

LEGISLATIVE RESEARCH COMMISSION
FRANKFORT, KENTUCKY

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

MEETING NOTICE: The next meeting of the Administrative Regulation Review Subcommittee is September 8 and 10, 1987. See tentative agenda on pages 403-405 of this Administrative Register.

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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 REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA
September 8, 1987
(Rm. 110, Capitol Annex @ 2 p.m.)

GENERAL GOVERNMENT CABINET

Board of Dentistry

201 KAR 8:006. Advertising of dental services. (Deferred from June meeting)

201 KAR 8:390. General anesthesia, deep sedation, and conscious sedation by dentists.
(Deferred from June meeting)

Board of Nursing

201 KAR 20:057. Scope and standards of practice of advanced registered nurse practitioners.
(Not Amended After Hearing)

Board of Examiners of Psychologists

201 KAR 26:200. Definitions of terms used by the Board of Examiners of Psychologists for meeting educational requirements for licensure as a licensed psychologist.

201 KAR 26:210. Definitions of terms used by the Board of Examiners of Psychology for meeting educational requirements for certification as a psychological assistant.

201 KAR 26:220. Definitions of terms used by the Board of Examiners of Psychology for meeting educational requirements for certification as a certified psychologist.

Board of Occupational Therapy

201 KAR 28:080. Licenses.

201 KAR 28:090. Renewals.

COMMERCE CABINET

Department of Agriculture

Amusement Rides

302 KAR 16:040. Correction of safety violations and right to re-inspection.

Kentucky Grain Insurance and Grain Dealers

302 KAR 34:050 & E. Grain Dealer Licensing of Federal Warehouses.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Department for Environmental Protection

Water Resources

401 KAR 4:060. Stream Construction Criteria.

Division for Air Quality

General Standards of Performance

401 KAR 63:041. Asbestos abatement entities.

Department for Surface Mining Reclamation and Enforcement

General Provisions

405 KAR 7:070 & E. Certification of blasters. (Amended After Hearing)

JUSTICE CABINET

Juvenile Detention Facilities

500 KAR 6:010 & E. Definitions.

500 KAR 6:020 & E. Administration, Organization and Management.

500 KAR 6:030 & E. Personnel.

500 KAR 6:040 & E. Juvenile Records.

500 KAR 6:050 & E. Safety and Emergency Procedures.

500 KAR 6:060 & E. Security and Control.

500 KAR 6:070 & E. Food Service.

500 KAR 6:080 & E. Sanitation and Hygiene.

500 KAR 6:090 & E. Juvenile Rights.

500 KAR 6:100 & E. Training and Staff Development.

500 KAR 6:110 & E. Medical and Health Care Services.

500 KAR 6:120 & E. Rules and Discipline.

500 KAR 6:130 & E. Intake.

500 KAR 6:140 & E. Admission Procedures.

500 KAR 6:150 & E. Programs.

500 KAR 6:160 & E. Communication: Mail, Visiting and Telephone.

500 KAR 6:170 & E. Release Preparation and Transfer Programs.

500 KAR 6:180 & E. Citizens and Volunteer Involvement.

Department of Training

Kentucky Law Enforcement Council

503 KAR 1:100. Certification of Instructors.

CORRECTIONS CABINET

Office of the Secretary

501 KAR 6:020. Corrections policies and procedures.

501 KAR 6:030. Kentucky State Reformatory.

501 KAR 6:040. Kentucky State Penitentiary.

501 KAR 6:060. Northpoint Training Center.

501 KAR 6:130. Western Kentucky Farm Center.

Execution Hearings

501 KAR 8:010. Hearings, procedures, disposition. (Deferred from August meeting)

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA
September 10, 1987
(Rm. 110, Capitol Annex @ 2 p.m.)

TRANSPORTATION CABINET

Toll Facilities

- 600 KAR 2:010. Toll assessment on turnpikes.
- 600 KAR 2:020. Emergency vehicles and vehicles in processions on the toll roads.
- 600 KAR 2:030. Toll road credit cards.

Department of Vehicle Regulation

Division of Motor Carriers

- 601 KAR 1:115. Taxicabs.

Administration

- 601 KAR 2:010. General procedures.

Motor Vehicle Tax

- 601 KAR 9:010. Motor Carrier Registration.
- 601 KAR 9:012. Personalized license plates.
- 601 KAR 9:013. National Guard license plates.
- 601 KAR 9:015. Registration of Motor Vehicle Dealers.
- 601 KAR 9:040. Reciprocity.
- 601 KAR 9:047. Rebuilt or reconstructed vehicle registration.
- 601 KAR 9:060. Commercial vehicles.
- 601 KAR 9:074. Kentucky highway use license, records and taxes.
- 601 KAR 9:080. Assigned or replacement vehicle identification number.
- 601 KAR 9:085. Procedures for becoming a certified motor vehicle inspector.

Office of Aeronautics

Airport Development

- 602 KAR 15:010. Airport development loans.
- 602 KAR 15:020. State aid for airport development projects.

Airport Zoning Commission

- 602 KAR 50:010. Definitions.
- 602 KAR 50:030. Jurisdiction of commission.
- 602 KAR 50:050. Airport Zoning Map.
- 602 KAR 50:120. Hearing procedures.

Department of Highways

Pre-Construction

- 603 KAR 2:015. Prequalification for construction; certificate of eligibility.
(Repeals 603 KAR 1:010) (Amended After Hearing) (Agency requests deferral)

Traffic

- 603 KAR 5:025. Fully controlled access highways.
- 603 KAR 5:066. Weight limits for trucks.
- 603 KAR 5:075. Overweight and overdimension permits.

Transportation Scholarship Program

- 603 KAR 8:010. Transportation scholarship program.

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

Elementary and Secondary Education Act

- 704 KAR 10:022. Elementary, middle and secondary schools standards.

Teacher Certification

- 704 KAR 20:450. Reporting duties and hearing process for school employee certificate revocation.

Office of Vocational Education

Fiscal Management

- 705 KAR 2:120. Distribution of funds for local operation of area vocational education centers and local vocational departments.

Management of State-Operated Schools

- 705 KAR 5:060. Live work projects, selection of.
- 705 KAR 5:100. Program costs, tuition and fees paid under contract or agreement with other public or private organizations.
- 705 KAR 5:110. Postsecondary vocational technical school admission priorities.

Office of Vocational Rehabilitation

Administration

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

Office of Education for Exceptional Children

Exceptional and Handicapped Programs

- 707 KAR 1:003. Annual program plan for the administration of the education of the handicapped act.

