purchased in reference sets, classroom sets, or individually as identified by content area in the guidelines for textbook adoption. All other exceptions necessitated by curriculum needs or organizational patterns must be approved by the Superintendent of Public Instruction.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: March 4, 1987
FILED WITH LRC: March 13, 1987 at noon
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, April 21, 1987 at 10 a.m. EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its March meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Thursday, April 16, 1987. 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: Crichton Comer
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements:
(2) Effects on the promulgating administrative body: 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: This gives regulatory weight to an ongoing process, so effect would be minimal. (KRS 156.437)
(4) Assessment of alternative methods; reasons why alternatives were rejected: None applicable.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: This simply gives regulatory weight to a process that the school districts were, by and large, adhering to. All effects are therefore minimal.
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: N/A
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: N/A
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Local Services
(Proposed Amendment)

702 KAR 5:140. Reimbursement for mid-day transportation of kindergarten pupils.

RELATES TO: KRS 157.370 [and House Concurrent Resolution No. 5 (1985 Extraordinary Session)]
PURSUANT TO: KRS 156.070, 157.320, 157.370
NECESSITY AND FUNCTION: KRS 157.370 sets forth the funding mechanism under the state Foundation Program for reimbursing school districts for transportation costs; and HCR No. 5 (1985 Extraordinary Session) first evidenced [evidences] an intent to appropriate additional funds for the mid-day transportation of kindergarten pupils enrolled in one-half (1/2) day programs. This regulation is necessary in order to establish the method and steps by which reimbursement from the pupil transportation allotment will be made to those districts which provide such transportation.

Section 1. The Superintendent of Public Instruction shall determine each district's mid-day kindergarten transportation tentative cost by applying the district's previous year [current] net kindergarten density to the previous year's county district transportation graph and multiplying one-half (1/2) of the resulting graph adjusted cost per pupil per day by the aggregate number of days attendance kindergarten pupils were [will be] transported one (1) mile or more to or from school at mid-day up to 175 days. A maximum graph adjusted cost per pupil per day will be established if the total tentative cost calculation for districts providing mid-day kindergarten transportation exceeds the budget appropriation, provided that no district shall receive more than the state average kindergarten graph adjusted cost per pupil per day.

Section 2. A district's [current] net kindergarten density shall be determined by dividing the district's net ADA for kindergarten pupils transported at mid-day one (1) mile or more to or from school by the number of square miles in the district's primarily served area. A district's primarily served area shall be determined as provided in 702 KAR 5:020, Sections 3 and 7.

Section 3. For the 1986-87 [1985-86] school year and programs in their initial year of operation therafter, the net ADA for a district's kindergarten pupils transported at mid-day shall be reported by the local superintendent for the first two (2) months of the then-current school year, and reimbursement shall be calculated in accordance therewith. Beginning with the 1987-88 school year, districts with established mid-day kindergarten transportation programs shall be calculated according to Section 4 of this regulation.

Section 4. The aggregate number of days a

district's kindergarten pupils are transported at mid-day shall be determined by multiplying the average daily attendance of those pupils for [the first two (2) months of] the previous [current] school year by the number of days pupils were transported [175 days].

Section 5. For the 1986-87 school year and beginning programs, thereafter, in the event a school district transports kindergarten pupils less than 175 days, the number of days less than 175 shall be multiplied by the net average daily attendance of transported kindergarten pupils and the resulting aggregate number of days shall be multiplied by the district's kindergarten graph adjusted cost per pupil per day to determine the amount to be deducted from the district's calculated tentative allotment. This adjustment shall be made in the final reimbursement payment to the district for mid-day kindergarten transportation.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: March 4, 1987
FILED WITH LRC: March 13, 1987 at noon
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, April 21, 1987 at 10 a.m. Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its March meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Thursday, April 16, 1987. 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: Wendell Bruce
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(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? Yes.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: N/A
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: N/A
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 3:292. Chapter 1, ECIA Migrant Plan.

RELATES TO: KRS 156.010, 156.035, 156.070
PURSUANT TO: KRS 156.035, 156.070
NECESSITY AND FUNCTION: In accordance with Section 435 of the General Education Provisions Act and Section 564 of the Education Consolidation and Improvement Act of 1981, the Department of Education, when applying to the U.S. Department of Education for participation in programs for migratory children under Chapter 1 of the Education Consolidation and Improvement Act of 1981, must submit an approvable plan and satisfactory assurances that all requirements of the law will be met. This regulation, through adoption of the migrant plan developed by the Department of Education, implements the State Board of Education's duties to develop education policy, to implement acts of Congress appropriating and apportioning funds to the state and to provide for the proper apportionment and disbursement of migratory children funds.

Section 1. The Chapter 1, ECIA Migrant Education Annual Program Plan for fiscal year ending September 30, 1988 [1987], such to become effective July 1, 1987 [1986], is presented herewith for filing with the Legislative Research Commission, and incorporated by reference. Copies of this plan may be obtained from the Division of Compensatory Education, 17th Floor, Capital Plaza Tower, Frankfort, Kentucky 40601.

Section 2. The Chapter 1, ECIA Migrant Plan for Fiscal Year 1987 [1986], ending September 30, 1987 [1986], which is filed herewith and incorporated by reference, shall remain in effect for all funds until July 1, 1987 [1986], and between July 1 and September 30, 1987 [1986], for all funds obligated or encumbered by June 30, 1987 [1986].

Section 3. Local educational agency program applications must be authorized by the local board of education prior to submission to the Kentucky Department of Education.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: March 4, 1987
FILED WITH LRC: March 13, 1987 at noon
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, April 21, 1987 at 10 a.m. Eastern Standard Time, in the State Board

Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its March meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Thursday, April 16, 1987. 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: Joanne Brooks
(1) Type and number of entities affected: 52 LEAs.
(a) Direct and indirect costs or savings to those affected:
1. First year: LEAs may claim indirect costs as per formula approved by the Kentucky Department of Education.
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: LEAs must file monthly financial reports.
(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: SEA file annual financial report to USDE.
(3) Assessment of anticipated effect on state and local revenues: SEA will generate approximately $21,000 for administration. The affected LEAs will generate approximately $2.1 million.
(4) Assessment of alternative methods; reasons why alternatives were rejected: There are no allowable alternatives.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:
(a) Necessity of proposed regulation if in conflict: 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. Tiering not possible under federal law providing these funds.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: State standards do not exceed 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: N/A

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 15:030. Experimental programs of teacher preparation.

RELATES TO: KRS 161.025, 161.030
PURSUANT TO: KRS 156.070, 156.160
NECESSITY AND FUNCTION: KRS 161.025 and 161.030 authorize the Kentucky Council on Teacher Education and Certification and the State Board of Education to establish the standards for teacher preparation programs. These agencies have determined that it is conceivable that the standards might be achieved by alternate types of programs that might be quite different from the standard prescribed curricula; consequently, this regulation establishes a process for the consideration of alternative proposals for teacher preparation.

Section 1. (1) Teacher education institutions are encouraged to develop and to conduct teacher preparation [experimental] programs that may be described as experimental, innovative, or [and to conduct] demonstration programs [relating to teacher preparation]; however, if the programs are different from the prescribed curricula a written proposal shall be submitted in advance to the State Board of Education [Superintendent of Public Instruction] for approval. Whenever a proposal contains significant variations from the usual prescribed curricula the institution shall present the proposal to the Superintendent of Public Instruction and to the Kentucky Council on Teacher Education and Certification for initial review and recommendation [approval].
(2) As a condition for approval, the proposed experimental, innovative, or demonstration program proposal shall include the rationale for the design of the program, a description of the deviation from the usual standards, and a plan of evaluation of the program and of the program graduates.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: March 4, 1987
FILED WITH LRC: March 13, 1987 at noon
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, April 21, 1987 at 10 a.m. Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its March meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Thursday, April 16, 1987. 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: Sidney Simandle
(1) Type and number of entities affected: Twenty-five teacher education institutions have the opportunity to become involved.
(a) Direct and indirect costs or savings to those affected: Cost will be variable according to the nature of the experimental program - a purely voluntary plan.

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: Any participating institution must file a written proposal for an experimental program with the Department of Education.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None; not applicable.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: When received from the participating institution, the proposed experimental program must be analyzed and evaluated by staff - a regular function.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: This is a regulation to enable teacher education institutions to propose alternative methods.
(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. This regulation revision is a part of the state teacher certification system which must be applied equally and with impartiality throughout the Commonwealth.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No related federal mandate.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 20:005. Kentucky standards for preparation-certification <u>of professional school personnel</u> program approval.

RELATES TO: KRS 161.020, 161.025, 161.030
PURSUANT TO: KRS 156.070, 161.030
NECESSITY AND FUNCTION: KRS 161.020 prohibits any person from holding the position of superintendent, principal, teacher, supervisor, director of pupil personnel, or other public school position for which certificates may be issued unless he holds a certificate of legal qualifications for the particular position; KRS 161.025 gives the Kentucky Council on Teacher Education and Certification the duty to develop and recommend policies and standards relating to teacher preparation and certification; and KRS 161.030 rests the certification of teachers and other school personnel and the approval of teacher-preparatory colleges and universities and their curricula with the State Board of Education. This regulation establishes the standards and procedures which are to be used for the approval of the various teacher preparation programs offered by the colleges and universities, and where applicable, these curriculum standards are consistent with the Program of Studies as incorporated in 704 KAR 3:304; and this regulation also establishes procedures and necessary justifications for future development of new preparation-certification programs.

Section 1. Pursuant to the statutory authority placed upon the Superintendent of Public Instruction, the State Board of Education, and the Kentucky Council on Teacher Education and Certification under KRS Chapter 161, there is hereby devised, created, and incorporated by reference the Kentucky Standards for the Preparation-Certification of Professional School Personnel, which shall include the standards and procedures for the approval of college and university curricula for the preparation programs.

Section 2. The Kentucky Standards for the Preparation-Certification of Professional School Personnel are hereby amended, and the amended document is hereby incorporated by reference and identified as the Kentucky Standards for the Preparation-Certification of Professional School Personnel, revised <u>March, 1987</u> [May, 1986]. A copy of this document can be obtained from the Office of Instruction, Department of Education, Capital Plaza Tower, Frankfort, Kentucky.

Section 3. Any proposal for the development by the Council on Teacher Education and certification of a program of preparation-certification for a new position shall be evaluated in writing by the office of the Superintendent of Public Instruction on the basis of the following criteria:
(1) There are compelling reasons for establishing a preparation-certification program. Alternate procedures for insuring professional competence for the position are either not feasible or are not appropriate. The liklihood of unsatisfactory practices represents too high a risk for noncertification alternatives.
(2) A distinctive and specific body of knowledge exists for the new position which is not likely to be attained without a specific preparation-certification plan. The body of knowledge is sufficiently extensive for a program of preparation - twelve (12) semester hours of credit or more - rather than something that can be earned in miscellaneous non-credit experiences.
(3) There are pupils having unique characteristics which require the teacher to have specialized knowledge and skills or there is a need for special services for which unique professional preparation is required.
(4) There is a sufficient demand for the

training for this position to warrant the development of preparation-certification programs at one (1) or more Kentucky teacher education institutions and for sustaining these programs over a period of several years.

(5) The preparation-certification requirement is cost effective in terms of the anticipated benefits to the local school district.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: March 4, 1987
FILED WITH LRC: March 13, 1987 at noon
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, April 21, 1987, at 10 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its March meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Thursday, April 16, 1987. 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: Sidney Simandle
(1) Type and number of entities affected: All 25 Kentucky teacher preparation institutions; all applicants and participants in such programs.
(a) Direct and indirect costs or savings to those affected: While proposed standards are more rigorous, overall costs should not be increased.
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 accreditation and program approval standards continue to require reports from participating institutions and on-campus evaluation of programs by the Department of Education.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: Full implementation will cost an additional $100,000 per year in personnel and expenses for non-paid personnel.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No change in current responsibilities to evaluate teacher preparation programs. Written program descriptions received from institutions must be analyzed and evaluated by staff.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternative is as good or as cost-effective.
(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. This regulation revision is a part of the state teacher certification system which must be applied equally and with impartiality throughout the Commonwealth.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No related federal mandate.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 20:065. Standard high school certificate.

RELATES TO: KRS 161.020, 161.025, 161.030
PURSUANT TO: KRS 156.070, 161.030
NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; futhermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

Section 1. (1) The standard high school certificate shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005.
[(2) Effective until December 31, 1984, the standard high school certificate shall be issued intitially for a duration period of ten (10) years except that when the curriculum requirements were completed more than ten (10) years prior to the date of certificate issuance the provisions of 704 KAR 20:050, Section 2, shall apply. The certificate shall be extended for life upon three (3) years of successful teaching experience performed under a regular teaching certificate and completed prior to the

expiration of the standard certificate. If the requirements for life extension have not been completed by the end of each ten (10) year period, the certificate may be renewed at the end of each ten (10) year period upon completion of two (2) years of successful teaching experience or upon six (6) semester hours of graduate credit for each of the years of required experience.]

(2) [(3) Effective January 1, 1985,] The standard high school certificate shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(3) [(4)] Except as hereinafter provided, the standard high school certificate shall be valid for teaching in grades seven (7) through twelve (12).

(4) [(5)] Effective September 1, 1989, the standard high school certificate valid for grades seven (7) through twelve (12) shall be issued only to applicants who have completed the requirements in this section and who also hold a [valid] Kentucky provisional high school certificate valid for grades seven (7) through twelve (12). Effective September 1, 1989, a new certificate renamed the standard certificate for teaching in the secondary grades 9-12 valid for teaching only in grades nine (9) through twelve (12) shall be issued to applicants who complete the requirements in this section and who also hold the Provisional Certificate for Teaching in the Secondary Grades nine (9) through twelve (12).

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: March 4, 1987
FILED WITH LRC: March 13, 1987 at noon
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, April 21, 1987, at 10 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its March meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Thursday, April 16, 1987. 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: Sidney Simandle
(1) Type and number of entities affected: Eleven institutions that offer advanced programs of preparation for high school teachers; 178 public school districts (and independent schools) that employ teachers; teacher applicants for the program.
(a) Direct and indirect costs or savings to those affected: None additional - institutions are expected to periodically revise programs as a regular and continuing function by developing new courses and dropping old ones.
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: Participating institutions must file written copies of the new curriculum revisions with the Department of Education.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: No appreciable difference - all programs must be revised periodically, and this evaluation expense is embedded in the regular budget.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: When received from the participating institutions, the new curriculum revisions must be analyzed and evaluated by staff - a regular staff function.
(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: 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. This regulation revision is a part of the state teacher certification system which must be applied equally and with impartiality throughout the Commonwealth.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No related federal mandate.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 20:085. Standard elementary certificate.

RELATES TO: KRS 161.020, 161.025, 161.030
PURSUANT TO: KRS 156.070, 161.030
NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate

certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

Section 1. (1) The standard elementary certificate shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005, TEC 26.0.

[(2) Effective until December 31, 1984, the standard elementary certificate shall be issued initially for a duration period of ten (10) years except that when the curriculum requirements were completed more than ten (10) years prior to the date of certificate issuance the provisions of 704 KAR 20:050, Section 2, shall apply. The certificate shall be extended for life upon three (3) years of successful teaching experience performed under a regular teaching certificate and completed prior to the expiration date of the standard certificate. If the requirements for life extension have not been completed by the end of the ten (10) year period, the certificate may be renewed at the end of each ten (10) year period upon completion of two (2) years of successful teaching experience or upon six (6) semester hours of graduate credit for each of the years of required experience.]

(2) [(3) Effective January 1, 1985,] The standard elementary certificate shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(3) [(4) Except as hereinafter provided,] The standard elementary certificate shall be valid for teaching in grades one (1) through eight (8).

(4) [(5)] Effective September 1, 1989, the standard elementary certificate shall be issued only to applicants who have completed the requirements in this section and who hold a valid Kentucky provisional elementary certificate.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: March 4, 1987
FILED WITH LRC: March 13, 1987 at noon
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, April 21, 1987 at 10 a.m. Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its March meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Thursday, April 16, 1987. 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: Sidney Simandle
(1) Type and number of entities affected: Eleven institutions that offer advanced programs of preparation for elementary school teachers; 178 public schools (and independent schools) that employ teachers; teacher applicants for the program.
(a) Direct and indirect costs or savings to those affected: None additional - institutions are expected to periodically revise programs as a regular and continuing function by developing new courses and dropping old ones.
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: Participating institutions must file written copies of the new curriculum revisions with the Department of Education.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: No appreciable difference - all programs must be revised periodically, and this evaluation expense is embedded in the regular budget.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: When received from the participating institutions, the new curriculum revisions must be analyzed and evaluated by staff - a regular staff function.
(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: 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. This regulation revision is a part of the state teacher certification system which must be applied equally and with impartiality throughout the Commonwealth.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No related federal mandate.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 20:100. Administrators and supervisors.

RELATES TO: KRS 161.020, 161.025, 161.030
PURSUANT TO: KRS 156.070, 161.030 [156.160]
NECESSITY AND FUNCTION: KRS 161.020, 161.025 and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes appropriate certificates for administration and supervision and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

Section 1. (1) The Professional Certificate for School Administration and Supervision shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation for one (1) of the school leadership positions--elementary school principal, middle school-junior high school principal, secondary school principal, supervisor of instruction, [director of pupil personnel] or school superintendent--at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

(2) The Professional Certificate for School Administration and Supervision shall be endorsed for the specific position for which the program of preparation has been completed. Once the certificate has been issued and endorsed for one (1) position it may be further endorsed for any of the other school leadership positions upon completion of the corresponding program of preparation. The Professional Certificate for School Administration and Supervision may also be endorsed to show other programs of preparation-certification for which the holder is qualified.

(3) As a prerequisite to the issuance of the Professional Certificate for School Administration and Supervision with an endorsement for the position of school superintendent the applicant shall have completed five (5) years successful school teaching and/or school administrative experience. As a prerequisite to the issuance of the certificate with an endorsement for any of the other school leadership positions the applicant shall have completed three (3) years of successful teaching experience.

(4) The duration of the Professional Certificate for School Administration and Supervision shall be for continuing service.

(5) Effective with the fall term of the 1988-89 academic year teacher education institutions shall not admit applicants to any of the preparation programs described in subsections (1), (2), (3), and (4) of this section; instead, applicants shall apply for admission to any one of the Professional Certificates for Instructional Leadership as described in these regulations. Persons admitted to any one of the preparation programs for the Professional Certificate for School Administration and Supervision must complete the program by September 1, 1992.

Section 2. (1) The Professional Certificate for School Administration and Supervision, endorsed for secondary school principal, may be endorsed for a one (1) year period for the position of elementary school principal upon completion of at least eight (8) semester hours graduate credit selected from the endorsement curriculum described in TEC 88.1, Section 2, Kentucky Standards for the Preparation-Certification of Professional School Personnel, and upon recommendation from the superintendent of the local district in which the applicant is to be employed as an elementary school principal. The endorsement may be extended for subsequent years upon completion of at least six (6) semester hours graduate credit annually until the total program has been completed.

(2) [Section 3.] The older type certificates which are still in force and valid for the position of secondary school principal may be endorsed for the position of elementary school principal in accordance with the same provisions outlined in subsection (1) of this section [Section 2 of this regulation].

(3) For the 1987-88 and 1988-89 school years any certificate currently in force and valid for high school principalship, grades 7-12, may be endorsed for school principal, grades 5-6, upon completion of the following graduate level coursework:

(a) Three (3) semester hours of study with emphasis on pupils in the age range encompassed by pupils in the middle grades, 5-8.

(b) Three (3) semester hours of credit in the middle grade school curriculum; and

(c) Three (3) semester hours of credit in the teaching of reading.

Section 3. [4.] Persons holding a valid certificate for principalship, supervision, or superintendency issued under the curricula in effect prior to September, 1970, shall not be required to hold a standard teaching certificate as a prerequisite to qualify for any of the administrative endorsements for the Professional Certificate for School Administration and Supervision.

Section 4. The provisions of Sections 1, 2, and 3 of this regulation shall expire on September 1, 1992. Persons engaged in any program of preparation described in Sections 1, 2, and 3 of this regulation must complete the preparation by that date or else become subject to the provisions related to the Professional Certificate for Instructional Leadership.

Section 5. (1) The Professional Certificate for School Administration and Supervision endorsed for Director of Pupil Personnel shall be issued in accordance with the pertinent

Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation for this position at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel, TEC 88.5.

(2) The Professional Certificate for School Administration and Supervision may also be endorsed to show other programs of preparation-certification for which the holder is qualified.

(3) As a prerequisite for the endorsement for Director of Pupil Personnel, the applicant shall have completed at least three (3) years of successful teaching experience.

(4) The duration of the Professional Certificate for School Administration and Supervision endorsed for Director of Pupil Personnel shall be for continuing service.

Section 6. [5.] In the event that a person holding continuing certification for the position of director of pupil personnel cannot be secured by the local board of education either locally or from a listing of available personnel supplied by the Department of Education, a one (1) year certificate for director of pupil personnel may be issued at the request of the local board of education to a person who holds a master's degree, a classroom teaching certificate, and has completed at least two (2) years of successful teaching experience.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: March 4, 1987
FILED WITH LRC: March 13, 1987 at noon
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, April 21, 1987 at 10 a.m. Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its March meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Thursday, April 16, 1987. 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: Sidney Simandle
(1) Type and number of entities affected: Ten institutions that offer one or more of the preparation programs for school administrators; 178 public school districts (and independent schools) that employ school administrators; and applicants for the program.
(a) Direct and indirect costs or savings to those affected: None - this regulation provides for phasing out old programs.
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: None
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Communicate the regulation change as a part of regular periodic notices of certification changes.
(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: 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. This regulation revision is a part of the state teacher certification system which must be applied equally and with impartiality throughout the Commonwealth.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No related federal mandate.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 20:125. Experimental program teachers.

RELATES TO: KRS 161.020, 161.025, 161.030
PURSUANT TO: KRS 156.070, 161.030 [156.160]
NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualification for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education. This regulation authorizes the Superintendent of Public Instruction to approve the assignment of selected high school teachers to certain experimental programs at the elementary school level.

Section 1. The Superintendent of Public Instruction may approve an experimental program in new patterns of organization or instruction in the elementary school in which experienced high school teachers may be assigned to serve at the elementary school level in the experimental program provided:
(1) The local school superintendent submits to the Office of Instruction before July 15 a

written proposal for the experimental program which shows the need for using successful high school personnel in the program.

(2) A commitment is made by the local school superintendent to submit a progress report at end of midterm (presumably by February 1) which includes an evaluation of the effectiveness of the teaching assignment.

(3) The proposal receives written approval by the head of the Office of Instruction prior to the opening of the school term.

Section 2. The qualifications of the high school teachers assigned to such experimental programs shall be ranked on the basis of their preparation and their high school certification.

Section 3. (1) The qualifications of teachers holding high school certificates valid for grades 7-12 who were approved by the Superintendent of Public Instruction under the authority of this regulation for teaching in approved middle schools during the school year 1986-87 may continue to be approved for teaching in approved middle schools, provided such teachers are assigned to teach in the specialization field shown on the teaching certificate as the teaching major, minor, or area of concentration.

(2) Beginning with the 1987-88 school year and thereafter, no new approvals for teaching in the middle schools will be made under this regulation; instead, high school teaching certificates may be endorsed for teaching the middle grades upon completion of the requirements as adopted by 704 KAR 20:078, TEC 31.0.

Section 4. (1) The qualifications of guidance counselors holding guidance counseling certification valid for grades 7-12 who were approved by the Superintendent of Public Instruction under the authority of this regulation for assignment as guidance counselors in approved middle schools during the school year 1986-87 may continue to be approved for the position of guidance counselor in approved middle schools.

(2) Beginning with the 1987-88 school year and thereafter, no new approvals for such assignments in middle schools will be made under this regulation; instead, guidance counselors holding certification valid for grades 7-12 may qualify for guidance counseling in grades 5-6 upon completion of the endorsement plan described in 704 KAR 20:130.

Section 5. (1) The qualifications of teachers holding the reading specialist endorsement grades 7-12 who were approved by the Superintendent of Public Instruction under the authority of this regulation for assignment as reading specialists in approved middle schools during the 1986-87 school year may continue to be approved for the position of reading specialist in approved middle schools.

(2) Beginning with the 1987-88 school year and thereafter, no new approvals for such assignments will be made under this regulation; instead, teachers holding the reading specialist endorsement grades 7-12 may qualify for reading specialist grades 5-6 upon completion of the plan described in 704 KAR 20:180, Section 1(3).

Section 6. (1) The qualifications of persons holding certification as school media librarians grades 7-12 who were approved by the Superintendent of Public Instruction under the authority of this regulation for assignements as school librarians in approved middle schools during the 1986-87 school year may continue to be approved for the position of school librarian in approved middle schools.

(2) Beginning with the 1987-88 school year and thereafter, no new approvals for such assignments will be made under this regulation; instead, persons holding certification for school librarian grades 7-12 shall qualify for serving in grades 1-12 by completing the appropriate requirements in 704 KAR 20:145, TEC 71.1 or in 704 KAR 20:140.

Section 7. (1) The qualifications of persons holding certification for high school principal grades 7-12 who were approved by the Superintendent of Public Instruction under the authority of this regulation for assignement as principals in approved middle schools during the school year 1986-87 may continue to be approved for the position of principal in approved middle schools.

(2) For the 1987-88 school year and thereafter, no new approvals for such assignment will be made under this regulation; instead, principalship certification grades 7-12 may be endorsed for grades 5-6 upon completion of the endorsement plan described in the regulations for the Professional Certificate for Instructional Leadership - Middle Grade Principal.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: March 4, 1987
FILED WITH LRC: March 13, 1987 at noon
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, April 21, 1987 at 10 a.m. Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its March meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Thursday, April 16, 1987. 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: Sidney Simandle
(1) Type and number of entities affected: 178 public school districts (and independent schools) that employ teachers; high school teachers who have had prior administrative approval for assignments in grades 5 and 6.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No appreciable difference; however, teachers involved must be identified by the employer.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None
1. First year:

2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Routine notices along with other changes in certification requirements.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: This provision for experimental program teachers is to allow alternative approaches.
(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: Proposal is a direct consequence of statutory changes relating to use of administrative policies.
TIERING: Was tiering applied? No. This regulation revision is a part of the state teacher certification system which must be applied equally and with impartiality throughout the Commonwealth.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No related federal mandate.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 20:130. Guidance counselors.

RELATES TO: KRS 161.020, 161.025, 161.030
PURSUANT TO: KRS 156.070, 161.030 [156.160]
NECESSITY AND FUNCTION: KRS 161.020, 161.025, 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the Council and approved by the State Board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards [State Plan] for the [Approval of] Preparation-Certification [Programs for the Certification] of Professional School Personnel.

Section 1. (1) An endorsement as provisional certification for the position of guidance counselor shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who holds certification as an elementary or secondary teacher and has completed at least one (1) year of full-time classroom teaching experience and who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards [State Plan] for the [Approval of] Preparation-Certification [Programs for the Certification] of Professional School Personnel, as adopted by 704 KAR 20:005.
(2)(a) The endorsement as provisional certification for the position of guidance counselor shall be valid for the same grade levels as the teaching certificate used as the base for the endorsement. Applicants using an elementary school certificate as the base shall follow the curriculum emphasis provided for the elementary level and applicants using a secondary teaching certificate as the base shall follow the curriculum emphasis provided for the secondary level as provided in the state standards [plan].
(b) Beginning with the 1987-88 school year and thereafter, an endorsement for serving as guidance counselor in grades seven (7) through twelve (12) may be extended to grades five (5) through twelve (12) upon completion of the following course work at the graduate level:
1. Three (3) semester hours of study related to human growth and development with emphasis on pupils in the age range encompassed by the middle grades, five (5) through eight (8); and
2. Three (3) semester hours of credit in the middle grade school curriculum.
(3) The endorsement as provisional certification for the position of guidance counselor shall have a duration period of five (5) years and may be renewed upon completion of a minimum of eight (8) semester hours of graduate credit every five (5) years selected from the program leading to the standard guidance certificate.

Section 2. (1) The standard guidance certificate shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed at least one (1) year of experience as a full-time guidance counselor with provisional certification as a guidance counselor and who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards [State Plan] for the [Approval of] Preparation-Certification [Programs for the Certification] of Professional School Personnel.
(2) The duration period for the standard guidance certificate shall be for continuing service.

Section 3. Certification for the position of guidance counselor issued prior to September 1, 1970, and based on preparation programs described under 42.380 of former regulations may

be renewed under the following provisions:

(1) Provisional certification issued initially for a period of ten (10) years may be renewed for each ten (10) year period on the basis of three (3) years experience as a guidance counselor.

(2) Provisional certification issued initially for a period of ten (10) years may be renewed for the next five (5) year period on three (3) years experience as a teacher or as a guidance counselor completed during the ten (10) years of initial issuance; for each five (5) year renewal period thereafter a minimum of eight (8) semester hours graduate credit shall be required, as selected from a program leading to the standard guidance certificate.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: March 4, 1987

FILED WITH LRC: March 13, 1987 at noon

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, April 21, 1987 at 10 a.m. Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its March meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Thursday, April 16, 1987. 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: Sidney Simandle

(1) Type and number of entities affected: Eight institutions that offer preparation-certification programs for the position of guidance counselors; 178 public school districts (and independent schools) that employ guidance counselors; and applicants for the program.

(a) Direct and indirect costs or savings to those affected: None additional - institutions are expected to periodically revise programs as a regular and continuing function by developing new courses and dropping old ones.

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: Participating institutions must file written copies of the new curriculum revisions with the Department of Education.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: No appreciable difference - all program must be revised periodically, and this evaluation expense is embedded in the regular budget.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: When received from the participating institutions, the new curriculum revisions must be analyzed and evaluated by staff - a regular staff function.

(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: 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. This regulation revision is a part of the state teacher certification system which must be applied equally and with impartiality throughout the Commonwealth.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No related federal mandate.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 20:180. Reading specialists.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 156.070, 161.030 [156.160]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the council and approved by the state board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards [State Plan] for the [Approval of] Preparation-Certification [Programs for the Certification] of Professional School Personnel.

Section 1. (1) The endorsement for reading specialist shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who holds a teaching certificate based upon the completion of a four (4) year program of preparation, who has completed at least three (3) years of successful classroom teaching experience which may include one (1) year of equivalent clinical experience, and who has

completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards [State Plan] for the [Approval of] Preparation-Certification [Programs for the Certification] of Professional School Personnel.

(2)(a) The endorsement for reading specialist shall be valid for the same teaching level as the teaching certificate used as a base for the endorsement and shall have the same duration period as the base certificate.

(b) Beginning with the 1987-88 school year and thereafter, an endorsement for serving as reading specialist in grades seven (7) through twelve (12) may be extended to grades five (5) through twelve (12) upon completion of the following course work at the graduate level:

1. Three (3) semester hours of study related to human growth and development with emphasis on pupils in the age range encompassed by the middle grades, five (5) through eight (8); and

2. Three (3) semester hours of credit in the middle grade school curriculum.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: March 4, 1987

FILED WITH LRC: March 13, 1987 at noon

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, April 21, 1987 at 10 a.m. Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its March meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Thursday, April 16, 1987. 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: Sidney Simandle

(1) Type and number of entities affected: Ten institutions that offer preparation-certification programs for the position of reading specialist; 178 public school districts (and independent schools) that employ reading specialists; and applicants for the program.

(a) Direct and indirect costs or savings to those affected: None additional - institutions are expected to periodically revise programs as a regular and continuing function by developing new courses and dropping old ones.

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: Participating institutions must file written copies of the new curriculum revisions with the Department of Education.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: No appreciable difference - all programs must be revised periodically, and this evaluation expense is embedded in the regular budget.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: When received from the participating institutions, the new curriculum revisions must be analyzed and evaluated by staff - a regular staff function.

(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: 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. This regulation revision is a part of the state teacher certification system which must be applied equally and with impartiality throughout the Commonwealth.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No related federal mandate.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Vocational Education
(Proposed Amendment)

705 KAR 1:010. Three year program plan.

RELATES TO: KRS 156.010, 156.035, 163.020, 163.030

PURSUANT TO: KRS 156.035, 156.070, 163.030

NECESSITY AND FUNCTION: KRS 156.010 designates the Department of Education as the sole state agency for developing and approving state plans required by federal law as prerequisites to receiving federal funds for vocational education; KRS 156.035 authorizes the State Board of Education to implement any act of Congress appropriating and apportioning funds to the state and to provide for the proper disbursement of such funds; KRS 163.020 accepts and agrees to comply with federal vocational education acts; and KRS 163.030 gives the State Board authority to comply with state and federal vocational education laws. The 1986-88 Kentucky Three Year Program Plan for Vocational Education is necessary in order to be eligible to receive federal funds under P.L. 98-524, and this regulation formally adopts such plan developed and approved by the Department of Education.

Section 1. Pursuant to the authority vested in the Kentucky State Board of Education, the

1986-88 Kentucky Three Year Program Plan for Vocational Education as adopted on March 4, 1987 [May 7, 1986] is hereby prepared and approved by the State Board of Education, in accordance with the appropriate federal guidelines, and submitted to the U.S. Secretary of Education for approval. This document is incorporated by reference and hereinafter shall be referred to as the 1986-88 Kentucky Three Year Program Plan for Vocational Education, as amended for 1987-88. Copies of the document may be obtained from the Office of Vocational Education, State Department of Education.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: March 4, 1987
FILED WITH LRC: March 13, 1987 at noon
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, April 21, 1987 at 10 a.m. Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its March meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Thursday, April 16, 1987. 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: Audrey T. Carr
(1) Type and number of entities affected: 173 local school districts, 14 vocational regions, 13 community colleges, 8 universities.
(a) Direct and indirect costs or savings to those affected: N/A
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements:
(2) Effects on the promulgating administrative body: N/A
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: Will meet regulations required to obtain federal grant.
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives available.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Yes.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The Carl D. Perkins Vocational Education Act of 1984 (P.L. 98-524) requires each state utilizing federal funds to have a three year plan and to submit amendments to it through the State Board of Education to the U.S. Department of Education.
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: No

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Vocational Rehabilitation
(Proposed Amendment)

706 KAR 1:010. Three-year plan for vocational rehabilitation services.

RELATES TO: KRS 156.010, 156.031, 163.140, 163.160
PURSUANT TO: KRS 163.140
NECESSITY AND FUNCTION: Section 101, Title I, P.L. 93-112, as amended, requires the submission of a three (3) year state plan for Vocational Rehabilitation Services to the Secretary, United States Department of Education. The plan must be approved in order for a state to be eligible for grants from the allotments of funds under Title I, P.L. 93-112, as amended by P.L. 93-516, P.L. 95-602, [and] P.L. 98-221, and P.L. 99-506 and this regulation adopts the pertinent state plan developed and approved by the Department of Education and sets forth rules governing the services, personnel, and administration of the Office of Vocational Rehabilitation.

Section 1. Pursuant to the authority vested in the Kentucky State Board of Education by KRS 163.140, the revised Kentucky State Plan for Vocational Rehabilitation Services for the period October 1, 1985 through September 30, 1988, as amended on March 4, 1987 [May 7, 1986], is presented herewith for filing with the Legislative Research Commission, and incorporated by reference. A copy of said plan can be obtained from the Office of Vocational Rehabilitation, Department of Education.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: March 4, 1987
FILED WITH LRC: March 6, 1987 at 3 p.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, April 21, 1987 at 10 a.m. Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its March meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Thursday, April 16, 1987. 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: Stewart Gatewood
(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No new requirements.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No new requirements.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected:
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: 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. Need for uniformity.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The federal mandate for the state/federal vocational rehabilitation program is P.L. 93-113, as amended, and 34 CFR parts 361.31 and 361.43. 34 CFR 361.31 establishes the basic conditions for eligibility for vocational rehabilitation services:
"The State Plan must assure that eligibility is based only upon:
1. The presence of a physical or mental disability which for the individual constitutes or results in a substantial handicap to employment; and
2. A reasonable expectation that vocational rehabilitation services may benefit the individual in terms of employability."
34 CFR 361.43 deals with conditions under which services to an individual may be deemed successful:
"(a) Minimum requirements. The State Plan must assure that an individual determined to be rehabilitated must have been, as a minimum:
(1) Determined to be eligible;
(2) Provided an evaluation of vocational rehabilitation potential, and counseling and guidance as essential vocational rehabilitation services;
(3) Provided appropriate and substantial vocational rehabilitation services in accordance with the written rehabilitation program developed under 361.40 and 361.41; and
(4) Determined to have achieved and maintained a suitable employment goal for 60 days."
In addition to these regulations from 34 CFR Part 361, the Federal Manual for Rehabilitation Services, section 1549, defines "substantial services" as services that have a significant and discernible impact on the employability of individuals served.
The definitions proposed in the 1987 State Plan amendment are intended to assure that eligibility, as determined by the Office of Vocational Rehabilitation, will be determined in a manner consistent with both 34 CFR 361.31 and 34 CFR 361.43. It is our belief that the two regulations, taken together, constitute evidence that Congress intended that individuals served be those persons with disabilities who are in need of professional rehabiliation services, without which they would be unlikely to be employable. The definitions are intended to provide staff of the agency with guidance in interpreting what is meant by such terms as "disability," "substantial handicap to employment," and "employability," which are used in the Act and the regulations, but are not defined by the federal government. Amendments passed in 1986 by the Congress allow for state-imposed requirements, and it is our intent to submit these definitions as a state-imposed requirement under Title I, Section 17 of the Rehabilitation Act.
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:

LABOR CABINET
Department of Workplace Standards
Kentucky Occupational Safety & Health
(Proposed Amendment)

803 KAR 2:020. Adoption of 29 CFR Part 1910.

RELATES TO: KRS Chapter 338
PURSUANT TO: KRS Chapter 338
NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to adopt by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1910.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1910 of the Code of Federal Regulations revised as of July 1, 1986 [1984], published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby adopted by reference with the following additions, exceptions, and deletions.
(1) 29 CFR Part 1910.1 shall read as follows:
"The provisions of this regulation adopt and extend the applicability of established federal standards contained in 29 CFR Part 1910 to all employers, employees, and places of employment throughout the Commonwealth except those excluded in KRS 338.021."
(2) 29 CFR Part 1910.2 shall read as follows:

As used in this part, unless the context clearly requires otherwise:

(a) "Act" means KRS Chapter 338.

(b) "Assistant Secretary of Labor" means the Secretary of Labor, Commonwealth of Kentucky.

(c) "Employer" means any entity for whom a person is employed except those employers excluded in KRS 338.021.

(d) "Employee" means any person employed except those employees excluded in KRS 338.021.

(e) "Standard" means a standard which requires conditions or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment. "Standard" has the same meaning as and includes the words "regulation" and "rule."

(f) "National Consensus Standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.

(g) "Established federal standard" means any operative occupational safety and health standard established by any agency of the United States Government.

(h) An employer, required under these standards to report information to the U.S. Department of Labor, or any subsidiary thereof, shall instead report such information to the Kentucky Labor Cabinet, U.S. 127 South, Frankfort, Kentucky 40601.

(3) 29 CFR 1910.19(f) "Special Provisions for Air Contaminants," is removed as published in the Federal Register, Volume 50, Number 240, December 13, 1985, is adopted by reference.

(4) 29 CFR 1910.20 "Access to employee exposure and medical records" is amended as follows:

(a) 29 CFR 1910.20(e)(1)(i) is amended to read "Whenever an employee or designated representative requests access to an exposure or medical record, the employer shall assure that access is provided in a reasonable time, place, and manner, but no longer than fifteen (15) days after the request for access is made unless sufficient reason is given why such a time is unreasonable or impractical."

(b) 29 CFR 1910.20(e)(1)(ii) is amended to read "Whenever an employee or designated representative requests a copy of a record, the employer shall, except as specified in (v) of this section, within the period of time previously specified assure that either:"

(c) 29 CFR 1910.20(e)(1)(v) is added and shall read "Original x-ray film will be made available to the employee and/or designated representative for inspection, review, and duplication under the supervision of the employer or his representative. The employer is not required to bear the cost of duplication of x-ray film."

(d) 29 CFR 1910.20(g)(1) is amended to read "Upon an employee's first entering into employment, and at least annually thereafter, each employer shall inform each employee exposed to toxic substances or harmful physical agents of the following:"

(e) 29 CFR 1910.20(g)(2) is amended to read "Each employer shall make readily available to employees any informational materials concerning this standard which are provided to the employer by the Assistant Secretary of Labor for Occupational Safety and Health."

(5) Subparagraph 29 CFR 1910.23(a)(7) shall be amended to read as follows: "Every temporary or permanent floor opening shall have standard railings, or shall be constantly attended by someone."

(6) Revision to 29 CFR 1910.68(e)(3), Manlifts, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is adopted by reference.

(7) 29 CFR 1910.95 "Hearing Conservation Program" is amended as follows:

(a) 29 CFR 1910.95(h)(1) shall read: Audiometric tests shall be pure tone, air conduction, hearing threshold examinations with test frequencies including as a minimum 500, 1,000, 2,000, 3,000, 4,000, and 6,000 Hz. Testing at 8,000 Hz must be included in the audiometric tests for employers using audiometers with that capacity and all audiometric tests must include 8,000 Hz after January 15, 1985.