PUBLIC PROTECTION & REGULATION CABINET

Department of Housing, Buildings and Construction

Kentucky Building Code

- 815 KAR 7:010. Administration and Enforcement.
- 815 KAR 7:020. Building Code.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA
September 10, 1987
(Rm. 110, Capitol Annex @ 2 p.m.)

CABINET FOR HUMAN RESOURCES
Department for Health Services

Alcohol, Drugs and Occupational Programs

- 902 KAR 3:055. Definitions for non-medical alcohol treatment and education center programs.
(Repeals 902 KAR 3:005)
- 902 KAR 3:060. Licensing procedures, non-medical alcohol treatment and education center.
(Repeals 902 KAR 3:010)
- 902 KAR 3:065. Organization and administration, non-medical alcohol treatment and education center. (Repeals 902 KAR 3:007 and 902 KAR 3:025)
- 902 KAR 3:070. Personnel policies, non-medical alcohol treatment and education center.
(Repeals 902 KAR 3:030)
- 902 KAR 3:075. Quality assurance, non-medical alcohol treatment and education center.
(Repeals 902 KAR 3:035)
- 902 KAR 3:080. Client's rights, non-medical alcohol treatment and education center.
(Repeals 902 KAR 3:020)
- 902 KAR 3:085. Physical plant, non-medical alcohol treatment and education center.
(Repeals 902 KAR 3:040)
- 902 KAR 3:090. General program operation, non-medical alcohol treatment and education center.
(Repeals 902 KAR 3:015 and 902 KAR 3:045)
- 902 KAR 3:095. Detoxification.
(Repeals 902 KAR 3:050)
- 902 KAR 3:100. Residential treatment.
- 902 KAR 3:105. Residential transitional treatment.
- 902 KAR 3:110. Outpatient treatment.
- 902 KAR 3:115. Day/night intensive outpatient treatment.
- 902 KAR 3:120. Education.
- 902 KAR 3:205. Definitions for drug abuse treatment and education (DATE) centers.
(Repeals 902 KAR 3:200)
- 902 KAR 3:210. Licensing procedures, (DATE) centers.
- 902 KAR 3:215. Organization and administration, (DATE) centers.
- 902 KAR 3:220. Personnel policies, (DATE) centers.
- 902 KAR 3:225. Quality assurance, (DATE) centers.
- 902 KAR 3:230. Client's rights, (DATE) centers.
- 902 KAR 3:235. Physical plant, (DATE) centers.
- 902 KAR 3:240. General program operations, (DATE) centers.
- 902 KAR 3:245. Residential rehabilitation centers.
- 902 KAR 3:250. Non-residential day care centers.
- 902 KAR 3:255. Educational information centers.
- 902 KAR 3:260. Communication centers.

Hospitalization of Mentally Ill and Mentally Retarded

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

Certificate of Need and Licensure

- 902 KAR 20:230. Facility specifications; comprehensive physical rehabilitation.
(Amended After Hearing)
- 902 KAR 20:240. Comprehensive physical rehabilitation services. (Amended After Hearing)

Department for Employment Services

Unemployment Insurance

- 903 KAR 5:260. Unemployment insurance procedures.

Employment Services

- 903 KAR 6:060. Confidentiality of records of the Department for Employment Services.

Department for Social Services

Child Welfare

- 905 KAR 1:200 & E. Alternative to detention shelters - non-secure facilities operated as child caring agencies or institution.
- 905 KAR 1:210 & E. Alternative to detention; court resource home.

Department for Medicaid Services

Medicaid Services

- 907 KAR 1:031 & E. Payments for home health services.
- 907 KAR 1:036 & E. Amounts payable for skilled nursing and intermediate care facility services.
- 907 KAR 1:037 & E. Hospital furnished skilled nursing and intermediate care facility services.
- 907 KAR 1:042 & E. Amounts payable for hospital furnished skilled nursing and intermediate care facility services.
- 907 KAR 1:045 & E. Payments for mental health center services.

REGULATION REVIEW PROCEDURE

Filing and Publication

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

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

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

Public Hearing

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

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

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

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

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

Review Procedure

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

EMERGENCY REGULATIONS NOW IN EFFECT

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

STATEMENT OF EMERGENCY

Migratory bird hunting season frameworks are established annually by the U.S. Fish and Wildlife Service. Under federal law, states which wish to establish migratory bird hunting seasons must do so within the federal frameworks. Development of the federal regulations involves consideration of harvest and population status data, coordination with state wildlife agencies, and public involvement. Consequently, federal migratory bird hunting regulations are promulgated less than six weeks

before the opening dates of the hunting season. An ordinary administrative regulation will not suffice because insufficient time to accomplish the required state procedures during the short period between promulgation of federal hunting regulations and the opening of the hunting season will preclude timely effectiveness of the administrative regulation. The emergency regulation will be replaced by an ordinary administrative regulation.

MARTHA LAYNE COLLINS, Governor
DON R. McCORMICK, Commissioner

TOURISM CABINET
Department of Fish & Wildlife Resources

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

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

PURSUANT TO: KRS 13A.350, 150.025

EFFECTIVE: August 7, 1987

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

Section 1. Seasons. (1) Doves: September 1 through October 31; November 28 [29] through December 6 [7].

(2) Woodcock: October 1 through December 4.

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

(4) Experimental September duck: September 2 [10] through September 13 [14].

Section 2. Limits.

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

*Daily bag limit is four (4) ducks, no more than two (2) of which may be wood ducks, and no more than one (1) of which may be a species other than teal or wood duck. The possession limit is double the daily bag limit.

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

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

Section 4. Shooting Hours. (1) Doves: from 11 a.m. until sunset during the period September 1 through October 31; from sunrise to sunset during the period November 28 [29] through December 6 [7].

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

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

Section 5. Falconry Hunting. The wildlife species listed in this regulation may be pursued and taken by a licensed falconer with any legal hunting raptor during the regular hunting dates listed for each species. All bag and possession

limits apply to falconry hunting.

Section 6. Exceptions to Statewide Migratory Bird Seasons on Specified Wildlife Management Areas. Unless excepted below, all sections of this regulation apply to the following areas:

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

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

(b) Woodcock and snipe: seasons closed.

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

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

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

(c) All tracts designated by numbers followed by the letter "A" are closed to hunting.

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

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

(b) Woodcock and snipe: seasons closed.

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

(a) Doves: September 1 through September 30 and December 1 through December 6 [7] only.

(b) Woodcock and snipe: December 1 through December 4 only.

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

(a) Doves: September 3 [1] through September 25 [26], September 26 [27] through October 31 as announced by Fort Campbell Hunting and Fishing Unit, and November 28 [29] through December 6 [7] only. Hunting permitted during these periods in designated areas only.