(b) 29 CFR 1910.95(h)(4) shall read: Audiometric examinations shall be administered in a room meeting the requirements listed in Appendix D: Audiometric Test Rooms. When an audiometric test room is located in a mobile test van, background sound pressure level measurements shall be taken at each testing location.

(c) 29 CFR 1910.95(h)(5)(ii) shall read: Audiometer calibration shall be checked acoustically at least annually in accordance with Appendix E: Acoustic Calibration of Audiometers. Test frequencies below 500 Hz and above 8,000 Hz (6,000 Hz until January 15, 1985 for audiometers without 8,000 Hz capability) may be omitted from this check. Deviations of fifteen (15) decibels or greater require an exhaustive calibration.

(d) 29 CFR 1910.95(h)(5)(iii) shall read: An exhaustive calibration shall be performed at least every two (2) years in accordance with sections 4.1.2; 4.1.3; 4.1.4.3; 4.2; 4.4.1; 4.4.2; 4.4.3; and 4.5 of the American National Standard Specification for Audiometers, S3.6-1969. Test frequencies below 500 Hz and above 8,000 Hz (6,000 Hz until January 15, 1985 for audiometers without 8,000 Hz capability) may be omitted from this calibration.

(e) 29 CFR 1910.95(L)(1) shall read: The employer shall make available to affected employees or their representatives copies of this standard and shall also post a notice of the availability of this standard in the workplace.

(f) 29 CFR 1910.95(o) shall read: Paragraphs (c) through (n) of this section shall not apply to employers engaged in oil and gas well drilling and servicing operations, agriculture, or construction.

(g) 29 CFR 1910.95 Appendix E shall read: Acoustic Calibration of Audiometers.

This Appendix is Mandatory.

Audiometer calibration shall be checked acoustically, at least annually, according to the procedures described in this Appendix. The equipment necessary to perform these measurements is a sound level meter, octave-band filter set, and a National Bureau of Standards 9A coupler. In making these measurements, the accuracy of the calibrating equipment shall be sufficient to determine that the audiometer is within the tolerances permitted by American Standard Specification for Audiometers, S3.6-1969.

1. Sound Pressure Output Check.

a. Place the earphone coupler over the microphone of the sound level meter and place the earphone on the coupler.

b. Set the audiometer's hearing threshold level (HTL) dial to seventy (70) dB.

c. Measure the sound pressure level of the tones that each test frequency from 500 Hz through 8,000 Hz (6,000 Hz until January 15, 1985 for audiometers without 8,000 Hz capability) for each earphone.

d. At each frequency the readout on the sound level meter should correspond to the levels in Table E-1 or Table E-2, as appropriate, for the type of earphone, in the column entitled "sound level meter reading."

2. Linearity check.

a. With the earphone in place, set the frequency to 1,000 Hz and the HTL dial on the audiometer to seventy (70) dB.

b. Measure the sound levels in the coupler at each ten (10) dB decrement from seventy (70) dB to ten (10) dB, noting the sound level meter reading at each setting.

c. For each ten (10) dB decrement on the audiometer the sound level meter should indicate a corresponding ten (10) dB decrease.

d. This measurement may be made electrically with a voltmeter connected to the earphone terminals.

3. Tolerances.

When any of the measured sound levels deviate from the levels in Table E-1 or Table E-2 plus or minus three (3) dB at any test frequency between 500 and 3,000 Hz, four (4) dB at 4,000 Hz, or five (5) dB at 6,000 Hz and 8,000 Hz, an exhaustive calibration is advised. An exhaustive calibration is required if the deviations are greater than ten (10) dB at any test frequency.

TABLE E-1 - REFERENCE THRESHOLD LEVELS FOR TELEPHONICS-TDH-39 EARPHONES

Frequency, Hz	Reference threshold level for TDH-39 earphones, dB	Sound level meter reading dB
500	11.5	81.5
1000	7	77
2000	9	79
3000	10	80
4000	9.5	79.5
6000	15.5	85.5
8000	13.0	83.0

TABLE E-1 - REFERENCE THRESHOLD LEVELS FOR TELEPHONICS-TDH-39 EARPHONES

Frequency, Hz	Reference threshold level for TDH-49 earphones, dB	Sound level meter reading dB
500	13.5	83.5
1000	7.5	77.5
2000	11	81.0
3000	9.5	79.5
4000	10.5	80.5
6000	13.5	83.5
8000	13.0	83.0

(9) 29 CFR 1910.106 "Flammable and combustible liquids" is amended as follows: 29 CFR 1910.106(a)(3) shall read: "The term automotive service station, or service stations, shall mean that portion of property where flammable or combustible liquids used as motor fuel are stored and dispensed from fixed equipment and into the fuel tanks of motor vehicles and shall include any facilities available for the sale and servicing of tires, batteries, accessories and for minor automotive maintenance work and shall also include private stations not accessible or open to the public such as those used by commercial, industrial or governmental establishments. This section shall not apply to agriculture."

(10) 29 CFR 1910.106(g)(1)(i)(g), Flammable and Combustible Liquids as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is removed.

(11) 29 CFR 1910.134 is amended as follows:

(a) 29 CFR 1910.134(c) shall read: "Proper selection of respirators shall be made according to the guidance of American National Standard Practices for Respiratory Protection Z88.2 - 1980."

(b) 29 CFR 1910.134(d) the third sentence shall read: "Breathing air shall meet at least the requirements of the specification for Grade D breathing air as described in Compressed Gas Association Commodity Specification G-7.1 - 1973."

(c) 29 CFR 1910.134(g) shall read: Identification of Air-Purifying Respirator Canisters and Cartridges.

1. The primary means of identifying an air-purifying respirator canister or cartridge shall be by means of properly worded labels. The secondary means of identifying an air-purifying respirator canister or cartridge shall be by an identifying color or colors.

2. All who issue or use air-purifying respirators falling within the scope of this standard shall ensure that all canisters and cartridges purchased or used by them are properly labeled and colored in accordance with this standard before they are placed in service and that the labels and colors are properly maintained at all times thereafter until the canisters and cartridges have completely served their purpose. The user shall refer to the label wording to determine the type and degree of protection the canister or cartridge will afford.

3. On each air-purifying respirator canister and cartridge, the following shall appear in bold letters:

CANISTER FOR _____
(Name of atmospheric contaminant)

or

CARTRIDGE FOR _____
(Name of atmospheric contaminant)

In addition, either or both of subparagraphs a and b of this paragraph, and subparagraph (c) of this paragraph, shall appear beneath the appropriate phrase on the canister or cartridge label.

a. For respiratory protection in atmospheres containing not more than _____ by volume of
(Concentration)

_____
(Name of atmospheric contaminant)

b. For respiratory protection in atmospheres containing

_____
(Type of particulate contaminant)

c. Do not use in atmospheres containing less than nineteen and five-tenths (19.5) percent oxygen by volume at sea level.

4. Each respirator canister or cartridge, or canister or cartridge label, shall be a distinctive color as indicated in Table I-1. The color coating used shall offer a high degree of resistance to changes such as chipping, scaling, peeling, blistering, and fading, and to the effects of ordinary atmospheres to which they may be exposed under normal conditions of storage and use.

(d) 29 CFR 1910.134 Table I-1 shall read:

TABLE I-1
Color Assigned to Canister or Cartridge

Atmospheric Contaminant(s) to Be Protected Against	Color Assigned	ISCC-NBS Centroid Color Number	ISCC-NBS Centroid Color Name
Acid gases	White	263	White
Organic vapors	Black	267	Black
Ammonia gas	Green	139	Vivid green
Carbon monoxide gas	Blue	178	Strong blue
Acid gases and organic vapors	Yellow	82	Vivid yellow
Acid gases, ammonia, and organic vapors	Brown	75	Deep yellow brown
Acid gases, ammonia, carbon monoxide, and organic vapors	Red	11	Vivid red
Other vapors and gases not listed above	Olive	106	Light olive
Radioactive materials (except tritium and noble gases)	Purple	218	Strong purple
Dusts, fumes, and mists (other than radioactive materials)	Orange	48	Vivid orange

NOTES:

(1) A purple (ISCC-NBS Centroid Number 218) stripe shall be used to identify radioactive materials in combination with any vapor or gas.

(2) An orange (ISCC-NBS Centroid Number 48) stripe shall be used to identify dusts, fumes, and mists in combination with any vapor or gas.

(3) Where labels only are colored to conform with this table, the canister or cartridge body shall be gray (ISCC-NBS Centroid Number 265), or a metal canister or cartridge body may be left in its natural metallic color.

(4) The user shall refer to the wording of the label to determine the type and degree of protection the canister or cartridge will afford.

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(12) 29 CFR 1910.141(c)(2)(i) shall read as follows: "(1) Each water closet shall occupy a separate compartment with walls or partitions between fixtures sufficiently high to assure privacy."

(13) Amendment to 29 CFR 1910.145(f), Accident Prevention Tags, as published in Federal Register, Volume 51, Number 182, September 19, 1986, is adopted by reference.

(14) 29 CFR 1910.151 relating to medical services and first aid shall be changed to read as follows:

"(a) The employer shall ensure the ready availability of medical personnel for advice and consultation on matters of occupational health."

"(b) Employers with eight (8) or more employees within the establishment shall have persons adequately trained to render first aid and first-aid supplies approved by the consulting physician, along with a signed list of these supplies, shall be readily available. Outside salesmen, truck drivers, seasonal labor, and others who while performing their duties, are away from the premises more than fifty (50) percent of the time are not to be included in determining the number of employees."

"(c) All other employers shall, in the absence of an infirmary, clinic, or hospital in near proximity to the workplace which is used for the treatment of all injured employees, have a person or persons adequately trained to render first aid. First-aid supplies approved by the consulting physician shall be readily available."

"(d) Where the eyes or body of any person may be exposed to injurious corrosive materials, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use."

(15) 29 CFR 1910.156(a)(2) "Application" is amended to read: "The requirements of this section apply to fire brigades; industrial fire departments; private fire departments; and municipal public fire departments and fire protection districts. Personal protective equipment requirements apply to members of fire brigades and fire departments performing interior structural fire fighting. The requirements of this section do not apply to airport crash rescue, forest fire fighting operations, or volunteer fire fighters."

(16) Revision to 29 CFR 1910.157(f)(16), Portable Fire Extinguishers, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is adopted by reference.

(17) Revisions to 29 CFR 1910.179(j)(2)(iii) and (iv), Overhead and Gantry Cranes, as published in the Federal Register, Volume 51,

Number 188, September 29, 1986, are adopted by reference.

(18) Revision to 29 CFR 1910.179(m)(1), Overhead and Gantry Cranes, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is adopted by reference.

(19) Revision to 29 CFR 1910.180(d)(6), Crawler Locomotive and Truck Cranes, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is adopted by reference.

(20) Revisions to 29 CFR 1910.180(g)(1) and (2)(ii), Crawler and Locomotive Truck Cranes, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, are adopted by reference.

(21) Revisions to 29 CFR 1910.181(g)(1) and (3), Derricks, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, are adopted by reference.

(22) 29 CFR 1910.217(b)(7)(xii) relating to machines using part revolution clutches shall be amended by adding the following:

"This provision will not prevent the employer from utilizing a reversing means of the drive motor with the clutch-brake control in the 'inch' position."

(23) Revisions to 29 CFR 1910.217(e)(1)(i) and (ii), Mechanical Power Presses, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, are adopted by reference.

(24) Revisions to 29 CFR 1910.218(a)(2)(i) and (ii), Forging Machines, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, are adopted by reference.

(25) Amendments to 29 CFR 1910.243, "Guarding of Portable Powered Tools" as published in the Federal Register, Volume 50, Number 22, February 1, 1985 are adopted by reference.

(26) Subparagraph 29 CFR 1910.252(a)(6)(iv), (d)(2) shall be corrected to read as follows:

"Wiring and electrical equipment in compressor or booster pump rooms or enclosures shall conform to the provisions of section 1910.309(a) for Class I, Division 2 locations."

(27) Revision to 29 CFR 1910.252(c)(6), Welding, Cutting and Brazing, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is adopted by reference.

(28) Amendment to 29 CFR 1910.430(e)(1), Commercial Diving Equipment, as published in the Federal Register, Volume 51, Number 181, September 18, 1986, is adopted by reference.

(29) 29 CFR 1910.440(a)(1), Commercial Diving Recordkeeping Requirements, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is removed.

(30) 29 CFR 1910 Subpart T Appendix B "Commercial Diving Operations" as published in the Federal Register, Volume 50, Number 6, January 9 1985, is adopted by reference.

(31) 29 CFR 1910.1000, "Air Contaminants," Table Z-1 is amended as published in the Federal Register, Volume 50, Number 240, December 13, 1985, is adopted by reference.

(32) 29 CFR 1910.1001 "Asbestos" is amended as follows:

(a) Amendments as published in the Federal Register, Volume 51, Number 119, June 20, 1986, are adopted by reference.

(b) 29 CFR 1910.1001(d)(6)(ii) is amended to add: "The employer shall ensure that all sampling will be conducted in accordance with the ORM in Appendix A, before sampling commences."

(c) 29 CFR 1910.1001(d)(6)(iv) is amended to add: "The employer shall ensure that all analyses are performed in accordance with the elements outlined in Appendix A, and that all asbestos counters meet the criterion specified in Appendix A. This notice shall be given prior to the start of the analyses."

(d) 29 CFR 1910.1001(g)(3)(i) is amended to read: "Where respiratory protection is required, the employer shall institute a respirator program in accordance with American National Standards Practices for Respiratory Protection, ANSI Z88.2 - 1980, with the exception of Appendix A5, Suggested Procedures for Carrying Out Qualitative Respirator - Fitting Tests, and Appendix A6, Suggested Procedures for Carrying Out Quantitative Respirator - Fitting Tests."

(e) 29 CFR 1910.1001(j)(1)(ii) is amended to read: "Sign specifications. The warning signs required by paragraph (j)(1)(i) of the section shall be of a vertical format measuring twenty (20) inches in length and fourteen (14) inches in width, and shall be printed in letters of sufficient size and contrast as to be readily visible and legible, and shall bear the following information:"

(33) 29 CFR 1910.1005 4,4'-methylene bis (2-chloroaniline) and 29 CFR 1910.1003 through .1016 paragraphs (c)(6), Laboratory Activities, printed in the Federal Register, Volume 39, Number 125, June 27, 1974, are in effect.

(34) Paragraph 1910.1005(c)(7) of the 29 CFR 1910 General Industry Standards shall read as follows:

"Premixed Solutions: Where 4,4'-methylene bis (2-chloroaniline) is present only in a single solution at a temperature not exceeding 120 degrees Celsius, the establishment of a regulated area is not required; however, (i) only authorized employees shall be permitted to handle such materials."

(35) 29 CFR 1910.1025 "Occupational Exposure to Lead" shall be amended as follows: "Table 1 - Implementation Schedule" is amended to read:

(36) 29 CFR 1910.1029 "Coke Oven Emissions" shall be amended as follows: Revision as published in the Federal Register, Volume 50, Number 178, September 13, 1985 are adopted by reference.

(37) Corrections to 29 CFR 1910.1043, Cotton Dust as published in the Federal Register, Volume 51, Number 128, July 3, 1986, are adopted by reference.

(38) Amendments and corrections to 29 CFR 1910.1047, Ethylene Oxide and Appendices A, B, C and D, as published in the Federal Register, Volume 51, Number 132, July 10, 1986 are adoped by reference.

(39) Revision of 29 CFR 1910.1200(i)(3), Hazard Communication, and an amendment removing the last paragraph in 1910.1200 Appendix D, as published in the Federal Register, Volume 51, Number 189, September 30, 1986, are adopted by reference.

TABLE 1 - Implementation Schedule

INDUSTRY[1]	COMPLIANCE DATES 200 ug/m³	100 ug/m³	50 ug/m³
Primary Lead Production	(2)	June 29, 1984	June 29, 1991
Secondary Lead Production	(2)	June 29, 1984	June 29, 1986
Lead Acid Battery Manufacture	(2)	June 29, 1983	June 29, 1986
Automobile/Manufacture/Solder Grinding	(2)	N/A	June 29, 1988
Electronics, Gray Iron Foundries, Ink Manufacture, Paints and Coatings Manufacture, Wall Paper Manufacture, Can Manufactures, and Printing	(2)	N/A	June 29, 1982
Lead Pigment Manufacture, NonFerrous Foundries, Leaded Steel Manufacture, Lead Chemical Manufacture, Ship Building and Ship Repair, Battery Breaking in the Collection and Processing of Scrap (excluding collection and processing of scrap which is part of a secondary smelting operation), Secondary Smelting of Copper, and Lead Casting	(2)	N/A	N/A
All Other Industries	(2)	N/A	June 11, 1984

[1] Includes ancillary activities located on the same worksite.

2. On effective date. This continues an obligation from Table Z-2 of 29 CFR 1910.1000 which had been in effect since 1971 but which was deleted upon effectiveness of this section.

CAROL PALMORE, Chairman
APPROVED BY AGENCY: March 11, 1987
FILED WITH LRC: March 12, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing concerning these regulations has been scheduled for April 21, 1987 at 1 p.m. (EST), to be held at the Kentucky Labor Cabinet, U.S. 127 Building South, Bay 2 Conference Room, Frankfort, Kentucky. Those interested in attending must provide by April 16, 1987, written notice to Mr. Guy Schoolfield, Kentucky Labor Cabinet, Division of Education and Training, OSH Technical Assistance Branch, U.S. 127 Building South, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Guy Schoolfield
(1) Type and number of entities affected: This regulation affects all employers in the Commonwealth with one (1) or more employees.
(a) Direct and indirect costs or savings to those affected: No costs or savings to employers will occur as a result of this adoption.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No reports or records are required by this adoption.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: No costs or savings to the Kentucky OSH Program will occur as a result of this adoption.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No additional reports or records are required by this adoption.
(3) Assessment of anticipated effect on state and local revenues: This adoption will have no effect on state and local revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No regulations, rules, or policies conflict, overlap, or duplicate this adoption.
(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 Occupational Safety and Health Program targets its scheduled inspections toward those industries or firms that pose higher risks to worker health and safety or from which the OSH Program has received worker complaints.

LABOR CABINET
Department of Workplace Standards
Kentucky Occupational Safety & Health
(Proposed Amendment)

803 KAR 2:030. Adoption of 29 CFR Part 1926.

RELATES TO: KRS Chapter 338
PURSUANT TO: KRS Chapter 13A
NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules, regulations, and standards. Express authority to adopt by reference established federal standards and national concensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1926 of the Code of Federal Regulations, revised as of July 1, 1986 [1981], published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby adopted by reference with the following additions, exceptions, and deletions:

(1) 29 CFR Part 1926.1 shall read as follows:
The provisions of this regulation adopt and extend the applicability of established federal standards contained in 29 CFR Part 1926 to all employers, employees, and places of employment throughout the Commonwealth except those excluded in KRS 338.021."

(2) 29 CFR 1926.58, Asbestos, tremolite, anthophylite, and actinolite, as published in the Federal Register, Volume 51, Number 119, June 20, 1986 is adopted by reference with the following amendments:

(a) 29 CFR 1926.58(e)(6)(iii) is amended to add: "The employer shall ensure that contractors provide in writing that they have a competent person meeting the requirements of paragraph (b) "competent person" and paragraphs (e)(6)(ii) and (III) before work commences."

(b) 29 CFR 1926.58(f)(3) is amended to add: "The respirators required by this exception are to be Type "C" supplied - air respirators; continuous flow or pressure - demand class."

(c) 29 CFR 1926.58(f)(5)(ii) is amended to add: "The employer shall ensure that all sampling is conducted in accordance with the ORM in Appendix A before sampling commences."

(d) 29 CFR 1926.58(f)(5)(iii) is amended to add: "The employer shall ensure that all analyses are performed in accordance with the elements outlined in Appendix A, and that all asbestos counters meet the qualifications listed in Appendix A. This notice shall be given prior to the start of the analyses."

(e) 29 CFR 1926.58(h)(3)(i) is amended to read: "Where respiratory protection is used, the employer shall institute a respirator program in accordance with American National Standards Practices for Respiratory Protection, ANSI Z88.2 - 1980, with the exception of Appendix A5, Suggested Procedures for Carrying Out Qualitative Respirator - Fitting Tests, and Appendix A6, Suggested Procedures for Carrying Out Quantitative Respirator - Fitting Tests."

(f) 29 CFR 1926.58(j)(2)(l) is amended to add: "The decontamination area shall be separated from the regulated area by an air lock. Air locks shall be used to separate the clean room, shower area and equipment room. An "air lock" is an open area used to separate the clean room, shower room and equipment room from each other; and to separate the decontamination area from the work area. It is accessible through doorways protected by two overlapping polyethylene sheets."

(g) 29 CFR 1926.58(k)(l)(ii) is amended to read: "Sign specifications. The warning signs required by paragraph (k)(l)(i) of this section shall be of a vertical format measuring twenty (20) inches in length and fourteen (14) inches in width, and shall be printed in letters of sufficient size and contrast as to be readily visible and legible, and shall bear the following information:"

(3) 29 CFR 1926.103 "Respiratory Protection" Table E-4 is amended as follows:

(See Table on following pages)

Table E-4
Respirator Protection Factors[a]

Type of Respirator	Permitted for Use in Oxygen-Deficient Atmosphere	Permitted for Use in Immediately-Dangerous-to-Life-or-Health Atmosphere[f]	Respirator Protection Factor	
			Qualitative Test	Quantitative Test
Particulate-filter, quarter-mask or half-mask facepiece[b,c]	No	No	10	As measured on each person with maximum of 100.
Vapor-or gas-removing, quarter-mask or half-mask facepiece[c]	No	No	10, or maximum use limit of cartridge or canister for vapor or gas, whichever is less.	As measured on each person with maximum of 100, or maximum use limit of cartridge or canister for vapor or gas,[i,j] whichever is less.
Combination particulate-filter and vapor- or gas-removing, quarter-mask or half-mask facepiece[b,c]	No	No	10, or maximum use limit or cartridge or canister for vapor or gas, whichever is less.	As measured on each person with maximum of 100, or maximum use limit of cartridge or canister for vapor or gas,[i,j], whichever is less.
Particulate-filter, full facepiece[b]	No	No	100	As measured on each person with maximum of 100 if dust, fume or mist filter is used, or maximum of 1000 if high-efficiency filter is used.
Vapor- or gas-removing, full facepiece	No	No	100, or maximum use limit of cartridge or canister for vapor or gas, whichever is less.	As measured on each person with maximum of 1000, or maximum use limit of cartridge or canister for vapor or gas[i,j], whichever is less.
Combination particulate-filter and vapor- or gas-removing, full facepiece[b]	No	No	100, or maximum use limit of cartridge or canister for vapor or gas, whichever is less.	As measured on each person with maximum of 100 if dust, fume or mist filter is used and maximum of 1000 if high-efficiency filter is used, or maximum use limit of cartridge or canister for vapor or gas, whichever is less.
Powered particulate-filter, any respiratory-inlet covering[b,c,d]	No	No (yes, if escape provisions are provided[d])	N/A	N/A
			No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 100 if dust, fume, or mist filter is used and 3000 if high-efficiency filter is used.	
Powered vapor- or gas-removing, any respiratory-inlet covering[c,d]	No	No (yes, if escape provisions are provided[d])	N/A	N/A
			No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 3000, or maximum use limit of cartridge or canister for vapor or gas[i,j] whichever is less.	

Powered combination particulate-filter and vapor- or gas-removing, any respiratory-inlet covering[b,c,d]	No	No (yes, if escape provisions are provided[d])	N/A	N/A
			No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 100 if dust, fume, or mist filter is used and 3000 if high-efficiency filter is used, or maximum use limit of cartridge or canister for vapor or gas,[i,j], whichever is less.	
Air-line, demand, quarter-mask or half-mask facepiece, with or without escape provisions[c,e]	Yes[f]	No	10	As measured on each person, but limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values
Air-line, demand, full facepiece, with or without escape provisions[e]	Yes[f]	No	100	As measured on each person, but limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values
Air-line, continuous-flow or pressure-demand type, any facepiece, without escape provisions[c]	Yes[f]	No	N/A	N/A
			No tests are required due to positive-pressure operation of respirator. The protection factor provided by the respirator is limited to use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values.	
Air-line, continuous-flow or pressure-demand type, any facepiece, with escape provisions[c,e]	Yes[g]	Yes	N/A	N/A
			No tests are required due to positive-pressure operation of respirator. The maximum protection factors is 10000 plus[h].	
Air-line, continuous-flow, helmet, hood, suit without escape provisions	Yes[f]	No	N/A	N/A
			No tests are required due to positive-pressure operation of respirator. The protection factor provided by the respirator is limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values.	
Air-line, continuous-flow, helmet, hood, or suit, with escape provisions[e]	Yes[g]	Yes	N/A	N/A
			No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 10000 plus[h].	
Hose mask, with or without blower, full facepiece	Yes[f]	No	10	As measured on each person, but limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values.

Self-contained breathing apparatus, demand-type open-circuit or negative-pressure-type closed-circuit, quarter-mask or half-mask facepiece[c]	Yes[f]	No	10	As measured on each person, but limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values.
Self-contained breathing apparatus, demand-type open-circuit or negative-pressure-type closed-circuit, full facepiece or mouthpiece/nose clamp[c]	Yes[f] (Yes, if respirator is used for mine rescue and mine recovery operations.)	No (yes, if respirator is used for mine rescue and mine recovery operations.)	100	As measured on each person, but limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values except when the respirator is used for mine rescue and mine recovery operations.
Self-contained breathing apparatus, pressure-demand-type open-circuit or positive-pressure-type closed-circuit, quarter-mask or half-mask facepiece, full facepiece, or mouthpiece/nose clamp[c]	Yes[g]	Yes	N/A	N/A
	No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 10000 plus.			
Combination respirators not listed.	The type and mode of operation having the lowest respirator protection factor shall be applied to the combination respirator.			

N/A means not applicable since a respirator-fitting test is not carried out.

[a] A respirator protection factor is a measure of the degree of protection provided by a respirator to a respirator wearer. Multiplying the permissible time-weighted average concentration or the permissible ceiling concentration, whichever is applicable, for a toxic substance, or the maximum permissible airborne concentration for a radionuclide, by a protection factor assigned to a respirator gives the maximum concentration of the hazardous substance for which the respirator can be used. Limitations of filters, cartridges, and canisters used in air-purifying respirators shall be considered in determining protection factors.

[b] When the respirator is used for protection against airborne particulate matter having a permissible time-weighted average concentration less than 0.05 milligram particulate matter per cubic meter of air or less than 2 million particles per cubic foot of air, or for protection against airborne radionuclide particulate matter, the respirator shall be equipped with a high-efficiency filter(s).

[c] If the air contaminant causes eye irritation, the wearer of a respirator equipped with a quarter-mask or half-mask facepiece or mouthpiece and nose clamp shall be permitted to use a protective goggle or to use a respirator equipped with a full facepiece.

[d] If the powered air-purifying respirator is equipped with a facepiece, the escape provision means that the wearer is able to breathe through the filter, cartridge, or canister and through the pump. If the powered air-purifying respirator is equipped with a helmet, hood, or suit, the escape provision shall be an auxiliary self-contained supply of respirable air.

[e] The escape provision shall be an auxiliary self-contained supply of respirable air.

[f] "Oxygen deficiency--not immediately dangerous to life or health"--an atmosphere having an oxygen concentration below the minimum legal requirement but above that which is immediately dangerous to life or health.

[g] "Oxygen deficiency--immediately dangerous to life or health"--an atmosphere which causes an oxygen partial pressure of 100 millimeters of mercury column or less in the freshly inspired air in the upper portion of the lungs which is saturated with water vapor.

[h] The protection factor measurement exceeds the limit of sensitivity of the test apparatus. Therefore, the respirator has been classified for use in atmospheres having unknown concentrations of contaminants.

[i] The service life of a vapor- or gas-removing cartridge or canister depends on the specific vapor or gas, the concentration of the vapor or gas in air, the temperature and humidity of the air, the type and quantity of the sorbent in the cartridge or canister, and the activity of the respirator wearer. Cartridges and canisters may provide only very short service lives for certain vapors and gases. Vapor/gas service life testing is recommended to ensure that cartridges and canisters provide adequate service lives. Reference should be made to published reports which give vapor/gas life data for cartridges and canisters.

[j] Vapor- and gas-removing respirators are not approved for contaminants that lack adequate warning properties of odor, irritation, or taste at concentrations in air at or above the permissible exposure limits.

NOTE: Respirator protection factors for air-purifying-type respirators equipped with a mouthpiece/nose clamp form of respiratory-inlet covering are not given, since such respirators are approved only for escape purposes.

(4) Amendment to 29 CFR 1926.151(a)(1), as published in the Federal Register, Volume 51, Number 133, July 11, 1986 is adopted by reference.

(5) Revision to 29 CFR 1926.152(b)(4)(v) as published in the Federal Register, Volume 51, Number 133, July 11, 1986 is adopted by reference.

(6) 29 CFR 1926.200(g)(2), .201(a)(2) and .202 shall be amended to require signs, signaling and barricades to conform to specifications as set forth in ANSI D6.1 "Manual of Uniform Traffic Control Devices for Streets and Highways" (1978 Edition).

(7) Revision to 29 CFR 1926.351(d)(5), as published in the Federal Register, Volume 51, Number 133, July 11, 1986 is adopted by reference.

(8) Revision of 29 CFR 1926, Subpart K, Electrical, 1926.400, .401, .402, .403, .405, .406, .407, .408, .409, .416, .417, .418, .431, .432, .433, .441, .442 and .449, as published in Federal Register, Volume 51, Number 133, July 11, 1986 is adopted by reference.

(9) 29 CFR 1926.451(a)(4) shall read as follows: Guardrails and toeboards shall be installed on all open sides and ends of platforms more than ten (10) feet above the ground or floor, except needle beam scaffolds and floats (see paragraphs (p) and (w) of this section). Toeboards shall not be required on the loading side of platforms which are loaded by means of a high lift tractor or fork truck provided that employees are prohibited from entering the area beneath the scaffolding where they could be exposed to objects which might fall from the scaffolding. Scaffolds four (4) to ten (10) feet in height, having a minimum horizontal dimension in either direction of less than forty-five (45) inches, shall have standard guardrails installed on all open sides and ends of the platform.

(10) 29 CFR 1926.552(b)(8) of the paragraph on "Material hoists" shall read as follows: All material hoists shall conform to the requirements of ANSI A10.5-1969, Safety Requirements for Material Hoists, with the exception that material hoists manufactured prior to January 1, 1970 may be used with a drum pitch diameter at least eighteen (18) times the nominal rope diameter provided the hoisting wire rope is at least equal in flexibility to 6 x 37 classification wire rope.

(11) Revoke paragraph "514--Warning Device" of ANSI B56.1--1969--Safety Standards for Powered Industrial Trucks and adopt paragraph "512--Warning Device" of ANSI B56.1--1975--Low Lift and High Lift Trucks for standard reference as specified in 29 CFR 1926.602(c)(1)(vi): effective July 1, 1979.

(12) Revision of 29 CFR 1926.803(j)(3), as published in the Federal Register, Volume 51, Number 133, July 11, 1986 is adopted by reference.

(13) The following paragraphs of 29 CFR 1926, Subpart U, Blasting and the Use of Explosives, which were previously adopted by reference, are hereby revised and shall read as follows:

(a) 1926.900(k)(3)(i) The prominent display of adequate signs warning against the use of mobile radio transmitters, on all roads within 1,000 feet of blasting operations. Whenever adherence to this 1,000 foot distance would create an operational handicap, a competent person shall be consulted to evaluate the particular situation, and alternative provisions may be made which are adequately designed to prevent premature firing of electric blasting caps. The competent person may be a blaster certified by the Kentucky Department of Mines and Minerals with a working knowledge of mobile radio transmission and receiving hazards as related to use of electric blasting cap firing systems and designated by the employer. A description of any alternative shall be in writing describing the unusual conditions at the site and the alternative measure used. The description shall be maintained at the construction site during the duration of the work and shall be available for inspection by representatives of the Commissioner, Kentucky Department of Labor.

(b) 1926.900(k)(4) Ensuring that mobile radio transmitters which are less than 100 feet away from electric blasting caps, in other than original containers, shall be de-energized, and have the radio transmission circuit or vehicle effectively locked against transmitter usage.

(c) 1926.900(p) The use of black powder shall be prohibited except when a desired result cannot be obtained with another type of explosive, such as in quarrying certain types of dimension stone.

(d) 1926.900(r) All electric blasts shall be fired with an electric blasting machine or properly designed electric power source, and in accordance with the provisions of subsection .906(a) and (r).

(e) 1926.902(d) Explosives or blasting agents

shall be transported in separate vehicles unless the detonators are packaged in specified containers and transported all in compliance with DOT Regulation 49 CFR 177.835(g).

(f) 1926.905(h) Machines and all tools not used for loading explosives into the boreholes shall be removed from the immediate location of holes before explosives are delivered. Equipment shall not be operated within fifty (50) feet of a loaded hole except that which is required when the containment of the blast is necessary to prevent flyrock. When equipment or machinery is used to place mats, over-burden, or protective material on the shot area, a competent person (who may be a blaster certified by the Kentucky Department of Mines and Minerals) shall implement adequate precautions to protect the leadwires or initiating systems such as protecting the components from direct contact with materials which sever, damage, impact, or conduct stray currents to the explosives system. This would include preventing the dragging of blasting mats or running over the holes and systems with the equipment used.

(g) 1926.905(i) No activity of any nature other than that which is required for loading holes with explosives and preparation required for initiating the blast and containment of flyrock from the blast shall be permitted in a blast area.

(h) 1926.905(k) Holes shall be inspected prior to loading to determine depth and conditions. When necessary to drill a hole in proximity to a charged or misfired hole, the distance between these two holes must be greater than the depth being drilled and precautions taken to ensure the integrity of any adjacent-charged hole or misfired hole. This distance must be determined by a competent person (who may be a blaster certified by the Kentucky Department of Mines and Minerals) in order to insure that there is no danger of intersecting the charged or misfired hole.

(i) 1926.905(n) In blasting, explosives in Fume Class I, as set forth by the Institute of the Makers of Explosives, shall be used; however, Fume Class I explosives are not required when adequate ventilation is provided and the workings are abandoned for a period of time sufficient to allow dissipation of all fumes.

(j) 1926.906(p) The blaster shall be in charge of the blasting machines, and no other person shall connect the leading wires to the machine except under the immediate physical and visual supervision of the blaster.

(k) 1926.906(q) Blasters, when testing circuits to charged holes, shall use only blasting galvanometers equipped with a silver chloride cell especially designed for this purpose or an instrument designed solely for use in blasting, which incorporates a current-limiting device into its circuitry. No instrument capable of producing over fifty (50) milliamps on direct short circuit shall be used.

(l) 1926.906(s) Leading wires shall remain shorted and not be connected to the blasting machine or other source of current until the charge is to be fired.

(m) 1926.907(a) The use of a fuse that has been hammered or injured in any way shall be forbidden.

(14) Amend subparagraph 1926.950(c)(1)(i) to read as follows:

"The employee is insulated or guarded from the energized part. Insulating gloves, as well as insulating sleeves when necessary, rated for the voltage involved shall be considered insulation of the employee from the energized part, or ....."

CAROL PALMORE, Chairman

APPROVED BY AGENCY: March 11, 1987

FILED WITH LRC: March 12, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing concerning these regulations has been scheduled for April 21, 1987 at 1 p.m. (EST), to be held at the Kentucky Labor Cabinet, U.S. 127 Building South, Bay 2 Conference Room, Frankfort, Kentucky. Those interested in attending must provide by April 16, 1987, written notice to Mr. Guy Schoolfield, Kentucky Labor Cabinet, Division of Education and Training, OSH Technical Assistance Branch, U.S. 127 Building South, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Guy Schoolfield

(1) Type and number of entities affected: This regulation affects all employers in the Commonwealth with one (1) or more employees.

(a) Direct and indirect costs or savings to those affected: No costs or savings to employers will occur as a result of this adoption.

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: No reports or records are required by this adoption.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: No costs or savings to the Kentucky OSH Program will occur as a result of this adoption.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No additional reports or records are required by this adoption.

(3) Assessment of anticipated effect on state and local revenues: This adoption will have no effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No regulations, rules, or policies conflict, overlap, or duplicate this adoption.

(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 Occupational Safety and Health Program targets its scheduled inspections toward those industries or firms that pose higher risks to worker health and safety or from which the OSH Program has received worker complaints.

PUBLIC PROTECTION & REGULATION CABINET
Department of Insurance
(Proposed Amendment)

806 KAR 13:100. Motor vehicle comprehensive insurance rate discounts for anti-theft devices.

RELATES TO KRS 304.12-090 to 304.12-110, 304.13-051, 304.13-065, 304.14-100, 304.14-110, 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. The notice shall be in the form prescribed by the commissioner.
(2) Notice to prospective insureds shall be given no later than the time of the delivery of the policy.
(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 may 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. Application for a Discount During a Policy Period. If an application for a discount pursuant to KRS 304.20-400 to 304.20-440 is received while a policy is in force and the discount is granted, the discount shall be prorated based on the unexpired policy period and credited to the insured's premium at renewal in addition to the discount for the next policy period. If the policy is not renewed, the amount of the prorated discount shall be paid to the insured, except that any such amount less than ten (10) dollars need not be refunded.

Section 8. Anti-theft Devices Provided by Insurers. (1) Insurers may, at their option, provide their insureds an anti-theft device as a service to reduce the risk of loss.
(2) If an insurer provides an anti-theft device to its insureds pursuant to subsection (1) of this section and receives a properly completed application for a discount pursuant to KRS 304.20-400 to 304.20-440, it may:
(a) Withhold the first year's discount to assist in paying for the anti-theft device; or
(b) Grant the discount in accordance with KRS 304.20-400 to 304.20-440 and this regulation.

Section 9. [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: March 12, 1987
FILED WITH LRC: March 12, 1987 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 April 21, 1987, at 9 a.m. (ET), in the offices of the 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 Amendment: The proposed amendment is necessary to provide further guidelines for the implementation of KRS 304.13-065 and 304.20-400 to 304.20-450 (1986 Ky. Acts c. 352) which require insurers to grant discounts in motor vehicle comprehensive insurance rates to those insureds using anti-theft devices which meet certain criteria. The additional language in Section 5(1) requires the notice of the availability of discounts for anti-theft devices being uniform among all insurers. The form of the notice will be prescribed by the Commissioner of Insurance. Currently, the notice varies from insurer to insurer.

Section 7 is new and sets forth the procedure to be followed when a discount is granted during a policy term. The proposed amendment provides that the discount is prorated based on the unexpired policy period and credited to the insured's premium at renewal in addition to the discount applicable to the next policy period. If the policy is not renewed, the amount of the prorated discount is paid to the insured, but such amounts less than $10 need not be refunded. For example, for a six month policy, the comprehensive insurance premium for a particular motor vehicle may be $16.50. Assuming a 15% discount applied for and granted effective for the last two months, or one-third of the policy period, the premium credit would be calculated as follows: 15% of $16.50 is $2.48. One-third of $2.48 is $.81. Thus, $.81 would be credited to the renewal comprehensive premium in addition to the discount for the next policy period, but the $.81 would not be refunded to the policyholder if the policy were not renewed.

Section 8 is new and permits insurers to provide insureds with anti-theft devices as a service to reduce the risk of loss. This does not constitute a rebate or illegal inducement. KRS 304.12-100(3). The statutes relating to rebating and illegal inducements have been added under the "RELATES TO" heading of the regulation. The proposed amendment further provides that insurers may withhold the first year's discount and apply it to the cost of the anti-theft device or grant the discount in accordance with KRS 304.20-400 to 304.20-440.

(1) Type and number of entities affected: The regulation applies to the approximately 550 insurers authorized to transact motor vehicle insurance in Kentucky and an unknown number of their comprehensive insurance policyholders who have anti-theft devices installed in their motor vehicles.

(a) Direct and indirect costs or savings to those affected: The proposed amendment will yield savings for policyholders by assuring that discounts which are applied for "mid-term" will be credited at renewal or paid to the insured, except that amounts less than $10 will not be paid to insureds whose policies are not renewed. This is because it costs approximately $15 to $20 to issue a check, and this expense (which will be passed on to policyholders) is not justified for relatively small amounts of money. The cost of tracking these credits will impose additional expenses on insurers which will be passed on to policyholders.

The requirement in the proposed amendment of a uniform notice form will impose additional expenses on insurers which will be passed on to policyholders. New forms must be created and any existing stocks of forms depleted or destroyed. The Department of Insurance hopes to minimize these expenses by giving "lead time" of approximately 60 days from the effective date of the regulation in order to create new forms and exhaust stocks of existing forms.

The provisions of the proposed amendment allowing insurers to provide anti-theft devices merely recite the existing law as to exemptions from the rebating and illegal inducement statutes. Any additional expenses to insurers will come from their own decisions to provide anti-theft devices to their insureds.

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: Additional paperwork will be necessary to implement the uniform notice form and the system of granting credits to insureds who become eligible for discounts "mid-term."

(2) Effects on the promulgating administrative body: There will be a small expense in prescribing the uniform notice form and enforcement of the amended regulation.