[(b) Shooting hours for doves: from twelve (12) o'clock noon until sunset during the period September 1 through October 31; sunrise to sunset during the period November 29 through December 7.]

[(b) [(c)] Woodcock and snipe: November 26 through December 4.]

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

Section 7. [Kentucky] Waterfowl Stamp Requirements. Those hunting ducks during the experimental September duck season must possess appropriate state and federal waterfowl stamps as stipulated in KRS 150.330 and 150.603. [(1) Persons sixteen (16) through sixty-four (64) years of age hunting wild ducks or geese shall possess, in addition to the appropriate hunting license, a Kentucky waterfowl stamp unless exempted under the provisions of KRS 150.170(3), (6), or (7).]

[(2) To be valid for hunting, said stamp shall

be signed across the face by the bearer and fixed adhesively to the back of the bearer's hunting license. This stamp shall not be transferrable.]

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

APPROVED BY AGENCY: August 6, 1987

FILED WITH LRC: August 7, 1987 at 3 p.m.

STATEMENT OF EMERGENCY

Kentucky's solid waste management system is on the threshold of significant degradation due to landfill operator's and owner's interest in large quantities of waste from new areas of generation. In order to ensure that the best interest of the Commonwealth is preserved, the Natural Resources and Environmental Protection Cabinet must be able to immediately influence these decisions. Promulgation of these regulations as emergency regulations, will ensure the cabinet's immediate ability to reserve future landfill capacities and to provide reasonable assurances that the wastes meet Kentucky's solid waste quality standards. An ordinary regulation identical to this emergency regulation has been submitted and will replace this emergency regulation upon passage.

MARTHA LAYNE COLLINS, Governor
MARY HELEN MILLER, Secretary

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division of Waste Management

401 KAR 47:010E. General provisions for solid waste.

RELATES TO: KRS 109.011 through 109.280, 224.005, 224.830 through 224.860, 224.868, 224.886, 224.887, 224.888, 224.994, 224.995

PURSUANT TO: KRS 13A.210, 224.033, 224.886, 224.887

EFFECTIVE: August 14, 1987

NECESSITY AND FUNCTION: KRS 224.033, 224.886 and 224.887 require the cabinet to promulgate regulations for waste planning and management activities; this chapter establishes standards for solid waste sites or facilities. This regulation specifies general provisions applicable to solid waste planning and management.

Section 1. Definitions. Unless otherwise specifically defined in KRS Chapters 109 or 224 or otherwise clearly indicated by their context, terms in 401 KAR Chapters 47 and 49 shall have the meanings given in this section. Additional definitions for terms relating to solid waste may be found in 401 KAR 30:010, 47:070 and 49:010.

(1) "Airspace" means that space below or above the original contour of the surface of a landfill to be used for the disposal of solid waste.

(2) "Area(s) of solid waste generation" means the geographic limits of the political subdivisions which exercise jurisdiction over solid waste and from which solid waste is collected, including the original point of

generation and any interim points (i.e., transfer stations) at which the solid waste is repacked or reloaded onto vehicles or other methods of transport.

(3) "Average daily capacity" means the total volume in tons of solid waste received in thirty (30) days divided by thirty (30).

(4) "Residential solid waste" means the wastes generated by the normal activities of households, including but not limited to, food wastes, rubbish, ashes, bulky wastes and all types of solid wastes generated by stores, offices, restaurants, warehouses and other nonmanufacturing activities excluding those wastes which are regulated as hazardous wastes and excluding industrial wastes.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: August 12, 1987

FILED WITH LRC: August 14, 1987 at 10 a.m.

STATEMENT OF EMERGENCY

Kentucky's solid waste management system is on the threshold of significant degradation due to landfill operator's and owner's interest in large quantities of waste from new areas of generation. In order to ensure that the best interest of the Commonwealth is preserved, the Natural Resources and Environmental Protection Cabinet must be able to immediately influence these decisions. Promulgation of these regulations as emergency regulations, will ensure the cabinet's immediate ability to reserve future landfill capacities and to provide reasonable assurances that the wastes meet Kentucky's solid waste quality standards. An ordinary regulation identical to this emergency regulation has been submitted and will replace this emergency regulation upon passage.

MARTHA LAYNE COLLINS, Governor
MARY HELEN MILLER, Secretary

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division of Waste Management

401 KAR 47:020E. Solid waste permit process.

RELATES TO: KRS 224.005, 224.830 through 224.860, 224.868, 224.869, 224.994, 224.995

PURSUANT TO: KRS 13A.210, 224.033

EFFECTIVE: August 14, 1987

NECESSITY AND FUNCTION: KRS 224.855 specifies minimum requisites for issuance of waste disposal permits, and KRS 224.835 and 224.842 prohibit use or operation of a waste disposal site or facility without first obtaining a permit from the Natural Resources and Environmental Protection Cabinet. The cabinet is authorized by KRS 224.033 to promulgate administrative regulations not inconsistent with the provisions of law administered by the cabinet. This chapter establishes standards for solid waste sites or facilities. This regulation specifies the general requirements for all solid waste disposal permits.

Section 1. General Requirements for Permitting. (1) No person or state or federal agency shall engage in the disposal of solid waste without having first obtained a permit,

permit by rule or a variance from the cabinet.

(2) A permit shall authorize the owner/operator to engage in the disposal of solid waste in a manner prescribed by the cabinet for a period of not more than five (5) years from the date of issuance or renewal.

(3) The permit shall confer upon the owner/operator a qualified right to dispose of solid waste, but shall not relieve the owner/operator of responsibility to comply with all applicable federal, state and local laws and regulations, including but not limited to the Clean Water Act (33 U.S.C. 1251), the Safe Drinking Water Act (42 U.S.C. 7041), the Occupational Safety and Health Act (29 U.S.C. 651), the Endangered Species Act (16 U.S.C. 1530), and the Resource Conservation and Recovery Act (42 U.S.C. 6901), as amended.

(4) The permit shall be issued in the name of the applicant, and shall be nontransferable without written approval by the cabinet. Any successor operator prior to the final closure of the facility whether by sale, assignment, lease or otherwise may be required to submit an application or independently provide financial responsibility for closure or both.

(5) Disposers of certain industrial wastes which are solid wastes by a practice common to the industry are presumed to hold a permit and can operate pursuant to this permit by rule provided the operation is not in violation of the applicable environmental performance standards of 401 KAR 30:030, and does not present a threat of imminent hazard to the public health or substantial environmental impact.