(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: Providing a uniform notice form and additional guidelines are preferable to having different notice forms and handling matters on a case-by-case basis.

(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? Tiering is recognized in the prorating of discounts which are applied for "mid-term" and in the exemption from making payments for amounts less than $10. Also, tiering is used in recognizing that insurers may provide anti-theft devices to insureds and use the first year's discount to pay for the anti-theft device or simply grant the discount in accordance with the statutes, depending on which approach is most cost effective for the insurer.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Harness Racing Commission
(Proposed Amendment)

811 KAR 1:120. Licensing of race meetings.

RELATES TO: KRS 230.630(1),(3), 230.640, 230.680, 230.690
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 the licensing of race meetings.

Section 1. Application for License. Application for licenses to conduct harness racing meets shall be made on forms furnished by the commission. Such application shall be verified under oath.

Section 2. Information. The application shall contain the following information for commission approval:
(1) An inventory of all property owned or leased by the applicant in any manner connected with the race track at which the proposed meeting is to be held.
(2) Financial statement. A financial statement certified by a licensed certified public accountant, consisting of a balance sheet showing applicant's financial condition at the end of the last fiscal year, and a profit and loss statement for said year.
(3) Stockholders. A complete list of all stockholders holding any stock, if the applicant is a corporation, including the amount of the stock so held, the address of each stockholder and the amount and class of stock held by each stockholder; and if any stock is held in trust, the names, addresses, the amount and class of stock held by each beneficial owner thereof under said trust.
(4) The name and circumference of the rack track.
(5) The seating capacity of the clubhouse, grandstand, or other seating facilities.
(6) The parking and transportation facilities available to patrons.
(7) The stabling facilities available.
(8) The number of free drinking water fountains, public washrooms and comfort stations available for patrons.
(9) First aid equipment available and number and character of first aid attendants.
(10) The firefighting equipment available.
(11) The track equipment available and minimum number of ground employees for operation of such equipment.
(12) Restaurant facilities available.
(13) The track measurements.
(14) The capacity of the paddock and location of stalls for saliva and other tests.
(15) Complete description of lighting system, if night racing is proposed.
(16) Name, address and experience of manager of pari-mutuel equipment, number of seller windows and cashier windows, minimum number of calculators.
(17) Name, address and experience of general manager.
(18) Name, address and experience of racing secretary.
(19) Minimum and maximum number of races per day, type of races, number of monies to be paid and percentage of payment in each race, entrance fee for overnight races. Type of photo finish and timing device used. Name of track superintendent. Total purse for meeting. Minimum purse per heat or race. Type of starting.
(20) The publicity and advertising intended, and the name and address of manager of the advertising department.
(21) The applicant's public liability insurance coverage and list of names and addresses of companies carrying the same.
(22) The schedule of admission charges.

Section 3. Time for Filing Applications. (1) All applications for licenses to conduct race meetings for each calendar year shall be filed with the commission not later than sixty (60) days prior to the commencement of said race meeting. However, under unusual conditions at the discretion of the commission, the commission may receive applications for licenses and act thereon at a date subsequent to the time heretofore determined by the provisions of this section to receive applications. In such event, if the the license is granted, an applicant may at the commission's discretion be fined no more than $100 per day for each day that said application is late.
(2) In the event said applicant after receipt of notice of approval of its application shall fail to comply with the above requirements within the period above fixed, the application for license of such applicant shall be considered withdrawn and of no effect.

Section 4. Application for Racing Dates. Each licensee shall file an application for racing dates no later than the first day of November of the year immediately preceding said requested dates. The commission shall assign said dates within forty-five (45) days after the first day of November, unless it is impracticable to do so. The commission may increase or reduce the number of days applied for, or may assign different dates than those requested by the licensee.

Section 5. To conduct a racing meeting under a license issued by the Kentucky Harness Racing Commission, the licensee shall at all times maintain a finished race track which meets the following requirements of the commission: Shall file with the commission a certificate of a duly licensed civil engineer or land surveyor that he has measured the said track from wire to wire, three (3) feet out from the pole or inside hub rail thereof and certifying in linear feet the result of such measurement.

Section 6. Wagering on Races Conducted Off of Premises. A [No] licensee giving a race meeting under a license issued by the Kentucky Harness Racing Commission may [shall] permit bets to be made on the grounds of said licensee, with the approval of the commission, on any race held outside of the grounds, and no foreign book or gambling device of any kind shall be permitted on said grounds.

Section 7. Bookmaking. Anyone guilty of making a handbook on the grounds of any licensee of the commission, shall be ejected from the grounds, and denied further admission thereto, and any owner, driver, or other person interested in any horse or horses at said meeting, who shall be guilty of betting with or through any such

handbook, shall be ejected from the grounds or denied admission by the order of the judges, and/or licensee.

Section 8. Solicitation of Wagers. If any trainer, driver, stable employee or other person solicits bets from the public by correspondence, or other methods, to be made on the horses in any stable, such person or persons so offending shall be ruled off the course or denied admission by order of the judges, and/or licensee.

Section 9. Reciprocal Suspensions. No licensee shall permit any person who is under suspension by, or has been ruled off the member course by the United States Trotting Association, or by any state racing commission, to participate in any manner in a harness racing meet licensed by the commission, or in the conduct of such meet.

Section 10. Conditions of License. Imposed on each licensee of the Kentucky Harness Racing Commission is the duty of enforcing the rules and regulations imposed by the commission, the said rules and regulations being a condition under which the licenses are granted; the commission reserving the right to amend, alter or repeal any rule, regulation or condition herein imposed or to supplement said rules and regulations.

Section 11. Cash Balance, Surety Bond and Reports. (1) Financial statements and pari-mutuel manager. Every association licensed by the commission shall submit to the secretary of the commission (executive racing secretary) at least thirty (30) days before the beginning of each race meeting either a surety bond, approved by the commission, in the amount of $50,000 or place in escrow in a Kentucky bank in favor of the commission in the amount of $50,000 or a combination of a surety bond and cash escrow in the amount of $50,000 subject to the commission's approval. Said bond and/or escrow shall obligate the association licensed by the commission to fulfill all the dates granted to them; confine the races or racing to the specific dates approved by the commission; comply with and perform the provisions and the undertaking set forth in the application made to the commission as finally approved; comply with the provisions of the by-laws and rules and regulations of the commission relating to the conduct of its said meeting and the races or racing on its tracks; discharge all of its obligations set forth in the granting of membership, assignment of dates and those imposed by the by-laws, rules and regulations as aforesaid relating to payment of membership dues, fines, claims and fees of the commission and the payment of any sums due or to become due to the horsemen entered and/or competing at said meeting primarily, and thereafter suppliers and shall submit, without reservation, to the jurisdiction of the Kentucky State and Federal Courts in the district within which is located the principal office of the commission to the end that any action at law or in equity to enforce any rights and/or obligations based on, or arising from or growing out of this bond shall be confined to the jurisdiction of said courts, and shall appoint and designate their agent to accept service of any notice or legal process attending the enforcement of any such rights or obligations, the Secretary of State, of the State of Kentucky.

(2) Bond and/or escrow shall remain in full force and effect at least sixty (60) days and until the commission notifies the principal and surety or the escrow agent that the association licensed by the commission has duly complied with all of the requirements set out in said bond or escrow agreement.

(3) A specimen of the bond required by the commission is as follows:

KNOW ALL MEN BY THESE PRESENTS:

That _____ principal and _____ surety, are well and firmly bound unto the Kentucky Harness Racing Commission in the sum of $50,000 to be paid to the said Kentucky Harness Racing Commission, its successors or assigns; to which payment well and truly to be made and done, we and each of us, principal and surety, jointly and severally, do bind ourselves, our successors and assigns, and every one of them, firmly and by these presents. Sealed with our seals and dated the _____of _____, 19___.

THE CONDITION OF THIS OBLIGATION IS SUCH

THAT if the above burden _____, its successors or assigns, or any of them, shall and do well and truly fulfill all of the racing dates in the year _____ granted them by membership in the Kentucky Harness Racing Commission, barring an act of God or catastrophe beyond control; confine the races or racing to the specific dates approved by the Kentucky Harness Racing Commission; comply with and perform the provisions and the undertaking set forth in the application made to the Kentucky Harness Racing Commission, as finally approved; comply with the provisions of the By-Laws and Rules and Regulations of the Kentucky Harness Racing Commission relating to the conduct of its said meeting and the races or racing on its tracks; discharge all of its obligations set forth in the granting of membership, assignment of dates, and those imposed by the By-Laws, Rules and Regulations as aforesaid relating to payment of membership dues, fines, claims and fees of the said Kentucky Harness Racing Commission and the payment of any sums due or to become due to the horsemen entered and/or competing at said meeting primarily and thereafter suppliers, then this obligation is to be void, otherwise to remain in full and effect.

And further, we and each of use, principal and surety, do hereby submit, without reservation, to the jurisdiction of the Kentucky State and Federal Courts in the district within which is located the principal office of the Kentucky Harness Racing Commission to the end that any action at law or in equity to enforce any rights, and/or obligations based on, or arising from, or growing out of this Bond shall be confined to the jurisdiction of said courts. And we, principal and surety, do hereby appoint and designate as agent for us, and each of us, to accept service of any notice of legal process attending the enforcement of any such rights or obligations, the Secretary of State, of the State of Kentucky.

Witness our hand and seal this _____ day of _____, 19_____.

Principal: _____
By: _____
Surety: _____
By: _____

(4) Each association licensed by the commission shall submit to the commission at the beginning of each week, during its meeting, a sworn statement attesting that all operating expenses already incurred have been paid or provided for.

Section 12. Commission Office. Each licensee shall provide suitable facilities for the commission in the conduct of its business. Failure to do so within ten (10) days after written notification by the commission setting out the deficiencies of said facilities, shall subject said licensee of a fine up to $250 per day for each day that suitable facilities are not thereafter provided.

Section 13. Policing of Premises. The licensee shall provide a sufficient number of guards and watchmen to maintain order on all parts of the racing enclosure, and no tipster shall be allowed on any part of the licensed premises, and no groom or stable attendant, shall loiter in the betting ring or any place else with the evident intention of engaging in tipping for any remuneration or for nothing, and anyone so found shall be immediately escorted to the general manager of the licensee and his license shall be taken up, and the licensee shall thereafter exclude said person from the licensed premises.

Section 14. Supervision of Peddlers. The licensee shall supervise the practice and methods of so-called merchandise peddlers who may have entry to the track enclosure. Such supervision shall be extended to any other stables where horses are lodged which may be eligible to race at said meeting. However, the licensee shall not by virtue of this rule or otherwise restrict the open purchasing or attempt to control or monopolize said business or proper selling of merchandise to owners, trainers, or stable employees.

Section 15. Drinking Fountains and RestRooms. The licensee shall furnish an adequate number of free drinking water fountains, comfort stations, and washrooms throughout its grounds and buildings for the use of the public.

Section 16. Stabling of Horses. Any horse racing at a licensed meeting must be stabled within the confines of that track; provided, however, in case of necessity such a horse may be stabled within the confines of an adjacent Kentucky race track, or in another location approved by the commission. The licensee holding the race meeting shall provide for temporary stabling of horses, eligible to race, which are brought to the races from approved outside stable space.

Section 17. Watchmen in Stable Area. Each licensee shall maintain and furnish complete and adequate watchman service night and day in and about all stable enclosures.

Section 18. Duties of Watchmen. (1) Watchmen so employed shall be individually responsible for the certain part of the stable enclosure where they are on duty and shall immediately investigate and report the presence of anyone during the night or day who may be within said stable enclosure without possessing proper credentials.

(2) A letter of instructions to all watchmen shall be addressed to each of them by the licensee, covering fully their duties and their strict obligation to keep stable enclosures free from outsiders and hangers on, and a copy thereof furnished to the commission.

Section 19. Stable Enclosures Fenced. All such stable enclosures must be properly fenced and admission granted only on proper license or credentials actually shown to the gatemen. This rule may be waived with commission approval.

Section 20. Betting by Commission Employees. Betting by commission employees and racing officials is prohibited.

Section 21. Betting by Paddock Employees. Any track employee working in the paddock area is not allowed to bet or pass information to outsiders for betting purposes.

Section 22. Accepted Conditions of Race Meetings. (1) Bind upon licensees. The commission, recognizing the necessity of an association to comply with the requirements of its license and to fulfill its obligation to the public and the Commonwealth of Kentucky with the best possible uninterrupted services, in the comparatively short licensed period, herein provides that all associations, officials, horsemen, owners, veterinarians, trainers, drivers, grooms, farriers, registered employees, and all licensees, who have accepted directly or indirectly, with reasonable advance notice, the conditions under which said association engages and plans to conduct such race meeting, shall be bound thereby.

(2) Notice to commission of intent to terminate. Any association, officials, horsemen, owners, trainers, drivers, grooms, veterinarians, farriers, register employees, and all licensees who so accept such conditions shall, before they terminate or discontinue their employment, engagements or activities, give the commission and the association with whom they are engaged, at least fifteen (15) days notice in writing of their intentions to terminate or discontinue their employment, engagements or activities under such conditions. The commission may upon notice to all parties of interest conduct a hearing or hearings with respect to any termination or discontinuance of employment.

Section 23. Horse Ambulance. There shall be a horse ambulance at all tracks under the jurisdiction of the commission for the removal of crippled or dead animals from the track. Horse ambulances must be equipped with a screen for use when an animal must be destroyed in view of the general public and also a winch to lift dead or injured animals onto the ambulance.

ROBERT DAVIS, Secretary
CARL B. LARSEN, Executive Director
APPROVED BY AGENCY: February 5, 1987

FILED WITH LRC: February 17, 1987 at 4 p.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on April 23, 1987, at 10 a.m. at the office of the Kentucky Harness Racing Commission. Anyone interested in attending this hearing shall notify in writing Carl B. Larsen, Executive Director, Kentucky Harness Racing Commission, Suite 300, 535 West Second Street, Lexington, Kentucky, 40508, at least five days before the hearing.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carl B. Larsen
(1) Type and number of entities affected: Horsemen.
(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 additional.
(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 additional.
(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: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Regulation affects all horsemen.

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 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 March [January] 15, 1987, 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 March [February] 15, 1987, 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 March [January] 15, 1987, 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 February 15, 1987, 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 4 is amended as follows:
Section 4 Eastern State Hospital Policy Manual

Vol. D-1, Sec II - page 3; Policy on interaction between staff and patients is amended to exclude a "personal" relationship.

Vol. D-4: A new psychology section is submitted with the following changes:
1) Organizational Chart updated.
2) Psychology Q.A. Program included in these policies.
3) Listing of staff deleted from policy manual.
4) Since last revision, Patient Education being removed from under the supervision of Psychology Department and will be placed under Activity Therapy Services.
5) Infections Control Policy added.

Section 5 - Central State Hospital Policy Manual

Vol E1, Sec HH No. 10.25 is amended to provide stronger protection for the patient in use of Electroconvulsive Therapy.

Vol E1 - New index is added.

Section B No. 11 - Revised policy - section 3 under the Procedure Section had four (4) sentences added to this No. 3 as the Laboratory is doing the skin test annually and Nursing is responsible for the annual health skin tests for the nurses and Staff Development will be responsible for the skin tests for the new employees when they are in Orientation.

Section 7 under the procedure had some wording changed.

Section H No. 3 - Revised policy - the entire Occupational Therapy policy was revised to reflect discipline related standards. These are the result of Kentucky Occupational Therapy Licensure Law 201.KAR 22A.010. There will be no changes in staff organization, cost to the state, and economic or efficiency standards due to this policy revision.

Section AA No. 1 through AA No. 7 - Revised and new policies needed to be put in writing to comply with the JCAH standards. There has been no change in actual working procedures.

Delete Section HH 7.30 as Section HH 7.10 replaced this policy. However, behind Section HH 7.30 are the patients' rights forms, which need to be placed behind Section 7.10.

Section HH 10.86 - Revised policy - under "Procedure" in the second sentence the word inside was changed to "outside."

Second paragraph in the second sentence "Shift Nursing Supervisor" was deleted with "Transportation, Swithchboard, Linen and Clothing, Housekeeping, Nursing Shift Supervisor, Dietary and the Clinical Laboratory" being added. On the fourth line various departments were added also.

Section HH 10.86 - New policy - standing orders for monitoring blood pressure on patients at Central State Hospital was written to give clear guidelines and standards to the nursing and medical staff.

Section 6 - Western State Hospital Policy Manual Section IV

Policy No. 1 - Ward Inspection remains the same. Pharmacy Ward Inspection Form following policy was revised. Form was revised to be more specific and to make it easier for the inspector to use.

Section II - Policies for the Provision of Patient's Pharmaceutical Needs.

Policy No. 14 - The Infection and Epidemiology Committee of WSH has determined an expiration time for opened multidose vials. The pharmacy shall check for these dates and discard vials when necessary.

Section V - Policies for Physician's Drug Order.

Policy No. 1 - List of Authorized Prescribers.

List of authorized medication prescribers for Western State Hospital was updated to list new physicians.

Policy No. 6 - Delivery and Exchange of Infirmary Drug Cart.

A. POLICY: The infirmary cart shall be exchanged twice a week.

[Section 5 - Central State Hospital Policy Manual is revised as follows:

Section B - Content Page - revised page - Added B 26 to the content page.

Section B - No. 2 - revised policy - under Procedure - Smoking Areas Paragraphs 1 through 4 had wording and paragraphs changed to meet the standards for the new hospital.
Prohibited Areas under Procedure was also changed in order to comply with the new hospital for all patients, staff and visitors.

Section B - No. 26 - new policy on Hospital Environment to maintain the highest possible standards.

Section C - No. 1 - Pages 12, 12-A, 12-B, and 12-C pages were added to this policy as the hospital needed a fire evacuation for the new hospital and all the units.

Section T - No. 1 - revised policy due to the changes in laundry services (i.e. from on site provisions to contract services). By implementing this policy, we will be enabled to comply with the new JCAH standards.

Section HH - No. 310 - revised policy with form: DEATH
The policy statement has been changed to include support to the family and address personal belongings, as well as, care of the deceased's body.

Procedure Changes:

No. 1 & 2 - There are no changes in item #1 and #2, only written more clearly and more concise.

Item No. 3 - Outlines responsibilities for the physician which have not changed, only pulled together in one section for better reference and understanding.

Item No. 4 - The list of people the nursing supervisor is to notify has had the Facility Director and Ward Physician added and the Miller and Close Funeral Home deleted.

Item No. 5 - Includes all nursing procedures in preparing the body and securing personal belongings. The procedures have not changed, only written more clearly and placed together in one section.

Item No. 7 - The only change in the nurse responsibilities for documentation is a death report form has been added (f).

Item No. 8 - Procedure has been added to give direction should the hospital be unable to locate family/guardian.

Item No. 9 - Procedure added to include death report form now being used.

Item No. 10 - Procedure has been added to include the Pastoral Services Department, if needed.

Section HH - No. 3.20 - revised policy - Sudden Death of Patients in Hospital.

This policy has been revised to include the following:

Procedure:
Line number (4) - Has been added to request permission for an organ donation in accordance with the Organ Procurement Policy HH 3.15.

Line number (6) - The Switchboard Operator, Ward Physician, and Facility Director have been added to the list of those to notify.

Line number (7) - Responsibility for completion of death form is assigned to the nursing supervisor.

Section HH - No. 7.00 - New policy regarding patient responsibilities was developed at the recommendation of the JCAH for Hospitals. Such a policy is necessary to meet the requirements of the AMH Manual by which Central State Hospital will be measured after April 1, 1987.

Section HH - No. 7.10 - revised policy - Procedure was deleted and all Patients' Rights was put under a policy. No. 2 under policy has had a last sentence added. More wording was added to No. 3. No. 4 has had (a) through (i) added. No. 10 has had an extra paragraph added. (This policy was revised to meet the new requirements on "rights to privacy" under JCAH standards.)

Patients' Rights Form MH1-1-7 has been added behind Section 7.10 to keep our patients aware of their rights when entering the hospital.

Section HH - No. 10.25-1 - New policy on anesthesia - to show compliance with JCAH standards regarding administration of anethesia in Central State Hospital. This reflects the current extent of anesthesia administration.

Section HH - No. 10.85 - Revised policy on Rapid Neuroliptization to provide more safeguard for the patient.

The new and revised policies have been updated and corrected and no additional funding nor staffing will result from these changes.

Section 10 - Kentucky Correctional Psychiatric Center Policy Manual.

Kentucky Correctional Psychiatric Center's Policy Manual is revised as follows:

J-11/1 "Physician Coverage" - Procedure A revised to designate responsibility to the Facility Director's secretary rather than the Medical Staff secretary. Procedure E revised to eliminate the second, and third call physicians.

J-11/3 "Documentation by Physicians" - Procedure E revised to include the statement "Where the patient is a Personality Disorder, less progress notes may be appropriate."

J-11/4 "Emergency Transfer of Patients" - Procedure A revised to include East End Medical Center.

J-11/5 "Discharges" - Policy statement revised to read "within 15 days of his/her discharge" rather than "prior to discharge". Procedure B revised to reflect the methods currently being used.

J-11/7 "Initial Treatment Plan" - Procedure A revised to state "Course of Patient Management" rather than "Master Treatment Plan."

J-11/10 "Laboratory Work-Up" - Revised to include NOTE:

J-11/12 "Medical Staff Meeting" - Procedure A revised to change date of staff meeting.]

DENNIS D. BOYD, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: March 10, 1987
FILED WITH LRC: March 13, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for April 21, 1987, at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by April 16, 1987 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 100:045. Exemptions.

RELATES TO: KRS 211.842 to 211.852, 211.990(4)
PURSUANT TO: KRS 194.050, 211.090, 211.844
NECESSITY AND FUNCTION: The Cabinet for Human Resources is empowered by KRS 211.844 to provide by regulation for the registration and licensing of the possession or use of any source of ionizing or electronic product radiation and the handling and disposal of radioactive waste. The purpose of this regulation is to provide exemptions for certain uses of radioactive material and specific devices containing radioactive material.

Section 1. Applicability. This regulation exempts certain uses of radioactive material and devices containing radioactive material from the provisions of these regulations.

Section 2. Exemption of Source Material. (1) Any person is exempt from these regulations to the extent that such person receives, possesses, uses, or transfers source material in any chemical mixture, compound, solution, or alloy in which the source material is by weight less than <u>one-twentieth of one (1) percent (</u>0.05 percent<u>)</u> of the mixture, compound, solution, or alloy.
(2) Any person is exempt from these regulations to the extent that such person receives, possesses, uses, or transfers unrefined and unprocessed ore containing source material; provided that, except as authorized in a specific license, such person shall not refine or possess such ore.
(3) Any person is exempt from these regulations to the extent that such person receives, possesses, uses, or transfers:
(a) Any quantities of thorium contained in:
1. Incandescent gas mantles;
2. Vacuum tubes;
3. Welding rods;
4. Electric lamps for illuminating purposes provided that each lamp does not contain more than fifty (50) milligrams of thorium;
5. Germicidal lamps, sunlamps, and lamps for outdoor or industrial lighting provided that each lamp does not contain more than two (2) grams of thorium; [or]
6. Rare earth metals and compounds, mixtures, and products containing not more than 0.25 percent by weight thorium, uranium, or any combination of these<u>; or</u> [.]
7. Personal neutron dosimeters, provided that each dosimeter does not contain more than fifty (50) milligrams of thorium.
(b) Source material contained in the following products:
1. Glazed ceramic tableware, provided that the glaze contains not more than twenty (20) percent by weight source material;
2. Glassware[, glass enamel and glass enamel frit] containing not more than ten (10) percent by weight source material; but not including commercially manufactured glass brick, pane glass, ceramic tile, or other glass, glass enamel, or ceramic used in construction;
<u>3. Glass enamel or glass enamel frit containing not more than ten (10) percent by weight source material imported or ordered for importation into the United States, or initially distributed by manufacturers in the United States, before July 25, 1983;</u>
<u>4.</u> [(c)] Piezoelectric ceramic containing not more than two (2) percent by weight source material.
<u>(c)</u> [(d)] Photographic film, negatives, and prints containing uranium or thorium.
<u>(d)</u> [(e)] Any finished product or part fabricated of, or containing, tungsten-thorium or magnesium-thorium alloys, provided that the thorium content of the alloy does not exceed four (4) percent by weight and that the exemption contained in this paragraph shall not be deemed to authorize the chemical, physical, or metallurgical treatment or processing of any such product or part.
<u>(e)</u> [(f)] Uranium contained in counterweights installed in aircraft, rockets, projectiles, and missiles, or stored or handled in connection with installation or removal of such counterweights; provided that:
1. The counterweights are manufactured in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission authorizing distribution by the licensee pursuant to 10 CFR Part 40;
2. Each counterweight has been impressed with following legend clearly legible through any plating or other covering: "DEPLETED URANIUM";
3. Each counterweight is durably and legibly labeled or marked with identification of the manufacturer, and the statement: "UNAUTHORIZED ALTERATIONS PROHIBITED"; and
4. The exemption contained in this subsection shall not be deemed to authorize the chemical, physical, or metallurgical treatment or

processing of such counterweights other than repair or restoration of any plating or other covering.

(f) [(g)] Natural or depleted uranium metal used as shielding constituting part of any shipping container; provided that:

1. The shipping container [which] is conspicuously and legibly impressed with the legend "CAUTION - RADIOACTIVE SHIELDING - URANIUM"; and

2. The uranium metal is encased in mild steel or equally fire resistant metal of minimum wall thickness of one-eighth inch (3.2mm). [which meets the specifications for containers for radioactive material prescribed by Section 173.394 or 173.395 of 49 CFR Part 173 of U.S. Department of Transportation regulations.]

(g) [(h)] Thorium contained in finished optical lenses, provided that each lens does not contain more than thirty (30) percent by weight of thorium. The exemption contained in this subsection shall not be deemed to authorize either:

1. The shaping, grinding, or polishing of such lens or manufacturing processes other than the assembly of such lens into optical systems and devices without any alteration of the lens; or

2. The receipt, possession, use, or transfer of thorium contained in contact lenses, or in spectacles, or in eye-pieces in binoculars or other optical instruments.

(h) [(i)] Uranium contained in detector heads for use in fire detection units, provided that each detector head contains not more than 0.005 microcurie of uranium.

(i) [(j)] Thorium contained in any finished aircraft engine part containing nickel-thoria alloy, provided that:

1. The thorium is dispersed in the nickel-thoria alloy in the form of finely divided thoria (thorium dioxide); and

2. The thorium content in the nickel-thoria alloy does not exceed four (4) percent by weight.

(4) The exemptions in this section of this regulation do not authorize the manufacture of any of the products described herein.

Section 3. Exemption of Radioactive Material Other than Source Material. (1) Exempt concentrations.

(a) Except as provided in paragraph (b) of this subsection, any person is exempt from these regulations to the extent that such person receives, possesses, uses, transfers, owns, or acquires products or materials containing radioactive material in concentrations not in excess of those listed in 902 KAR 100:085.

(b) No person may introduce radioactive material into a product or material knowing or having reason to believe that it will be transferred to persons exempt under paragraph (a) of this subsection or equivalent regulations of the U.S. Nuclear Regulatory Commission or any Agreement State, except in accordance with a license issued pursuant to these regulations.

(2) Certain items containing radioactive material. Except for persons who apply radioactive material to, or persons who incorporate radioactive material into the following products, any person is exempt from these regulations to the extent that he receives, possesses, uses, transfers, owns, or acquires the following products:

(a) Timepieces or hand or dials containing not more than the following specified quantities of radioactive material and not exceeding the following specified levels of radiation:

1. Twenty-five (25) millicuries of tritium per timepiece;

2. Five (5) millicuries of tritium per hand; or

3. Fifteen (15) millicuries of tritium per dial (bezels when used shall be considered as part of the dial).

4. 100 microcuries of promethium-147 per watch or 200 microcuries of promethium-147 per any other timepiece;

5. Twenty (20) microcuries of promethium-147 per watch hand or forty (40) microcuries of promethium-147 per other timepiece hand; or

6. Sixty (60) microcuries of promethium-147 per watch dial or 120 microcuries of promethium-147 per other timepiece dial (bezels when used shall be considered as part of the dial).

7. The radiation dose rate from hands and dials containing promethium-147 will not exceed, when measured through fifty (50) milligrams per square centimeter of absorber:

a. For wrist watches, 0.1 millirad per hour at ten (10) centimeters from any surface;

b. For pocket watches, 0.1 millirad per hour at one (1) centimeter from any surface;

c. For any other timepiece, 0.2 millirad per hour at ten (10) centimeters from any surface.

8. One (1) microcurie of radium-226 per timepiece in timepieces acquired prior to January 3, 1986 [effective date of this regulation].

(b) Lock illuminators containing not more than fifteen (15) millicuries of tritium or not more than two (2) millicuries of promethium-147 installed in automobile locks. The radiation dose rate from each lock illuminator containing promethium-147 will not exceed one (1) millirad per hour at one (1) centimeter from any surface when measured through fifty (50) milligrams per square centimeter of absorber.

(c) Precision balances containing not more than one (1) millicurie of tritium per balance or not more than 0.5 millicurie of tritium per balance part.

(d) Automobile shift quadrants containing not more than twenty-five (25) millicuries of tritium.

(e) Marine compasses containing not more than 750 millicuries of tritium gas and other marine navigational instruments containing not more than 250 millicuries of tritium gas.

(f) Thermostat dials and pointers containing not more than twenty-five (25) millicuries of tritium per thermostat.

(g) Electron tubes; provided, that each tube does not contain more than one (1) of the following specified quantities of radioactive material:

1. 150 millicuries of tritium per microwave receiver protector tube or ten (10) millicuries of tritium per any other electron tube.

2. One (1) microcurie of cobalt-60.

3. Five (5) microcuries of nickel-63.

4. Thirty (30) microcuries of krypton-85.

5. Five (5) microcuries of cesium-137.

6. Thirty (30) microcuries of promethium-147; and provided further, that the radiation dose rate due to radioactive material contained in each electron tube does not exceed one (1) millirad per hour at one (1) centimeter from any surface when measured through seven (7) milligrams per square centimeter of absorber. For purposes of this subparagraph, "electron

tubes" include spark gap tubes, power tubes, gas tubes including glow lamps, receiving tubes, microwave tubes, indicator tubes, pick-up tubes, radiation detection tubes, and any other completely sealed tube that is designed to conduct or control electrical currents.

(h) Ionizing radiation measuring instruments containing, for purposes of internal calibration or standardization, one (1) or more sources of radioactive material not exceeding the applicable quantity set forth in these regulations provided that:

1. Each source contains no more than one (1) exempt quantity set forth in 902 KAR 100:080; [and]

2. Each instrument contains no more than ten (10) exempt quantities. For purposes of this requirement, an instrument's source(s) may contain either one (1) or different types of radionuclides and an individual exempt quantity may be composed of fractional parts of one (1) or more of the exempt quantitites in 902 KAR 100:080, provided that the sum of such fractions shall not exceed unity; and

3. For purposes of this paragraph, 0.05 microcuries of americium-241 is considered an exempt quantity under 902 KAR 100:080.

(i) Spark cap irradiators containing not more than one (1) microcurie of cobalt-60 per spark gap irradiator for use in electrically ignited fuel oil burners having a firing rate of at least three (3) gallons per hour.

(3) Resins containing scandium 46 and designed for sand consolidation in oil wells. Any person is exempt from these regulations to the extent that such person receives, possesses, uses, transfers, owns, or acquires synthetic plastic resins containing scandium-46 which are designed for sand consolidation in oil wells. Such resins shall have been manufactured or imported in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission, or shall have been manufactured in accordance with the specifications contained in a specific license issued by the cabinet or any Agreement State to the manufacturer of such resins pursuant to licensing requirements equivalent to those in Section 32.16 and 32.17 of 10 CFR Part 32 of the regulations of the U.S. Nuclear Regulatory Commission. This exemption does not authorize the manufacture of any resins containing scandium-46.

(4) Gas and aerosol detectors containing radioactive material. Except for persons who manufacture, process, or produce gas and aerosol detectors containing radioactive material, any person is exempt from these regulations to the extent that such person receives, possesses, uses, transfers, owns, or acquires radioactive material in gas and aerosol detectors designed to protect life or property from fires and airborne hazards provided:

(a) Detectors containing byproduct material shall have been manufactured, imported, or transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to Section 32.26 of 10 CFR, Part 32, which license authorizes the transfer of the detectors to persons who are exempt from regulatory requirements; or

(b) Detectors containing other than byproduct, source, or special nuclear material shall have been manufactured or transferred in accordance with a specific license issued by the cabinet or any Agreement State pursuant to licensing requirements equivalent to those set forth in 902 KAR 100:058, which license authorizes the transfer of the detectors to persons who are exempt from regulatory requirements.

(5) Self-luminous products containing radioactive material.

(a) Tritium, krypton-85, or promethium-147. Except for persons who manufacture, process, or produce self-luminous products containing tritium, krypton-85, or promethium-147, any person is exempt from these regulations to the extent that such person receives, possesses, uses, transfers, owns, or acquires tritium, krypton-85, or promethium-147 in self-luminous products manufactured, processed, produced, imported, or transferred in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to Section 32.22 of 10 CFR, Part 32, which license authorizes the transfer of the product to persons who are exempt from regulatory requirements. The exemption in this subsection does not apply to tritium, krypton-85, or promethium-147, used in products for frivolous purposes or in toys or adornments.

(b) Radium-226. Any person is exempt from these regulations to the extent that such person receives, possesses, uses, transfers, or owns articles containing less than one-tenth (0.1) microcurie of radium-226 which were acquired prior to January 3, 1986 [the effective date of this regulation].

(6) Exempt quantities.

(a) Except as provided in paragraphs (c) and (d) of this subsection, any person is exempt from these regulations to the extent that such person receives, possesses, uses, transfers, owns, or acquires radioactive material in individual quantities each of which does not exceed the applicable quantity set forth in 902 KAR 100:080.

(b) Any person who possesses radioactive material received or acquired under the general license formerly provided in RH-8, Section 3(a)(2) of the Kentucky State Board of Health "RH" Regulations, effective October, 1968, is exempt from the requirements for a license set forth in these regulations to the extent that such person possesses, uses, transfers or owns such radioactive material. Such exemption does not apply for radium-226.

(c) Paragraphs (a) and (b) of this subsection do not authorize the production, packaging or repackaging of radioactive material for purposes of commercial distribution, or the incorporation of radioactive material into products intended for commercial distribution.

(d) No person may, for purposes of commercial distribution, transfer radioactive material in the individual quantities set forth in 902 KAR 100:080 knowing or having reason to believe that such quantities of radioactive material will be transferred to persons exempt under this subsection or equivalent regulations of the U.S. Nuclear Regulatory Commission or any Agreement State, except in accordance with a specific license issued by the U.S. Nuclear Regulatory Commission pursuant to Section 32.18 of 10 CFR, Part 32, or by the cabinet, which license states that the radioactive material may be transferred by the licensee to persons exempt under this paragraph or the equivalent regulations of the U.S. Nuclear Regulatory Commission or any Agreement State.

E. AUSTIN, JR., Secretary
C. HERNANDEZ, M.D., Commissioner
APPROVED BY AGENCY: February 24, 1987
FILED WITH LRC: March 13, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for April 21, 1987, at 9 a.m. in the Vital Statistics Conference Room located on the first floor of the CHR Building. However, this hearing will be cancelled unless interested persons notify the following office in writing by April 16, 1987 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: E. Edsel Moore
(1) Type and number of entities affected: Could potentially affect 350 specific licensees and/or 460 general licensees of radioactive materials.
(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: Not applicable
(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: Not applicable
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Minor changes to be compatible with U.S. Nuclear Regulatory Commission statutes/regulations.
TIERING: Was tiering applied? Yes.

CABINET FOR HUMAN RESOURCES
Department for Health Services
(Proposed Amendment)

902 KAR 100:070. Transportation of radioactive material.

RELATES TO: KRS 211.842 to 211.852, 211.990(4)
PURSUANT TO: KRS 194.050, 211.090, 211.844
NECESSITY AND FUNCTION: The Cabinet for Human Resources is empowered by KRS 211.844 to provide by regulation for the registration and licensing of the possession or use of any source of ionizing or electronic product radiation and the handling and disposal of radioactive waste. The purpose of this regulation is to provide requirements for the transportation of radioactive material.

Section 1. Applicability. The provisions of this regulation apply to all persons who transport or deliver radioactive material in Kentucky.

Section 2. Transportation of Radioactive Material. No person shall deliver radioactive material to a carrier for transport or transport radioactive material except as authorized in a general or specific license issued by the cabinet or as exempted in Section 3 of this regulation.

Section 3. Exemptions. (1) Common and contract carriers, freight forwarders, and warehousemen who are subject to the requirements of the U.S. Department of Transportation in 49 CFR 170 through 189 or the U.S. Postal Service in the Postal Service Manual (Domestic Mail Manual), Section 124.3 incorporated by reference, 39 CFR 111.11(1974), are exempt from these regulations to the extent that they transport or store radioactive material in the regular course of their carriage for another or storage incident thereto. Common and contract carriers who are not subject to the requirements of the U.S. Department of Transportation or U.S. Postal Service are subject to Section 2 of this regulation and other applicable sections of these regulations.
(2) Any licensee is exempt from Section 2 of this regulation to the extent that he delivers to a carrier for transport a package containing radioactive material having a specific activity not greater than 0.002 microcurie per gram.
(3) A licensee is exempt from all requirements of this regulation, other than Sections 4 and 13 of this regulation, with respect to shipment or carriage of the following:
(a) Packages containing no more than Type A quantities of radioactive material if the package contains no fissile material; or
(b) Packages transported between locations within the United States which contain only americium or plutonium in special form with an aggregate radioactivity not to exceed twenty (20) curies.

Section 4. Transportation of Licensed Material. (1) Each licensee who transports licensed material outside of the confines of his plant or other place of use, or who delivers licensed material to a carrier for transport shall:
(a) Comply with the applicable requirements, appropriate to the mode of transport, of the regulations of the U.S. Department of Transportation;
(b) Assure that any special instructions needed to safely open the package are sent to or have been made available to the consignee.
(2) If, for any reason, the regulations of the U.S. Department of Transportation are not applicable to a shipment of licensed material, the licensee shall conform to the standards and requirements of those regulations to the same extent as if the shipment was subject to the regulations.

Section 5. General Licenses for Carriers. (1) A general license is hereby issued to any common or contract carrier not exempt under Section 3 of this regulation to receive, possess, transport, and store radioactive material in the regular course of their carriage for another or

storage incident thereto, provided the transportation and storage is in accordance with the applicable requirements, appropriate to the mode of transport, of the U.S. Department of Transportation insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting.

(2) A general license is hereby issued to any private carrier to transport radioactive material, provided the transportation is in accordance with the applicable requirements, appropriate to the mode of transport, of the U.S. Department of Transportation insofar as such requirements relate to the loading and storage of packages, placarding of the transporting vehicle, and incident reporting.

(3) Any notification of incidents referred to in those U.S. Department of Transportation requirements shall be filed with, or made to, the cabinet.

(4) Persons who transport radioactive material pursuant to the general licenses in this section are exempt from the requirements of 902 KAR 100:020 and 902 KAR 100:165 of these regulations to the extent that they transport radioactive material.

Section 6. General License: NRC Approved Packages. (1) A general license is hereby issued to any licensee of the cabinet to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance, or other approval has been issued by the U.S. Nuclear Regulatory Commission (NRC).

(2) This general license applies only to a licensee who:

(a) Has a copy of the specific license, certificate of compliance, or other approval of the package and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment;

(b) Complies with the terms and conditions of the license, certificate, or other approval, as applicable, and the applicable requirements of this regulation;

(c) Prior to the licensee's first use of the package, has registered with the U.S. Nuclear Regulatory Commission; and

(d) Has a quality assurance program, as required by Section 19 of this regulation, approved by the cabinet.

(3) The general license in subsection (1) of this section applies only when the package approval authorizes use of the package under this general license.

(4) For previously approved Type B packages which are not designated as either B(U) or B(M) in the NRC Certificate of Compliance, this general license is subject to additional restrictions of Section 7 of this regulation.

Section 7. Previously Approved Type B Packages. (1) A Type B package previously approved by the NRC, but not designated as B(U) or B(M) in the NRC Certificate of Compliance, may be used under the general license of Section 6 of this regulation with the following additional limitations:

(a) Fabrication of the packaging was satisfactorily completed before August 31, 1986, as demonstrated by application of its model number in accordance with U.S. NRC Regulations; and

(b) The package may not be used for a shipment to a location outside the United States after August 31, 1986, except under special arrangement approved by the U.S. Department of Transportation in accordance with 49 CFR 173.471.

Section 8. General License: DOT Specification Container. (1) A general license is issued to any licensee of the cabinet to transport or to deliver to a carrier for transport licensed material in a specification container for a Type B quantity of radioactive material as specified in the regulations of the U.S. DOT in 49 CFR Parts 173 and 178.

(2) This general license applies only to a licensee who has a quality assurance program approved by the cabinet as satisfying the provisions of Section 19 of this regulation.

(3) This general license applies only to a licensee who:

(a) Has a copy of the specification; and

(b) Complies with the terms and conditions of the specification and the applicable requirements of this regulation.