(a) A permit by rule is hereby granted for the following disposal facilities or practices:

1. Sawdust piles.
 2. Disposal of asphalt residue.
 3. Oil production brine pits, and gas and oil drilling mud pits.
 4. Disposal of septic tank pumpings by a properly registered septic tank pumping hauler.
 5. Disposal of waste from the mining, processing or primary beneficiation of ores and minerals.
 6. Operation of a solid waste incinerator excluding the disposal of the residue from the incinerator.
 7. Junkyards.
 8. Pits, ponds and lagoons permitted by other environmental programs in the cabinet for the disposal of residual waste from pollution control devices.
 9. One (1) time construction material fills at the place of generation.
 10. Beneficial reuse or recycling of solid waste except for wastes regulated by 401 KAR 47:050.
 11. Inert disposal site of less than one (1) acre.
 12. Disposal of demolition waste on the property where demolition occurred.
 13. Disposal of land clearing debris on the property where clearing occurred.
- (b) A permit by rule can be granted by the cabinet for the disposal of insignificant amounts of a specific industrial waste. Any request for a permit by rule may be granted after evaluation by the cabinet of the following criteria:
1. Size of the disposal site or facility.
 2. Potential for adverse effects on health and the environment as identified in the

environmental performance standards, 401 KAR 30:030.

3. Quantity of waste generated.

4. Chemical and physical characteristics of the waste including reactivity and explosivity.

5. Hydrogeological and geologic characteristics of the facility including the topography of the area and the proximity to surface waters.

6. Method of disposal.

(c) A permit by rule may be granted by the cabinet for the landfarming of specified solid waste as defined in 401 KAR 47:050, Section 1(2).

Section 2. Considerations of Federal Law. Permits shall be issued in a manner and shall contain conditions consistent with requirements of applicable federal laws. These laws may include:

(1) The Wild and Scenic Rivers Act. 16 U.S.C. 1273 et seq. Section 7 of the Act prohibits the assisting by license or otherwise the construction of any water resources project that would have a direct, adverse effect on the values for which a national wild and scenic river was established.

(2) The National Historic Preservation Act of 1966. 16 U.S.C. 470 et seq. Section 106 of the Act and implementing regulations (36 CFR Part 800) require the adoption measures before issuing a license, when feasible to mitigate potential adverse effects of the licensed activity and properties listed or eligible for listing in the National Register of Historic Places. The Act's requirements are to be implemented in cooperation with State Historic Preservation Officers and upon notice to, and when appropriate, in consultation with the Advisory Council on Historic Preservation.

(3) The Endangered Species Act. 16 U.S.C. 1531 et seq. Section 7 of the Act and implementing regulations (50 CFR Part 402) require that in consultation with the Secretary of the Interior or Commerce, any action authorized is not likely to jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat.

(4) The Fish and Wildlife Coordination Act. 16 U.S.C. 661 et seq. requires that, before issuing a permit proposing or authorizing the impoundment (with certain exemptions), diversion or other control or modification of any body of water, consult with the appropriate state agency exercising jurisdiction over wildlife resources to conserve those resources.

Section 3. Issuance of Permit. (1) The cabinet shall issue a construction permit, if after completing a technical review of the administratively complete application, it finds that the person or state or federal agency desiring the permit has met all the requirements for application and the requirements of KRS 224.855, and has the ability to meet the operational and closure requirements of the solid waste regulations. An application for a permit may be denied or an active permit revoked for failure to comply with applicable state statutes or regulations, including but not limited to any failure to provide or maintain adequate financial responsibility.

(2) No construction permit shall be issued until at least thirty (30) days have expired following publication of a notice of application as required under KRS 224.855. A verified

affidavit from the publisher of the notice, establishing the date of publication, shall be received by the cabinet before a construction permit is issued. This publication shall be made after the owner/operator receives written notice that the cabinet has completed the technical review of the application.

(3) An operational permit shall be issued by the cabinet when:

(a) The applicant notifies the cabinet, in writing, that construction has been completed;

(b) A representative of the cabinet inspects the site and verifies in writing that the site has been developed according to plans and that necessary equipment is available to the site; and

(c) The required financial responsibility for closure has been established, by posting a bond or establishing an escrow account as required by KRS 224.846 in an amount of \$10,000 or greater if so determined by an approved closure plan and cost estimate. The approved cost estimate for closure and corresponding bond shall be reviewed and adjusted at least once every five (5) years.

(4) The cabinet shall make a determination whether an application is complete within thirty (30) days of receipt. The cabinet shall act on the complete permit application within ninety (90) days of receipt or shall, within that time period, inform the applicant of a projected schedule for review.

(5) The cabinet may issue a permit subject to special conditions which include but are not limited to types of wastes which may be accepted or disposed, average daily capacity and/or area(s) of solid waste generation, special operating conditions, schedules for compliance for corrective actions, and the issuance of other applicable permits of the cabinet.

Section 4. Copies and Display of Permits and Application. (1) The applicant shall submit one (1) copy of all information required for review of the permit application to the cabinet.

(2) When review is complete the applicant shall provide the cabinet with at least three (3) copies of the final application for formal certification and issuance of the permit document.

(3) One (1) copy shall be returned to the permittee and the permit with all applicable conditions shall be conspicuously displayed at the solid waste site or facility, with the exception of landfarming sites, for the duration of the permit. A copy of the approved application including plans shall be reasonably available at the site.

Section 5. Termination and Renewal of Permit. (1) A permit shall automatically terminate at the end of five (5) years. A shorter period may be specified. Permit by rule shall be perpetual until modified, revoked, or suspended by the cabinet.

(2) A permit may be renewed. Renewal requests shall be made in writing to the cabinet not less than sixty (60) days prior to the permit expiration date and shall include any changes or modifications in the approved plan of operation for the facility.

(3) The cabinet, in issuing a renewal, shall consider whether all conditions of the original permit and modifications of permit conditions by agreed order or otherwise are being met. The cabinet may request updated information necessary for re-evaluating the permit's

suitability for reissuance and impose additional or modified permit conditions if deemed appropriate.

Section 6. Modification of Operating Methods or Proposed Closure by Owner/Operator. (1) The owner/operator shall submit in writing to the cabinet for preliminary review any proposed change in the approved closure and other plans or any proposed change in the operating methods. Any change includes but is not limited to:

(a) Any additional wastes from an area of solid waste generation not listed in the most current permit;

(b) Exclusive of seasonal variation in the average daily capacity of residential solid waste received from the permitted area of solid waste generation as described in the application, an increase above the average daily capacity for residential solid waste for a one (1) month period of: [not listed at the time of the original permit issuance or]

1. Ten (10) percent for a landfill with a permitted average daily capacity of 200 tons or more;

2. Twenty-five (25) percent for a landfill with a permitted average daily capacity of less than 200 tons; or

3. Any residential solid wastes from the area of solid waste generation that presents special problems may be considered exclusive of the average daily capacity when so identified in the permit application.

(c) Any other request for a variance from existing permit requirements.

(2) Permit modifications for specific waste streams may be granted upon proper request made by either the disposal facility or the waste generator.

(3) The cabinet shall notify the owner within thirty (30) days if the modification will require prior administrative analysis and review and the payment of a fee, or if further information is required before the modification, change, or variance can be approved or denied. The cabinet will respond to the request within thirty (30) days of receipt of all applicable fees and information with a letter of acknowledgement, issuance of a variance or issuance of a permit modification as appropriate.

(4) The owner/operator shall not proceed with the proposed closure or change in operating methods as specified in subsections (1), (2) and (3) of this section without written approval of the cabinet.

Section 7. Repealer and Effective Dates. (1) The regulations in 401 KAR Chapter 47 supersede solid waste regulation 401 KAR 2:010.

(2) Existing permitted solid waste disposal sites classified as landfills under 401 KAR 2:010 will be classified as inert landfills on March 1, 1983. Existing permitted solid waste disposal sites classified as sanitary landfills under 401 KAR 2:010 will be classified as residential landfills on March 1, 1983. Existing facilities thus classified will not be required to meet the design, location and construction standards of 401 KAR 47:040 provided that they are in compliance with the environmental performance standards of 401 KAR 30:030. Those existing facilities desiring to request a different classification will be required to meet the changed requirements for location, design or construction before the modification

in classification is approved by the cabinet.

(3) All persons subject to the solid waste regulations shall meet the March 1, 1983, solid waste facility operating standards by August 28, 1983.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: August 12, 1987

FILED WITH LRC: August 14, 1987 at 10 a.m.

STATEMENT OF EMERGENCY

Kentucky's solid waste management system is on the threshold of significant degradation due to landfill operator's and owner's interest in large quantities of waste from new areas of generation. In order to ensure that the best interest of the Commonwealth is preserved, the Natural Resources and Environmental Protection Cabinet must be able to immediately influence these decisions. Promulgation of these regulations as emergency regulations, will ensure the cabinet's immediate ability to reserve future landfill capacities and to provide reasonable assurances that the wastes meet Kentucky's solid waste quality standards. An ordinary regulation identical to this emergency regulation has been submitted and will replace this emergency regulation upon passage.

MARTHA LAYNE COLLINS, Governor

MARY HELEN MILLER, Secretary

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division of Waste Management

401 KAR 47:040E. Sanitary landfills.

RELATES TO: KRS 224.835, 224.842, 224.855

PURSUANT TO: KRS 13A.210, 224.017, 224.033(24)

EFFECTIVE: August 14, 1987

NECESSITY AND FUNCTION: KRS 224.033 and the waste management provisions of KRS Chapter 224 require the cabinet to adopt regulations for the management of solid waste. This chapter establishes standards for solid waste sites or facilities. This regulation sets forth the permit application requirements and general design and operating requirements for solid waste sites or facilities which are sanitary landfills as defined in 401 KAR 30:010. Sections 1, 2 and 3 apply to inert landfills. Sections 1 through 6 apply to residential landfills. Sections 1 through 9 apply to contained landfills. Sections 10 through 12 apply to residual landfills.

Section 1. Contents of Permit Applications for Inert Landfills. A person or state or federal agency desiring a landfill permit shall submit a complete application to the cabinet. The application shall be on a form and presented in a manner as prescribed by the cabinet, and shall include, but not be limited to, the following:

(1) Name, address, and phone number of applicant. If applicant is a government agency, corporation, company or partnership, include the name and address and phone number of process agent or other contact individual.

(2) Written certification from the county judge/executive or chairman of the local planning and zoning board that the site meets

all local planning and zoning requirements.

(3) Approval of the local KRS Chapter 109 District Board (if one exists for the county in which the site is proposed).

(4) Name, address and phone number of the landowner.

(5) A copy of the deed to the property and a copy of a lease showing a two (2) year right of re-entry following final closure of the facility if the landowner is not the applicant.

(6) A geological report of the site including but not limited to:

(a) A description of all soils at the site, in detail, including their suitability for the proposed site;

(b) A description of the surface and subsurface geology of the site, including an assessment of such geologic hazards as: seismic activity, stability, and karstic weathering; and

(c) A description of the hydrologic characteristics of the site, including surface and groundwater current use, potential use and flow.

(7) An original current U.S.G.S. topographic map that has the boundaries of the site clearly and accurately marked thereon.

(8) Plans drawn to scale for the site which shall bear the seal of a professional engineer registered in Kentucky, and shall include the following:

(a) Initial and proposed final contour intervals sufficient to reveal the character of the site.

(b) Existing roads, surface drainage, buildings and other man-made features, on-site fire protection equipment, and property lines.

(c) A buffer zone between the property line and the outer limits of the fill area, and a buffer zone between the fill and any existing residence or blue-line streams.

(d) The location of all-weather on-site roads sufficient to handle anticipated traffic.

(e) Site access controls including lockable entrance ways.

(f) Appropriate cross-sections and baseline profiles which shall include: existing surface, bedrock, seasonal high water table, limits of excavation, final waste cells, final surface elevations, volumes of airspace available for waste disposal in cubic yards, and other subsurface and surface features including but not limited to shafts, roads and drainage.

(g) A typical lift cross-section showing details of the final cover, length and depth of cells, width of cell walls, and depth of waste.

(h) A diagram illustrating the sequence of the areas to be filled referenced to the cross section and baseline profile (with methods to be used).

(i) A typical section detail of site roadways, showing base, wearing surface, side slopes, drainage, width, and other information relevant to roadway design.

(9) The complete application narrative which shall include:

(a) A written description of the location of the site using roads or highways.

(b) A description of the sequence of operation.

(c) A list of all types of wastes which will be disposed at the landfill, the sources which generate the waste identified by location (area(s) of solid waste generation), the chemical and physical characteristics of industrial or special wastes, and the anticipated volume of each category of waste for

each area of solid waste generation.

(d) The source and availability of equipment including back-up equipment and fire protection equipment.

(e) An engineering statement of the site flood frequency exposure.

(f) The number of acres to be filled and the total number of acres to be permitted, including buffer zone.

(g) A brief safety and communication plan, including certification of fire protection from the appropriate fire marshal or local official and method of emergency communication.

(h) A description of the access controls.

(i) A description of the covering program including frequency of cover, total volume and source of borrow material available, and total estimated volume and source of cover required (final, daily and interim).