(4) The general license in subsection (1) of this section is subject to the limitation that the specification container may not be used for a shipment to a location outside the United States after August 31, 1986 except under special arrangements approved by U.S. DOT in accordance with 49 CFR 173.472.

Section 9. General License: Use of Foreign Approved Package. (1) A general license is issued to any licensee of the cabinet to transport or to deliver to a carrier for transport licensed material in a package the design of which has been approved in a foreign national competent authority certificate which has been revalidated by the U.S. DOT as meeting the applicable requirements of 49 CFR 171.12.

(2) This general license applies only to shipments made to or from locations outside the United States.

(3) This general license applies to a licensee who:

(a) Has a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment; and

(b) Complies with the terms and conditions of the certificate and revalidation and with the applicable requirements of this regulation.

Section 10. General License: Type A, Fissile Class II Packages. (1) A general license is hereby issued to any licensee to transport fissile material, or to deliver fissile material to a carrier for transport, if the material is shipped as a Fissile Class II package.

(2) This general license applies only when a package contains no more than a Type A quantity of radioactive material, including only one (1) of the following:

(a) Up to forty (40) grams of uranium-235; or

(b) Up to thirty (30) grams of uranium-233; or

(c) Up to twenty-five (25) grams of the fissile radionuclides of plutonium, except that for encapsulated plutonium-beryllium neutron sources in special form, an A_1 quantity of plutonium may be present; or

(d) A combination of fissile radionuclides in which the sum of the ratios of the amount of

each radionuclide to the corresponding maximum amounts in this subsection does not exceed unity.

(3) This general license applies only when, except as specified below for encapsulated plutonium-beryllium sources, a package containing more than fifteen (15) grams of fissile radionuclides is labeled with a transport index not less than the number given by the following equation, where the package contains x grams of uranium-235, y grams of uranium-233, and z grams of the fissile radionuclides of plutonium:

$$\text{minimum transport index} = (0.4x+0.67y+z)\left(1 - \frac{15}{x+y+z}\right)$$

For a package in which the only fissile material is in the form of encapsulated plutonium-beryllium neutron sources in special form, the transport index based on criticality considerations may be taken as 0.026 times the number of grams of the fissile radionuclides of plutonium in excess of fifteen (15) grams. In all cases, the transport index must be rounded up to one (1) decimal place, and may not exceed ten (10).

Section 11. General License: Restricted, Fissile Class II Package. (1) A general license is hereby issued to any licensee to transport fissile material, or to deliver fissile material to a carrier for transport, if the material is shipped as a Fissile Class II package.

(2) This general license applies only when:

(a) The package contains no more than a Type A quantity of radioactive material;

(b) Neither beryllium nor hydrogenous material enriched in deuterium is present;

(c) The total mass of graphite present does not exceed 150 times the total mass of uranium-235 plus plutonium;

(d) Substances having a higher hydrogen density than water, (e.g. certain hydrocarbon oils, are not present, except that polyethylene may be used for packing or wrapping);

(e) Uranium-233 is not present, and the amount of plutonium does not exceed one (1) percent of the amount of uranium-235; and

(f) The amount of uranium-235 is limited as follows:

1. If the fissile radionuclides are not uniformly distributed, the maximum amount of uranium-235 per package may not exceed the value given in the following table:

Table I

Uranium enrichment in weight percent of uranium-235 not exceeding	Permissible maximum grams of uranium-235 per package
24	40
20	42
15	45
11	48
10	51
9.5	52
9	54
8.5	55
8	57
7.5	59
7	60
6.5	62
6	65
5.5	68
5	72
4.5	76
4	80
3.5	88
3	100
2.5	120
2	164
1.5	272
1.35	320
1	680*
0.92	1200*

* Pursuant to its agreement with the U.S. Nuclear Regulatory Commission, the cabinet jurisdiction extends only to 350 grams of uranium-235.

2. If the fissile radionuclides are distributed uniformly (i.e., cannot form a lattice arrangement within the packaging) the maximum amount of uranium-235 per package may not exceed the value given in the following table:

Table II

Uranium enrichment in weight percent of uranium-235 not exceeding	Permissible maximum grams of uranium-235 per package
4	84
3.5	92
3	112
2.5	148
2	240
1.5	569*
1.35	800*

* Pursuant to its agreement with the U.S. Nuclear Regulatory Commission, the cabinet jurisdiction extends only to 350 grams of uranium-235.

(g) The transport index of each package based on critically considerations is taken as ten (10) times the number of grams of uranium-235 in the package divided by the maximum allowable number of grams per package in accordance with Table I or II above as applicable.

Section 12. Fissile Material: Assumptions as to Unknown Properties. When the isotopic abundance, mass, concentration, degree of irradiation, degree of moderation, or other pertinent property of fissile material in any package is not known, the licensee shall package the fissile material as if the unknown properties have credible values that will cause the maximum nuclear reactivity.

Section 13. Preliminary Determinations. Prior to the first use of any packaging for the shipment of radioactive material:

(1) The licensee shall ascertain that there are no defects which could significantly reduce the effectiveness of the packaging;

(2) Where the maximum normal operating pressure will exceed 34.3 kilopascal (5 psi) gauge, the licensee shall test the containment system at an internal pressure at least fifty (50) percent higher than the maximum normal operating pressure to verify the capability of that system to maintain its structural integrity at that pressure.

(3) The licensee shall conspicuously and

durably mark the packaging with its model number, gross weight, and a package identification number assigned by the U.S. Nuclear Regulatory Commission. Prior to applying the model number, the licensee shall determine that the packaging has been fabricated in accordance with the design approved by the U.S. Nuclear Regulatory Commission.

Section 14. Routine Determinations. Prior to each shipment of licensed material, the licensee shall ensure that the package with its contents satisfies the applicable requirements of this regulation and of the license. The licensee shall determine that:

(1) The package is proper for the contents to be shipped;

(2) The package is in unimpaired physical condition except for superficial defects such as marks or dents;

(3) Each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;

(4) Any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;

(5) Any pressure relief device is operable and set in accordance with written procedures;

(6) The package has been loaded and closed in accordance with written procedures;

(7) Any structural part of the package which could be used to lift or tie down the package during transport is rendered inoperable for that purpose unless it satisfies design requirements specified by the U.S. Nuclear Regulatory Commission.

(8)(a) The level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable. The level of non-fixed radioactive contamination may be determined by wiping an area of 300 square centimeters of the surface concerned with an absorbent material, using moderate pressure, and measuring the activity on the wiping material. Sufficient measurements must be taken in the most appropriate locations to yield a representative assessment of the non-fixed contamination levels. Except as provided under paragraph (b) of this subsection, the amount of radioactivity measured on any single wiping material when averaged over the surface wiped, must not exceed the limits given in Table III of this subsection at any time during transport. Other methods of assessment of equal or greater efficiency may be used. When other methods are used, the detection efficiency of the method used must be taken into account and in no case may the non-fixed contamination on the external surfaces of the package exceed ten (10) times the limits listed in Table III of this subsection.

Table III
REMOVABLE EXTERNAL RADIOACTIVE CONTAMINATION WIPE LIMITS

Contaminent	Maximum Permissible Limits uCi/cm^2	dpm/cm^2
Beta-gamma emitting radionuclides; all radionuclides with half-lives less than ten (10) days; natural uranium; natural thorium; uranium-235; uranium-238; thorium-228; thorium-230 and thorium-232 when contained in ores or physical concentrates	10^{-5}	22
All other alpha emitting radionuclides	10^{-6}	2.2

(b) In the case of packages transported as exclusive use shipments by rail or highway only, the non-fixed radioactive contamination at any time during transport must not exceed ten (10) times the levels prescribed in paragraph (a) of this subsection. The levels at the beginning of transport must not exceed the levels prescribed in paragraph (a) of this subsection.

(9) External radiation levels around the package and around the vehicle, if applicable, will not exceed 200 millirem per hour at any point in the external surface of the package at any time during transportation. The transport index shall not exceed ten (10).

(10) For a package transported as exclusive use by rail, highway or water, radiation levels external to the package may exceed the limits specified in subsection (9) of this section but must not exceed any of the following:

(a) 200 millirem/hour on the accessible external surface of the package unless the following conditions are met, in which case the limit is 1000 millirem per hour.

1. The shipment is made in a closed transport vehicle;

2. Provisions are made to secure the package so that its position within the vehicle remains fixed during transportation; and

3. There are no loading or unloading operations between the beginning and end of the transportation;

(b) 200 millirem/hour at any point on the outer surface of the vehicle, including the upper and lower surfaces, or in the case of an open vehicle, at any point on the vertical planes projected from the outer edges of the vehicle, on the upper surface of the load, and on the lower external surface of the vehicle;

(c) Ten (10) millirem/hour at any point two (2) meters from the vertical planes represented by the outer lateral surfaces of the vehicle, or, in the case of an open vehicle, at any point two (2) meters from the vertical planes projected from the outer edges of the vehicle; and

(d) Two (2) millirem/hour in any normally occupied positions of the vehicle, except that this provision does not apply to private motor carriers when persons occupying these positions are provided with special health supervision, personnel radiation exposure monitoring devices,

and training in accordance with 902 KAR 100:165, Section 3.

(11) A package must be prepared for transport so that in still air at 100°F (38 [30]°C) and in the shade, no accessible surface of a package would have a temperature exceeding 122°F (50°C) in a nonexclusive use shipment or 180°F (82°C) in an exclusive use shipment. Accessible package surface temperatures shall not exceed these limits at any time during transportation.

Section 15. Air Transport of Plutonium. Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this regulation or included indirectly by citation of U.S. Department of Transportation regulations, as may be applicable, the licensee shall assure that plutonium in any form is not transported by air or delivered to a carrier for air transport unless:

(1) The plutonium is contained in a medical device designed for individual human application;

(2) The plutonium is contained in a material in which the specific activity is not greater than 0.002 microcurie per gram of material and in which the radioactivity is essentially uniformly distributed;

(3) The plutonium is shipped in a single package containing no more than an A_2 quantity of plutonim in any isotope or form and is shipped in accordance with Section 4 of this regulation; or

(4) The plutonium is shipped in a package specifically authorized for the shipment of plutonium by air in the Certificate of Compliance for that package issued by the U.S. Nuclear Regulatory Commission.

Section 16. Records. (1) Each licensee shall maintain for a period of two (2) years after shipment a record of each shipment of licensed material not exempt under Section 3 of this regulation, showing, where applicable:

(a) Identification of the packaging by model number;

(b) Verification that there are no significant defects in the packaging, as shipped;

(c) Volume and identification or coolant;

(d) Type and quantity of licensed material in each package, and the total quantity of each shipment;

(e) Date of the shipment;

(f) Name and address of the transferee;

(g) Address to which the shipment was made; and

(h) Results of the determinations required by Section 13 [12] of this regulation.

(2) The licensee shall make available to the cabinet for inspection, upon reasonable notice, all records required by this regulation.

Section 17. Reports. The licensee shall report to the cabinet within thirty (30) days:

(1) Any instance in which there is significant reduction in the effectiveness of any authorized packaging during use; and

(2) Details of any defects with safety significance in the packaging after first use, with the means employed to repair the defects and prevent their recurrence.

Section 18. Advance Notification of Transport of Nuclear Waste. (1) Prior to the transport of any nuclear waste outside of the confines of the licensee's facility or other place of use or storage, or prior to the delivery of any nuclear waste to a carrier for transport, each licensee shall provide advance notification of such transport to the governor, or governor's designee, of each state through which the waste will be transported.

(2) Advance notification is required only when:

(a) The nuclear waste is required to be in Type B packaging for transportation;

(b) The nuclear waste is being transported to, through, or across state boundaries to a disposal site or to a collection point for transport to a disposal site;

(c) The quantity of licensed material in a single package exceeds:

1. 5,000 curies of special form radionuclides;

2. 5,000 curies of uncompressed gases of argon-41, krypton-85m, krypton-87, xenon-131m, or xenon-135;

3. 50,000 curies of argon-37, or of uncompressed gases of krypton-85 or xenon-133, or of hydrogen-3 as a gas, as luminous paint, or absorbed on solid material;

4. Twenty (20) curies of other non-special form radionuclides for which A_2 is less than or equal to four (4) curies; or

5. 200 curies of to the non-special form radionuclides for which A_2 is greater than four (4) curies.

(3) Each advance notification shall contain the following information:

(a) The name, address, and telephone number of the shipper, carrier, and receiver of the shipment;

(b) A description of the nuclear waste contained in the shipment as required by the regulations of the U.S. Department of Transportation, 49 CFR 172.202 and 172.203(d);

(c) The point of origin of the shipment and the seven (7) day period during which departure of the shipment is estimated to occur;

(d) The seven (7) day period during which arrival of the shipment at state boundaries is estimated to occur;

(e) The destination of the shipment, and the seven (7) day period during which arrival of the shipment is estimated to occur; and

(f) A point of contact with a telephone number for current shipment information.

(4) The notification shall be made in writing to the office of each appropriate governor or governor's designee and to the cabinet. A notification delivered by mail must be postmarked at least seven (7) days before the beginning of the seven (7) day period during which departure of the shipment is estimated to occur. A notification delivered by messenger must reach the office of the governor, or governor's designee, at least four (4) days before the beginning of the seven (7) day period during which departure of the shipment is estimated to occur. A copy of the notification shall be retained by the licensee for one (1) year.

(5) The licensee shall notify each appropriate governor, or governor's designee, and the cabinet of any changes to schedule information provided pursuant to subsection (1) of this section. Such notification shall be by telephone to a responsible individual in the office of the governor, or governor's designee, of the appropriate state or states. The licensee shall maintain for one (1) year a record of the name of the individual contacted.

(6) Each licensee who cancels a nuclear waste

shipment, for which advance notification has been sent, shall send a cancellation notice to the governor, or governor's designee, of each appropriate state and to the cabinet. A copy of the notice shall be retained by the licensee for one (1) year.

Section 19. Quality Assurance Requirements. (1) Each licensee shall establish, maintain, and execute a quality assurance program to verify, by procedures such as checking, auditing, and inspection, that deficiencies, deviations, and defective material and equipment relating to the shipment of packages containing radioactive materials, are promptly identified and corrected. Prior to the use of any package for the shipment of radioactive material, each licensee shall obtain cabinet approval of its quality assurance program.

(2) Each licensee shall document the quality assurance program by written procedures or instructions and shall carry out the program in accordance with those procedures throughout the period during which packaging is used. The licensee shall identify the material and components to be covered by the quality assurance program.

(3) The licensee shall maintain sufficient written records to demonstrate compliance with the quality assurance program. Records pertaining to the use of a package for shipment of radioactive material must be retained for a period of two (2) years after shipment.

Section 20. Determination of A_1 and A_2. The following procedures are to be followed to make a determination of A_1 and A_2 values:

(1) Single radionuclides:

(a) For a single radionuclide of known identity, the values of A_1 and A_2 are taken from Section 21 of this regulation if listed there. The values A_1 and A_2 in Section 21 of this regulation are also applicable for radionuclides contained in (α,n) or (γ,n) neutron sources.

(b) For any single radionuclide whose identity is known but which is not listed in Section 21 of this regulation, the values of A_1 and A_2 are determined according to the following procedure:

1. If the radionuclide emits only one (1) type of radiation, A_1 is determined according to the rules in subparagraphs of this paragraph. For radionuclides emitting different finds of radiation, A_1 is the most restrictive value of those determined for each kind of radiation. However, in both cases, A_1 is restricted to a maximum of 1000 curies. If a parent nuclide decays into a shorter lived daughter with a half-life not greater than ten (10) days, A_1 is calculated for both the parent and the daughter, and the more limiting of the two (2) values is assigned to the parent nuclide.

a. For gamma emitters, A_1 is determined by the expression:

$$A_1 = \frac{9 \text{ curies}}{r}$$

where r is the gamma-ray constant, corresponding to the dose in R/h at one (1) meter per curie; the number nine (9) results from the choice of one (1) rem/h at a distance of three (3) meters as the reference dose equivalent rate.

b.For x-ray emitters, A_1 is determined by the atomic number of the nuclide:

for z less than or equal to 55---A_1 = 1000Ci

for z greater than 55---A_1 = 200Ci

where z is the atomic number of the nuclide.

c. For beta emitters, A_1 is determined by the maximum beta energy (E_{max}) according to Section 22 of this regulation;

d. For alpha emitters, A_1 is determined by the expression:

$$A_1 = 1000\ A_3$$

where A_3 is the value listed in Section 23 of this regulation.

2. A_2 is the more restrictive of the following two (2) values:

a. The corresponding A_1; and

b. The value A_3 obtained from Section 23 of this regulation.

(c) For any single radionuclide whose identity is unknown, the value of A_1 is taken to be two (2) curies and the value of A_2 is taken to be 0.002 curie. However, if the atomic number of the radionuclide is known to be less than 82, the value of A_1 is taken to be ten (10) curies and the value of A_2 is taken to be 0.4 curie.

(2) Mixtures of radionuclides, including radioactive decay chains:

(a) For mixed fission products the following activity limits may be assumed if a detailed analysis of the mixture is not carried out:

$$A_1 = 10 \text{ Ci}$$
$$A_2 = 0.4 \text{ Ci}$$

(b) A single radioactive decay chain is considered to be a single radionuclide when the radionuclides are present in their naturally occurring proportions and no daughter nuclide has a half-life either longer than ten (10) days or longer than that of the parent nuclide. The activity to be taken into account and the A_1 and A_2 values, radiation emitted by daughters must be considered. However, in the case of radioactive decay chains in which any daughter nuclide has a half-life either longer than ten (10) days or greater than that of the parent nuclide, the parent and daughter nuclides are considered to be mixtures of different nuclides.

(c) In the case of a mixture of difference radionuclides, where the identify and activity of each radionuclide are known, the permissible activity of each radionuclide R_1, $R_2 \ldots R_n$ is such that $F_1 + F_2 + \ldots F_n$ is greater than unity, where

$$F_1 = \frac{\text{Total activity of } R_1}{A_i(R_1)}$$
$$F_2 = \frac{\text{Total activity of } R_2}{A_i(R_2)}$$
$$F_n = \frac{\text{Total activity of } R_n}{A_i(R_n)}$$

A_i (R_1, $R_2..R_n$) is the value of A_1 or A_2 as appropriate for the nuclide R_1, $R^2 \ldots R_n$.

(d) When the identity of each radionuclide is known but the individual activities of some of the radionuclides are not known, the formula given in paragraph (c) of this subsection is applied to establish the values of A_1 or A_2 as appropriate. All the radionuclides whose individual activities are not known (their total activity will, however, be known) are classed in a single group and the most restrictive value of A_1 and A_2 applicable to any one (1) is used

as the value of A_1 or A_2 in the denominator of the fraction.

(e) Where the identity of each radionuclide is known but the individual activity of none of the radionuclides is known, the most restrictive value of A_1 or A_2 applicable to any one (1) of the radionuclides present is adopted as the applicable value.

(f) When the identity of none of the nuclides is known, the value of A_1 is taken to be two (2) curies and the value of A_2 is taken to be 0.002 curie. However, if alpha emitters are known to be absent, the value of A_2 is taken to be 0.4 curie.

Section 21. Table. The A_1 and A_2 values for radionuclides are as follows (see footnotes at end of table):

Symbol of radionuclide	Element and atomic number	A_1(Ci)	A_2(Ci)	Specific Activity (Ci/g)
^{227}Ac	Actinum (89)	1000	0.003	7.2×10^{1}
^{228}Ac		10	4	2.2×10^{6}
^{105}Ag	Silver (47)	40	40	3.1×10^{4}
^{110m}Ag		7	7	4.7×10^{3}
^{111}Ag		100	20	1.6×10^{5}
^{241}Am	Americium (95)	8	0.008	3.2
^{243}Am		8	0.008	1.9×10^{-1}
^{37}Ar (Compressed or uncompressed)*	Argon (18)	1000	1000	1.0×10^{-5}
^{41}Ar (uncompressed)*		20	20	4.3×10^{7}
^{41}Ar (compressed)*		1	1	4.3×10^{7}
^{73}As	Arsenic (33)	1000	400	2.4×10^{4}
^{74}As		20	20	1.0×10^{5}
^{76}As		10	10	1.6×10^{6}
^{77}As		300	20	1.1×10^{6}
^{211}At	Astatine (85)	200	7	2.1×10^{6}
^{193}Au	Gold (79)	200	200	9.3×10^{5}
^{196}Au		30	30	1.2×10^{5}
^{198}Au		40	20	2.5×10^{5}
^{199}Au		200	25	2.1×10^{5}
^{131}Ba	Barium (56)	40	40	8.7×10^{4}
^{133}Ba		40	10	4.0×10^{2}
^{140}Ba		20	20	7.3×10^{4}
^{7}Be	Beryllium (4)	300	300	3.5×10^{5}
^{206}Bi	Bismuth (83)	5	5	9.9×10^{4}
^{207}Bi		10	10 [25]	2.2×10^{2}
^{210}Bi(RaE)		100	4	1.2×10^{5}
^{212}Bi		6	6	1.5×10^{7}
^{249}Bk	Berkelium (97)	1000	1	1.8×10^{3}
^{77}Br	Bromine (35)	70	25	7.1×10^{5}
^{82}Br		6	6	1.1×10^{6}
^{11}C	Carbon (6)	20	20	8.4×10^{8}
^{14}C		1000	60	4 x 6
^{45}Ca	Calcium (20)	1000	25	1.9×10^{4}
^{47}Ca		20	20	5.9×10^{5}
^{109}Cd	Cadmium (48)	1000	70	2.6×10^{3}
^{115m}Cd		30	30	2.6×10^{4}
^{115}Cd		80	20	5.1×10^{5}
^{139}Ce	Cerium (58)	100	100	6.5×10^{3}
^{141}Ce		300	25	2.8×10^{4}
^{143}Ce		60	20	6.6×10^{5}
^{144}Ce		10	7	3.2×10^{3}
^{249}Cf	Californium (98)	2	0.002	3 x 1
^{250}Cf		7	0.007	1.3×10^{2}
^{252}Cf		2	0.009	6.5×10^{2}
^{36}Cl	Chlorine (17)	300	10	3.2×10^{-2}
^{38}Cl		10	10	1.3×10^{8}
^{242}Cm	Curium (96)	200	0.2	3.3×10^{3}
^{243}Cm		9	0.009	4.2×10^{1}
^{244}Cm		10	0.01	8.2×10^{1}
^{245}Cm		6	0.006	1.0×10^{-1}
^{246}Cm		6	0.006	3.6×10^{-1}
^{56}Co	Cobalt (27)	5	5	3.0×10^{4}
^{57}Co		90	90	8.5×10^{3}
^{58m}Co		1000	1000	5.9×10^{6}
^{58}Co		20	20	3.1×10^{4}
^{60}Co		7	7	1.1×10^{3}
^{51}Cr	Chromium (24)	600	600	9.2×10^{4}
^{129}Cs	Cesium (55)	40	40	7.6×10^{5}
^{131}Cs		1000	1000	1.0×10^{5}

^{134m}Cs		1000	10	7.4×10^{6}
^{134}Cs		10	10	1.2×10^{3}
^{135}Cs		1000	25	8.8×10^{-4}
^{136}Cs		7	7	7.4×10^{4}
^{137}Cs		30	10	9.8×10^{1}
^{64}Cu	Copper (29)	80	25	3.8×10^{6}
^{67}Cu		200	25	7.9×10^{5}
^{165m}Dy	Dysprosium (66)	100	20	8.2×10^{6}
^{166}Dy		1000	200	2.3×10^{5}
^{169}Er	Erbium (68)	1000	25	8.2×10^{4}
^{171}Er		50	20	2.4×10^{6}
^{152m}Eu	Europium (63)	30	30	2.2×10^{6}
^{152}Eu		20	10	1.9×10^{2}
^{154}Eu		10	5	1.5×10^{2}
^{155}Eu		400	60	1.4×10^{3}
^{18}F	Fluorine (9)	20	20	9.3×10^{7}
^{52}Fe	Iron (26)	5	5	7.3×10^{6}
^{55}Fe		1000	1000	2.2×10^{3}
^{59}Fe		10	10	4.9×10^{4}
^{67}Ga	Gallium (31)	100	100	6.0×10^{5}
^{68}Ga		20	20	4.0×10^{7}
^{72}Ga		7	7	3.1×10^{6}
^{153}Gd	Gadolinium (64)	200	100	3.6×10^{3}
^{159}Gd		300	20	1.1×10^{6}
^{68}Ge	Germanium (32)	20	10	7.0×10^{3}
^{71}Ge		1000	1000	1.6×10^{5}
^{3}H	Hydrogen (1) see T-Tritium			
^{181}Hf	Hafnium (72)	30	25	1.6×10^{4}
^{197m}Hg	Mercury (80)	200	200	6.6×10^{5}
^{197}Hg		200	200	2.5×10^{5}
^{203}Hg		80	25	1.4×10^{4}
^{166}Ho	Holmium (67)	30	30	6.9×10^{5}
^{123}I	Iodine (53)	50	50	1.9×10^{6}
^{125}I		1000	70	1.7×10^{4}
^{126}I		40	10	7.8×10^{4}
^{129}I		1000	2	1.6×10^{-4}
^{131}I		40	10	1.2×10^{5}
^{132}I		7	7	1.1×10^{7}
^{133}I		30	10	1.1×10^{6}
^{134}I		8	8	2.7×10^{7}
^{135}I		10	10	3.5×10^{6}
^{111}In	Indium (49)	30	25	4.2×10^{5}
^{113m}In		60	60	1.6×10^{7}
^{114m}In		30	20	2.3×10^{4}
^{115m}In		100	20	6.1×10^{6}
^{190}Ir	Iridium (77)	10	10	6.2×10^{4}
^{192}Ir		20	10	9.1×10^{3}
^{194}Ir		10	10	8.5×10^{5}
^{42}K	Potassium (19)	10	10	6.0×10^{6}
^{43}K		20	10	3.3×10^{6}
^{85m}Kr (uncompressed)*	Krypton (36)	100	100	8.4×10^{6}
^{85m}Kr (compressed)*		3	3	8.4×10^{6}
^{85}Kr (uncompressed)*		1000	1000	4.0×10^{2}
^{85}Kr (compressed)*		5	5	4.0×10^{2}
^{87}Kr (uncompressed)*		20	20	2.8×10^{7}
^{87}Kr (compressed)*		0.6	0.6	2.8×10^{7}
^{140}La	Lanthanum (57)	30	30	5.6×10^{5}
^{177}Lu	Lutetium (71)	300	25	1.1×10^{5}
MFP	Mixed fission products	10	0.4	-----
^{28}Mg	Magnesium (12)	6	6	5.2×10^{6}
^{52}Mn	Manganese (25)	5	5	4.4×10^{5}
^{54}Mn		20	20	8.3×10^{3}
^{56}Mn		5	5	2.2×10^{7}
^{99}Mo	Molybdenum (42)	100	20	4.7×10^{5}
^{13}N	Nitrogen (7)	20	10	1.5×10^{9}
^{22}Na	Sodium (11)	8	8	6.3×10^{3}
^{24}Na		5	5	8.7×10^{6}
^{93m}Nb	Niobium (41)	1000	200	1.1×10^{3}
^{95}Nb		20	20	3.9×10^{4}
^{97}Nb		20	20	2.6×10^{7}
^{147}Nd	Neodymium (60)	100	20	8.0×10^{4}
^{149}Nd		30	20	1.1×10^{7}
^{59}Ni	Nickel (28)	1000	900	8.1×10^{-2}
^{63}Ni		1000	100	4.6×10^{1}

^{65}Ni		10	10	1.9×10^{7}
^{237}Np	Neptunium (93)	5	0.005	6.9×10^{-4}
^{239}Np		200	25	2.3×10^{5}
^{185}Os	Osmium (76)	20	20	7.3×10^{3}
^{191}Os		600	200	4.6×10^{4}
^{191m}Os		200	200	1.2×10^{6}
^{193}Os		100	20	5.3×10^{5}
^{32}P	Phosphorus (15)	30	30	2.9×10^{5}
^{230}Pa	Protactinum (91)	20	0.8	3.2×10^{4}
^{231}Pa		2	0.002	4.5×10^{-2}
^{233}Pa		100	100	2.1×10^{4}
^{201}Pb	Lead (82)	20	20	1.7×10^{6}
^{210}Pb		100	0.2	8.8×10
^{212}Pb		6	5	1.4×10^{6}
^{103}Pd	Palladium (46)	1000	700	7.5×10^{4}
^{109}Pd		100	20	2.1×10^{6}
^{147}Pm	Promethium (61)	1000	25	9.4×10^{2}
^{149}Pm		100	20	4.2×10^{5}
^{210}Po	Polonium (84)	200	0.2	4.5×10^{3}
^{142}Pr	Praseodymium (59)	10	10	1.2×10^{4}
^{143}Pr		300	20	6.6×10^{4}
^{191}Pt	Platinum (78)	100	100	2.3×10^{5}
^{193m}Pt		200	200	2.0×10^{5}
^{197m}Pt		300	20	1.2×10^{7}
^{197}Pt		300	20	8.8×10^{5}
^{238}Pu	Plutonium (94)	3	0.003	1.7×10^{1}
^{239}Pu		2	0.002	6.2×10^{-2}
^{240}Pu		2	0.002	2.3×10^{-1}
^{241}Pu		1000	0.1	1.1×10^{2}
^{242}Pu		3	0.003	3.9×10^{-3}
^{223}Ra	Radium (88)	50	0.2	5.0×10^{4}
^{224}Ra		6	0.5	1.6×10^{5}
^{226}Ra		10	0.05	1.0
^{228}Ra		10	0.05	2.3×10^{2}
^{81}Rb	Rubidium (37)	30	25	8.2×10^{6}
^{86}Rb		30	30	8.1×10^{4}
^{87}Rb		Unlimited	Unlimited	6.6×10^{-8}
Rb (Natural)		Unlimited	Unlimited	1.8×10^{-8}
^{186}Re	Rhenium (75)	100	20	1.9×10^{5}
^{187}Re		Unlimited	Unlimited	3.8×10^{-8}
^{188}Re		10	10	1.0×10^{6}
Re (Natural)		Unlimited	Unlimited	2.4×10^{-8}
^{103m}Rh	Rhodium (45)	1000	1000	3.2×10^{7}
^{105}Rh		200	25	8.2×10^{5}
^{222}Rn	Radon (86)	10	2	1.5×10^{5}
^{97}Ru	Ruthenium (44)	80	80	5.5×10^{5}
^{103}Ru		30	25	3.2×10^{4}
^{105}Ru		20	20	6.6×10^{6}
^{106}Ru		10	7	3.4×10^{3}
^{35}S	Sulphur (16)	1000	60	4.3×10^{4}
^{122}Sb	Antimony (51)	30	30	3.9×10^{5}
^{124}Sb		5	5	1.8×10^{4}
^{125}Sb		40	25	1.4×10^{3}
^{46}Sc	Scandium (21)	8	8	3.4×10^{4}
^{47}Sc		200	20	8.2×10^{5}
^{48}Sc		5	5	1.5×10^{6}
^{75}Se	Selenium (34)	40	40	1.4×10^{4}
^{31}Si	Silicon (14)	100	20	3.9×10^{7}
^{147}Sm	Samarium (62)	Unlimited	Unlimited	2.0×10^{-8}
^{151}Sm		1000	90	2.6×10^{1}
^{153}Sm		300	20	4.4×10^{5}
^{113}Sn	Tin (50)	60	60	1.0×10^{4}
^{119m}Sn		100	100	4.4×10^{3}
^{125}Sn		10	10	1.1×10^{5}
^{85m}Sr	Strontium (38)	80	80	3.2×10^{7}
^{85}Sr		30	30	2.4×10^{4}
^{87m}Sr		50	50	1.2×10^{7}
^{89}Sr		100	10	2.9×10^{4}
^{90}Sr		10	0.4	1.5×10^{2}
^{91}Sr		10	10	3.6×10^{6}
^{92}Sr		10	10	1.3×10^{7}
T (uncompressed)*	Tritium (1)	1000	1000	9.7×10^{3}
T (compressed)*		1000	1000	9.7×10^{3}
T (activated luminous paint)		1000	1000	9.7×10^{3}

T (adsorbed on solid carrier		1000	1000	9.7×10^{3}
T (tritiated water)		1000	1000	9.7×10^{3}
T (other forms)		20	20	9.7×10^{3}
^{182}Ta	Tantalum (73)	20	20	6.2×10^{3}
^{160}Tb	Terbium (65)	20	10	1.1×10^{4}
^{96m}Tc	Technetium (43)	1000	1000	3.8×10^{7}
^{96}Tc		6	6	3.2×10^{5}
^{97m}Tc		1000	200	1.5×10^{4}
^{97}Tc		1000	400	1.4×10^{-3}
^{99m}Tc		100	100	5.2×10^{6}
^{99}Tc		1000	25	1.7×10^{-2}
^{125m}Te	Tellurium (52)	1000	100	1.8×10^{4}
^{127m}Te		300	20	4.0×10^{4}
^{127}Te		300	20	2.6×10^{6}
^{129m}Te		30	10	2.5×10^{4}
^{129}Te		100	20	2.0×10^{7}
^{131m}Te		10	10	8.0×10^{5}
^{132}Te		7	7	3.1×10^{5}
^{227}Th	Thorium (90)	200	0.2	3.2×10^{4}
^{228}Th		6	0.008	8.3×10^{2}
^{230}Th		3	0.003	1.9×10^{-2}
^{231}Th		1000	25	5.3×10^{5}
^{232}Th		Unlimited	Unlimited	1.1×10^{-7}
^{234}Th		10	10	2.3×10^{4}
Th (Natural)		Unlimited	Unlimited	2.2×10^{-7}
Th (irradiated)**		---	---	-----
^{200}Tl	Thallium (81)	20	20	5.8×10^{5}
^{201}Tl		200	200	2.2×10^{5}
^{202}Tl		40	40	5.4×10^{4}
^{224}Tl		300	10	4.3×10^{2}
^{170}Tm	Thulium (69)	300	10	6.0×10^{3}
^{171}Tm		1000	100	1.1×10^{3}
^{230}U	Uranium (92)	100	0.1	2.7×10^{4}
^{232}U		30	0.03	2.1×10
^{233}U		100	0.1	9.5×10^{-3}
^{234}U		100	0.1	6.2×10^{-3}
^{235}U		100	0.2	2.1×10^{-6}
^{236}U		200	0.2	6.3×10^{-5}
^{238}U		Unlimited	Unlimited	3.3×10^{-7}
U (natural)		Unlimited	Unlimited	(See Section 24)
U (enriched) less than 20%		Unlimited	Unlimited	(See Section 24)
U (enriched) 20% or greater		100	0.1	(See Section 24)
U (depleted)		Unlimited	Unlimited	(See Section 24)
U (irradiated)***		---	---	-----
^{48}V	Vanadium (23)	6	6	1.7×10^{5}
^{181}W	Tungsten (74)	200	100	5.0×10^{3}
^{185}W		1000	25	9.7×10^{-3}
^{187}W		40	20	7.0×10^{5}
^{127}Xe (uncompressed)*	Xenon (54)	70	70	2.8×10^{4}
^{127}Xe (compressed)*		5	5	2.8×10^{4}
^{131m}Xe (compressed)*		10	10	1.0×10^{5}
^{131m}Xe (uncompressed)*		100	100	1.0×10^{5}
^{133}Xe (uncompressed)*		1000	1000	1.9×10^{5}
^{133}Xe (compressed)*		5	5	1.9×10^{5}
^{135}Xe (uncompressed)*		70	70	2.5×10^{5}
^{135}Xe (compressed)*		2	2	2.5×10^{5}
^{87}Y	Yttrium (39)	20	20	4.5×10^{1}
^{90}Y		10	10	2.5×10^{5}
^{91m}Y		30	30	4.1×10^{7}
^{91}Y		30	30	2.5×10^{4}
^{92}Y		10	10	9.5×10^{6}
^{93}Y		10	10	3.2×10^{6}
^{169}Yb	Ytterbium (70)	80	80	2.3×10^{5}
^{175}Yb		400	25	1.8×10^{5}
^{65}Zn	Zinc (30)	30	30	8.0×10^{3}
^{69m}Zn		40	40	3.3×10^{6}
^{69}Zn		300	20	5.3×10^{7}
^{93}Zr	Zirconium (40)	1000	200	3.5×10^{-3}
^{95}Zr		20	20	2.1×10^{4}
^{97}Zr		20	20	2.0×10^{6}

* For the purpose of this section, compressed gas means at a pressure which exceeds the ambient atmospheric pressure at the location where the containment system was closed.
** The values of A_1 and A_2 must be calculated in accordance with the procedure specified in Section 20(2)(c) of this regulation, taking into account the activity of the fission products and of the uranium-233 in addition to that of the thorium.
*** The values of A_1 and A_2 must be calculated in accordance with the procedure specified in Section 20(2)(c) of this regulation, taking into account the activity of the fission products and plutonium isotopes in addition to that of the uranium.

Section 22. Table. The following table is to be used for the:

RELATIONSHIP BETWEEN A_1 AND E_{max} FOR BETA EMITTERS

E_{max}(MeV)	A_1(Ci)
less than 0.5	1000
0.5 - less than 1.0	300
1.0 - less than 1.5	100
1.5 - less than 2.0	30
greater than or equal to 2.0	10

Section 23. Table. The following is to be used for the:

RELATIONSHIP BETWEEN A_3 AND THE ATOMIC NUMBER OF THE RADIONUCLIDE

	A_3		
Atomic Number	Half-life less than 1000 days	Half-life 1000 days to 10^6 years	Half-life greater than 10^6 years
1 to 81	3 Ci	0.5 Ci	3 Ci
82 and above	.002 Ci	.002 Ci	3 Ci

Section 24. Table. The following table is to be used for the:

ACTIVITY-MASS RELATIONSHIPS FOR URANIUM/THORIUM

Thorium and Uranium enrichment* wt%^{235}U present	Specific Activity Ci/g	Specific Activity g/Ci
0.45	5.0×10^{-7}	2.0×10^6
0.72 (natural)	7.06×10^{-7}	1.42×10^6
1.0	7.6×10^{-7}	1.3×10^6
1.5	1.0×10^{-6}	1.0×10^6
5.0	2.7×10^{-6}	3.7×10^5
10.0	4.8×10^{-6}	2.1×10^5
20.0	1.0×10^{-5}	1.0×10^5
35.0	2.0×10^{-5}	5.0×10^4
50.0	2.5×10^{-5}	4.0×10^4
90.0	5.8×10^{-5}	1.7×10^4
93.0	7.0×10^{-5}	1.4×10^4
95.0	9.1×10^{-5}	1.1×10^4
Natural Thorium	2.2×10^{-7}	4.6×10^6

*The figures for uranium include representative values for the activity of the uranium-234 which is concentrated during the enrichment process. The activity for thorium includes the equilibrium concentration of thorium-228.

E. AUSTIN, JR., Secretary
C. HERNANDEZ, M.D., Commissioner
APPROVED BY AGENCY: February 24, 1987
FILED WITH LRC: March 13, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for April 21, 1987, at 9 a.m. in the Vital Statistics Conference Room located on the first floor of the CHR Building. However, this hearing will be cancelled unless interested persons notify the following office in writing by April 16, 1987 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: E. Edsel Moore
(1) Type and number of entities affected: Could potentially affect 350 specific licensees of radioactive materials.
(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: Not applicable
(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: Not applicable
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Minor changes to be compatible with U.S. Nuclear Regulatory Commission statutes/regulations.
TIERING: Was tiering applied? Yes.

CABINET FOR HUMAN RESOURCES
Department for Employment Services
Division of Unemployment Insurance
(Proposed Amendment)

903 KAR 5:250. Recoupment and recovery.

RELATES TO: KRS 341.415

PURSUANT TO: KRS 341.155
NECESSITY AND FUNCTION: This regulation defines the term "departmental error" for the purpose of recovery and recoupment of improperly paid unemployment insurance benefits.

Section 1. "Departmental error" subject to Section 2 of this regulation means:
(1) Errors in computing benefit rate;
(2) Incorrect weekly payment due to failure to consider deductible amount;
(3) Payment beyond the expiration of the benefit year;
(4) Payment in excess of maximum benefit amount;
(5) Payment under incorrect program where no program adjustment can be made;
(6) Retroactive non-monetary determinations;
(7) Monetary redeterminations;
(8) Payment during a period of disqualification;
(9) Payment to wrong claimant;
(10) Machine errors.

Section 2. "Departmental error" shall not include:
(1) Errors as a result of a false statement, misrepresentation or concealment of material information by a recipient of benefits;
(2) Overpayments received as a result of a court order or judgement when such entitlement to benefits is subsequently reversed on appeal [as a result of a reversal of entitlement to benefits in the appeal or review process];
(3) Errors as a result of misinformation or lack of information supplied by a claimant or recipient of benefits;
(4) The amount of any single check in excess of twice the weekly benefit rate of the claimant for the benefit year for which the claim is made.

E. AUSTIN, JR., Secretary
JAMES P. DANIELS, Commissioner
APPROVED BY AGENCY: February 26, 1987
FILED WITH LRC: March 13, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for April 21, 1987, at 9 a.m. in the Vital Statistics Conference Room, First Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by April 16, 1987, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James P. Daniels
(1) Type and number of entities affected: Thousands of unemployment insurance claimants.
(a) Direct and indirect costs or savings to those affected:
1. First year: Savings of approximately $1,000,000.
2. Continuing costs or savings: Approximately the same per year.
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: $1,000,000 - annual loss to the U.I. Trust Fund.
2. Continuing costs or savings: Same
3. Additional factors increasing or decreasing costs: Unemployment rate
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: Unknown
(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:
(6) Any additional information or comments: This change being made to accommodate a Kentucky Court of Appeals ruling.
TIERING: Was tiering applied? No. All claimants treated equally.