(j) The proposed revegetation program, including provisions for liming, fertilization, seed types and seeding schedule, erosion control during early growth period, and interim cover vegetation program.

(k) A final cover maintenance program covering the entire site and lasting two (2) years beyond closure, to include erosion control, reseeding, refertilization and growth control and surface and groundwater monitoring.

(l) A detailed plan for closure of the landfill in accordance with KRS 224.846 along with an estimate of closure costs.

(m) The estimated life of the site in volume and number of years.

(n) A description of the method to be used for compaction of waste and cover material including the placement of waste and direction of compaction, the placement of cover material and direction of compaction, and the ground pressure developed by the equipment used for compaction.

(o) Map(s) showing the area(s) of solid waste generation.

(p) Such additional information as the cabinet deems necessary for a determination regarding issuance of the permit.

Section 2. General Design Requirements for Inert Landfills. (1) Landfills in the 100-year floodplain shall be designed and operated to prevent the washout of wastes. Further, they shall not restrict the flow of the 100-year flood or significantly reduce the temporary water storage capacity of the floodplain. Where available, empirical data shall be used to determine the frequency of flood exposure. Where data is not available, the frequency of flood exposure shall be established by the unit hydrograph technique.

(2) Landfills subject to a high seasonal water table shall be restricted to sites which provide greater than two (2) feet of compacted earth between deposited waste and the maximum water table, and include measures to prevent contamination of groundwater.

(3) The bottom of the waste in the landfill shall be at least two (2) feet above bedrock, sand or gravel, excluding any sand or gravel used in a leachate collection system.

(4) Landfill locations shall conform to applicable local zoning laws pursuant to KRS Chapter 100.

(5) Surface contours shall minimize surface water running onto or through the operational or completed fill area. Surface storm water features shall be designed for the maximum flows

occurring up to a 100-year, twenty-four (24) hour storm flows. Surface water sediment basins shall be designed to detain ten (10) year, twenty-four (24) hour storms with emergency spillway flows of 100-year, twenty-four (24) hour storms.

(6) Disposal of wastes presenting special handling problems shall be separately considered in design of the landfill.

(7) A 100-foot minimum buffer zone between the fill area and the property line, a 200-foot minimum buffer zone between the fill and a blue-line stream, and a 250-foot minimum buffer zone between the fill and existing residences shall be provided.

(8) Adequate cover material shall be available to cover solid wastes at intervals sufficient to prevent fire hazards, unsightly appearance, disease vectors and for interim and final cover.

(9) Sufficient equipment shall be available to comply with the requirements of this chapter. This equipment is not required on-site at all times.

(10) Other requirements may be stipulated by the cabinet.

Section 3. General Operating Requirements for Inert Landfills. (1) The owner/operator of a landfill shall operate the facility in accordance with the requirements of KRS Chapter 224 and the regulations promulgated pursuant thereto, the conditions of the solid waste facility permit issued by the cabinet, and the approved operational plan filed with the cabinet.

(2) Landfill operators shall not permit or engage in open burning of waste. Any open burning shall be immediately extinguished. Wastes which are burning or smoldering shall not be deposited in the fill. Such materials shall be deposited at a location safely removed from the normal fill area.

(3) No liquids or hazardous wastes shall be discharged to or placed in a landfill without obtaining a permit modification or a written variance from the cabinet. In considering such requests the cabinet shall use the standards specified in KRS 224.866.

(4) The grounds in and about a landfill shall not be allowed to become a nuisance. When necessary, interior fences may be required to prevent litter from blowing from the landfill. The permitted area shall be policed on a routine basis to collect all scattered material.

(5) Scavenging is prohibited. Salvage and recycling operations shall not be allowed in conjunction with a landfill unless conducted in a sanitary manner.

(6) Landfill operators shall not allow uncontrolled public access which would expose the public to potential health and safety hazards. Days and time of operation shall be clearly posted.

(7)(a) Landfill operators shall not allow a discharge of fill material, erosion sediment, leachate or other pollutants into waters of the Commonwealth that is in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES) under Section 402 of the Clean Water Act or the Kentucky Pollutant Discharge Elimination System program approved by the U.S. EPA or that exceeds the water quality standards for surface waters established in 401 KAR 5:031.

(b) Landfill operators shall not allow a discharge of pollutants into the air in

violation of the Clean Air Act or the Kentucky Air Pollution Control Regulations.

(8) Final cover and closure.

(a) Those areas of a landfill that will receive no additional deposits of solid waste within 365 days of the last placement of waste shall receive final cover. A minimum final cover of two (2) feet shall be required in addition to any daily and interim cover required.

(b) Before earth-moving equipment is removed from the site, an inspection of the entire site shall be made by an authorized representative of the cabinet to determine compliance with approved plans and specifications. The owner/operator shall submit a closure schedule based on the approved closure plan thirty (30) days prior to the last intended use of a solid waste facility.

(c) Final cover shall be graded as provided in the approved closure plan in a manner to prevent ponding. For a period of two (2) years, the surface of final cover shall be maintained at the proper elevation.

(d) Final cover shall be revegetated. After grading, final cover shall be fertilized, as necessary, seeded, and/or planted with legumes, perennial grasses or other vegetation according to the approved closure plan. The owner/operator may be required to repeat this process until adequate vegetation is obtained to insure soil stabilization.

(e) Other necessary corrective work required by the cabinet, if any, shall be performed before the landfill is accepted as closed and financial responsibility funds released.

Section 4. Additional Contents of Permit Application for a Residential Landfill. In addition to the requirements of Contents of Permit Application for Inert Landfills, Section 1 of this regulation, the complete application for residential landfills shall include but not be limited to the following additional information:

(1) A leachate contingency plan and specifications for collecting and treating or other control of leachate generated at the site.

(2) A methane gas contingency control plan and specifications shall be given for all sites within 500 feet of a residential, farm, commercial or industrial building.

(3) The plans shall include grades for proper drainage of each lift and a typical cross-section of each lift. Identical lift plans need not be repeated.

(4) The site plan shall show locations of personnel structures, toilet facilities, equipment maintenance areas, emergency communication devices, operating scales, when required, and all other structures within 1000 feet of the site.

(5) A groundwater monitoring plan to include location and specifications of wells, and monitoring parameters and schedules may be required by the cabinet upon examination of geological aspects and other relevant factors. The monitoring system shall be capable of detecting any contamination of the uppermost aquifer beneath the site.

(6) A surface water monitoring plan shall include location of sampling points, monitoring parameters and schedule. The monitoring system shall be capable of detecting contamination of surface waters leaving the site and verifying the proper performance of systems used to

protect surface waters from contamination. For new sanitary landfills this plan will include sampling to occur prior to any construction activity.

(7) The narrative shall specify the method to be used to determine the volume of waste received on a daily basis. At a minimum, the plans must reflect that actual weight data shall be collected four (4) times each year for all wastes received over a period of one (1) week. These determinations shall be made in the months of February, May, August, and November.

(8) The narrative shall identify a system of recordkeeping that includes:

(a) Construction requirements such as liners, hydrologic systems, and leachate collection systems;

(b) Daily volume of solid waste received;

(c) Compliance with soil cover requirements;

(d) Utilization of airspace;

(e) Permit modification waste received in accordance with Section 6(2) of 401 KAR 47:020; and

(f) Environmental monitoring, and other permit conditions.

(9) The narrative shall include a complete analysis of the laws, regulations, ordinances and agencies from each area of solid waste generation in a format which compares these laws and regulations to 401 KAR Chapter 31, 401 KAR 32:030, and 401 KAR 47:040. This analysis should provide sufficient information to ensure that hazardous wastes are excluded from the solid waste consistent with the laws of Kentucky.

Section 5. Residential Landfill Design Requirements. In addition to the requirements in General Design Requirements for Inert Landfills, Section 2 of this regulation, residential landfills shall meet the following design requirements:

(1) Residential landfills shall not be located in the ten (10) year floodplain.

(2) A personnel shelter shall be designed to provide all-weather protection for site operating personnel.

(3) Leachate and methane gas contingency plans shall contain long-term plans for post-closure maintenance if not self-maintaining by design. If long-term maintenance is necessary, a performance bond may be required by the cabinet before the release of financial responsibility closure funds can be approved.

(4) Groundwater monitoring, if required, shall contain a minimum of one (1) upgradient monitoring well and two (2) downgradient wells designed to detect the influence of the site on underground drinking water sources.

(5) The concentration of methane generated by a residential landfill shall not exceed twenty-five (25) percent of the lower explosive limit for methane in facility structures (excluding gas control or recovery system components), and shall not exceed the lower explosive limit for methane at the property boundary.

(6) The landfill shall be designed to keep surface water flows and leachate separate.

(7) A minimum of four (4) soil boring holes for the first ten (10) acres, and one (1) for each five (5) additional acres shall be required. The "K" test results from a falling head permeability test or other approved permeability test shall be shown on the boring records. There shall be available sufficient

material to provide a layer of at least twelve (12) inches of 1×10^{-7} cm/sec. permeability or its equivalent under the waste and to provide a cap above the completed waste cells of six (6) inches of 1×10^{-7} cm/sec. permeability or its equivalent during final closure. An artificial liner or a greater thickness of more permeable material may be judged "equivalent" to twelve (12) inches of 1×10^{-7} cm/sec.

(8) For sanitary landfills with greater than 200 tons average daily capacity, scales to measure the volume of waste received.

Section 6. Residential Landfill Operating Requirements. In addition to the requirements in General Operating Requirements for Inert Landfills, Section 3 of this regulation, residential landfills shall meet the following operating requirements:

(1) The following improvements shall be made before a residential landfill site is placed in operation.

(a) All-weather roads shall be provided within the site for vehicular movement. Separate areas within the site may be provided to allow for wet or dry weather operation and access. When necessary to prevent a dust nuisance, roads within the site shall be surfaced or treated.

(b) A shelter shall be provided which is accessible to operating personnel. The shelter shall be screened and provided with heating facilities and adequate lighting. Safe drinking water, sanitary handwashing and toilet facilities shall be available at or near the site.

(c) Arrangements shall be made for fire protection services. A fire protection district or other public fire protection service is acceptable. When such a service is not available, alternate arrangements shall be made.

(d) Adequate communication facilities shall be provided for emergency purposes.

(e) Operating equipment shall be on-site, capable of spreading and compacting the volume of waste received at the site, and capable of handling the daily and interim earthwork requirements. Backup equipment shall be available within twenty-four (24) hours of primary equipment breakdown.

(2) Residential landfill operations shall be in accordance with approved plans and the following additional requirements:

(a) Access to the site shall be permitted only when operating personnel are on the site.

(b) Dumping of solid waste on the site shall be confined to the smallest practical area.

(c) Unloading shall be supervised.

(d) Disease vector control measures in addition to daily cover shall be required by the cabinet when necessary.

(e) Solid waste shall be spread within two (2) hours of depositing at the site, in shallow layers not to exceed two (2) feet in depth and compacted with appropriate equipment to the maximum practical density. The completed cell shall consist of the solid waste admitted and compacted during one (1) working day, regardless of overall height and volume. Unless excluded from the site, large bulky items shall be deposited in a manner approved by the cabinet.

(f) A compacted layer of at least six (6) inches of soil shall be used to cover all exposed solid waste at the end of each working day. Surfaces that will not receive an additional depth of refuse or final cover within

sixty (60) days shall receive, in addition to daily cover, an interim layer of compacted cover of at least one (1) foot total. All daily and interim cover depths shall be maintained until the landfill is closed.

(g) The entire site including the area of the landfill being actively worked shall be maintained as necessary to prevent erosion or washing of the fill, and graded as necessary to drain rain water from the fill area and to prevent standing water. No surface water shall drain to the fill area.

(3) Records shall be maintained at the landfill as specified by Section 4(8) of this regulation. A quarterly report shall be submitted to the cabinet on a form specified by the cabinet no later than the 15th of the month following the determination as specified in Section 4(7) of this regulation.

(4) For sanitary landfills with a fifty (50) tons per day or larger average daily capacity an annual survey shall be conducted by the owner or operator to determine airspace remaining, and waste volume filled. The survey shall be conducted annually and the results shall be submitted to the cabinet no later than fifteen (15) days following the actual survey. This survey shall be certified by the individual conducting the survey. The owner or operator shall notify the cabinet no less than fifteen (15) calendar days prior to the date the survey will be conducted.

(5) The owner or operator of a solid waste site or facility shall not exceed the average daily capacity as established in accordance with Sections 3(5) and 6(1)(b) of 401 KAR 47:020.

(6) The owner/operator of a residential landfill must record a notice that will in perpetuity notify any potential purchaser of the property of the location and time of operation of the facility, and a statement that future disturbance of this area should only occur after an examination of potential gas or leachate migration problems. Such notice shall be recorded in accordance with state property law prior to acceptance of final closure of the landfill.