CABINET FOR HUMAN RESOURCES
Department for Employment Services
Division of Unemployment Insurance
(Proposed Amendment)

903 KAR 5:290. Employer contribution rates.

RELATES TO: KRS 341.270
PURSUANT TO: KRS 194.050, 341.270
NECESSITY AND FUNCTION: KRS 341.270 requires the Secretary for Human Resources to determine the rate schedule for employer's contributions. The rate schedule in effect for each calendar year is determined by the "trust fund balance" as of December 31, of the preceding year. This regulation applies the mathematical computation required by KRS 341.270 and sets forth the applicable rates to be in effect for the calendar year.

Section 1. Trust Fund Balance. The secretary finds the following to exist:
(1) The "trust fund balance" as of December 31, 1986 [1985], was $151,205,970.56 [76,598,469.22].
(2) There was no outstanding loan from the Federal Unemployment Trust Fund as of December 31, 1986 [1985].

Section 2. Rate Schedule. On the basis of the findings in Section 1 of this regulation, and in accordance with KRS 341.270(3), Schedule D [E] of Table A shall be in effect for calendar year 1987 [1986], because the "trust fund balance" exceeded $150,000,000, but was less than $250,000,000 [was less than $150,000,000], on December 31, 1986 [1985]. Rates listed in Schedule D [E] of Table A are listed below.

Employer Reserve Ratio	Rate Schedule
8.0% and over	0.60 [1.00]%
7.0% but under 8.0%	0.80 [1.05]%
6.0% but under 7.0%	0.90 [1.10]%
5.0% but under 6.0%	1.20 [1.40]%
4.6% but under 5.0%	1.60 [1.80]%
4.2% but under 4.6%	2.10 [2.30]%
3.9% but under 4.2%	2.40 [2.70]%
3.6% but under 3.9%	2.60 [3.00]%
3.2% but under 3.6%	2.70 [3.10]%

2.7% but under 3.2%	2.80 [3.20]%
2.0% but under 2.7%	2.90 [3.30]%
1.3% but under 2.0%	3.00 [3.40]%
0.0% but under 1.3%	3.10 [3.50]%
-0.5% but under -0.0%	7.25 [7.50]%
-1.0% but under -0.5%	7.50 [7.75]%
-1.5% but under -1.0%	7.75 [8.00]%
-2.0% but under -1.5%	8.00 [8.25]%
-3.0% but under -2.0%	8.25 [8.50]%
-4.0% but under -3.0%	8.50 [8.75]%
-6.0% but under -4.0%	9.00 [9.25]%
-8.0% but under -6.0%	9.25 [9.50]%
Less than 8.0%	9.75 [10.00]%

E. AUSTIN, JR., Secretary
JAMES P. DANIELS, Commissioner
APPROVED BY AGENCY: March 11, 1987
FILED WITH LRC: March 13, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for April 21, 1987, at 9 a.m. in the Vital Statistics Conference Room, First Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by April 16, 1987, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James P. Daniels
(1) Type and number of entities affected: 66,000 employers.
(a) Direct and indirect costs or savings to those affected:
1. First year: $20.3 million savings.
2. Continuing costs or savings: N/A
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: 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: Decrease in U.I. Trust Fund receipt - $20.3 million.
(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: This regulation establishes a tax rate schedule which will result in tax savings.
TIERING: Was tiering applied? No. All employers treated equally and change required by statute.

LOCAL MANDATE IMPACT STATEMENT

Regulation No.: 903 KAR 5:290
SUBJECT/TITLE: Employer contribution rates.
SPONSOR: N/A
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE: No
TYPE OF MANDATE: N/A
LEVEL(S) OF IMPACT: City
BUDGET UNIT(S) IMPACT:
FISCAL SUMMARY: Reduction in unemployment insurance taxes.
REVENUES: An unknown decrease in tax payments by cities.
EXPENDITURE: None
NET EFFECT: Tax savings - amount unknown.
MEASURE'S PURPOSE: To set the unemployment insurance tax rates for 1987.
PROVISION/MECHANICS:
FISCAL EXPLANATION: There are 121 city governments which have elected to pay unemployment insurance taxes. This measure reduces those tax rates.
DATA SOURCE(S): Division of Unemployment Insurance.
PREPARER: Ron Holland

CABINET FOR HUMAN RESOURCES
Department for Social Services
Division of Program Management
(Proposed Amendment)

905 KAR 5:040. Standards <u>for spouse abuse shelters and crisis centers</u>.

RELATES TO: KRS 209.030(7), 209.160
PURSUANT TO: KRS 194.050, 209.030(1)
NECESSITY AND FUNCTION: KRS 209.030(1) authorizes the Cabinet for Human Resources to adopt rules, regulations, procedures, guidelines and policies to provide for the protection of adults. KRS 209.160 authorizes additional funds from marriage licenses to be used for spouse abuse shelters. Since there are no licensing requirements for spouse abuse shelters or crisis centers, this regulation establishes reasonable performance standards for qualifying applicants for state funds related to spouse abuse shelters and crisis centers.

Section 1. Definitions. (1) "Advisory board" means any designated group to whom the governing board may delegate responsibility for study and recommendation of any function of the governing board but shall not delegate final approval, responsibility, accountability, or direction of agency policy as these shall remain the ultimate responsibility of the governing board.
(2) "Agency" means any public or non-profit incorporated agency that has the capacity to provide services to victims of spouse abuse and their dependent children.
(3) "Cabinet" means Cabinet for Human Resources.
(4) "Crisis center" means a facility without lodging capacity which provides counseling, advocacy and spouse abuse intervention services for victims of spouse abuse and their dependent children.
(5) "Department" means Department for Social Services.
(6) "Director" means the individual responsible for the administration of the agency and all related services.
(7) "Governing board" means a legally constituted group of individuals whose function is to oversee operations of spouse abuse services and with whom the state contracts for

such services.

(8) "Primary service provider" means the agency within each area development district, (ADD), designated by the cabinet as the primary contractee and focal point of service delivery. The primary service provider's area of jurisdiction is limited to those counties contained in each ADD.

(9) "Secondary service provider" means an agency within an area development district other than the primary service provider, which through contract with the primary service provider or the cabinet, provides spouse abuse related services to victims of spouse abuse and their dependent children. The secondary service provider's area of jurisdiction is limited to those counties contained in each ADD.

(10) "Service area" means the counties located within the area development district within which a primary service provider and/or a secondary service provider is located.

(11) "Spouse abuse shelter" means a facility which provides temporary or emergency lodging, counseling, advocacy, food, and information and referral <u>services</u> for victims of spouse abuse and their dependent children.

(12) "Volunteer" means a person who is either third party funded or who is donating free service time and either works directly in the agency or is performing a related service at the request of the director.

Section 2. Management. (1) Each agency shall be managed by a governing board constituted so as to allow broad community participation in its activities. The governing board shall be responsible for agency compliance with all applicable federal, state and local regulations. The board shall develop written personnel rules and regulations, adopt written bylaws, and shall be responsible to submit all necessary reports, records, or information deemed necessary to determine fiscal, administrative and programmatic effectiveness.

(2) Board meetings shall be conducted in compliance with the provisions of KRS 61.805 <u>et seq.</u> (Open Meeting Law).

(3)(a) The governing board shall develop written personnel rules and regulations including, but not limited to:

1. Job classifications;
2. Specifications;
3. A compensation plan;
4. Attendance and leave policies;
5. Fringe benefits;
6. Affirmative action;
7. Personnel grievance procedures;
8. Hiring and firing practices.

(b) A copy of the personnel rules and regulations shall be available and distributed to all staff, volunteers and the department.

(c) The governing board shall adopt written bylaws. The bylaws shall include, but not be limited to:

1. The purpose of the agency;
2. Number of members;
3. Qualifications for board memberships
4. The types of membership
5. The method of selecting members;
6. Terms of members;
7. Officers and duties;
8. Method of election of officers and chairpersons.

(4) Minutes of each meeting of a governing board of each agency shall contain the date and place of the meeting, names of members present, the subject matter discussed and actions taken, the name of the reporter, and shall be forwarded within thirty (30) days to each member of the board(s) and to the department.

(5) In the event the agency is a subsidiary of a larger entity, the provisions of subsection (1), (2), (3) and (4) of this section shall apply to the larger entity.

Section 3. Staff. (1) In all agencies the governing board shall appoint one (1) staff person as director. The director shall have the overall responsibility for supervision of the duties and activities of all staff and volunteers, shall coordinate all shelter/agency services, fulfill all duties as required by the governing board, and shall report directly to the board on all agency activities.

(2) The agency shall maintain and/or assure the provision of [such] competent staff to provide services at the center or shelter. Staff and volunteers shall be at least eighteen (18) years of age unless under the direct supervision of an adult; shall have education, training or experience to perform their particular job, and a willingness to work with others, including <u>clients</u> [people] under stress, and to share responsibilities as necessary. Volunteers must at all times be under the overall control and direction of the director even though they are not considered paid staff.

(3) The agency shall submit to the department a staffing pattern and indicate areas of responsibility, as well as lines of authority and supervision.

(4) The agency shall provide and/or secure orientation and in-service training for staff and volunteers responsible for service delivery and shall maintain a record of the training provided.

(5) Each agency shall implement a system to assure compliance with affirmative action standards, and equal opportunity employment standards, and shall provide a system for hearing and resolving grievances of staff and volunteers.

Section 4. Physical Facilities. (1) The agency shall comply with applicable local, state and federal building, fire, safety and health codes.

(2) The shelter shall be of sound construction and suitable for residential use.

(3) The shelter shall be dry, adequately heated, ventilated, and lighted; windows, doors, stoves, heaters, furnaces, pipes, and ventilating fans shall be protected; screening shall be provided for windows and doors unless air-conditioned; and floors shall be free from splinters and easily cleaned. All types of gas heaters and stoves shall be properly ventilated.

(4) A recreation area with comfortable furnishings in sufficient quantity to accommodate the number of children and adults using it at any one time shall be provided.

(5) Bedrooms shall be equipped with a bed for each client, of adequate size, with suitable springs, mattress, pillow, and bedding as well as adequate closet space and individual drawer space.

(6) The shelter and grounds shall be well maintained.

(7) Each agency shall maintain a security system to provide for the physical safety of the client.

Section 5. Medical and Dental. The agency shall assure that access to emergency medical and dental services are available within the community or within close proximity.

Section 6. Meals. The agency shall provide all clients with three (3) meals per day, each including foods from at least three (3) of the four (4) basic food groups.

Section 7. Services. (1) The agency shall maintain and provide services on a continuing basis and for such hours as are necessary to meet the needs of eligible persons.

(2) Staff of the agency are to apprise clients of resources available from the agency or by referral which may assist them in the solution of their problems.

(3) Upon entrance into the crisis center or spouse abuse shelter, or when receiving any spouse abuse service, the following minimal information shall be obtained and recorded in a permanent record:

(a) Name, date of birth, sex, address, marital status.

(b) Names and date of birth of any accompanying dependents.

(c) Identification of reason for intake.

(d) Identification of any physical injury.

(e) Any medical attention provided.

(f) Identification of any physical condition or ailment which may impact upon services to be offered the client.

(g) Any prior contacts with any crisis center or spouse abuse shelter.

(4) Immediately following gathering the information required in subsection (3) of this section, the information shall be reported to the offices of the department located within the county where the facility exists in accordance with the department's spouse abuse reporting policy. This report shall constitute compliance with the provisions of KRS 199.335(2) and 209.030(2).

(5) Upon completion of the gathering of information as required in subsection (3) of this section, a service plan shall be developed for each individual and accompanying dependents setting forth a summary of services needed by the individual and available within the facility and community.

(6) Referral of the client for services outside the crisis center or spouse abuse shelter shall be documented and maintained in the client's permanent case record. Service coordination with all other agencies shall also be documented in the case record.

(7) Daily program activities shall be offered with emphasis upon each client's physical, intellectual and social needs.

(8) The agency shall have and enforce a policy which prohibits possession of any weapon, alcohol or nonprescribed drugs while in the facility.

(9) The facility shall keep all client medication in a locked cabinet. Facility staff shall not dispense nor administer any medication but allow each client to take their own medication as prescribed. Facility staff shall also keep a record of any medication taken by a client during their stay at the facility.

(10) [(9)] In no instance shall cruel or unusual punishment be used.

(11) [(10)] Each agency shall develop, subject to department approval, procedures to provide for the movement to more appropriate accommodations for those clients who present a danger to self or others or those clients who refuse to comply with facility rules.

(12) [(11)] Each agency shall establish written procedures to be given to each client upon initial contact describing the services to be rendered and a method for handling client complaints. The complaint procedure shall include an opportunity for the client to have access to department's grievance procedure for review. The department shall have access to all client records in the possession of each agency for review upon the filing of a service complaint by the client.

(13) [(12)] Each agency shall assure that services are available to all residents in the ADD in which the agency is located. An agency may accept referrals on a statewide basis so long as space is available. Each agency shall cooperate with other spouse abuse agencies on a statewide basis.

(14) [(13)] Each agency shall develop and implement, subject to department approval, procedures for emergency and/or temporary shelter closure.

(15) [(14)] Each agency shall maintain a record of any unusual incidents involving a client or clients and shall forward a copy of same to the department.

(16) [(15)] Each agency shall develop and implement a plan for the provision of outreach services in all counties of the area development district in which it is located.

Section 8. Records. (1) Client case records shall be maintained on each individual or family unit served by the crisis center or residing in the spouse abuse shelter during the time that the client or family unit is receiving services.

(2) Client case records of each agency shall be maintained as confidential and shall not be shared with any person outside the cabinet. Any records of the Cabinet for Human Resources, Department for Social Services, in the possession of any agency are strictly confidential and shall be shared with other individuals and/or organizations only as provided in KRS 209.140, KRS 194.060, and KRS 199.335 and with the prior written permission of the department.

(3) The department shall have access to the agency property and to records of all services provided, including but not limited to agency financial and client case records for the purpose of auditing and monitoring.

E. AUSTIN, JR., Secretary
ANNA GRACE DAY, Commissioner
APPROVED BY AGENCY: March 6, 1987
FILED WITH LRC: March 13, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for April 21, 1987, 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 person by April 16, 1987: Ryan Halloran, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Eugenia Jump
(1) Type and number of entities affected: All spouse abuse shelters and crisis centers.
(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:
TIERING: Was tiering applied? No. Applies statewide.

CABINET FOR HUMAN RESOURCES
Department for Social Services
Division of Program Management
(Proposed Amendment)

905 KAR 5:050. Funding <u>requirements for spouse abuse shelters and/or programs</u>.

RELATES TO: KRS 209.030(7), 209.160
PURSUANT TO: KRS 209.030(1), 194.050
NECESSITY AND FUNCTION: KRS 209.030(7) requires the Cabinet for Human Resources to provide protective services for adults except in cases where the adult refuses such services. KRS 209.160 creates a trust and agency account, to receive funds from the issuance of marriage licenses and charges the cabinet with the responsibility of using these funds for the purpose of providing protective shelter services for spouse abuse victims. KRS 209.030(1) authorizes the cabinet to adopt such rules, regulations, procedures, guidelines or policies necessary to protect adults. The function of this regulation is to set forth the requirements necessary for spouse abuse shelters and programs to receive funding.

Section 1. Definitions. (1) "Annual plan and budget" means the annual application for funding submitted by each spouse abuse shelter or crisis center.
(2) "Cash" means any non-state money or funds given to the agency for use in the spouse abuse shelter or related service, and which is not used to match any other grant or contract.
(3) "Certified expenditure" means any non-state cash expenditures incurred by the agency when such expenditures are determined to be allowable, reasonable and necessary under applicable state laws and regulations and are not used to match any other grant or contract. Such certified expenditures may be incurred by the agency whether public or private non-profit, or may be certified on behalf of the provider by a third party which may also be a public or private non-profit organization.
(4) "In-kind contribution" means property or services which directly benefit the services purchased; which are contributed by the agency or a third party without expenditure by the agency; and would have been an allowable, reasonable and necessary cost in accordance with state laws and regulations, if purchased by the agency.
(5) "Match" means locally generated funds or expenditures in the form or certified expenditures, in-kind contributions and/or cash provided by a contract agency as required to obtain state funding.

Section 2. General Funds. (1) Method of allocation. Of the amount of general funds that are appropriated to the cabinet for spouse abuse shelter for each fiscal year, <u>ninety-eight (98)</u> [ninety-five (95)] percent shall be allocated annually for the operation of these services by the designated primary service providers, and <u>two (2)</u> [five (5)] percent shall be retained by the cabinet for a six (6) month period to be used for the operation of supportive services by secondary service providers, and for emergency needs of one (1) or more primary service providers. After the first six (6) months of each fiscal year, the remaining unobligated funds shall be available for distribution among the designated primary service providers, based on validated need for increased funding.
(2) Primary service provider.
(a) Eligibility criteria. The cabinet shall designate one (1) primary service provider for each area development district <u>(ADD)</u> to receive an allocation of general funds. Such designation shall be in effect unless rescinded following a review of the agency's performance and/or its annual plan and budget proposal for the upcoming year. The agencies which will be initially designated as primary service providers by the cabinet shall be those receiving state general funds under contract as of the effective date of these regulations.
(b) Selection process. Each primary service provider shall be selected according to the cabinet's predesigned contract review and selection process. Each selected agency shall submit a properly executed annual plan and budget proposal which shall indicate each agency's capacity to provide spouse abuse shelter and other related services for abused spouses and their children. The application for funding shall be in the form and format prescribed by the department. Each agency's application for funding shall specify the type and kind of services it proposes to perform, either as a provider or under subcontract, detailed fiscal considerations, and assurances that the agency and/or all subcontractors will comply with all applicable federal and state regulations. Each agency's proposal shall include a commitment to provide outreach services in all counties of the area development district in which it is located.
(c) Match. Each primary service provider shall provide funds at the rate of twenty-five (25)

percent local match to seventy-five (75) percent state general fund dollars. Of the required local match, five (5) percent shall be cash and the remainder may be provided in any combination of cash, certified expenditures, or in-kind contributions. No match shall be provided by any state funded spouse abuse program to or on behalf of another spouse abuse contractor.

(d) Geographic areas. The cabinet shall allocate general funds to primary service providers in each of the area development districts.

(3) Secondary service provider.

(a) Eligibility criteria. An agency that is properly organized and has the capacity to provide crisis center or spouse abuse shelter or related services in accordance with federal and state laws and regulations may enter into a written subcontract agreement with the primary service provider. If after negotiations, the primary service provider and the applying agency find they cannot agree on a subcontract, and the applying agency can document the need for its services, the applying agency may then request that the department consider them for funding under the following conditions:

1. The applying agency can submit proof that the service is needed by both the primary service provider and the ADD community.
2. The applying agency can document its willingness to cooperate with other major service providers in the same ADD.
3. The applying agency can document its efforts to subcontract and the basis for failure to effect a subcontract with the primary service provider.
4. The applying agency submits a request that the department review all existing and necessary information and that the department render a final funding decision.

(b) Selection process. After the department has received all of the required information from the applying agency, meetings will be scheduled with the applying agency and the primary service provider to determine if the submitted information justifies the need for funding before rendering one (1) of the following decisions:

1. If the service is not needed nor properly justified, no contract will be awarded.
2. If the service is needed by the primary service provider and the applying agency cannot agree to subcontract, a contract may be awarded in accordance with the cabinet's predesigned contract and review processes. The applying agency shall coordinate their service programs with the primary service provider in order to avoid duplication of services. A local agreement must be executed between the primary and secondary service provider and submitted to the department for final approval. The local service agreement must outline the services to be provided, the coordination of these services, and a willingness to cooperate in the provision of services. It shall be department policy that all secondary service providers subcontract with the primary service provider to obtain second year funding.
3. If the service is needed and the department determines that it must be funded through the primary service provider for the current fiscal year, then the applying agency will be referred back to the primary service provider to resume subcontract negotiations.

(c) Match. Secondary service providers shall provide matching funds as described in Section 1(5) of this regulation [subsections (2)] and subsection (2)(c) of this section. No match may be provided by any state funded spouse abuse program to or on behalf of another spouse abuse contractor.

(d) Documentation. All primary and secondary service providers shall maintain documentation of the local match that is sufficient to determine that all requirements of this regulation are met. Records documenting local match, regardless of the type or source, shall be available to the cabinet and/or authorized entities for the purpose of audit.

(e) Disallowance. All primary and secondary service providers may be subject to disallowances and reimbursement to the Commonwealth, if required [such] local match is not documented by the provider or third party.

Section 3. Trust and Agency Funds. (1) Eligibility criteria. In order to be able to receive trust and agency funds, an agency must be designated as a primary service provider.

(2) Method of allocation. Of the trust and agency spouse abuse funds coming to the cabinet, ninety (90) percent shall be equally allocated among the designated primary service providers and ten (10) percent shall be retained by the cabinet to be used as emergency funds for primary service providers during the fiscal year on an as-needed basis. If any balance remains in the emergency funds at the end of the fiscal year this shall be added back to current year trust and agency funds.

(3) Unexpended funds. If all of the trust and agency funds allocated to a primary service provider at the beginning of each fiscal year are not expended, then they may be held by the cabinet to be expended by the same primary service provider the following year in accordance with the approved annual plan and budget. If the designated primary service provider changes and a new primary service provider has been selected by the cabinet, then all remaining unencumbered funds allocated to that original agency shall return to the cabinet. The cabinet may at its option assign these funds to the new primary service provider or designate them to the emergency fund for distribution as established in subsection (2) of this section.

E. AUSTIN, JR., Secretary
ANNA GRACE DAY, Commissioner
APPROVED BY AGENCY: March 6, 1987
FILED WITH LRC: March 13, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for April 21, 1987, 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 person by April 16, 1987: Ryan Halloran, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Eugenia Jump

(1) Type and number of entities affected: All spouse abuse shelters and/or programs statewide.

(a) Direct and indirect costs or savings to those affected: Will receive additional initial

funds (3% more) than previously received.
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: Will retain less funds to be used for the operation of supportive services by secondary service providers.
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Applies statewide.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

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

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

Section 1. Resource Limitations and Exclusions of the Medically Needy. The following provisions are applicable with regard to computation of allowable resources:
(1) The upper limit for resources for family size of one (1) and for family size of two (2) is set at $1,700 and $3,400 respectively, effective January 1, 1986; at $1,800 and $3,600 respectively, effective January 1, 1987; at $1,900 and $3,800 respectively, effective January 1, 1988; and at $2,000 and $4,000 respectively, effective January 1, 1989, with fifty (50) dollars for each additional member.
(2) A homestead, occupied or abandoned, household equipment, and farm equipment without limitation on value are excluded from consideration.
(3) Equity of $6,000 in income-producing, non-homestead real property, business or non-business, essential for self-support, is excluded from consideration. In addition, for AFDC related MA only cases the value of otherwise countable real property (whether income producing or non-income producing) may be excluded from consideration for six (6) months if a good faith effort is being made to dispose of the property properly; an additional three (3) months may be allowed for the disposal at the request of the recipient if efforts to dispose of the property within the six (6) month period have been unsuccessful.
(4) Equity of $4,500 in automobiles is excluded from consideration; however, if an automobile is used for employment, to obtain medical treatment of a specific or regulation medical problem, of if specially equipped (e.g., as for use by the handicapped) the total value of such automobile is excluded.
(5) Burial reserves of up to $1,500 per individual, which may be in the form of burial agreement(s), (prepaid burials or similar arrangements, trust fund(s), life insurance policies, or other identifiable funds are excluded from consideration. The cash surrender value of life insurance is considered when determining the total value of burial reserves. When burial funds are commingled with other funds, the applicant has up to thirty (30) days to separately identify the burial reserve amount. Interest or other appreciation of value of an excluded burial reserve is excluded so long as such amount is left to accumulate as a part of the burial reserve.
(6) Burial spaces, plots, vaults, crypts, mausoleums, urns, caskets, and other repositories which are customarily and traditionally used for the remains of deceased persons are excluded from consideration as a countable resource without regard to value.
(7) Resources determined in accordance with subsections (3), (4), and (5) of this section to be in excess of excluded amounts must be considered countable resources when determining whether the individual or family group exceeds the upper limits specified in subsection (1) of this section. If resources exceed the upper limits, the individual or family group is ineligible.
(8) The following exclusions are also applicable as stated:
(a) Proceeds from the sale of a home are excluded from consideration for three (3) months from date of receipt if used to purchase another home.
(b) Resources of a blind or disabled person necessary to fulfill an approved plan for achieving self-support are excluded from consideration.
(c) Payments or benefits from federal statutes, other than Title XVI (Supplemental Security Income), are excluded from consideration (as either a resource or income) if precluded from consideration in Title XVI determinations of eligibility by the specific terms of the statute.
(d) Disaster relief assistance is excluded from consideration.
(e) Cash or in-kind replacement for repair or replacement of an excluded resource is excluded from consideration if used to repair or replace the excluded resource within nine (9) months of the date of receipt.

Section 2. Income and Resource Exemptions. Income and resources which are exempted from

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

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

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

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

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

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

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

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

(1) In determining eligibility, the appropriate medically needy standard is used as are appropriate disregards and exclusions from income. In determining patient liability for the cost of institutional care, gross income is used as shown in subsections (2) and (3) of this section.

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

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

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

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

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

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

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

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

Section 9. Pass-through Cases. Increases in social security payments due to cost of living increases but for which the individual would be eligible [are solely responsible for ineligibility of the individual] for supplemental security income benefits or state supplementary payments, and which are received after April 1, 1977, shall be disregarded in determining eligibility for medical assistance benefits; such individuals shall remain eligible for the full scope of program benefits with no spend-down requirements. Beginning on November

1, 1986, the additional amount specified in Section 12202 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) shall be disregarded, i.e., that amount of social security benefits to which certain widows or widowers were entitled as a result of the recomputation of benefits effective January 1, 1984, and except for which (and subsequent cost of living increases) such individuals would be eligible for federal supplemental security income benefits; eligibility as a result of such disregard shall not exist prior to July 1, 1986. To be eligible, applicants must apply within fifteen (15) months of the date of the Act, i.e., by July 1, 1987.

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

(1) "Living with" is defined as sharing a common living arrangement or household, but not including living in the same room in a long term care facility. "Living apart" is defined as not sharing a common household, whether due to estrangement, disability, or illness. Effective July 1, 1987, a husband and wife sharing a room or comparable accommodation in a long term care facility may be considered to be "living with" each other after they have continuously shared such a room or accommodation for six (6) months, if treating such husband and wife as living apart would prevent either of them from receiving medical assistance.

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

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

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

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

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

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

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

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

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

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

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

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

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

limitations, the child's individual resources and/or income are considered in relation to family size of one (1).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 13. Treatment of Lump-Sum Income. The following policy is effective January 1, 1986: for adult related cases, lump-sum income is prorated over the three (3) month period following the agency's notice of receipt by the client, with any amount spent by the client prior to notification of the agency deducted

from the total considered available; any portion of the income remaining available after the three (3) month period is considered in relation to resource limitations; for AFDC related cases, lump sum income is divided by the medically needy income level and prorated over the resultant number of months.

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

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

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

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

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

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

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

(5) The uncompensated value may be excluded from consideration when good cause exists. A waiver of consideration of the uncompensated amount will be granted subject to the following criteria:

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

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

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

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

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

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

(3) When eligibility is determined for a spend-down case, the attributed cost of care against which monthly available income of the AIS/MR participant shall be applied shall be the projected annual average cost of care for all particpants divided by twelve (12) and rounded to the nearest dollar.

(4) Eligibility shall continue on the same monthly basis as for an institutionalized individual when the cost of care is greater than the recipient's monthly income or the recipient is eligible based on the special income level of 300 percent of the SSI level as specified in 907 KAR 1:011, Technical eligibility requirements.

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

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

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

(2) When eligibility is determined for a spend-down case, the attributed cost of care against which monthly available income of the hospice participant shall be applied shall be the hospice routine home care per diem (for the hospice providing care) as established by the Medicare program.

(3) Eligibility shall continue on the same monthly basis as for an institutionalized individual [case] when the cost of care is greater than the recipient's monthly income or the recipient is eligible based on the special income level of 300 percent of the SSI level as

specified in 907 KAR 1:011, Technical eligiblity requirements.

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

Section 17. Special Provisions for Recipients Participating in the Home and Community Based Services Waiver Program. Effective January 1, 1987, medical assistance eligibility for participants under the home and community based (HCB) services waiver program shall be determined (when necessary to establish eligibility for medical assistance benefits for cases with income in excess of the usual basic maintenance standard) taking into consideration the special provisions contained in this section.

(1) Income protected for basic maintenance of HCB services program participants who are eligible under the special income level shown in this section shall be the standard used for an individual in the federal supplemental security income (SSI) program.

(2) HCB services program participants with income not in excess of 300 percent of the SSI standard for an individual shall be determined to be eligible as categorically needy under a special income level (i.e., the special income level is 300 percent of the SSI standard).

(3) Patient liability and relative responsibility is determined in the same manner as if the HCB services program participant was institutionalized except that excess income of responsible relatives will be considered available to the HCB participant with the cost of HCB services projected.

(4) If an HCB services program participant has income in excess of 300 percent of the SSI standard, eligibility of the participant is determined in the usual manner for an individual who is institutionalized, with the cost of HCB services projected, except that the amount protected for basic maintenance is the usual medically needy standard for an individual in his own home as shown in Section 3 of this regulation.

Section 18. Treatment of Potential Payments from Medicaid Qualifying Trusts. When an individual (or his/her spouse for the individual's benefit) creates (other than by will) a trust (or similar legal device) with amounts payable to the same individual, such trust shall be considered a "Medicaid qualifying trust" if the trustee(s) of the trust are permitted to exercise discretion as to the amount of the payments from the trust to be paid to the individual. In this circumstance the amount considered available to the trust beneficiary shall be the maximum amount the trustee(s) may (using the trustee's discretion) pay in accordance with the terms of the trust, regardless of the amount actually paid. The cabinet may, however, consider as available only that amount actually paid if to do otherwise would create an undue hardship upon the individual; the criteria for determining "undue hardship" shall be established by the cabinet.

Section 19. Implementation. The amendments to this regulation will be effective on June [January] 1, 1987 except as otherwise specified herein.

E. AUSTIN, JR., Secretary
R. HUGHES WALKER, Commissioner
APPROVED BY AGENCY: March 11, 1987
FILED WITH LRC: March 13, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for April 21, 1987, 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 April 16, 1987, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: R. Hughes Walker

(1) Type and number of entities affected: 5 to 10 Medicaid recipients.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: $10,000 - $20,000 (costs)*

2. Continuing costs or savings: $10,000 - $20,000 (costs)*

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Not applicable for Medicaid regulations.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:011. Technical eligibility requirements.

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, hereinafter referred to as MA, to Kentucky's indigent citizenry. This regulation sets forth the technical eligibility requirements of the MA

Program.

Section 1. The Categorically Needy. All individuals receiving Aid to Families with Dependent Children, Title IV-E benefits, Supplemental Security Income or Optional or Mandatory State Supplementation are eligible for MA as categorically needy individuals. In addition, the following classifications of needy persons are included in the program as categorically needy and thus eligible for MA participation.

(1) Children in foster family care or private non-profit child caring institutions dependent in whole or in part on a governmental or private agency;

(2) Children in psychiatric hospitals or medical institutions for the mentally retarded;

(3) Pregnant women[, when the unborn child is deprived of parental support due to death, absence, incapacity or unemployment of the father];

(4) Children of unemployed parents;

(5) Children in subsidized adoptions dependent in whole or in part on a governmental agency;

(6) Families terminated from the Aid to Families with Dependent Children (AFDC) program because of increased earnings or hours of employment;

(7) Children (but not their parents) who meet the income and resource requirements of the Aid to Families with Dependent Children program, who were born after September 30, 1983 and who are under the age of five (5); and effective July 1, 1987, children (but not their parents) who meet the income and resource requirements of the Aid to Families with Dependent Children Program, who are under eighteen (18) years of age (or under age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before age nineteen (19));

(8) A child(ren) born to a woman eligible for and receiving medical assistance, so long as the child(ren) has not reached his/her first birthday, resides in the household of the woman, and the woman remains eligible for such assistance. In this situation, an application is deemed to have been made and the child found eligible for MA as of the date of birth;

(9) Effective June 1, 1987, individuals in institutions meeting appropriate patient status criteria who (if not institutionalized) would not be eligible for supplemental security income (SSI) or optional state supplementation benefits due to income, may be eligible under a special income level which is set at 300 percent of the SSI benefit amount payable for an individual with no income. Eligibility for similar hospice participants and similar participants in the waiver projects of home and community based services for the mentally retarded and the aged, blind or disabled may also be determined under this provision. Eligibility of an individual whose gross income exceeds 300 percent of the previously specified SSI benefit amount may not be determined in accordance with this provision;

(10) Effective July 1, 1987, qualified severely impaired individuals as specified in Section 9404 of P.L. 99-509 and Sections 2, 3 and 4 of P.L. 99-643 (to the extent such coverage is mandatory in this state); and

(11) Effective July 1, 1987, individuals who lose SSI eligibility but would be eligible for SSI benefits except for entitlement to or an increase in child's insurance benefits based on disability as specified in Section 6 of P.L. 99-643.

Section 2. The Medically Needy. Other individuals (including children as shown in Section 1(7) of this regulation), and pregnant women meeting income and resource standards of the medically needy program), meeting technical requirements comparable to the categorically needy group, but with sufficient income to meet their basic maintenance needs may apply for MA with need determined in accordance with income and resource standards prescribed by regulation of the Cabinet for Human Resources. Included within the medically needy eligible groups are pregnant women during the course of their pregnancy; a woman who, while pregnant, is eligible for, has applied for, and has received medical assistance, shall continue to be eligible as though she were pregnant until the end of the month containing the 60th day of a period beginning on the last day of her pregnancy (i.e., the day on which her child is born or the pregnancy is otherwise terminated). For individuals covered on January 1, 1985 pursuant to this section, the usual three (3) month rule on retroactivity (as shown in Section 3(15)) will apply.

Section 3. Technical Eligibility Requirements. Technical eligibility factors of families and individuals included as categorically needy under subsections (1) through (6) of Section 1, or as medically needy under Section 2 are:

(1) Children in foster care, private institutions, psychiatric hospitals or mental retardation institutions must be under eighteen (18) years of age (or under age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before age nineteen (19));

(2) Pregnant women are eligible only upon medical proof of pregnancy, except as otherwise specified in Section 2 of this regulation;

(3) Unemployment relating to eligibility of both parents and children is defined as:

(a) Employment of less than 100 hours per month, except that the hours may exceed that standard for a particular month if the work is intermittent and the excess is of a temporary nature as evidenced by the fact that the individual was under the 100 hour standard for the prior two (2) months and is expected to be under the standard during the next month;

(b) The individual has prior labor market attachment consisting of earned income of at least fifty (50) dollars during six (6) or more calendar quarters ending on March 31, June 30, September 30, or December 31, within any thirteen (13) calendar quarter period ending within one (1) year of application, or the individual within twelve (12) months prior to application received unemployment compensation;

(c) The individual is currently receiving or has been found ineligible for unemployment compensation;

(d) The individual is currently registered for employment at the state employment office, and available for full-time employment;

(e) The unemployed parent must not have refused suitable employment without good cause as determined in accordance with 45 CFR Section

233.100(a)(3)(ii);

(f) The unemployed parent must meet the requirements for independent employment search as specified herein. That is:

1. The unemployed parent must make not less than twenty-four (24) contacts with prospective employers in each three (3) month period following an approval, reinvestigation or reapproval.

2. The unemployed parent may not contact the same prospective employer more than once in each calendar month.

3. If the unemployed parent does not meet the requirement for the minimum number of employment contacts during the three (3) month period, the parent may, prior to or upon receipt of the advance notice of proposed discontinuance, meet the requirement for the number of contacts for the prior three (3) month period. These contacts shall not offset the requirement for employer contacts during the three (3) month period following the next approval, reinvestigation or reapproval.

(4) Under the definition contained in subsection (3) of this section, a parent shall not be considered as unemployed if he is:

(a) Temporarily unemployed due to weather conditions or lack of work when it is anticipated he can return to work within thirty (30) days; or

(b) On strike, or unemployed as a result of involvement in a labor dispute when such involvement would disqualify the individual from eligibility for unemployment insurance in accordance with KRS 341.360; or

(c) Unemployed because he voluntarily quit his most recent work for the purpose of attending school; or

(d) A farm owner or tenant farmer, unless he has previously habitually required and secured outside employment and currently is unable to secure outside employment; or

(e) Self-employed and not available for full-time employment.

(5) An aged individual must be at least sixty-five (65) years of age.

(6) A blind individual must meet the definition of blindness as contained in Titles II and XVI of the Social Security Act relating to RSDI and SSI.

(7) A disabled individual must meet the definition of permanent and total disability as contained in Titles II and XVI of the Social Security Act relating to RSDI and SSI.

(8) For families losing AFDC eligibility solely because of increased earnings or hours of employment, medical assistance shall continue for four (4) months to all such family members as were included in the family grant (and children born during the four (4) month period) if the family was eligible for and received AFDC in any three (3) or more months during the six (6) month period immediately preceding the month in which it became ineligible for AFDC. The four (4) month period begins on the date AFDC is terminated. If AFDC benefits are paid erroneously for one (1) or more months in such a situation, the four (4) month period begins with the first month in which AFDC was erroneously paid, i.e., the month in which the AFDC should have been terminated.

(9) Families losing AFDC eligibility solely due to loss of the thirty (30) dollars disregard or the one-third (1/3) disregard from earnings shall be deemed AFDC eligible for nine (9) months after the termination of the disregard, and shall as a result be eligible for continued medical assistance for the nine (9) month period. The nine (9) month period begins on the date the AFDC should have been terminated. Coverage for medical assistance is extended to all family members who were included in the grant (and children born during the nine (9) month period).

(10) Families losing AFDC eligibility as a result (wholly or partly) of the collection or increased collection of child or spousal support, and who were eligible for and received AFDC in at least three (3) of the six (6) months immediately preceding the month in which such ineligibility begins, shall be deemed AFDC eligible for Title XIX purposes for four (4) months beginning with the month in which ineligibility begins. If AFDC benefits are paid erroneously for one (1) or more months in such a situation, the four (4) month period begins with the first month in which AFDC was erroneously paid, i.e., the month in which the AFDC should have been terminated. Coverage for medical assistance is extended to all family members losing eligibility as a result of the receipt of the child or spousal support. The extended eligibility provision contained herein is applicable only with respect to families discontinued on or after July 18, 1984 and before October 1, 1988.

(11) Parents may be included for assistance in the cases of families with children including natural and adoptive parents. Other relatives who may be included in the case (one (1) only) are caretaker relatives to the same extent they may be eligible in the Aid to Families with Dependent Children Program.

(12) An applicant who is deceased may have eligibility determined in the same manner as if he was alive, in order to pay medical bills during the terminal illness.

(13) Children of the same parent, i.e., a "common" parent, residing in the same household shall be included in the same case unless this acts to preclude eligibility of an otherwise eligible household member. Effective April 1, 1986, for new approvals and at time of reinvestigation for other cases, the family unit must be determined in the same manner as is required for AFDC cases, except that if a family member(s) is pregnant the unborn child(ren) will be considered as a family member(s) for budgeting purposes.

(14) The following citizenship and/or residency requirements will be applicable:

(a) To be eligible, an applicant or recipient must be a citizen of the United States, or an alien legally admitted to this country or an alien who is residing in this country under color of law (except as specified in paragraph (b) of this subsection). An alien must have been admitted for permanent residence except as shown in paragraphs (b), (c) and (d) of this subsection. The applicant or recipient must also be a resident of Kentucky. Generally, this means the individual must be residing in the state for other than a temporary purpose; however, there are exceptions with regard to recipients of a state supplementary payment and institutionalized individuals. The conditions for determining state residency are specified in federal regulations at 42 CFR 435.403, which are hereby incorporated by reference.

(b) Effective January 1, 1987, an alien not

legally admitted to this country or residing in this country under color of law may be eligible for medical assistance under the following circumstances and conditions:

1. The alien must meet all other requirements for receipt of medical assistance, however, an alien qualifying as a categorically needy recipient need not actually receive an AFDC or federal supplemental security income (SSI) cash payment so long as the alien meets the income resource and categorical requirements of the applicable cash assistance program;

2. The alien must have (or have had within the usual period for retroactive eligibility) an emergency medical condition, defined as a medical condition (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part;

3. Approval of eligibility shall be for a time limited period, with such period to include the month in which the medical emergency began and the next following month, with the added provision that the eligibility period may be extended for an appropriate period of time upon presentation to the cabinet of acceptable documentation that the medical emergency will exist for a more extended period of time than is allowed for in the time limited eligibility period; and

4. The medical assistance to which the alien shall be entitled is limited to the medical care and services (including limited follow-up) necessary for the treatment of the emergency medical condition of the alien.

(c) Effective May 5, 1987, select groups of aliens who are illegally residing in this country may qualify for legalization of residence status under Section 201 of P.L. 99-613. Such aliens are prohibited from Medicaid eligibility for a period of five (5) years (beginning on the date temporary resident status is granted) except as follows:

1. The aged, blind or disabled may be eligible;

2. Children under age eighteen (18) may be eligible;

3. Pregnant women may be eligible for pregnancy related services only; and

4. All such aliens may qualify for emergency services to the extent specified in paragraph (b) of this subsection and with the limitations shown therein.

(d) Effective June 1, 1987, aliens qualifying for legalization of status as seasonal agricultural workers under Section 302 of P.L. 99-613 are subject to the same coverage limitations as shown in paragraph (c) of this subsection.

(15) An individual may be determined eligible for medical assistance for up to three (3) months prior to the month of application if all conditions of eligibility are met. The effective date of medical assistance is generally the first day of the month of eligibility. For individuals eligible on the basis of unemployment, eligibility may not exist for the thirty (30) day period following the starting date of the unemployment. In these cases, the effective date of eligibility may be as early as the first day following the end of the thirty (30) day period if all other conditions of eligibility are met. For individuals eligible on the basis of desertion, a period of desertion must have existed for thirty (30) days, and the effective date of eligibility may not precede the first day of the month in which the thirty (30) day period ends. For individuals eligible on the basis of utilizing their excess income for incurred medical expenses, the effective date of eligibility is the day the spend-down liability is met.

(16) "Child" means a needy dependent child under the age of eighteen (18) (or under age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before the age nineteen (19)), who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States, and who is a recipient of or applicant for public assistance. Included within this definition is an individual(s) meeting the age requirement specified above, previously emancipated, who has returned to the home of his parents, or to the home of another relative, so long as such individual is not thereby residing with his spouse.

(17) Benefits shall be denied to any family for any month in which any legally liable caretaker relative with whom the child is living is, on the last day of such month, participating in a strike, and no individual's needs shall be considered in determining eligibility for medical assistance for the family if, on the last day of the month, such individual is participating in a strike. The definition of a strike includes a strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.

(18) Effective May 1, 1987, an individual sanctioned (removed) from an AFDC case due to failure to meet an AFDC technical eligibility requirement may not be eligible for medical assistance as a medically needy individual unless such individual is separately eligible for medical assistance without regard to eligibility as a member of the group from which such individual has been sanctioned.

Section 4. Institutional Status. No individual shall be eligible for MA if a resident or inmate of a non-medical public institution. No individual shall be eligible for MA while a patient in a state tuberculosis hospital unless he has reached age sixty-five (65). No individual shall be eligible for MA while a patient in a state institution for mental illness unless he is under age eighteen (18) (or under age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before age nineteen (19)) or is sixty-five (65) years of age or over.

Section 5. Emergency Shelters. Effective July 1, 1985, an individual (or family group) who is in an emergency shelter for a temporary period of time may be eligible for medical assistance even though the shelter is considered a public institution under certain conditions. These conditions are as follows:

(1) The individual (or family group) must be a resident of an emergency shelter no more than

three (3) months in any twelve (12) month period.
(2) The individual (or family group) must not be in the facility serving a sentence imposed by the court, or awaiting trial.
(3) The individual (or family group) must be otherwise eligible when outside the emergency shelter; that is, eligibility must have existed immediately prior to admittance to the shelter, or it must exist immediately after leaving the shelter.

Section 6. Application for Other Benefits. As a condition of eligibility for medical assistance, applicants and recipients must apply for all annuities, pensions, retirement and disability benefits to which they are entitled, unless they can show good cause for not doing so. Good cause is considered to exist when such benefits have previously been denied with no change of circumstances, or the individual does not meet all eligibility conditions. Annuities, pensions, retirement and disability benefits include, but are not limited to, veterans' compensations and pensions, retirement and survivors disability insurance benefits, railroad retirement benefits, and unemployment compensation. Notwithstanding the preceding, no applicant or recipient shall be required to apply for federal benefits when the federal law providing for such benefits shows the benefit to be optional and that the potential applicant or recipient for such benefit need not apply for such benefit when to do so would, in his opinion, act to his disadvantage.

Section 7. Assignment of Rights to Medical Support. By accepting assistance for or on behalf of a child, a recipient is deemed to have made an assignment to the Cabinet for Human Resources of any medical support owed for the child not to exceed the amount of medical assistance payments made on behalf of the recipient.

Section 8. Third Party Liability as a Condition of Eligibility. Any individual applying for or receiving medical assistance shall be required as a condition of eligibility to cooperate with the Cabinet for Human Resources in identifying, and providing information to assist the cabinet in pursuing, any third party who may be liable to pay for care or services available under the Medicaid Program unless such individual has good cause for refusing to cooperate as determined by the cabinet taking into consideration the best interests of the individuals involved. A failure of the individual to cooperate without good cause shall result in ineligibility of the individual.

Section 9. Provision of Social Security Numbers. Beginning May 1, 1985, each applicant for or recipient of medical assistance shall be required to provide a social security number as a condition of eligibility. However, no one shall be denied eligibility or discontinued from eligibility due to a delay in receipt of a social security number from the Social Security Administration when appropriate application for such number has been made. For recipients, the requirement shall be effective with the first full reinvestigation occurring on or after May 1, 1985.

[Section 10. Implementation. The provisions of this regulation, as amended, shall be effective on October 1, 1986, except as otherwise specified herein.]

E. AUSTIN, JR., Secretary
R. HUGHES WALKER, Commissioner
APPROVED BY AGENCY: March 10, 1987
FILED WITH LRC: March 13, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for April 21, 1987, at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by April 16, 1987, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: R. Hughes Walker
(1) Type and number of entities affected: Approximately 2,500-2,550 Medicaid eligible individuals.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: $1,585,000 (costs)*
2. Continuing costs or savings: $3,085,000 (costs)*
3. Additional factors increasing or decreasing costs: Additional recipients added after first year phase-in.
(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: Assumes 2,500 additional Ribicoff children first year, increasing to 5,000 by the second year.
TIERING: Was tiering applied? No. Not applicable for Medicaid regulations.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:028. Other laboratory and x-ray services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 194.050
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the

program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to other laboratory and x-ray services for which payment shall be made by the Medical Assistance Program in behalf of both the categorically needy and medically needy.

Section 1. Covered Services. Laboratory services provided by a participating independent laboratory shall be limited to the following procedures when prescribed by a physician or dentist:

(1) Bilirubin;
(2) Bleeding time;
(3) Blood culture (definitive);
(4) Red blood count;
(5) White blood count;
(6) Differential;
(7) Complete blood count;
(8) Cholesterol;
(9) Clotting time;
(10) Hemoglobin;
(11) Hematocrit;
(12) Acid phosphatase;
(13) Alkaline phosphatase;
(14) Potassium;
(15) Prothrombin time;
(16) RA test (latex agglutinations);
(17) Stool (occult blood);
(18) Sedimentation rate;
(19) Sodium;
(20) Glucose (blood);
(21) Blood typing;
(22) Blood urea nitrogen;
(23) Uric acid;
(24) SGOT or SGPT (serum transaminase);
(25) Stool (ova and parasites);
(26) Pap smear;
(27) Urine analysis;
(28) Pregnancy test;
(29) Smears for bacteria, stained;
(30) Cultures (throat, urine, etc.);
(31) Package of the following twelve (12) tests when performed on automatic laboratory analyzing machine: cholesterol, calcium, phosphorus, total serum bilirubin, albumin, total protein, uric acid, blood urea nitrogen, glucose, lactic dehydragenase, alkaline phosphatase, and serum transaminase;
(32) Dilantin level;
(33) Electrolytes;
(34) Glucose tolerance (two (2) hour);
(35) Glucose tolerance (four (4) hour);
(36) Glucose tolerance (six (6) hour);
(37) Master chem twenty-four (24);
(38) Thyroid profile;
(39) Arthritis profile;
(40) CPK (creatine phosphokinase);
(41) VDRL (venereal disease rule out);
(42) Drug abuse screen;
(43) Phenobarbital;
(44) Any three (3) through six (6) automated tests;
(45) Any seven (7) through twelve (12) automated tests;
(46) Any thirteen (13) through sixteen (16) automated tests;
(47) Any seventeen (17) through eighteen (18) automated tests;
(48) Any nineteen (19) or more automated tests; [and]
(49) Platelet count;
(50) Urine culture;
(51) Sensitivity testing;
(52) T3;
(53) T4;
(54) Rubella;
(55) Therapeutic drug monitoring;
(56) Lithium;
(57) Theophylline;
(58) Digoxin; and
(59) Digitoxin.

Section 2. The amendments to [provisions of] Section 1 of this regulation shall be effective January 1, 1987 [September 1, 1985].

E. AUSTIN, JR., Secretary
R. HUGHES WALKER, Commissioner
APPROVED BY AGENCY: February 19, 1987
FILED WITH LRC: March 13, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for April 21, 1987, 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 April 16, 1987, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: R. Hughes Walker
(1) Type and number of entities affected: About 69 independent laboratories; potentially, all eligible Medicaid recipients.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: $25,000 - $30,000 (costs)
2. Continuing costs or savings: $25,000 - $30,000 (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: None
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: This regulation does not set forth compliance standards. In addition, there are no federally mandated standards.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. See response of 1.
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 Medicaid Services
(Proposed Amendment)

907 KAR 1:036. Amounts payable for skilled nursing and intermediate care facility services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 194.050
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the cabinet for skilled nursing care facility services and intermediate care facility services.

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

Section 2. Basic Principles of Reimbursement. (1) Payment shall be on the basis of rates which are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable state and federal laws, regulations, and quality and safety standards.
(2) Payment amounts shall be arrived at by application of the reimbursement principles developed by the cabinet (Kentucky Medical Assistance Program Intermediate Care/Skilled Nursing Facility Reimbursement Manual, revised January 1, 1987 [July 1, 1986, and amended pursuant to a hearing, which is hereby incorporated by reference]) and supplemented by the use of the Title XVIII-A reimbursement principles.

Section 3. Implementation of the Payment System. The cabinet's reimbursement system is supported by the Title XVIII-A Principles of Reimbursement, with the system utilizing such principles as guidelines in unaddressed policy areas. The cabinet's reimbursement system includes the following specific policies, components or principles:
(1) Prospective payment rates for routine services shall be set by the cabinet on a facility by facility basis, and shall not be subject to retroactive adjustment. Prospective rates shall be set annually, and may be revised on an interim basis in accordance with procedures set by the cabinet. An adjustment to the prospective rate (subject to the maximum payment for that type of facility) will be considered only if a facility's increased costs are attributable to one (1) of the following reasons: governmentally imposed minimum wage increases; the direct effect of new licensure requirements or new interpretations of existing requirements by the appropriate governmental agency as issued in regulation or written policy which affects all facilities within the class; or other governmental actions that result in an unforeseen cost increase. The amount of any prospective rate adjustment may not exceed that amount by which the cost increase resulting directly from the governmental action exceeds on an annualized basis the inflation allowance amount included in the prospective rate for the general cost area in which the increase occurs. For purposes of this determination, costs will be classified into two (2) general areas, salaries and other. The effective date of interim rate adjustment shall be the first day of the month in which the adjustment is requested or in which the cost increase occurred, whichever is later.
(2) The prospective rate shall not exceed, on a facility by facility basis, an administratively established maximum payment for that type of facility. The state will set a uniform rate year for SNFs and ICFs (July 1-June 30) by taking the latest audited cost data available as of May 16 of each year and trending the facility costs to July 1 of the rate year. (Unaudited, partial year, and/or budgeted cost data may be used if a full year's audited data is unavailable. Unaudited reports are subject to adjustment to the audited amount, and will be used when an audited cost report ending within twenty-four (24) months of the 30th of April preceding the rate year is not available. Facilities paid on the basis of partial year or budgeted cost reports shall have their reimbursement settled back to allowable cost, with usual upper limits applied. Facilities beginning program participation on or after July 1, 1984 whose rates are subject to settlement back to cost will not be included in the arrays until such time as the facilities are no longer subject to cost settlement.) After allowable costs are indexed for inflation for the rate year, freestanding (non-hospital based) facilities will be arrayed and the maximum set at 102 percent of the median for the class (SNF or ICF). In recognition of the higher costs of hospital based SNFs, their upper limit shall be set at 135 percent of 102 percent of the median of allowable trended and indexed costs of all other SNFs, however, such upper limit shall not exceed 102 percent of the median of the array of allowable trended and indexed costs of hospital based SNFs. The maximum payment amounts will be adjusted each July 1, beginning with July 1, 1985, so that the maximum payment amount for the prospective uniform rate year will be at 102 percent of the median per diem allowable costs

for the class (SNF or ICF) on July 1 of that year. For purposes of administrative ease in computations normal rounding may be used in establishing the maximum payment amount, with the maximum payment amount rounded to the nearest five (5) cents. Upon being set, the arrays and upper limits will not be altered due to revisions or corrections of data. For ICF-MRs, a prospective rate will be set in the same manner as for freestanding SNFs and basic ICFs, except that the maximum (upper limit) shall be set at 125 [110] percent of the median of the array. Effective January 1, 1987, and continuing through the rate years beginning July 1, 1987, and July 1, 1988, the allowable cost for each facility shall include a patient care labor intensity factor of two and six-tenths (2.6) percent applied to that portion of the facilities' operating costs attributable (based on averages for the class of facility) to labor costs. This allowance is generally intended for the purpose of direct service staff improvements to enhance patient care. Effective with the rate year beginning on July 1, 1987, that portion of the facilities' operating costs attributable (based on averages for the class of facility) to labor costs shall be indexed for the rate year by a labor cost intensity factor based on the state employee annual salary increment; this indexing shall be in lieu of the usual indexing for inflation of such labor costs, however, the labor cost intensity factor shall be not less than the usual indexing factor and, if necessary, shall be increased to an amount equal to the usual indexing factor. This adjustment is designed to allow for salary and staffing improvements to improve patient care.

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

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

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

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

(c) For both paragraphs (a) and (b) of this subsection, interest on a principal amount used to purchase goodwill or other intangible assets will not be considered an allowable cost.

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

(6) The allowable cost for services or goods purchased by the facility from related organizations shall be the cost to the related organization, except when it can be demonstrated that the related organization is in fact equivalent to any other second party supplier, i.e., a relationship for purposes of this payment system is not considered to exist. A relationship will be considered to exist when an individual or individuals possess five (5) percent or more of ownership or equity in the facility and the supplying business; however, an exception to the relationship will be determined to exist when fifty-one (51) percent or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

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

entering into lease/rent arrangements prior to December 1, 1979, the cabinet will determine the allowable costs of such arrangements based on the general reasonableness of such costs.

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

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

(b) Facilities participating in the Medicaid program prior to April 1, 1981, shall be classified as newly participating facilities (solely for purposes of this subsection) when either of the following occurs on or after April 1, 1981: first, when the facility expands its bed capacity by expansion of its currently existing plant or, second, when a multi-level facility (one providing more than one (1) type of care) converts existing personal care beds in the facility to either skilled nursing or intermediate care beds, and the number of additional or converted personal care beds equals or exceeds (in the cumulative) twenty-five (25) percent of the Medicaid certified beds in the facility as of March 31, 1981. Facilities participating in the Medicaid program prior to April 1, 1981 shall not be classified as newly participating facilities solely because of changes of ownership.

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

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

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

(9) Certain costs not directly associated with patient care will not be considered allowable costs. Costs which are not allowable include political contributions, travel and related costs for trips outside the state (for purposes of conventions, meetings, assemblies, conferences, or any related activities), specified vehicle costs as shown in the Reimbursement Manual, and legal fees for unsuccessful lawsuits against the cabinet. However, costs (excluding transportation costs) for training or educational purposes outside the state are allowable costs unless such costs are incurred by administrators or owners.

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

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

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

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

(d) A sale is any bona fide transfer of legal ownership from an owner(s) to a new owner(s) for reasonable compensation, which is usually fair market value. Lease-purchase agreements and/or other similar arrangements which do not result in transfer of legal ownership from the original owner to the new owner are not considered sales until such time as legal ownership of the property is transferred.

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

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

(a) No increase will be allowed in capital costs.

(b) The allowable historical base for depreciation for the purchaser will be the lesser of the allowable historical cost of the seller less any depreciation allowed to the seller in prior periods, or the actual purchase price.

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

(12) Each facility shall maintain and make available such records (in a form acceptable to the cabinet) as the cabinet may require to

justify and document all costs to and services performed by the facility. The cabinet shall have access to all fiscal and service records and data maintained by the provider, including unlimited onsite access for accounting, auditing, medical review, utilization control and program planning purposes.

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

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

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

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

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

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

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

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

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

(c) A facility is sold and the funded depreciation account is not transferred to the purchaser.

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

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

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

(19) Each ICF which admits a recipient from an SNF during the period of September 1, 1985 through January 31, 1986 shall receive an incentive payment of seven (7) dollars and fifty (50) cents for each day of covered care rendered such recipient, subject to the following conditions:

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

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

(20) When a recipient in a SNF changes patient status (from SNF to ICF) on or after February 1, 1986 and is admitted to an ICF within the permitted transfer period for the recipient (i.e., while the recipient still qualifies for coverage at the skilled rate), the ICF shall receive an incentive payment of seven (7) dollars and fifty (50) cents for each day of covered care rendered the recipient; such incentive payment shall be paid for no more than ninety (90) days of care.

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

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

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

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

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

(23) SNF's which on February 1, 1986 continued to care for recipients who were classified as meeting SNF patient status criteria as of August 31, 1985 only because of non-availability of an ICF bed, where the recipient is on the waiting list of an ICF, may receive the usual SNF rate for those recipients subject to the following transitional reimbursement standards and criteria:

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

downward conversion of the bed(s) in which the recipient(s) is residing.

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

(c) Payment under this transitional reimbursement provision shall continue only until such time as the Commission for Health Economics Control in Kentucky (CHECK) [Certificate of Need Authority (CONA)] has acted on the application and any appropriate licensure action has been effected.

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

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

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

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

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

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

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

(Effective 1-1-87 [7-1-86])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$29.99 & below [28.99]	$.92	$.58
30.00 - 30.99 [29.00 - 29.99]	$.86	$.50
31.00 - 31.99 [30.00 - 30.99]	$.78	$.41
32.00 - 32.99 [31.00 - 31.99]	$.70	$.32
33.00 - 33.99 [32.00 - 32.99]	$.61	$.21
34.00 - 34.99 [33.00 - 33.99]	$.51	$.09
35.00 - 36.14 [34.00 - 35.58]	$.35	-

Maximum Payment $36.14 [35.58]

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

(Effective 1-1-87 [7-1-86])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$86.99 & below [69.99]	$1.38	$.87
87.00 - 92.99 [70.00 - 75.99]	$1.29	$.75
93.00 - 98.99 [76.00 - 81.99]	$1.18	$.62
99.00 -104.99 [82.00 - 87.99]	$1.06	$.47
105.00 -110.99 [88.00 - 93.99]	$ .92	$.31
111.00 -116.99 [94.00 - 99.99]	$ .76	$.13
117.00 -123.49 [100.00 - 106.81]	$ .53	-

Maximum Payment $123.49 [106.81]

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

(Effective 1-1-87 [7-1-86])

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$39.99 & below [38.99]	$.92	$.58
40.00 - 41.99 [39.00 - 40.99]	.86	.50
42.00 - 43.99 [41.00 - 42.99]	.78	.41
44.00 - 45.99 [43.00 - 44.99]	.70	.32
46.00 - 47.99 [45.00 - 46.99]	.61	.21
48.00 - 49.99 [47.00 - 48.99]	.51	.09

50.00 - 51.93 [49.00 - 51.04]	.35	-

Maximum Payment $51.93* [51.04*]

*The maximum payment for hospital based skilled nursing facilities is set at $70.11 [68.90].

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

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

(1) First recourse shall be for the facility to request in writing to the Director, Division of Reimbursement and Contracts, a re-evaluation of the point at issue. This request must be received within forty-five (45) days following notification of the prospective rate or forwarding of the audited cost report by the program. The director shall review the matter and notify the facility of any action to be taken by the cabinet (including the retention of the original application of policy) within twenty (20) days of receipt of the request for review or the date of the program/vendor conference, if one is held, except that additional time may be taken as necessary to secure further information or clarification pertinent to the resolution of the issue.

(2) Second recourse shall be for the facility to request in writing to the Commissioner, Department for Medicaid Services, a review by a standing review panel to be established by the commissioner. This request must be postmarked within fifteen (15) days following notification of the decision of the Director, Division of Reimbursement and Contracts. Such panel shall consist of three (3) members: one (1) member from the Division of Reimbursement and Contracts, one (1) member from the Kentucky Association of Health Care Facilities, and one (1) member from the Department for Medicaid Services (but not within the Division of Reimbursement and Contracts) as designated by the Commissioner, Department for Medicaid Services, with such designated member to act as chairperson of the review panel. A date for the reimbursement review panel to convene will be established within twenty (20) days after receipt of the written request. The panel shall issue a binding decision on the issue within thirty (30) days of the hearing of the issue, except that additional time may be taken as necessary to secure further information or clarification pertinent to the resolution of the issue. In carrying out the intent and purposes of the program the panel may take into consideration extenuating circumstances which must be considered in order to provide for equitable treatment and reimbursement of the provider. The attendance of the representative of the Kentucky Association of Health Care Facilities at review panel meetings shall be at the cabinet's expense.

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

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

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

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

(b) Physical, occupational and speech therapy.

(c) Laboratory procedures.

(d) X-ray.

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

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

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

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

(4) The "basic per diem cost" is the computed rate arrived at when otherwise allowable costs are trended and adjusted in accordance with the inflation factor, the occupancy factor, and the median cost center per diem upper limits.

(5) "Inflation factor" means the comparison of allowable routine service costs, not including fixed or capital costs, with an inflation rate to arrive at projected current year cost increases, which when added to allowable costs, including fixed or capital costs, yields projected current year allowable costs. The inflation factor shall be included for rates computed on August 3, 1985 and thereafter.

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

(7) "Investment factor" means the comparison of the basic per diem cost with the investment return schedule to arrive at the actual dollar

amount of investment return to be added to the basic per diem cost.

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

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

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

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

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

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

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

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

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

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

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

(13) The first twenty (20) cents of cost of each disposable incontinent brief shall be considered to be ancillary costs when such briefs are provided upon a physician's orders, with the balance of the cost of such briefs considered to be routine costs.

Section 7. Implementation Date. The amendments to [provisions of] this regulation[, as amended,] shall be effective on January 1, 1987, or as otherwise specified herein [with regard to services provided on or after July 1, 1986].

R. HUGHES WALKER, Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: February 12, 1987
FILED WITH LRC: February 17, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for April 21, 1987, at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by April 16, 1987, 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 Medicaid participating skilled nursing and intermediate care facilities; potentially all recipients in such facilities.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: $7,900,000 (costs).

2. Continuing costs or savings: Second and third year costs include $1.5 million for disposable briefs and the carry forward of the 2.6% allowance; the following year, total costs will decrease to $5.3 million.

3. Additional factors increasing or decreasing costs: Part of the labor intensity allowance is effective January 1, 1987, with the balance effective July 1, 1987, and a cost phase-out after the 1988-89 rate year.

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Not applicable for Medicaid regulations.

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 payments for skilled nursing and intermediate care facility services provided under the Medicaid Program are shown 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 skilled nursing and intermediate care facility 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 MARCH 15

FINANCE AND ADMINISTRATION CABINET
Kentucky Retirement Systems

105 KAR 1:110. Definition of permanent disability.

RELATES TO: KRS 61.600
PURSUANT TO: KRS 61.645
NECESSITY AND FUNCTION: KRS 61.100 provides for an employee with at least sixty (60) months of service, twelve (12) of which must be current service, may retire at any time before his normal retirement date on account of disability. It further provides that the employee must be deemed, since his last day of paid employment, to be totally incapacitated to engage in any work for remuneration and that such disability must be deemed to be permanent. This regulation clarifies the term "permanent" to assure uniformity in the decisions of the medical examiners on applications for disability under KRS 61.600.

Section 1. A disability shall be deemed to be permanent if that disability is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the employee's last day of paid employment. For the purposes of determining permanence under this regulation, the board's medical examiners shall use the Medical Evaluation Criteria Under the Social Security Disability Programs from the Disability Evaluation Under Social Security published by the U.S. Department of Health and Human Services, Social Security Administration, February 1986, SSA Publication No. 05-10089.

JOHN ROBEY, Chairman
BOBBY J. McKEE, General Manager
APPROVED BY AGENCY: February 19, 1987
FILED WITH LRC: February 23, 1987 at 4 p.m.
PUBLIC HEARING SCHEDULED: A public hearing is scheduled for 3 p.m. on Tuesday, April 21, 1987, for persons interested in the subject matter of this proposed regulation. The hearing will be held at the Kentucky Retirement Systems office at Perimeter Park West, 1260 Louisville Road, Frankfort, Kentucky. Submit comments or questions to Bobby J. McKee, General Manager, Kentucky Retirement Systems, 1260 Louisville Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Pamala S. Johnson
(1) Type and number of entities affected: Nonhazardous members of Kentucky Employees Retirement System and County Employees Retirement System.
(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):
(b) Reporting and paperwork requirements: No increase.
(2) Effects on the promulgating administrative body: More consistent application of disability statutes. May increase number of approvals for disability retirements.
(a) Direct and indirect costs or savings:
1. First year: $1,409,019 KERS estimated, $544,368 CERS estimated.
2. Continuing costs or savings: Will be based on annual actuarial valuation of experience.
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No increase.
(3) Assessment of anticipated effect on state and local revenues: No affect. Can be absorbed within current employer and employee contribution rates.
(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 known.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: This regulation will clarify definition of "permanent" in statute and may allow more members to obtain disability retirement. Will also result in more consistent medical determinations and could eliminate law suits.
TIERING: Was tiering applied? No. Offers equal benefits to all nonhazardous members of our retirement systems. Hazardous members already have special disability provisions in statutes.

GENERAL GOVERNMENT CABINET
Kentucky Board of Examiners of Psychology

201 KAR 26:150. Guidelines and policies for examinations to grant autonomous functioning.

RELATES TO: KRS 319.062
PURSUANT TO: KRS 319.032
NECESSITY AND FUNCTION: To provide guidelines and policies for the examination and granting of the title "certified psychologist with autonomous functioning" pursuant to KRS 319.062.

Section 1. (1) Applicants for autonomous functioning must be duly certified psychologists holding valid certificates of qualification.

Application for autonomous functioning can be made only in those areas in which certification is currently held.

(2) Applicants for autonomous functioning must submit an application form developed by the board which documents that they have a valid certificate of qualification, the areas of practice in which they are qualified, and that they have two (2) full years of supervised professional experience satisfactory to the board. This experience will be defined as 4,000 hours for which documentation of supervision by a licensed psychologist is on file with the board.

(3) Applicants for autonomous functioning must submit a signed endorsement from the supervisor of record to sit for the examination for autonomous functioning. The applicant may petition the board to consider the endorsement of another supervisor of record.

(4) Applicants for autonomous functioning must document that they have passed the Examination for Professional Practice in Psychology (EPPP) at the level of one (1) standard deviation below the mean or higher. Applicants who scored at this passing level when they were initially examined for certification are considered to have satisfactorily met this requirement. Applicants who have failed to pass the EPPP at this level must retake the exam during the regularly scheduled examination times and pass at the specified level in order to sit for the oral examination for autonomous functioning.

(5) Applicants for autonomous functioning who meet all of the above-listed criteria shall be administered an oral examination, approved by the board. The examination shall consist of questions focusing on each of the following areas: ethical principles, professional practice, and Kentucky mental health law. The oral examination will be conducted by two (2) persons designated by the board, one (1) of whom will be a certified psychologist, and one (1) of whom will be a licensed psychologist. At least one (1) member of the examining committee will hold certification or licensure in the candidate's specialty area. The applicant must demonstrate an acceptable level of knowledge of each of the three (3) areas in order to pass the examination. Each examiner will independently rate the applicant's performance. When both examiners deem the performance satisfactory, the candidate passes; if both examiners deem the performance failing, the candidate fails. In cases where the examiners fail to agree on a candidate's performance, the candidate will be re-examined by a second team of examiners at a later date at no additional fee.

(6) Candidates who fail the objective examination at the level for autonomous functioning may pay a re-examination fee of $100 and re-apply to take that part of the examination at a regularly scheduled examination date. Persons who fail the oral examination for autonomous functioning may pay a re-examination fee of fifty (50) dollars and may be re-examined by a second team of examiners constructed in the same manner as the first team. Persons failing the oral examination a second time may request and the board may grant permission to take the oral examination a third time, in a manner specified by the board and upon payment of a fee of fifty (50) dollars.

(7) Fees for applicants for autonomous functioning will vary depending on the applicant's need to retake the EPPP. Those applicants who have already met the passing score requirement on the EPPP must pay an application fee of $100. Those applicants who need to retake the EPPP in addition to other procedures described above must pay an application fee of $200. These fees are nonrefundable.

STEPHEN T. DeMERS, Chairman
APPROVED BY AGENCY: February 13, 1987
FILED WITH LRC: February 17, 1987 at 2 p.m.
PUBLIC HEARING SCHEDULED: Please take notice that the Kentucky Board of Examiners of Psychology will hold a hearing on the above regulation at the Board's offices at Berry Hill Annex, Frankfort, Kentucky 40601 on the 21st day of April, 1987 at 10 a.m. All persons wishing to appear shall notify in writing Mr. Dave Nicholas, Director, Occupations and Professions, Berry Hill Annex, Frankfort, Kentucky 40601. If no notifications are received by the Board by the 16th day of April, 1987, the hearing will be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: David Nicholas
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: Board of Examiners of Psychology.
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A
(b) Reporting and paperwork requirements: N/A
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs: N/A
(b) Reporting and paperwork requirements: N/A
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments: N/A
TIERING: Was tiering applied? No. N/A

TOURISM CABINET
Department of Fish and Wildlife Resources

301 KAR 4:001. Selection of Fish and Wildlife Resources Commission nominees.

RELATES TO: KRS 150.010, 150.021, 150.022, 150.023
PURSUANT TO: KRS 13A.350, 150.025
NECESSITY AND FUNCTION: KRS 150.022 stipulates that the Commissioner of the Department of Fish and Wildlife Resources shall call a meeting of sportsmen in each wildlife district to select five (5) names for submission to the governor

for appointment to the Fish and Wildlife Resources Commission. This regulation is necessary to assure that these meetings are conducted in a fair and consistent manner in each district. The function of this regulation is to establish the method by which this selection process is to be carried out and to provide for a process by which grievances may be resolved.

Section 1. Scheduling of Meetings and Notification of the Public. (1) At least thirty (30) days prior to the expiration of the term of a member of the Fish and Wildlife Resources Commission, the commissioner shall select the time and place for a public meeting to select a list of five (5) nominees to submit to the governor. The meeting shall be held within a county of the wildlife district that is centrally located and easily accessible to the majority of the sportsmen of that district.

(2) The location of the meeting shall be in a public building with facilities adequate to accommodate the expected turnout. If more participants attend than the facilities can reasonably accommodate, the commissioner (or his designee) may order a change in location, if a suitable site is readily available, or may take whatever steps he deems necessary to insure the orderly and safe conduct of the meeting.

(3) Each meeting shall be called to order at 7:30 p.m. local prevailing time. However, should a change of location be called as provided for in subsection (2) of this section, the commissioner shall delay the beginning of the meeting for at least one (1) hour. He may also delay the beginning of the meeting for any other reason he deems necessary, but under no circumstances may he convene the meeting earlier than the stated starting time.

(4) The facilities where the meeting is held shall be made available to the public at 6 p.m. local prevailing time.

(5) The commissioner shall cause to be published in each newspaper in the district a legal notice announcing the purpose, time and place of the meeting. He shall also prepare and distribute news releases announcing the meeting to all major mass media outlets in the district. In addition, he shall prepare and distribute posters about the meeting for posting at each county courthouse in the district and at those places where sportsmen are known to gather or frequent.

Section 2. Conduct of the Meeting. (1) The commissioner, or an official of the department designated by the commissioner, will serve as chairman of the meeting, and this chairman shall be the final arbiter of any disputes or procedural questions which may arise during the course of the meeting.

(2) After calling the meeting to order, the chairman shall explain the purpose of the meeting and the rules under which it will be conducted.

(3) The chairman will then open the floor to nominations.

(4) As each name is placed in nomination, the nominee shall sign an affidavit attesting to his or her residency in the district and registered policital affiliation. The information contained in this affidavit shall be considered binding until an appointment is made by the governor and may not be changed by a nominee or by any other person.

(5) The chairman shall not close the nominations until he has called three (3) times for additional nominations and has received none. Motions to close the nominations shall not be recognized while there are still those waiting to place a name in nomination.

(6) Should no more than five (5) names be placed in nomination, the chairman shall declare that the purpose of the meeting has been fulfilled and shall adjourn the meeting.

Section 3. Balloting to Select Five (5) Nominees. (1) Should more than five (5) names be placed in nomination, the list of nominees shall be narrowed to five (5) names by secret ballots cast by the qualified sportsmen in attendance.

(2) The chairman shall direct each nominee to appoint at least one (1) individual to serve on a balloting committee. The chairman shall determine the number needed for this committee, and each nominee shall be allowed an equal number of committee members.

(3) Members of the nominating committee shall distribute ballots to the participants in the meeting. Each ballot shall consist of two (2) parts: an affidavit by which each participant shall attest to his legal right to participate in the selection process as stipulated in KRS 150.022 and a ballot with which the participant may vote for one (1) nominee.

(4) Each eligible participant shall complete the information requested on the affidavit and then all shall swear an oath attesting to the veracity of that information.

(5) Each eligible participant shall then vote for the nominee of his choice on the ballot provided. Ballot boxes, manned by personnel of the department, will be available at designated exits. Each eligible participant shall hand the department employee his signed affidavit, then (and only then) will he be allowed to place his ballot in the ballot box.

(6) After depositing his ballot, each participant shall immediately leave the meeting room and may not return until all ballots are cast and the ballot boxes are closed.

(7) The ballot boxes shall be opened in the presence of the balloting committee, who shall count the ballots in the presence of the chairman or his designee(s).

(8) Immediately after the ballots are counted and the results certified by the balloting committee, the chairman shall announce the full results of the balloting and shall then adjourn the meeting.

(9) Each member of the balloting committee shall sign an affidavit attesting to the ballot count and to the fact that, to the best of his or her knowledge, the process of distributing and counting the ballots was conducted in a fair and impartial manner. The chairman shall obtain a written statement from any committee member who feels that irregularities did occur during the course of the meeting.

Section 4. Resolving Disputes. (1) In the event of a tie vote for fifth and sixth place,the chairman shall settle the issue by the toss of a coin. Tie votes which do not affect the outcome of the selection of the five (5) names will not be resolved.

(2) Any other disputes, whether over vote counts or over procedural matters, shall be arbitrated immediately by the chairman, whose

decision shall be binding unless subsequently overturned by the commission or the courts as stipulated below.

(3) Any individual who is aggrieved by a decision of the chairman or by any other action at the meeting may appeal in writing to the Fish and Wildlife Resources Commission within ten (10) calendar days after the meeting.

(4) The commission shall, within fifteen (15) working days after the receipt of a written appeal, call a special open meeting to hear testimony on the appeal and decide the matter.

(5) Decisions of the commission may be appealed within ten (10) calendar days to the Franklin Circuit Court. However, the decision of the commission shall stand unless it is proved that the decision was procured or made by fraud, duress, malfeasance or illegal means.

Section 5. Submission of the List of Nominees to the Governor. (1) The commissioner shall, within five (5) working days after the meeting, submit to the governor the names of the five (5) nominees chosen at the meeting.

(2) If balloting was used to limit the list to five (5) names, the commissioner shall not submit any ballot totals to the governor.

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

APPROVED BY AGENCY: March 2, 1987
FILED WITH LRC: March 12, 1987 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on April 28, 1987 at 10 a.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: Don R. McCormick, Commissioner, Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick, Commissioner

(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? No. N/A

LOCAL MANDATE IMPACT STATEMENT

Regulation No.: 301 KAR 4:001
SUBJECT/TITLE: Selection of Fish & Wildlife Resources Commission members.
SPONSOR: Kentucky Department of Fish and Wildlife Resources.
NOTE SUMMARY
LOCAL GOVERNMENT MANDATE:
TYPE OF MANDATE:
LEVEL(S) OF IMPACT:
BUDGET UNIT(S) IMPACT:
FISCAL SUMMARY:
MEASURE'S PURPOSE: Procedure by which meetings are conducted in each Wildlife District to select nominees for the Fish and Wildlife Commission when vacancies occur, for appointment by the Governor.
PROVISION/MECHANICS:
FISCAL EXPLANATION:

JUSTICE CABINET

500 KAR 4:010. Definitions.

RELATES TO: KRS 15.530, 15.540, 15.550, 15.560, 15.570

PURSUANT TO: KRS 15A.160, 15.590

NECESSITY AND FUNCTION: KRS 15.530 requires the Kentucky Law Enforcement Council to certify training for law enforcement telecommunicators and authorizes the Kentucky Law Enforcement Council to prescribe standards for schools conducting telecommunicator training courses for law enforcement units required by KRS 15.560 in order for them to gain or retain certification. This regulation provides definitions of certain terms used in 500 KAR Chapter 4. KRS 15.590 authorizes the Secretary of Justice to issue administrative regulations.

Section 1. Definitions. The following definitions shall apply in this chapter:

(1) "Secretary" means the Secretary of the Justice Cabinet.

(2) "Department" means the Department of Criminal Justice Training of the Justice Cabinet.

(3) "Council" means the Kentucky Law Enforcement Council as established in KRS 15.315.

(4) "Approval" means the act of the council in deciding that requirements have been met for the adequacy of the instructors and the schools that provide courses for gaining or retaining certification.

(5) "Certification" means the issuance of a certificate by the Kentucky Law Enforcement Council attesting to such person's satisfactory completion of an approved law enforcement telecommunicator basic training program and meeting all statutory qualifications set forth in KRS 15.540.

(6) "Certified school" means a school which has been approved by the council to conduct courses required to be completed to gain or retain certification as a law enforcement telecommunicator.

(7) "Recognized school" means a school which the council has not certified (e.g., the school is out of state), but which the council considers to provide training at least equal to the equivalent training offered by the

department.

(8) "Certified instructor" means a person who has been approved by the council to instruct at certified schools.

(9) "Trainee" means a person participating in training as a student.

(10) "Full time" means working a number of hours weekly that is standard for other employees of the same local unit of government. However, no local unit of government shall arrange, by reduction of weekly hours or otherwise, the employment conditions or duties so as to subvert the intent and purpose of KRS 15.530-15.590. This includes any employee who may also perform other assigned tasks, including but not limited to clerical duties, in addition to his telecommunicator duties.

(11) "Radio dispatcher" as used in KRS 15.560 means "law enforcement telecommunicator."

NORMA C. MILLER, Secretary

APPROVED BY AGENCY: March 12, 1987

FILED WITH LRC: March 13, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled on April 21, 1987 at 9 a.m. in the Library Conference Room, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky. Anyone interested in attending this hearing shall notify in writing at least five (5) days before the hearing the following individual: Cathy Cravens Snell, General Counsel, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy Cravens Snell

(1) Type and number of entities affected: All full-time law enforcement telecommunicators.

(a) Direct and indirect costs or savings to those affected: Requires basic training and certification of all full-time law enforcement telecommunicators employed after July 15, 1986. All others are grandfathered, but must be certified and attend annual in-service training.

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: Must report all approved training to K.L.E.C. and the Department of Criminal Justice Training.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Requires certification of existing full-time law enforcement telecommunicators.

2. Continuing costs or savings: Requires annual recertification; certification of new full-time law enforcement telecommunicators.

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Certifications of trainees and instructors.

(3) Assessment of anticipated effect on state and local revenues: Local government will have to pay to have these employees trained if they do not furnish the service themselves. May have positive effect on liability insurance.

(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

JUSTICE CABINET

500 KAR 4:020. Training; qualifications; application.

RELATES TO: KRS 15.550

PURSUANT TO: KRS 15A.160, 15.590

NECESSITY AND FUNCTION: This regulation prescribes qualifications for attending telecommunicator law enforcement courses at certified schools and forms to be used and procedures to be followed in applying for admission to such courses.

Section 1. Admission Qualifications. All applicants for training shall meet the statutory qualifications for law enforcement telecommunicator as set forth in KRS 15.540 prior to admission to training.

Section 2. Application for Basic Training. (1) Each applicant for a law enforcement telecommunicator basic training course at a certified or recognized school shall submit a completed KLEC Form, "Application for Telecommunicator Training," to the school no less than thirty (30) days prior to the first day of the course. (These forms are available from the school - for example, the Department of Criminal Justice Training, 107 Stratton Building, Eastern Kentucky University, Richmond, Kentucky 40475.) This application shall contain, but not be limited to, data showing compliance with qualification requirements as set forth in KRS 15.540 and attested thereto with appropriate penalty.

(2) Applicants to recognized schools shall first comply with 500 KAR 4:070, Section 2.

(3) Failure to submit the forms in the prescribed manner or within the prescribed time shall be justification for denying admission to the course. The director of the school or his designee, if he deems it justified by unusual circumstances, may waive the thirty (30) day admission requirement and admit an applicant on shorter notice.

Section 3. Waiver of Training Requirements - Certificate. All radio dispatchers who have served continuously for one (1) year immediately prior to July 15, 1986, shall be waived from basic training requirements. Such persons shall be awarded a law enforcement telecommunicator certificate by filing an application with the Department of Criminal Justice Training at Room 107, Stratton Building, Eastern Kentucky University, Richmond, Kentucky 40475. Applications may be obtained at the same address.

Section 4. Falsification of Application. Knowing or willful falsification of an application to a course shall be justification for denying admission to the course.

NORMA C. MILLER, Secretary
APPROVED BY AGENCY: March 12, 1987
FILED WITH LRC: March 13, 1987 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled on April 21, 1987 at 9 a.m. in the Library Conference Room, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky. Anyone interested in attending this hearing shall notify in writing at least five (5) days before the hearing the following individual: Cathy Cravens Snell, General Counsel, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy Cravens Snell
(1) Type and number of entities affected: All law enforcement telecommunicators.
(a) Direct and indirect costs or savings to those affected:
1. First year: Costs of forty (40) hour basic training for all employees employed after July 15, 1986; eight hour annual inservice training for all others.
2. Continuing costs or savings: See above
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Filing application forms.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: Will be required to furnish additional copies of existing forms, will train anyone who is qualified and desires it.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Additional copies of existing forms.
(3) Assessment of anticipated effect on state and local revenues: Local government will have to pay to have these employees trained if they do not furnish the service themselves. May have positive effect on liability insurance.
(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

JUSTICE CABINET

500 KAR 4:030. Certification of schools.

RELATES TO: KRS 15.550, 15.560
PURSUANT TO: KRS 15A.160, 15.590
NECESSITY AND FUNCTION: KRS 15.550 and 15.560(2) authorizes the Kentucky Law Enforcement Council to prescribe standards for approval and continuation of approval of schools which conduct law enforcement telecommunicator training courses required by KRS 15.560. This regulation prescribes standards and procedures for approval and certification.

Section 1. Application Procedures. Any agency, group or individual may make application to the council to establish a certified basic training school, a certified in-service training school, or both. All applications shall be made in writing and shall set forth detailed facts as prescribed by the council and shall include, but not be limited to: the curriculum, the instructors, the facilities, and the equipment. (The school certification application form - KLEC Form 3 - is available from and should be submitted to, the Kentucky Law Enforcement Council, Third Floor, Commonwealth Credit Union Building, High Street, Frankfort, Kentucky 40601.)

Section 2. Review of Application. Upon receiving a properly completed application for certification of a school, the council or its designee shall conduct an on-site inspection of the facility and equipment and shall thoroughly examine the curriculum and instructors of the applying school. The council shall in the course of its inspection determine whether the applying school offers training at least equal to the equivalent training provided by the department. The council shall also determine whether the applying school's personnel, facilities, and procedures meet minimum standards for safety and quality. Applying schools which have been found to be deficient in any area shall not be certified.

Section 3. Approval Procedure. The council, at its first regular meeting after the evaluation has been completed, shall vote whether to approve the applying school.

Section 4. Notification of Council Action; Certification. Within thirty (30) days of the council's vote, the council shall notify in writing the applying school and the Department of Criminal Justice Training whether the applying school was approved. If an applying school has been approved, the council shall issue a certificate stating that the applying school has been certified and the type of training course(s) that shall be offered - basic in-service and/or both.

Section 5. Inspections. Any school certified by the council shall be subject to inspection by the council or its designee to determine if the school is maintaining the standards required for certification.

Section 6. Revocation of Certification. A school's certification shall be revoked by the council whenever a school has been found not to have maintained the standards required for certification. If certification is revoked, the department and the school shall be notified of the revocation within fifteen (15) days. The council shall recertify a school only when the council determines that all deficiencies are corrected.

NORMA C. MILLER, Secretary
APPROVED BY AGENCY: March 12, 1987
FILED WITH LRC: March 13, 1987 at 10 a.m.
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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy Cravens Snell
(1) Type and number of entities affected: Schools who wish to teach all law enforcement telecommunicators.
(a) Direct and indirect costs or savings to those affected: The school must meet the K.L.E.C. standards for safety and quality.
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: The cabinet through the Department of Criminal Justice Training supplies administrative personnel to K.L.E.C.
(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 unless the local governmental unit decides to offer a training program. Then the question must be answered on a case by case basis.
(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: None
TIERING: Was tiering applied? No

JUSTICE CABINET

500 KAR 4:040. Approval of course curriculums.

RELATES TO: KRS 15.550, 15.560
PURSUANT TO: KRS 15A.160, 15.590
NECESSITY AND FUNCTION: KRS 15.550 and 15.560 authorizes the Kentucky Law Enforcement Council to prescribe standards for the minimum standards for curriculums for law enforcement telecommunicators. This regulation prescribes standards and procedures for such approval.

Section 1. Council Authority. The council shall have the authority to review all curriculums for all law enforcement courses to be provided by all schools certified by the council. The council shall have the authority to require all such curriculums to indicate and justify the "passing" performance level on all graded exercises in the course.

Section 2. Submission Requirements. All proposed curriculums or proposed amendments to approved curriculums shall be received by the council at least thirty (30) days prior to the date of anticipated review. (The curriculum approval form - KLEC Form 31 - is available from, and should be submitted to, the Kentucky Law Enforcement Council, Third Floor, Commonwealth Credit Union Building, High Street, Frankfort, Kentucky 40601.)

Section 3. School Endorsement. All course curriculums and amendments to course curriculums submitted by a school shall be endorsed by the director of the school or his designee.

Section 4. Approval Procedure. Upon reivew of the proposed course curriculum or curriculum amendment, the council shall vote whether to approve, approve subject to stated conditions, or disapprove. Course curriculum approval shall last for only three (3) years. Curriculums which are to be coninued shall be resubmitted for approval at least ninety (90) days before the expiration of the three (3) year period.

Section 5. Notification of Council Action. Within thirty (30) days of the council's vote, the council shall notify in writing the school which submitted the curriculum and the Department of Criminal Justice Training whether the curriculum or curriculum amendment was approved.

NORMA C. MILLER, Secretary
APPROVED BY AGENCY: March 12, 1987
FILED WITH LRC: March 13, 1987 at 10 a.m.
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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy Cravens Snell
(1) Type and number of entities affected: Schools who wish to train law enforcement telecommunicators.
(a) Direct and indirect costs or savings to those affected: Development and submission of course curriculums.
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: Submission of course curriculums.
(2) Effects on the promulgating administrative body: K.L.E.C. will have to review the documents and indicate their approval or disapproval.
(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: Review of course curriculum.
(3) Assessment of anticipated effect on state and 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:
(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

JUSTICE CABINET

500 KAR 4:050. Certification of instructors.

RELATES TO: KRS 15.550, 15.560
PURSUANT TO: KRS 15A.160, 15.590
NECESSITY AND FUNCTION: KRS 15.550 authorizes the council to certify all training curriculum and instructors. This regulation prescribes standards and procedures for certification of instructors.

Section 1. Council Authority. The council shall have the authority to certify all persons instructing law enforcement telecommunicators training courses.

Section 2. Application for Certification. Applications for certification and for certification renewal shall be made to the council. (The instructor certification form - KLEC Form 1 - is available from, and should be submitted to, the Kentucky Law Enforcement Council, Third Floor, Commonwealth Credit Union Building, High Street, Frankfort, Kentucky 40601.) To become certified, an applicant must meet the following requirements:
(1) Have three (3) years of law enforcement experience or experience in the specific field, subject matter or academic discipline to be taught; and
(2) Have earned a high school diploma or its equivalent as determined by the council; and
(3) Have successfully completed an instructor's course approved by the council.

Section 3. Application Process. Applications for instructor certification and renewal of certification shall be reviewed by the council. The council, at its first regular meeting after the review has been completed, shall vote whether to approve the applicant.

Section 4. Granting of Certification. If the council grants certification to an applicant, the council shall notify the applicant and the Department of Criminal Justice Training in writing within fifteen (15) days of the council's action.

Section 5. Instructor Certificate. The council shall issue a certificate stating that the person has been approved to instruct.

Section 6. Denial of Certification. The council shall deny certification to an applicant who fails to meet the requirements and shall revoke certification for incompetence, improper conduct, or other good cause. Any instructor who fails to instruct during the one (1) year period of certification shall be required to apply for reinstatement of certification and to meet such requirements as are deemed necessary by the council. When the council denies certification to an applicant or revokes certification or denies recertification or reinstatement of certification to an instructor, the council shall notify the person and the Department of Criminal Justice Training of the council's action in writing within fifteen (15) days.

Section 7. Length of Certification. Certification shall be for a period of one (1) year. At the end of the one (1) year period, certification may be renewed by the council if the instructor has instructed in an approved course provided by a certified school during that year and if the instructor instructed at a certified school, has been recommended by the director of the certified school. After five (5) years of continuous certification, the council may certify an instructor for a five (5) year period.

Section 8. Monitoring of Instructors. The council or its designee shall, when practical, monitor each instructor during the one (1) year period of certification to determine if the instructor is teaching to the stated goals and objectives of the course and is meeting generally accepted standards of the teaching profession.

Section 9. Instructor Directory. Each certified instructor shall be listed in an official directory which shall identify each subject that the instructor has been certified to instruct. The directory shall be published in the form of a notebook, allowing for changes through the use of supplements. The council shall publish annual supplements to the directory by December 31 of each year and the supplements shall include all certification changes, including additions, deletions and renewals, for the year. The council shall provide the secretary, each certified school and the Department of Criminal Justice Training with a copy of the directory.

Section 10. Emergency Certification. (1) The council may through its chairman or its designee, who is a member of the council, grant emergency certification of an instructor if the director of a certified school or his designee contacts the chairman or his designee and states that due to the given exigent circumstances a scheduled instructor cannot teach a specific class. The council, through its agent, may grant or deny emergency certification at its discretion.
(2) The certified school shall keep a written record of all emergency certifications and forward a copy to the council within three (3) working days. This record shall include:
(a) The name and specific qualifications of the instructor;
(b) The subject to be taught;
(c) The reason for the emergency certification;
(d) The previous dates on which the individual has been granted emergency certification; and
(e) The terms of the certification.
(3) The emergency certification shall expire after the conclusion of the class and may not be renewed to teach the class for which emergency certification was granted unless approved by the full council.

(4) The council shall have the authority to inspect the emergency certification records of all certified schools.

(5) A pattern of questionable waivers by a certified school shall be justification for revocation of the school's certification under 500 KAR 4:030.

NORMA C. MILLER, Secretary
APPROVED BY AGENCY: March 12, 1987
FILED WITH LRC: March 13, 1987 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled on April 21, 1987 at 9 a.m. in the Library Conference Room, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky. Anyone interested in attending this hearing shall notify in writing at least five (5) days before the hearing the following individual: Cathy Cravens Snell, General Counsel, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy Cravens Snell
(1) Type and number of entities affected: Instructors of law enforcement telecommunicators.
(a) Direct and indirect costs or savings to those affected: Application process.
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: Filing application.
(2) Effects on the promulgating administrative body: K.L.E.C. must review all applications and make recommendations for certification. The instructors must be monitored.
(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: A directory of instructors is to be published.
(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

JUSTICE CABINET

500 KAR 4:060. Basic training: graduation requirements; records.

RELATES TO: KRS 15.550, 15.560
PURSUANT TO: KRS 15A.160, 15.590
NECESSITY AND FUNCTION: This regulation prescribes requirements for graduation from a basic training course and for maintenance of basic training records.

Section 1. Basic Training Graduation Requirements. A trainee in a basic training course shall participate in a minimum of forty (40) hours of training. A trainee may have excused absences from the course with approval of the director of the certified school or his designee. An excused absence from the course which causes a trainee to miss any of the forty (40) hours of basic training shall be made up through an additional training assignment. A trainee shall be allowed excused absences from no more than twenty (20) percent of the hours of a basic course.

(1) A trainee in a basic training course shall participate in a minimum of forty (40) hours of training. A trainee may have excused absences from the course with approval of the director of the certified school or his designee. An excused absence which causes a trainee to miss any of the required hours of basic training shall be made up through additional training assignment.

(2) To successfully complete a basic training course, a trainee must:

(a) Participate in at least the minimum hours prescribed;

(b) Pass the final examination or a re-examination by at least a grade of seventy (70); only one (1) re-examination may be taken; and

(c) Successfully complete all graded training areas and all other assignments, exercises, and projects included in the course.

(3) If a telecommunicator, who has been granted "grandfather" status pursuant to KRS 15.560(1), terminates employment by dismissal or retirement but becomes re-employed as a telecommunicator, shall be required to successfully complete a forty (40) hour basic training course for telecommunicators. A transfer of employment from one agency to another without a break in service, i.e., the transfer was prearranged before leaving the prior employment, shall not be considered to be a termination and a re-employment.

(4) Successfully complete all other assignments, exercises, and projects included in the course.

Section 2. Maintenance of Records. A school shall, at the conclusion of each basic or in-service training course complete KLEC Form, "Application for Telecommunicator Training," for each trainee who has attended the course attesting to the successful compliance with all requirements of the course. One (1) copy shall be retained by the school and one (1) copy shall be sent to the head of the trainee's agency. The original shall be sent to the Department of Criminal Justice Training for record retention purposes and the issuance of an appropriate certificate for and on behalf of the secretary. All such records shall be available to the council and the secretary for inspection or other appropriate purposes. All records shall be maintained in accordance with standards established by the State Archives and Records Commission.

NORMA C. MILLER, Secretary
APPROVED BY AGENCY: March 12, 1987
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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy Cravens Snell
(1) Type and number of entities affected: All law enforcement telecommunicators employed after July 15, 1986.
(a) Direct and indirect costs or savings to those affected: Attendance at school.
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: Retention of training records.
(2) Effects on the promulgating administrative body: Maintenance of training records.
(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: Maintenance of training records.
(3) Assessment of anticipated effect on state and local revenues: Cost of schooling
(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

JUSTICE CABINET

500 KAR 4:070. In-service training: graduation requirements; recognized courses; records.

RELATES TO: KRS 15.560, 15.570
PURSUANT TO: KRS 15A.160, 15.590
NECESSITY AND FUNCTION: KRS 15.560 requires all telecommunicators, whether originally employed before or after the effective date of the Act, to successfully complete at least eight (8) hours of in-service training each calendar year at a school certified or recognized by the council. This regulation prescribes requirements for graduation from an in-service training course and for maintenance of in-service training records and establishes procedures for recognizing training at non-certified schools.

Section 1. In-service Training Graduation Requirements. (1) A law enforcement telecommunicator shall complete each calendar year an in-service training course, appropriate to their job assignment and responsibility of at least eight (8) hours. A trainee may have excused absences from the course with approval of the director of the certified school or his designee. An excused absence which causes a trainee to miss any of the in-service course shall be made up through an additional training assignment. A trainee shall be allowed one (1) excused absence from no more than twenty (20) percent of the in-service course.
(2) To successfully complete an in-service training course, a trainee must:
(a) Participate in at least the minimum hours prescribed for the training course;
(b) Pass the final examination or a re-examination which may be taken one (1) time only; and
(c) Successfully complete all graded training areas and all other assignments, exercises, and projects included in the course.
(3) A telecommunicator's failure to meet the in-service training requirement in a calendar year shall not be considered to be in violation of law if the failure to meet the requirement is due to circumstances beyond his control, such as injury, illness, or personal tragedy; in this event the telecommunicator shall be required to meet the in-service training requirement within a reasonable time (not to exceed one (1) year from the termination of the extenuating circumstances) as determined by the Secretary of the Justice Cabinet or his designee.

Section 2. In-Service Training Courses at Recognized Schools. The council shall have the authority to recognize schools providing in-service training which are not certified by the council. A trainee who desires to attend an in-service training course at a school that is not certified shall make a written request to the council at least thirty (30) days prior to the first day of the course. The council shall have the authority to grant a request made after the course has been attended, but failure to submit the request at least thirty (30) days in advance of the course shall be justification for not recognizing the course. The council shall review the request and determine whether the school and the course shall be recognized based upon the following:
(1) The quality and reputation of the training school or institution;
(2) The relationship of the course to the telecommunicator's position and responsibility; and
(3) The unavailability of the course at a certified school. If, upon review of the request, the council determines that the trainee may attend an in-service training course at a school or institution that is not certified, the council shall notify the trainee's agency and the department of its action. A trainee who fails to meet requirements established by the council for attendance at the recognized course shall not have met the requirements of KRS 15.570.

Section 3. Maintenance of Records. A school shall, at the conclusion of each basic or in-service training course complete KLEC Form, "Application for Telecommunicator Training," for each trainee who has attended the course attesting to the successful compliance with all requirements of the course. One (1) copy shall be retained by the school and one (1) copy shall be sent to the head of the trainee's agency. The original shall be sent to the Department of Criminal Justice Training for record retention purposes and the issuance of an appropriate certificate for and on behalf of the secretary. All such records shall be available to the

council and the secretary for inspection or other appropriate purposes. All records shall be maintained in accordance with standards established by the State Archives and Records Commission.

NORMA C. MILLER, Secretary
APPROVED BY AGENCY: March 12, 1987
FILED WITH LRC: March 13, 1987 at 10 a.m.
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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy Cravens Snell
(1) Type and number of entities affected: All law enforcement telecommunicators who receive in-service training.
(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: Maintenance of training records.
(2) Effects on the promulgating administrative body: Maintenance of training records.
(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: Training records.
(3) Assessment of anticipated effect on state and local revenues: Cost of schooling
(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

JUSTICE CABINET

500 KAR 4:080. Review of council and school decisions; appeal to circuit court.

RELATES TO: KRS 13A.100, 15.550, 15.560, 15.570,
PURSUANT TO: KRS 15A.160, 15.590
NECESSITY AND FUNCTION: KRS 15.550 and 15.560 authorizes the Kentucky Law Enforcement Council to prescribe standards for law enforcement telecommunicator training conducted by certified schools. 500 KAR Chapter 4 prescribes such standards. Decisions by the council and by certified schools involving the interpretation of the statute and the regulations affect persons. A person adversely affected by such a decision should have the right to have it reviewed. This regulation establishes a procedure for review.

Section 1. Administrative Review. A person adversely affected by a decision of the council or a certified school as to enforcement of standards or procedures prescribed by KRS 15.550, 15.560 or 15.570 and/or 500 KAR Chapter 4 shall have the right to ask the secretary to review the decision. A request for a hearing shall be filed in writing with the secretary within thirty (30) days of receipt of written notification of the council or school decision. The secretary shall, within thirty (30) days of receipt of the request, decide if the request merits a hearing. If it is determined there are insufficient grounds for a hearing, the secretary shall notify the person in writing that the request has been denied. If a hearing is to be held, the secretary shall designate the time and place. The hearing shall be held within sixty (60) days of receipt of the request for a hearing, and it shall be conducted by the secretary or his designated hearing officer. If a hearing officer conducts the hearing, he shall submit findings of fact, conclusions of law and a recommended decision to the secretary. At the hearing, all parties to the controversy shall have the right to be heard publicly and to be represented by counsel, and all testimony shall be recorded. Technical rules of evidence shall not apply at the hearing. Within ninety (90) days following the hearing, the secretary shall issue a written opinion, a copy of which shall be provided to all parties and to the department. The decision of the secretary shall be final unless appealed to circuit court.

NORMA C. MILLER, Secretary
APPROVED BY AGENCY: March 12, 1987
FILED WITH LRC: March 13, 1987 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled on April 21, 1987 at 9 a.m. in the Library Conference Room, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky. Anyone interested in attending this hearing shall notify in writing at least five (5) days before the hearing the following individual: Cathy Cravens Snell, General Counsel, Justice Cabinet, 417 High Street, 3rd Floor, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy Cravens Snell
(1) Type and number of entities affected: Any individual adversely affected by a decision of K.L.E.C. or a certified school.
(a) Direct and indirect costs or savings to those affected: Cost of appeal.
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: Letter of appeal.
(2) Effects on the promulgating administrative body: Must have a hearing when requested.
(a) Direct and indirect costs or savings: Cost of hearing.
1. First year: Depends on the number of hearings, if any.

2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Appellate files are maintained.
(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

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Vehicle Licensing

601 KAR 9:115. Heavy vehicle use tax.

RELATES TO: KRS Chapter 186
PURSUANT TO: KRS 186.005
NECESSITY AND FUNCTION: The Code of Federal Regulations, CFR 41.6001-2 requires that each state must require proof of payment of the federal heavy vehicle use tax as a condition of issuing a registration for most vehicles with a declared gross weight of 55,000 pounds or more. This administrative regulation sets forth the procedures to be followed in Kentucky to comply with this federal requirement.

Section 1. Definitions. The words and phrases in this section shall have the following definitions when used in this administrative regulation:
(1) "Form 2290" means the United States Department of the Treasury, Internal Revenue Service Form 2290.
(2) "Declared gross weight" means the sum of the actual unloaded weight of the vehicle fully equipped for service, the actual unloaded weight of any trailer or semitrailer fully equipped for service that is customarily used in combination with the vehicle, and the weight of the maximum load customarily carried on the vehicle and on any trailer or semitrailer used in combination with the vehicle. For the purposes of the implementation of this administrative regulation only, and in accord with 26 CFR 41.6001-2(6)(2)(i) of the Code of Federal Regulations, any vehicle registered in the 44,001-55,000 pound bracket shall be determined to have a declared gross weight of 54,999 pounds.
(3) "Receipted" means stamped or otherwise acknowledged as received by the United States Department of the Treasury, Internal Revenue Service.
(4) "Motor vehicle" means any truck or bus that is propelled by its own motor and is designed to carry a load over public highways. It does not matter whether it was designed to perform functions other than carrying loads. The phrase does not include vehicles not used for highway transportation, such as farm tractors, road graders, bulldozers or specialized motor equipment used for nontransportation functions.

Section 2. Proof of Payment Required. Proof of payment of the federal heavy vehicle use tax must be presented before any motor vehicle with a declared gross weight of vehicle and any towed unit of 55,000 pounds or more is registered in the Commonwealth of Kentucky.

Section 3. Acceptable Proofs of Payment. The applicant must present to the county clerk or Transportation Cabinet if applying for an apportioned registration under the International Registration Plan:
(1) A receipted copy of the Form 2290, Schedule 1 which includes tax assessment or suspension of tax liability for the date of application for vehicle registration; or
(2) A photocopy of the completed Form 2290 with Schedule 1 attached as the form was submitted to the Internal Revenue Service. The cancelled check or a photocopy of the front and back of the cancelled check showing payment to the Internal Revenue Service in accordance with the submitted Form 2290 must also be attached.
The Form 2290 check must include tax assessment for the date of application for vehicle registration.

Section 4. Exempt Vehicles. In the following instances no proof of payment of the federal heavy vehicle use tax is required prior to registration of the motor vehicle:
(1) Application for the registration of a motor vehicle in Kentucky for the first time if the vehicle changed ownership within sixty (60) days immediately preceding the date of application. Proof of ownership change shall be limited to the original or photocopy of the bill of sale and a copy of the manufacturers statement of origin or title from a foreign jurisdiction.
(2) Application for the transfer of vehicle ownership for a vehicle with a current, valid Kentucky registration if the vehicle changed ownership within sixty (60) days immediately preceding the date of application. Proof of ownership change shall be limited to the original or photocopy of the bill of sale and the Kentucky title of the motor vehicle.
(3) Application for a change in the type of registration of a motor vehicle with a current valid registration during the same registration year providing proof of payment of the federal heavy vehicle use tax was submitted at the registration of the vehicle earlier during the registration year, i.e., the vehicle is currently registered for a declared gross weight of 55,000 pounds or greater.

Section 5. Special Conditions. (1) A receipted copy of the Form 2290, Schedule 1 is required to be provided with the application for registration of a motor vehicle which is exempted from the payment of the federal heavy vehicle use tax on the basis of mileage.
(2) Applicants with a Form 2290 listing in excess of twenty-one (21) vehicles may register up to the number of vehicles shown on the Form 2290 without matching individual vehicle identification numbers if the vehicle owner is the same as the tax payer as shown on the Form 2290. Otherwise, the vehicle identification number on the registration application and the motor vehicle must match the vehicle identification number on the Form 2290 prior to registration of the motor vehicle.

(3) Applications received during July, August or September may be accompanied by proof of payment of the tax from the tax year ending June 30 of the same year.

Section 6. Submission of Proof. Any county clerk registering a vehicle for which proof of tax payment was presented, must attach the proof of payment to the copy of the certificate of registration submitted to the Transportation Cabinet.

JOHN K. PENROD, Commissioner
C. LESLIE DAWSON, Secretary
APPROVED BY AGENCY: March 11, 1987
FILED WITH LRC: March 12, 1987 at noon
PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this administrative regulation on April 27, 1987 at 10:30 a.m., local prevailing time in the Fourth Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky 40622. Any person who intends to attend this hearing must in writing by April 22, 1987 so notify: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: John Trager
(1) Type and number of entities affected: Those affected by this regulation are registrants of trucks for 62,000 pounds or over.
(a) Direct and indirect costs or savings to those affected:
1. First year: Minimal administrative costs would be incurred in photocopying IRS form 2290 or its equivalent.
2. Continuing costs or savings: The cost mentioned above is yearly.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: IRS form 2290 must be submitted to the registrar together with the usual registration documents.
(2) Effects on the promulgating administrative body: The county clerk and I.R.P. registrar will need to:
(a) Direct and indirect costs or savings:
1. First year: Take up and file a copy of form 2290 or its equivalent.
2. Continuing costs or savings: The above is a yearly responsibility.
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: Consideration was given to computerizing, but it was judged not cost effective.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? Yes

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: CFR 41.6001-2 requires that each state require proof of payment of the federal heavy vehicle use tax. It also sets forth appropriate proofs. This regulation is almost identical to the federal requirements. The main differences are: (1) in the state regulation there is no reference to buses since they do not undergo an annual renewal process in Kentucky, and (2) vehicles registered for the class which goes up to 55,000 pounds are declared to be registered for only 54,999 pounds.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. They are the same.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction

704 KAR 20:340. Endorsement for teachers of computer courses.

RELATES TO: KRS 161.020, 161.025, 161.030
PURSUANT TO: KRS 156.070, 161.030
NECESSITY AND FUNCTION: KRS 161.020 prohibits any person from holding the position of superintendent, principal, teacher, supervisor, director of pupil personnel, or other public school position for which certificates may be issued unless he holds a certificate of legal qualifications for the particular position; KRS 161.025 gives the Kentucky Council on Teacher Education and Certification the duty to develop and recommend policies and standards relating to teacher preparation and certification; and KRS 161.030 rests the certification of teachers and other school personnel and the approval of teacher preparatory colleges and universities and their curricula with the State Board of Education. This regulation establishes the requirement that all teacher preparation programs include computer instruction and special preparation for persons who will teach the courses for which high school credit is given.

Section 1. (1) Beginning January 1, 1987, a certificate valid for teaching at the secondary level may be endorsed for teaching computer science courses at the secondary level upon completion of a minimum of eighteen (18) semester hours of college credit which includes:
(a) College algebra;
(b) Statistics;
(c) Introduction to Computer Science and Applications; and
(d) Computer programming - in addition to paragraph (c) of this subsection, a minimum of nine (9) semester hours of computer programming to develop competencies adequate for teaching computer science courses as listed in the Kentucky Program of Studies for Kentucky Schools, Grades K-12.
(2) The curriculum requirements for this

endorsement may be satisfied in whole or in part through an evaluation of proficiency as provided in 704 KAR 20:030, at the option of the teacher education institution offering this endorsement program.

(3) Secondary teachers who have taught Computer Math I, II or Advanced Placement Computer Programming for two (2) years within the five (5) years prior to January 1, 1989, as attested by the school district, may continue to be approved for these assignments.

Section 2. (1) Effective 1987-88, the teacher education institutions shall incorporate into the teacher preparation programs for early elementary grades K-4, middle grades 5-8, and secondary grades 9-12, instruction in computer literacy, application, and operation. This instruction shall include the following content:

(a) Utilization of the computer as a tool;

(b) Selection, utilization, and care of software and peripherals and telecommunications;

(c) Copyright laws, privacy laws, and computer ethics; and

(d) Touch keyboard control and instruction.

(2) Proficiency in the requirements outlined above may be achieved through formal instruction with or without college credit, or at the option of the teacher education institution may be demonstrated by an appropriate evaluation of proficiency under provisions of 704 KAR 20:030 and shall be a prerequisite to methodology courses. Appropriate methodology courses shall, insofar as practical, incorporate the use of the computer as an instructional tool.

(3) All individuals receiving initial teacher certification on or after January 1, 1989, shall also be eligible to teach Introduction to Computer Applications.

(4) Individuals who were initially certified prior to January 1, 1989, may also be approved for teaching Introduction to Computer Applications upon establishing proficiency in areas outlined in subsection (1) of this section. Individuals may establish proficiency by making a passing score on an appropriate examination prescribed by the Kentucky Department of Education.

Section 3. The teacher preparation programs for the middle grades 5-8 and secondary grades 9-12 shall include instruction in software applications such as word processing, spread sheets, and file management in order to prepare teachers at these levels to integrate software applications into the various subject areas.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: March 4, 1987

FILED WITH LRC: March 13, 1987 at noon

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, April 21, 1987 at 10 a.m. Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its March meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Thursday, April 16, 1987. 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: Sidney Simandle

(1) Type and number of entities affected: Twenty-five teacher education institutions; 178 public schools districts (and independent schools) that employ teachers; applicants for teacher certification.

(a) Direct and indirect costs or savings to those affected: None additional - institutions are expected to periodically revise programs as a regular and continuing function by developing new courses and dropping old ones.

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: Participating institutions must file written copies of the new curriculum revisions with the Department of Education.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: No appreciable difference - all programs must be revised periodically, and this evaluation expense is embedded in the regular budget.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: When received from the participating institutions, the new curriculum revisions must be analyzed and evaluated by staff - a regular staff function.

(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: 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. This regulation revision is a part of the state teacher certification system which must be applied equally and with impartiality throughout the Commonwealth.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No related federal mandate.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction

704 KAR 20:350. Standard certificate for teaching in the middle grades 5-8.

RELATES TO: KRS 161.020, 161.025, 161.030
PURSUANT TO: KRS 156.070, 161.030
NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the council and approved by the state board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

Section 1. (1) The Standard Certificate for Teaching in the Middle Grades 5-8 shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005, TEC 37.0.

(2) The Standard Certificate for Teaching in the Middle Grades 5-8 shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(3) The Standard Certificate for Teaching in the Middle Grades 5-8 shall be valid for teaching in grades five (5) through eight (8) and shall be endorsed for grades nine (9) through twelve (12) for any subject assignment in which the teacher holds a regular high school teaching major or minor or area of concentration. The certificate shall also be valid for teaching pupils in grades four (4) who are grouped for instruction in combination classes for grades four (4) and five (5).

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: March 4, 1987
FILED WITH LRC: March 13, 1987 at noon
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, April 21, 1987 at 10 a.m. Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its March meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Thursday, April 16, 1987. 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: Sidney Simandle
(1) Type and number of entities affected: Eleven institutions that will be offering this preparation-certification program for middle grade teacher; 178 public school districts (and independent schools); and teacher applicants for the program.
(a) Direct and indirect costs or savings to those affected: None additional - institutions are expected to periodically revise programs as a regular and continuing function by developing new courses and dropping old ones.
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: Participating institutions must file written copies of the new curriculum revisions with the Department of Education.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: No appreciable difference - all programs must be revised periodically, and this evaluation expense is embedded in the regular budget.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: When received from the participating institutions, the new curriculum revisions must be analyzed and evaluated by staff - a regular staff function.
(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: 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. This regulation revision is a part of the state teacher certification system which must be applied equally and with impartiality throughout the Commonwealth.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No related federal mandate.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction

704 KAR 20:360. Standard certificate for teaching in the early elementary grades K-4.

RELATES TO: KRS 161.020, 161.025, 161.030
PURSUANT TO: KRS 156.070, 161.030
NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the council and approved by the state board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

Section 1. (1) The Standard Certificate for Teaching in the Early Elementary Grades K-4 shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005.
(2) The Standard Certificate for Teaching in the Early Elementary Grades K-4 shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.
(3) The Standard Certificate for Teaching in the Early Elementary Grades K-4 shall be valid for grades kindergarten (K) through four (4). The certificate shall also be valid for teaching pupils in grades five (5) who are grouped for instruction in combination classes for grades four (4) and five (5).

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: March 4, 1987
FILED WITH LRC: March 13, 1987 at noon
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, April 21, 1987 at 10 a.m. Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its March meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Thursday, April 16, 1987. 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: Sidney Simandle
(1) Type and number of entities affected: Eleven institutions that will be offering this preparation-certification program for early elementary teachers; 178 public school districts (and independent schools); and teacher applicants for the program.
(a) Direct and indirect costs or savings to those affected: None additional - institutions are expected to periodically revise programs as a regular and continuing function by developing new courses and dropping old ones.
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: Participating institutions must file written copies of the new curriculum revisions with the Department of Education.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: No appreciable difference - all programs must be revised periodically, and this evaluation expense is embedded in the regular budget.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: When received from the participating institutions, the new curriculum revisions must be analyzed and evaluated by staff - a regular staff function.
(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: 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. This regulation revision is a part of the state teacher certification system which must be applied equally and with impartiality throughout the Commonwealth.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No related federal mandate.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: N/A
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction

704 KAR 20:370. Standard certificate for teaching music grades K-12.

RELATES TO: KRS 161.020, 161.025, 161.030
PURSUANT TO: KRS 156.070, 161.030
NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the council and approved by the state board. This regulation establishes an appropriate certificate and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel.

Section 1. (1) The Standard Certificate for Teaching Music Grades K-12 shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005, TEC 38.0.

(2) The Standard Certificate for Teaching Music Grades K-12 shall be issued and renewed in accordance with the provisions of KRS 161.030 and 704 KAR 20:045.

(3) The Standard Certificate for Teaching Music Grades K-12 shall be valid for grades kindergarten (K) through twelve (12) for teaching vocal or instrumental music as designated on the certificate.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: March 4, 1987
FILED WITH LRC: March 13, 1987 at noon
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, April 21, 1987 at 10 a.m. Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its March meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Thursday, April 16, 1987. 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: Sidney Simandle
(1) Type and number of entities affected: Eight institutions that will be offering this preparation-certification program; 178 public school districts (and independent schools); and teacher applicants for the program.
(a) Direct and indirect costs or savings to those affected: None additional - institutions are expected to periodically revise programs as a regular and continuing function by developing new courses and dropping old ones.
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: Participating institutions must file written copies of the new curriculum revisions with the Department of Education.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: No appreciable difference - all programs must be revised periodically, and this evaluation expense is embedded in the regular budget.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: When received from the participating institutions, the new curriculum revisions must be analyzed and evaluated by staff - a regular staff function.
(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: 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. This regulation revision is a part of the state teacher certification system which must be applied equally and with impartiality throughout the Commonwealth.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No related federal mandate.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: N/A
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction

704 KAR 20:380. Early elementary school principal, grades K-4.

RELATES TO: KRS 161.020, 161.025, 161.027, 161.030
PURSUANT TO: KRS 156.070, 161.030
NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education, and KRS 161.027 specifically requires a preparation program for principals, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the council and approved by the state board. This regulation establishes an appropriate preparation and certification program for early elementary school principals, grades K-4.

Section 1. (1) The Professional Certificate for Instructional Leadership - Early Elementary School Principal, Grades K-4, shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005, TEC 100.

(2) The Professional Certificate for Instructional Leadership - Early Elementary School Principal, Grades K-4, shall be valid for the position of school principal for grades K-4 and also for any other sequential combination of the grades K through eight (8) that includes any grade K-4.

(3) As prerequisites for the Level I program of preparation for the initial Professional Certificate for Instructional Leadership - Early Elementary School Principal, Grades K-4, the candidate shall:

(a) Have been admitted to the preparation program on the basis of criteria developed by the teacher education institution pursuant to TEC 100;

(b) Have completed three (3) years of full-time teaching experience;

(c) Have completed the master's degree; and

(d) Have been issued a standard teaching certificate valid for regular classroom teaching in grades 1-4 although standard certificates issued or endorsed for art, music, physical education, or speech and communication disorders shall not satisfy this prerequisite.

(4) The certificate shall be issued and renewed in accordance with the testing and internship provisions of KRS 161.027 and related regulations.

(5)(a) The initial Professional Certificate for Instructional Leadership - Early Elementary School Principal, Grades K-4, shall be issued for a duration period of one (1) year upon successful completion of Level I preparation and the tests prescribed under KRS 161.027 and upon obtaining employment for an internship position as principal or assistant principal. During the period of validity of the one (1) year certificate the internship program for elementary school principals as outlined in KRS 161.027 shall be completed. Upon successful completion of the internship, the certificate shall be extended for four (4) years.

(b) The certificate shall be renewed subsequently for five (5) year periods. The first renewal shall require the completion of the twelve (12) semester hour graduate curriculum identified as the Level II program in the curriculum standards. Each five (5) year renewal thereafter shall require the completion of two (2) years of experience as an elementary school principal, or three (3) semester hours of additional graduate credit related to the position of school principal, or forty-two (42) hours of approved training selected from programs approved for the Kentucky Effective Leadership Training Program.

(6) If a lapse in certification occurs for lack of completion of the Level II preparation, the certificate may be reissued for a five (5) year period upon successful completion of the Level II preparation. If a certificate lapses with Level II preparation, but for lack of the renewal requirements, the certificate may be reissued after the completion of an additional six (6) semester hours of graduate study appropriate to the program.

(7) In compliance with KRS 161.027, persons applying for the Professional Certificate for Instructional Leadership - Early Elementary School Principal, Grades K-4, who satisfy the curriculum requirements and all other prerequisites, and who have completed at least two (2) years of successful full-time experience, including at least 140 days per year, as an early elementary school principal, grades K-4, within a ten (10) year period prior to making application, will be exempt from the internship requirements for early elementary school principals, but shall be required to pass the written examinations required by KRS 161.027.

Section 2. A certificate based upon Level II preparation as a middle grade principal may be extended to early elementary school principal, grades K-4, upon completion of nine (9) semester hours of graduate credit which shall include, but not be limited to:

(1) Elementary school curriculum;

(2) Teaching reading at the elementary school level;

(3) Organization and administration of the elementary school; and

(4) Field experience in an elementary school.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: March 4, 1987
FILED WITH LRC: March 13, 1987 at noon
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, April 21, 1987 at 10 a.m. Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its March meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort,

Kentucky 40601, on or before Thursday, April 16, 1987. 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: Sidney Simandle

(1) Type and number of entities affected: Ten participating institutions that prepare school principals; 178 public school districts (and independent schools) that employ school principals; and applicants for the program.

(a) Direct and indirect costs or savings to those affected: None additional - institutions are expected to periodically revise programs as a regular and continuing function by developing new courses and dropping old ones.

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: Participating institutions must file written copies of the new curriculum revisions with the Department of Education.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: No appreciable difference - all programs must be revised periodically, and this evaluation expense is embedded in the regular budget.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: When received from the participating institutions, the new curriculum revisions must be analyzed and evaluated by staff - a regular staff function.

(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: 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. This regulation revision is a part of the state teacher certification system which must be applied equally and with impartiality throughout the Commonwealth.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No related federal mandate.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: N/A

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction

704 KAR 20:390. Middle grade school principal, grades 5-8.

RELATES TO: KRS 161.020, 161.025, 161.027, 161.030

PURSUANT TO: KRS 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education, and KRS 161.027 specifically requires a preparation program for principals; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the council and approved by the state board. This regulation establishes an appropriate preparation and certification for middle grade school principal, grades 5-8.

Section 1. (1) The Professional Certificate for Instructional Leadership - Middle Grade School Principal, Grades 5-8, shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005, TEC 101.

(2) The Professional Certificate for Instructional Leadership - Middle Grade School Principal, Grades 5-8, shall be valid for the position of school principal for grades 5-8 and also for any other sequential combination of the grades K through twelve (12) that includes any grade 5-8.

(3) As prerequisites for the Level I program of preparation for the initial Professional Certificate for Instructional Leadership - Middle Grade School Principal, Grades 5-8, the candidate shall:

(a) Have been admitted to the preparation program on the basis of criteria developed by the teacher education institution pursuant to TEC 101;

(b) Have completed three (3) years of full-time teaching experience;

(c) Have completed the master's degree; and

(d) Have been issued a standard teaching certificate valid for teaching in any grade five (5) through twelve (12) although a standard certificate issued for speech and communication disorders shall not satisfy this prerequisite.

(4) The certificate shall be issued and renewed in accordance with the testing and internship provisions of KRS 161.027 and related regulations.

(5)(a) The initial Professional Certificate for Instructional Leadership - Middle Grade School Principal, Grades 5-8, shall be issued for a duration period of one (1) year upon successful completion of Level I preparation and

the tests prescribed under KRS 161.027 and upon obtaining employment for an internship position as principal or assistant principal. During the period of validity of the one (1) year certificate the internship program for middle grade school principals as outlined in KRS 161.027 shall be completed. Upon successful completion of the internship, the certificate shall be extended for four (4) years.

(b) The certificate shall be renewed subsequently for five (5) year periods. The first renewal shall require the completion of the twelve (12) semester hour graduate curriculum identified as the Level II program in the curriculum standards. Each five (5) year renewal thereafter shall require the completion of two (2) years of experience as a middle grade school principal, or three (3) semester hours of additional graduate credit related to the position of school principal, or forty-two (42) hours of approved training selected from programs approved for the Kentucky Effective Instructional Leadership Training Program.

(6) If a lapse in certification occurs for lack of completion of the Level II preparation, the certificate may be reissued for a five (5) year period upon successful completion of the Level II preparation. If a certificate lapses with Level II preparation, but for lack of the renewal requirements, the certificate may be reissued after the completion of an additional six (6) semester hours of graduate study appropriate to the program.

(7) In compliance with KRS 161.027, persons applying for the Professional Certificate for Instructional Leadership - Middle Grade School Principal, Grades 5-8, who satisfy the curriculum requirements and all other prerequisites, and who have completed at least two (2) years of successful full-time experience, including at least 140 days per year, as a middle grade school principal, grades 5-8, within a ten (10) year period prior to making application, will be exempt from the internship requirements for middle grade school principals, but shall be required to pass the written examinations required by KRS 161.027.

Section 2. A certificate based upon Level II preparation as an early elementary school principal or as a secondary school principal may be extended to middle grade principal 5-8 upon completion of six (6) semester hours of graduate credit which shall include, but not be limited to:

(1) Organization and administration of middle grade schools;

(2) Philosophy and curriculum of middle grade schools; and

(3) Nature and needs of middle grade school students.

The validity of the extended certificates shall be limited to the respective grade levels, either K-8 or 5-12.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: March 4, 1987

FILED WITH LRC: March 13, 1987 at noon

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, April 21, 1987 at 10 a.m. Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its March meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Thursday, April 16, 1987. 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: Sidney Simandle

(1) Type and number of entities affected: Ten participating institutions that prepare school principals; 178 public school districts (and independent schools) that employ school principals; and applicants for the program.

(a) Direct and indirect costs or savings to those affected: None additional - institutions are expected to periodically revise programs as a regular and continuing function by developing new courses and dropping old ones.

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: Participating institutions must file written copies of the new curriculum revisions with the Department of Education.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: No appreciable difference - all programs must be revised periodically, and this evaluation expense is embedded in the regular budget.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: When received from the participating institutions, the new curriculum revisions must be analyzed and evaluated by staff - a regular staff function.

(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: 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. This regulation revision is a part of the state teacher certification system which must be applied equally and with impartiality throughout the Commonwealth.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No related federal mandate.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: N/A

3. If the proposed regulation imposes

additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction

704 KAR 20:400. Secondary school principal, grades 9-12.

RELATES TO: KRS 161.020, 161.025, 161.027, 161.030
PURSUANT TO: KRS 156.070, 161.030
NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education, and KRS 161.027 specifically requires a preparation program for principals; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the council and approved by the state board. This regulation establishes an appropriate preparation and certification program for secondary school principal, grades 9-12.

Section 1. (1) The Professional Certificate for Instructional Leadership - Secondary School Principal, Grades 9-12, shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005, TEC 102.

(2) The Professional Certificate for Instructional Leadership - Secondary School Principal, Grades 9-12, shall be valid for the position of school principal for grades 9-12 and also for any other sequential combination of the grades 5-12 that includes any grade 9-12.

(3) As prerequisites for the Level I program of preparation for the initial Professional Certificate for Instructional Leadership - Secondary School Principal, Grades 9-12, the candidate shall:

(a) Have been admitted to the preparation program on the basis of criteria developed by the teacher education institution pursuant to TEC 102;

(b) Have completed three (3) years of full-time teaching experience;

(c) Have completed the master's degree; and

(d) Have been issued a standard teaching certificate valid for regular classroom teaching in any grade nine (9) through twelve (12); a standard certificate issued for speech and communication disorders shall not satisfy this prerequisite.

(4) The certificate shall be issued and renewed in accordance with the internship provisions of KRS 161.027 and related regulations.

(5)(a) The initial Professional Certificate for Instructional Leadership - Secondary School Principal, Grades 9-12, shall be issued for a duration period of one (1) year upon sucessful completion of Level I preparation and the tests prescribed under KRS 161.027 and upon obtaining employment for an internship position as principal or assistant principal. During the period of validity of the one (1) year certificate the internship program for secondary school principals as outlined in KRS 161.027 shall be completed. Upon successful completion of the internship, the certificate shall be extended for four (4) years.

(b) The certificate shall be renewed subsequently for five (5) year periods. The first renewal shall require the completion of the twelve (12) semester hour graduate curriculum identified as the Level II program in the curriculum standards. Each five (5) year renewal thereafter shall require the completion of two (2) years of experience as a secondary school principal, or three (3) semester hours of additional graduate credit related to the position of school principal, or forty-two (42) hours of approved training selected from programs approved for the Kentucky Effective Instructional Leadership Training Program.

(6) If a lapse in certification occurs for lack of completion of the Level II preparation, the certificate may be reissued for a five (5) year period upon successful completion of the Level II preparation. If a certificate lapses with Level II preparation, but for lack of the renewal requirements, the certificate may be reissued after the completion of an additional six (6) semester hours of graduate study appropriate to the program.

(7) In compliance with KRS 161.027, persons applying for the Professional Certificate for Instructional Leadership - Secondary School Principal, Grades 9-12, who satisfy the curriculum requirements and all other prerequisites, and who have completed at least two (2) years of successful full-time experience, including at least 140 days per year either as a high school or secondary school principal, grades 7-12, within a ten (10) year period prior to making application, will be exempt from the internship requirements for secondary school principals, but shall be required to pass the written examinations required by KRS 161.027.

Section 2. A certificate based upon Level II preparation as a middle grade principal may be extended to secondary school principal, grades 9-12 upon completion of six (6) semester hours of graduate credit which shall include, but not be limited to:

(1) Secondary school curriculum;

(2) Organization and administration of the secondary school; and

(3) Field experience in a secondary school.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: March 4, 1987
FILED WITH LRC: March 13, 1987 at noon
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, April 21, 1987 at 10 a.m. Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its March meeting. Those persons wishing to attend and

testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Thursday, April 16, 1987. 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: Sidney Simandle

(1) Type and number of entities affected: Ten participating institutions that prepare school principals; 178 public school districts (and independent schools) that employ school principals; and applicants for the program.

(a) Direct and indirect costs or savings to those affected: None additional - institutions are expected to periodically revise programs as a regular and continuing function by developing new courses and dropping old ones.

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: Participating institutions must file written copies of the new curriculum revisions with the Department of Education.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: No appreciable difference - all programs must be revised periodically, and this evaluation expense is embedded in the regular budget.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: When received from the participating institutions, the new curriculum revisions must be analyzed and evaluated by staff - a regular staff function.

(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: 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. This regulation revision is a part of the state teacher certification system which must be applied equally and with impartiality throughout the Commonwealth.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No related federal mandate.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: N/A

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction

704 KAR 20:410. Supervisor of instruction, grades K-12.

RELATES TO: KRS 161.020, 161.025, 161.030

PURSUANT TO: KRS 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the council and approved by the state board. This regulation establishes an appropriate preparation and certification program for supervisor of instruction, grades K-12.

Section 1. (1) The Professional Certificate for Instructional Leadership - Supervisor of Instruction, Grades K-12, shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005, TEC 103.

(2) The Professional Certificate for Instructional Leadership - Supervisor of Instruction, Grades K-12, shall be valid for the position of supervisor of instruction for grades K-12 unless otherwise delimited.

(3) As prerequisites for the Level I program of preparation for the initial Professional Certificate for Instructional Leadership - Supervisor of Instruction, Grades K-12, the candidate shall:

(a) Have been admitted to the preparation program on the basis of criteria developed by the teacher education institution pursuant to TEC 103.0;

(b) Have completed three (3) years of full-time teaching experience;

(c) Have completed the master's degree; and

(d) Have been issued any one of the following standard teaching certificates: Standard Elementary Certificate Grades 1-8; Standard Certificate for Teaching in the Early Elementary Grades K-4; Standard Certificate for Teaching in the Middle Grades 5-8; Standard High School Certificate Grades 7-12; Standard Certificate for Teaching in the Secondary Grades 9-12; Standard Certificate for Teachers of Exceptional Children (except those having speech and communication disorders as the specialty areas).

(4) The initial Professional Certificate for Instructional Leadership - Supervisor of Instruction, Grades K-12, shall be issued for a

duration period of five (5) years and shall be renewed subsequently for five (5) year periods. The first renewal shall require the completion of the twelve (12) semester hour graduate curriculum identified as the Level II program in the curriculum standards. Each five (5) year renewal thereafter shall require the completion of two (2) years of experience as a supervisor of instruction, or three (3) semester hours of additional graduate credit related to the position of supervisor of instruction, or forty-two (42) hours of approved training selected from programs approved for the Kentucky Effective Instructional Leadership Training Program.

(5) If a lapse in certification occurs for lack of completion of the Level II preparation, the certification may be reissued for a five (5) year period upon successful completion of the Level II preparation, but for lack of the renewal requirements, the certificate may be reissued after the completion of an additional six (6) semester hours of graduate study appropriate to the program.

Section 2. (1) A certificate based upon Level II preparation as an early elementary school principal, grades K-4, shall qualify the holder as a supervisor of instruction, grades K-4. The supervision certification shall be valid also for any other sequential combination of the grades K through eight (8) that includes any grade K-4.

(2) A certificate based upon Level II preparation as a middle grade school principal, grades 5-8, shall qualify the holder as a supervisor of instruction, grades 5-8. The supervision certification shall be valid also for any other sequential combination of the grades K through eight (8) that includes any grade 5-8.

(3) A certificate based upon Level II preparation as a secondary school principal, grades 9-12, shall qualify the holder as a supervisor of instruction, grades 9-12. The supervision certification shall be valid also for any other sequential combination of the grades 5-12 that includes any grade 9-12.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: March 4, 1987
FILED WITH LRC: March 13, 1987 at noon
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, April 21, 1987 at 10 a.m. Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its March meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Thursday, April 16, 1987. 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: Sidney Simandle
(1) Type and number of entities affected: Ten participating institutions that prepare school supervisors; 178 public school districts (and independent schools) that employ school supervisors; and applicants for the program.
(a) Direct and indirect costs or savings to those affected: None additional - institutions are expected to periodically revise programs as a regular and continuing function by developing new courses and dropping old ones.
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: Participating institutions must file written copies of the new curriculum revisions with the Department of Education.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: No appreciable difference - all programs must be revised periodically, and this evaluation expense is embedded in the regular budget.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: When received from the participating institutions, the new curriculum revisions must be analyzed and evaluated by staff - a regular staff function.
(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: 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. This regulation revision is a part of the state teacher certification system which must be applied equally and with impartiality throughout the Commonwealth.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No related federal mandate.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: N/A
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction

704 KAR 20:420. School superintendent.

RELATES TO: KRS 161.020, 161.025, 161.030
PURSUANT TO: KRS 156.070, 161.030
NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates

of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the council and approved by the state board. This regulation establishes an appropriate preparation and certification program for school superintendent.

Section 1. (1) The Professional Certificate for Instructional Leadership - School Superintendent shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted in 704 KAR 20:005, TEC 104.

(2) The Professional Certificate for Instructional Leadership - School Superintendent shall be valid for the position of school superintendent.

(3) As prerequisites for the program of preparation for the Professional Certificate for Instructional Leadership - School Superintendent, the candidate shall:

(a) Have been admitted to the preparation program on the basis of criteria developed by the teacher education institution pursuant to TEC 104;

(b) Have completed at least three (3) years of full-time teaching experience, including at least 140 days per year, and also at least two (2) years of additional experience, including at least 140 days per year, in a position(s) of elementary school principal, middle grade school principal, secondary school principal, supervisor of instruction, guidance counselor, director of pupil personnel, director of special education, school business administrator, local district coordinator of vocational education, or coordinator/administrator/supervisor of district-wide services;

(c) Have completed the master's degree;

(d) Have been issued a standard teaching certificate; and

(e) Have completed both Level I and Level II preparation and certification for any one of the positions of elementary school principal, middle grade principal, secondary school principal, or supervisor of instruction.

(4) The initial Professional Certificate for Instructional Leadership - School Superintendent shall be issued for a duration period of five (5) years and shall be renewed subsequently for five (5) year periods. Each five (5) year renewal shall require the completion of two (2) years of experience as a school superintendent, or three (3) semester hours of additional graduate credit related to the position of school superintendent, or forty-two (42) hours of approved training selected from programs approved for the Kentucky Effective Instructional Leadership Training Program.

(5) If a lapse in certification occurs for lack of the renewal requirements, the certificate may be reissued for a five (5) year period after the completion of an additional six (6) semester hours of graduate study appropriate to the program.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: March 4, 1987
FILED WITH LRC: March 13, 1987 at noon
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, April 21, 1987 at 10 a.m. Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its March meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before Thursday, April 16, 1987. 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: Sidney Simandle

(1) Type and number of entities affected: Six participating institutions that prepare school superintendents; 178 public schools (and independent schools) that employ school superintendents; and applicants for the program.

(a) Direct and indirect costs or savings to those affected: None additional - institutions are expected to periodically revise programs as a regular and continuing function by developing new courses and dropping old ones.

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: Participating institutions must file written copies of the new curriculum revisions with the Department of Education.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: No appreciable difference - all programs must be revised periodically, and this evaluation expense is embedded in the regular budget.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: When received from the participating institutions, the new curriculum revisions must be analyzed and evaluated by staff - a regular staff function.

(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: 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. This regulation revision is a part of the state

teacher certification system which must be applied equally and with impartiality throughout the Commonwealth.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No related federal mandate.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: N/A
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

LABOR CABINET
Department of Workplace Standards
Kentucky Occupational Safety & Health

803 KAR 2:033. Field sanitation standard.

RELATES TO: KRS Chapter 338
PURSUANT TO: KRS Chapter 13A
NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules, regulations, and standards. Consistent with this authority the following regulations contain those standards to be enforced by the Division of Occupational Safety and Health Compliance. The Occupational Safety and Health Standards Board hereby promulgates the following regulations applicable to agricultural operations.

Section 1. Scope. This standard shall apply to any agricultural establishment where eleven (11) or more employees at the same worksite are engaged on any given day in hand-labor operations in the field. Management, support personnel, self-employed personnel, and the employer's family members are excluded in the requirements for potable drinking water, handwashing and toilet facilities.

Section 2. Definitions. (1) "Agricultural employer" means any person, corporation, association, or other legal entity that operates an agricultural establishment, or in whose interest an agricultural establishment is operated; any person, corporation, association, or other legal entity who is responsible for the management and condition of an agricultural establishment, or who acts directly or indirectly in the interest of an employer in relation to any employee is also an agricultural employer.

(2) "Agricultural establishment" means a business operation that uses paid employees in the production of food, fiber, or other materials such as seed, seedlings, plants, or parts of plants.

(3) "Hand-labor operations" means agricultural activities or operations performed by hand or with hand tools. Some examples of "hand-labor operations" are the hand harvest of vegetables, nuts, and fruit; hand weeding of crops and hand planting of seedlings. "Hand-labor operations" do not include such activities as logging operations, the care or feeding of livestock and poultry, or hand-labor operations in permanent structures (e.g., canning facilities or packing houses).

(4) "Handwashing facility" means a facility providing either a basin, container, or outlet with an adequate supply of potable water, soap and single-use towels. A substitute for soap and water may be used if it meets all of the following criterion:

(a) Cleansing properties must act to remove soil and other residues from skin after use;

(b) Contents of cleansing compound must not break or open skin barrier to pathogenic microorganisms; and

(c) Cleansing compounds in waterless cleaner must not facilitate transport of toxic agrochemicals across the skin.

(5) "Potable water" means water that meets the standards for drinking purposes by the state or local authority having jurisdiction or water that meets the quality standards prescribed by the U.S. Environmental Protection Agency's National Interim Primary Drinking Water regulations, published in 40 CFR Part 141.

(6) "Support personnel" means employees who do not perform hand-labor operations in the field while serving as temporary members of mobile crews in the field.

(7) "Toilet facility" means a facility designated for the purpose of both defecation and urination, including biological or chemical toilets, combustion toilets, or sanitary privies which are supplied with toilet paper adequate to employee needs. Toilet facilities may be either fixed or portable.

(8) "Worksite" means the geometric center of a field or orchard where workers are employed. Contiguous or adjacent fields or orchards on one (1) farm shall be considered as one (1) worksite, except where two (2) contiguous or adjacent fields are separated by a barrier such as a body of water, public highway, or fence. In this instance, workers in each respective field shall be counted independently and shall be considered to be employed at separate worksites.

Section 3. Requirements. Agricultural employers shall provide the following for employees engaged in hand-labor operations in the field, without cost to the employee:

(1) Potable drinking water.

(a) Potable water shall be provided and shall be placed in locations readily accessible to all employees. Readily accessible, for purposes of this section, means within one quarter (1/4) mile of the worksite. Where it is not feasible to locate the drinking water within the required distance to ground terrain, or other physical conditions, the drinking water shall be located at the point of vehicular access closest to the workers.

(b) The water shall be suitably cool.

(c) The water shall be available in sufficient amounts so that it is not completely consumed during the workday. If the water supply is depleted, it shall be immediately refilled.

(d) The water shall be dispensed in single-use drinking cups or by fountains. The use of common drinking dippers is prohibited.

(2) Toilet and handwashing facilities.

(a) One (1) toilet facility and one (1) handwashing facility shall be provided for each twenty (20) employees or major fraction thereof (1:20 ratio), except as stated in paragraph (d)

of this subsection.
(b) Toilet facilities shall have doors that can be closed and latched from the inside and shall be constructed to ensure privacy.
(c) Toilet and handwashing facilities shall be accessibly located in close proximity to each other. These facilities shall be located in one of the following three (3) ways:
1. Within one quarter (1/4) mile of the worksite; or
2. Where it is not feasible to locate facilities within the required distance due to ground terrain, or other physical conditions, toilet and handwashing facilities shall be located at the point of vehicular access closest to the worksite; or
3. Where an employer has provided or arranged for access to transportation for employees, during both work and rest periods, for immediate travel to and from toilet and handwashing facilities, transportation to such facilities shall not require more than five (5) minutes travel for the employees.
(d) Toilet and handwashing facilities are not required for employees who perform field work for a period of three (3) hours or less (including transportation time to and from the worksite) during the day.

Section 4. Maintenance. Potable drinking water and toilet and handwashing facilities shall be maintained in accordance with the following:
(1) Drinking water containers shall be covered, cleaned and refilled daily;
(2) Toilet facilities shall be operational and maintained in a clean and sanitary condition;
(3) Handwashing facilities shall be maintained in a clean and sanitary condition;
(4) Disposal of wastes from toilet facilities shall be in accordance with state and local regulations;
(5) Disposal of wastewater from handwashing facilities may be discharged on-site provided that this method of disposal will not contaminate crops or adjoining water supplies, cause the water to stand on the ground so as to become stagnant, or otherwise create a safety or health hazard.

Section 5. Reasonable Use. Employees shall be allowed reasonable opportunities during the workday to use the facilities.

JOHN CALHOUN WELLS, Chairman
APPROVED BY AGENCY: February 27, 1987
FILED WITH LRC: March 12, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing concerning these regulations has been scheduled for April 21, 1987 at 1 p.m. (EST), to be held at the Kentucky Labor Cabinet, U.S. 127 Building South, Bay 2 Conference Room, Frankfort, Kentucky. Those interested in attending must provide by April 16, 1987, written notice to Mr. Guy Schoolfield, Kentucky Labor Cabinet, Division of Education and Training, OSH Technical Assistance Branch, U.S. 127 Building South, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Guy Schoolfield
(1) Type and number of entities affected: This regulation affects approximately 900 agricultural employers where eleven or more employees at the same worksite on any given day are engaged in hand-labor operations in the field.
(a) Direct and indirect costs or savings to those affected: The average annual cost per employer is estimated to be $1,300.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No reports or records are required by this promulgation.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: No costs or savings to the Kentucky OSH Program will occur as a result of this promulgation.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No additional reports or records are required by this promulgation.
(3) Assessment of anticipated effect on state and local revenues: This promulgation will have no effect on state and local revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No regulations, rules, or policies conflict, overlap, or duplicate this regulation.
(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 Occupational Safety and Health Program targets its scheduled inspections toward those industries or firms that pose higher risks to worker health and safety or from which the OSH Program has received worker complaints.

PUBLIC PROTECTION AND REGULATION CABINET
Kentucky Harness Racing Commission

812 KAR 1:056. Authorized agents.

RELATES TO: KRS 230.410 to 230.447
PURSUANT TO: KRS Chapter 13A
NECESSITY AND FUNCTION: To regulate conditions under which quarter horse and appaloosa racing shall be conducted in Kentucky. The function of this regulation is to outline the requirements for authorized jockey agents.

Section 1. Agents Permitted. Any licensed owner, or licensed jockey, or licensed apprentice jockey, may as a principal authorize another person as an agent to act in such principal's behalf in all matters pertaining to racing in this state and transfer of horses on association grounds. Such authorization shall be in writing and shall define the powers, limits, and term of such agency.

Section 2. License Required. (1) No person may act as agent on behalf of another individual in a matter pertaining to racing in this state, or

in the transfer of horses on association grounds, unless both principal and agent have been duly issued current licenses permitting such activity.

(2) If an authorized agent is to act on behalf of more than one (1) principal, a separate license must be obtained as to each principal. Applications for an authorized agent license shall be accompanied by the written agency appointment, signed by the principal and notarized.

(3) If such agency appointment is other than one authorizing broad general powers, and qualifies or limits powers of the agent to act on behalf of the principal in any way (for example: limitation as to transfer of money in the horsemen's account, or entry of a horse for a minimum claiming price, or sale or purchase or lease of a horse), then such license, if issued, shall indicate thereon such limitation by the word "qualified" or "limited."

(4) No racing official shall permit any authorized agent whose license indicates a qualified agency to act as an authorized agent until such racing official has inspected a copy of the agency appointment and ascertains such act is empowered by such agency.

(5) No jockey agent shall make engagements for more than two (2) riders, except that a single jockey agent may represent all riders under contract employment to a single employer. No rider may be represented by two (2) jockey agents at one time.

Section 3. Termination of Agency. Such agency shall remain in effect until written notification of revocation is received from the principal by the commission. In the event a jockey agent is dismissed by his employer, or if a jockey agent discontinues making engagements for a rider, then such jockey agent shall immediately notify the stewards and turn over to the clerk of scales a list of any unfulfilled engagements such jockey agent may have made for such rider.

Section 4. Acts by Authorized Agent. Unless precluded by specific limitations in the agency appointment, a licensed authorized agent may perform on behalf of the licensed owner-principal all acts as relate to racing in this state or transfer of horses on association grounds as could be performed by the principal had such principal been present. In executing any document on behalf of the principal, an authorized agent shall clearly indicate he is acting as an authorized agent and shall specify the principal for whom he is acting. When an authorized agent enters a claim for the account of a principal for whom he is licensed as an authorized agent, the name of the licensed owner for whom the claim is being made and the name of the authorized agent shall appear on the claim slip.

Section 5. Riding Engagements. No person other than the licensed contract employer, or a licensed jockey agent, may make riding engagements for a rider, except that a jockey not represented by an agent may make his own riding engagements. Such persons permitted to making riding engagements shall maintain in their possession at all times an engagement book and shall record therein riding engagements made, the same being subject to examination by the stewards at any time. No jockey agent may enter the jockey room, or paddock, or racing strip during the hours of racing.

Section 6. Conflicting Claims for Rider. Any dispute arising from a conflict of claims for the services of a rider shall be determined by the stewards on the basis of written records submitted by the parties involved.

ROBERT DAVIS, Secretary
CARL B. LARSEN, Executive Director
APPROVED BY AGENCY: February 5, 1987
FILED WITH LRC: February 17, 1987 at 4 p.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on April 23, 1987 at 10 a.m. at the office of the Kentucky Harness Racing Commission. Anyone interested in attending this hearing shall notify in writing Carl B. Larsen, Executive Director, Kentucky Harness Racing Commission, Suite 300, 535 West Second Street, Lexington, Kentucky 40508 at least five days before the hearing.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carl B. Larsen
(1) Type and number of entities affected: Horsemen
(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 additional.
(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 additional.
(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: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Regulation affects all horsemen.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of the March 5-6, 1987 Meeting

The March meeting of the Administrative Regulation Review Subcommittee was held on Thursday, March 5, 1987 at 10 a.m. and on Friday, March 6, 1987 at 10 a.m. in Room 110. Representative Mark D. O'Brien, Chairman, called the meeting to order, and the secretary called the roll. Without objection, the minutes of the February 9-10, 1987 meeting were approved.

Present were:

Members: Representative Mark D. O'Brien, Chairman; Senators Harold Haering and Bill Quinlan ; Representatives Jim Bruce, Ronny Layman and Joe Meyer.

Guests: Senator Gene Huff; Roger H. Futrell, Tommy Greenwell, Anne Keating, Department of Personnel; Scott Akers, Revenue Cabinet; Aleck Gribbins, Herbert VanArsdale, Board of Auctioneers; Dave Nicholas, Audrey Runda, Board of Licensure for Nursing Home Administrators; Susan Stopher, Real Estate Commission; Carroll Roberts, Board of Hairdressers; Tom Troth, Department of Agriculture; Michael Bradley, Corrections Cabinet; Sandra Pullen, Transportation Cabinet; Robert L. Chenoweth, State Board of Education; Gary Bale, Dan Branham, Terrance Hibpohman, Anita Nelam, Mary Ray Oaken, R. C. Story, Dr. Akeel Zaheer, Department of Education; Michelle Gardner, Ellen Hellard, Jim Nelson, Department for Libraries & Archives; Ed Fossett, Gil McCarty, Patrick Watts, Department of Insurance; Mike Fulkerson, Cap Hershey, Rick Norton, State Racing Commission; Roy Butler, Barbara Coleman, Kathy Comley, Ked Fitzpatrick, Lora Gray, Ron Holland, Clifton Howard, Peggy S. Kidd, Kathleen McDonald, Angie Scott, R. Hughes Walker, Mark Yancey, Cabinet for Human Resources; Marie Alagia Cull, Nancy Cox, Jim Judy, KY Association of Health Care Facilities; Ted Bradshaw, KY Bankers Association; Lloyd R. May, Jefferson County Teachers Association; David Allen, Jennifer B. Coffman, Martha Dell Sanders, Jim Slattery, KY Education Association; Larry Powers, KY School Boards Association; V. Wayne Young, KY Association of School Administrators; James Jitter Allen, Governor's Office; Dave White.

Press: Gene Campbell, KET; Fran Ellers, State Journal; Charles Wolfe, Associated Press; John Miller, Lexington Herald-Leader; Jonathan Sherman, WKYT-TV.

LRC Staff: Susan Wunderlich, Joe Hood, Gregory Karambellas, Donna Valencia, Carolyn Kinman, Jackie Lynch, Janie Jones, Paris Hopkins, Buel Guy and Carla Arnold.

The Administrative Regulation Review Subcommittee met on March 5 and 6, 1987, and submits the following report:

The Subcommittee attached statements of objection to and/or referred the following regulations to the Legislative Research Commission for further consideration:

Education and Humanities Cabinet: Department of Education: Office of Local Services: School District Finance

702 KAR 3:190 (Maximum class sizes.) Representative Meyer asked Robert Chenoweth, the attorney representing the State Board of education, if it was proper for an attorney representing a lobbying organization to sign this regulation as the attorney for the board. Mr. Chenoweth responded that there was no indication in KRS Chapter 13A that the attorney could not sign the regulation. When questioned about transfers of students during the school year, Mr. Chenoweth responded that student transfers were customary throughout the state. Representative Meyer suggested that if transfers were customary, they should not be included in the definition of "unusual circumstances" and school districts should take these transfers into consideration when planning classroom size. If a school district finds it necessary to increase classroom size, the school district should be required to prove that the number of transfers is burdensome and unforeseeable and could not have been projected from past experience. Representative Meyer pointed out that Section 2(6), as amended, would result in an exemption every year and such exemptions were contrary to the statute. Mr. Chenoweth responded it was the board's intent that each year upon showing of unusual circumstances an exemption could be granted. Representative Meyer pointed out that the hearing officer had given an opinion in her report stating that the regulation is insufficient and violates the statutes.

In response to Representative O'Brien's request for a legal opinion from the attorney for the Department of Education, Gary Bale said this regulation exceeded statutory authority because KRS 157.360 applies to all exemptions that are necessary, and KRS 157.580 applies to all exemptions necessary after September 15. Senator Haering questioned the fiscal impact, and Mr. Bale stated that he was not aware of any study undertaken at this time.

Jennifer Coffman, attorney for the Kentucky Education Assocation stated that: (1) KRS 13A.120 prohibits regulations when a statute sets forth a compliance scheme; KRS 157.580 defines unusual circumstances of space limitation only, so the reguation is not in compliance with the statute when it broadens the definition of "unusual circumstances". (2) KRS 13A.120 prohibits regulations on matters beyond statutory authorization. KRS 157.360(3) provides that the Superintendent of Public Instruction, upon approval of the state board, shall adopt regulations for enforcing maximum class sizes, including procedures. This regulation redefines "unusual circumstances" contrary to the statutory definition of such term which is beyond the scope of the administrative body's authority. (3) KRS 13A.120(i) prohibits regulations which modify or vitiate a statute. This regulation totally vitiates the statutes and the intent of the legislature.

Represtative Meyer moved that a new section be added to this regulation stating that the regulation shall be null and void after June 30, 1987. Senator Quinlan seconded, and motion carried. Mr. Chenoweth, representing the state board, stated that he could not agree to the amendment. Representative Meyer asked if the board would agree to sunset this regulation and be amended before the 1987-88 school year. Mr. Chenoweth responded that Chairman Clay Parks of the board stated by phone that he could not commit the board to this type of provision or amendment. The board, at its last meeting, discussed the possibility of amending this regulation before the next school year but had not committed itself at this time.

Representative Meyer moved that an attachment be made to this regulation as follows: "702 KAR 3:190 exceeds statutory authority for the following reasons: (1) It was improperly filed and is in violation of KRS 13A.220(6) since the board's attorney did not sign the regulation; (2) The definition of "unusual circumstances" contradicts the definition provided in the statutes; (3) Section 3 violates the statute in that it eliminates class size caps after September 15; and (4) Section 2(1) violates accreditation standards. Senator Quinlan seconded and the motion carried. Representative Meyer moved that this regulation with the attachment be forwarded to the Legislative Research Commission to be referred to the Interim Joint Committee on Education for further study and recommendations. Motion carried.

The Subcommittee determined that the following regulations complied with KRS Chapter 13A:

Department of Personnel: Classified

101 KAR 2:040 (Applications and examinations.) The Department stated that KRS 18A.032 specified the reasons for which an applicant or an eligible could be removed from a register; that these reasons appear in the regulation; that removal could not be limited to the reasons specified in (f) and (g) sonce the statute specified the other reasons cited in the regulation; that the score an applicant or eligible received prior to removal would be valid for two years and that a ban on retesting would not adversely affect him. The Subcommittee had no objection to this regulation.

101 KAR 2:050 (Registers.) The Department stated that KRS 18A.032 specified the reasons for which an applicant or an eligible could be removed from a register; that these reasons appear in the regulation; that removal could not be limited to the reasons specified in (f) and (g) sonce the statute specified the other reasons cited in the regulation; that the score an applicant or eligible received prior to removal would be valid for two years and that a ban on retesting would not adversely affect him. The Subcommittee had no objection to this regulation.

Revenue Cabinet: Department of Professional and Support Services: Selective Excise Tax; Motor Vehicle Usage

103 KAR 44:006 (Repeal of 103 KAR 44:020.)

General Government Cabinet: Board of Auctioneers

201 KAR 3:070 (Absolute auction.)

Board of Licensure for Nursing Home Administrators

201 KAR 6:010 (Licensure.)

Real Estate Commission

201 KAR 11:210 (Licensing, education and testing requirements.)

Board of Hairdressers and Cosmetologists

201 KAR 12:120 (School faculty.)

Commerce Cabinet: Department of Agriculture: Pesticides

302 KAR 31:010 (Hearings to determine suspension, modification, or revocation of license.) The Subcommittee and agency amended this regulation to clarify the hearing and appeal procedures.

302 KAR 31:011 (Informal proceedings.) The Subcommittee and agency amended this regulation to clarify the hearing and appeal procedures.

Corrections Cabinet: Office of the Secretary

501 KAR 6:020 (Corrections policies and procedures.)

501 KAR 6:040 (Kentucky State Penitentiary.)

501 KAR 6:050 (Luther Luckett Correctional Complex.)

501 KAR 6:060 (Northpoint Training Center.)

501 KAR 6:070 (Kentucky Correctional Institution for Women.)

501 KAR 6:090 (Frankfort Career Development Center.) This regulation was technically amended to show that the inmate grievance system was amended and not the employee grievance procedure.

501 KAR 6:110 (Roederer Farm Center.)

501 KAR 6:120 (Blackburn Correctional Complex.)

Transportation Cabinet: Department of Highways: Traffic

603 KAR 5:210 (Extended weight coal haul road system.)

603 KAR 5:230 (Bridge weight limits on the extended weight coal haul road system.)

Education and Humanities Cabinet: Department of Education: Office of Local Services: School District Finance

702 KAR 3:210 (Foundation program penalization for out-of-field assignments.)

Office of Instruction: Elementary and Secondary Education Act

704 KAR 10:022 (Elementary, middle and secondary schools standards.)

Teacher Certification

704 KAR 20:045 (Testing prerequisites for teacher certification; certificate application; beginning teacher internship program.)

704 KAR 20:120 (Emergency 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 Vocational Rehabilitation Services: Administration

706 KAR 1:020 (Independent living plan.)

Department of Libraries and Archives: Libraries
725 KAR 2:040 (State aid for specific counties.)

Public Protection and Regulation Cabinet: State Racing Commission: Thoroughbred Racing Rules
810 KAR 1:003 (Licensing.)

Cabinet for Human Resources: Department for Health Services: Maternal and Child Health
902 KAR 4:060 (Kentucky state plan of program operations and administration for the Special Supplemental Food Program for Women, Infants, and Children (WIC).)
Hospitalization of Mentally Ill and Mentally Retarded
902 KAR 12:080 (Policies and procedures for mental health/mental retardation facilities.)
Department for Employment Services: Employment Services
903 KAR 6:040 (Job Training Partnership Act.)
Department for Social Insurance: Public Assistance
904 KAR 2:015 (Supplemental programs for the aged, blind and disabled.) Representative Bruce asked if the state, through this regulation, provided any supplemental programs for the homeless. The representative from the agency responded that this regulation does not apply to the homeless unless they qualified as being aged, blind, or disabled. If so qualified, they would then be eligible for this program.
Food Stamp Program
904 KAR 3:020 (Eligibility requirements.)
Department for Medicaid Services: Medicaid Services
907 KAR 1:004 (Resource and income standard of medically needy.)
907 KAR 1:013 (Payments for acute care and mental hospital inpatient services.)
907 KAR 1:160 (Home and community based services.)
907 KAR 1:170 (Payments for home and community based services.)
907 KAR 1:350 (Coverage and payments for organ transplants.)

The Subcommittee deferred the following regulation at the agency's request:

Public Protection and Regulation Cabinet: Department of Housing, Buildings and Construction Kentucky Building Code
815 KAR 7:070 (Requirements for certification of Kentucky Building Code inspectors.)

The Subcommittee had no objections to emergency regulations which had been filed.

Other Business:
815 KAR 17:080 (Long-term health care insurance.) Insurance Commissioner Gil McCarty appeared before the Subcommittee to discuss questions raised on 806 KAR 17:080, which was reviewed by the Subcommittee and went into effect on February 10, 1987. Commissioner McCarty requested that copies of the National Model of Long-Term Health Care and proposed legislation be forwarded to the Legislative Research Commission for referral to the Interim Joint Committee on Banking and Insurance. The Subcommittee had no objections to this request.

905 KAR 1:065, 905 KAR 1:091, 905 KAR 1:110, 905 KAR 1:120 (CHR Department for Social Services: Child Welfare.) Senator Gene Huff appeared before the Subcommittee to discuss the implementation of these regulations as they affect church related child or day care facilities. Senator Huff told the subcommittee he would send the necessary information for staff review. The members of the Subcommittee agreed to review the issue and take action accordingly.

Representative Meyer questioned the method of payment to local comprehensive care agencies for counseling services. He pointed out that a fixed rate was paid whether or not the counseling was a group or individual session. He added that this would encourage group counseling since payment for such would, in effect, be greater. Representative Meyer requested the agency review this situation and report back to the Subcommittee.

The Subcommittee adjourned at 11:15 a.m. until April 13, 1987.

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704 KAR 20:330	1961	8-12-86
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Replaced	1076	12-2-86
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Resubmitted	4	5-16-86
Replaced		7-2-86
Resubmitted	1222	11-17-86
Replaced	1099	1-13-87
501 KAR 6:030E	486	7-21-86
Replaced	525	10-2-86
501 KAR 6:040E	165	6-16-86
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501 KAR 6:070E	166	6-16-86
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Resubmitted	1413	1-15-87
Replaced	1462	3-6-87
501 KAR 6:090E	617	9-10-86
Replaced	744	11-11-86
Resubmitted	1223	11-17-86
Replaced	1103	1-13-87
Resubmitted	1415	1-15-87
Replaced	1463	3-6-87
501 KAR 6:110E	167	6-16-86
Replaced	101	8-12-86
Resubmitted	1224	11-17-86
Replaced	1105	1-13-87
Resubmitted	1416	1-15-87
Replaced	1464	3-6-87
501 KAR 6:120E	1417	1-15-87
Replaced	1466	3-6-87
502 KAR 15:020E	489	7-25-86
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502 KAR 50:010E	490	8-14-86
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600 KAR 1:045E	490	8-14-86
Replaced	894	11-11-86
601 KAR 1:140E	1418	12-16-86
Replaced	1334	2-10-87
601 KAR 9:074E	168	7-1-86
Replaced	289	9-4-86
601 KAR 9:110E	1697	3-9-87
603 KAR 5:190E	492	7-25-86
Replaced	602	11-11-86
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
Replaced	1081	12-2-86
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
Replaced	749	12-2-86
704 KAR 15:080E	173	7-10-86
Replaced	639	10-2-86
706 KAR 1:010E	1699	3-9-87
815 KAR 7:070E	1420	1-15-87
900 KAR 1:006E	5	5-23-86
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900 KAR 1:060E	174	7-15-86
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902 KAR 4:050E	622	8-15-86
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902 KAR 10:110E	493	8-8-86
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902 KAR 20:016E	175	7-14-86
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902 KAR 20:026E	185	7-7-86
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Resubmitted	1027	11-13-86
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902 KAR 20:036E	194	7-7-86
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902 KAR 20:051E	207	7-7-86
Replaced	365	9-4-86
Resubmitted	1044	11-13-86
Replaced	1151	2-10-87
902 KAR 20:220E	214	7-14-86
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903 KAR 5:260E	1530	2-5-87
903 KAR 5:270E	221	6-16-86
Replaced	89	8-12-86
903 KAR 6:040E	1534	1-16-87
Replaced	1489	3-6-87
904 KAR 2:015E	1422	12-29-86
Replaced	1492	3-6-87
904 KAR 2:016E	7	5-16-86
Replaced		7-2-86
904 KAR 2:116E	1052	10-16-86
Replaced	980	12-2-86
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
Replaced	983	12-2-86
Resubmitted	1424	1-5-87
Replaced	1494	3-6-87
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
Replaced	1168	1-13-87
905 KAR 3:030E	223	7-1-86
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905 KAR 8:110E	1056	10-29-86
Replaced	1169	1-13-87
905 KAR 8:120E	1056	10-29-86
Replaced	1170	1-13-87
907 KAR 1:004E	856	10-6-86
Replaced	987	12-2-86
Resubmitted	1427	1-15-87
Replaced	1497	3-6-87
907 KAR 1:010E	861	10-6-86
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907 KAR 1:013E	623	8-27-86
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Resubmitted	1432	1-5-87
Replaced	1503	3-6-87
907 KAR 1:031E	224	7-1-86
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907 KAR 1:036E	224	7-3-86
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Resubmitted	1434	1-5-87
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Resubmitted	1699	2-26-87
907 KAR 1:045E	231	7-1-86
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907 KAR 1:170E	1443	1-15-87
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907 KAR 1:250E	625	8-15-86
Replaced	555	10-2-86
Resubmitted	1226	11-25-86
Replaced	1308	2-10-87
907 KAR 1:330E	862	10-6-86
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907 KAR 1:340E	863	10-6-86
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11 KAR 5:020		
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11 KAR 5:030		
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11 KAR 5:035		
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11 KAR 5:060		
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11 KAR 6:010		
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11 KAR 7:020	93	8-12-86
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101 KAR 1:040		
Repealed	135	7-15-86
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101 KAR 1:060		
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101 KAR 2:050	416	9-4-86
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101 KAR 3:005	433	9-4-86
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103 KAR 16:070		
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103 KAR 26:050		
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103 KAR 44:006	1516	3-6-87
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Repealed	1318	2-10-87
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