Section 7. Additional Contents of Permit Applications for Contained Landfills. In addition to the requirements in Contents of Permit Application for Inert Landfills, Section 1 of this regulation, and Additional Contents of Permit Applications for a Residential Landfill, Section 4 of this regulation, the complete application for a contained landfill shall include but not be limited to the following:

(1) A description and specifications of an in-place groundwater monitoring system shall be given in the site plan and the narrative.

(2) A description and details of an in-place leachate collection and treatment system shall be given in the site plan and the narrative.

Section 8. Contained Landfill Design Requirements. In addition to the requirements in General Design Requirements for Inert Landfills, Section 2 of this regulation, and Residential Landfill Design Requirements, Section 5 of this regulation, contained landfills shall meet the following requirements:

(1) A groundwater monitoring system approved by the cabinet shall be in place. The monitoring plan shall consist of a minimum of one (1) upgradient and three (3) downgradient wells, and

a monitoring schedule.

(2) A leachate collection and treatment or other control system approved by the cabinet shall be in place.

(3) The design and specifications for special areas, if any, which will receive exempt hazardous waste, spill residues and other sludges and residual solid waste shall be approved by the cabinet.

Section 9. Contained Landfill Operating Requirements. In addition to the requirements in General Operating Requirements for Inert Landfills, Section 3 of this regulation, and Residential Landfill Operating Requirements, Section 6 of this regulation, contained landfills shall meet the following operation standards:

(1) The owner/operator of a contained landfill shall keep permanent records of the source, amount, characteristics and disposal location of any spill residues or small generator exclusion waste, and records as to the source and quantity of all other wastes disposed of at the contained landfill. This record shall be available for cabinet inspection and shall be summarized in a report and submitted to the cabinet with the request for permit renewal.

(2) Receipt of exempt hazardous waste shall be limited to those wastes which meet the characteristics for hazardous waste but are not regulated by the state hazardous waste program because they are generated in small quantities (or otherwise exempted) having been determined as not harmful to public health or the environment consistent with the federal Resource Conservation and Recovery Act, as amended.

Section 10. Contents of Permit Application for Residual Landfills. This section applies to owners and operators of residual landfills that require solid waste site or facility permits. A person or state or federal agency desiring a residual landfill permit shall submit a complete application to the cabinet. The application shall be on a form and presented in a manner as prescribed by the cabinet, and shall include but not be limited to the following:

(1) Name, address, and phone number of applicant. If applicant is a government agency, corporation, company or partnership, include the name and address and phone number of process agent or other contact individual.

(2) Written certification from the County Judge/Executive or chairman of the local planning and zoning board that the site meets all local planning and zoning requirements.

(3) Approval of the local KRS Chapter 109 District Board (if one exists for the county in which the site is proposed).

(4) Name, address and phone number of the land owner.

(5) A copy of the deed to the property or copy of a lease showing a two (2) year right of re-entry following final closure of the facility if the landowner is not the applicant.

(6) A geological report of the site including but not limited to:

(a) A description of all soils at the site, in detail, including their suitability for the proposed site;

(b) A description of the surface and subsurface geology of the site, including an assessment of such geologic hazards as: seismic activity, stability, and karstic weathering; and

(c) A description of the hydrologic characteristics of the site, including surface and groundwater current use, potential use and flow.

(7) An original current U.S.G.S. topographic map that has the boundaries of the site clearly and accurately marked.

(8) The plans drawn to scale including a closure plan for the site which shall bear the seal of a professional engineer registered in Kentucky.

(9) The complete application narrative which shall include:

(a) A written description of the location of the site.

(b) A description of the sequence of operation.

(c) A list of all types of wastes which will be disposed at the landfill, the sources which generate the waste, the chemical and physical characteristics of industrial or special wastes, and the anticipated volume of each category of waste.

(d) The number of acres to be filled and the total number of acres to be permitted.

(e) A closure plan.

(10) Draft permit conditions for the duration of the facility to assure compliance with the applicable environmental performance standards in 401 KAR 30:030.

Section 11. Residual Landfill Design Requirements. Residual landfills shall meet the following design requirements:

(1) The engineering design must demonstrate compliance with the environmental performance standards in 401 KAR 30:030 and reflect a consideration of:

(a) The physical and chemical characteristics of the waste, including compatibility, to be disposed of at the facility;

(b) Volume of waste;

(c) The climatic conditions in the area;

(d) The permeability of the liner material;

(e) The properties of the soil underlying the facility;

(f) Hydrogeological characteristics of the facility including quality, quantity, current use and direction of groundwater flow;

(g) The design of the facility leachate control system, runoff control system, and gas migration control, if required, must consider the physical and chemical characteristics of the waste. The climatic condition of the specific location, the volume of leachate or contaminated runoff that could be produced and available options for managing leachate or contaminated runoff collected at the facility must be considered; and

(h) The proximity to surface water.

(2) Residual landfill locations shall conform to applicable local zoning laws pursuant to KRS Chapter 100.

(3) The closure plan shall specify the function and design of the final cover for the facility. The closure design should assure compliance with the applicable environmental performance standards in 401 KAR 30:030 and must reflect consideration of:

(a) The type and amount of waste in the facility;

(b) The mobility and expected rates of migration of the waste;

(c) The site location, topography and surrounding land use, and final site use;

(d) The climatic conditions in the area;

(e) The characteristics of the cover material including erodibility, slope stability, final surface contours, thickness, porosity, permeability, slope, length of run of slope, and type of vegetation on the cover; and

(f) The geological and soil profiles and surface and subsurface hydrology of the site.

Section 12. Residual Landfill Operating Requirements. Residual landfills shall meet the following operational standards:

(1) The owner/operator of a residual landfill shall operate the facility in accordance with the requirements of KRS Chapter 224 and the regulations promulgated pursuant thereto, the conditions of the facility permit issued by the cabinet, and the operational plan filed with and approved by the cabinet.

(2) The owner/operator of a residual landfill shall operate the facility in such a manner as to assure compliance with the applicable environmental performance standards in 401 KAR 30:030.

(3) The owner/operator of the facility must inspect the site and operation at a sufficient frequency to assure compliance with the applicable environmental performance standards in 401 KAR 30:030.

(4) Closure of the residual landfill.

(a) A residual landfill must be closed in a manner that will assure compliance with the applicable environmental performance standards in 401 KAR 30:030. The closure shall include the placement of a final cover over the facility as specified in the approved design of the site.

(b) Any necessary corrective work required by the cabinet shall be performed before the residual landfill is accepted as closed and financial responsibility funds released.

(c) The owner/operator of a residual landfill must record a notice that will in perpetuity notify any potential purchaser of the property of the location, and time of the operation of the facility and nature of the waste placed in the site and a caution against future disturbance of the area. Such notice shall be recorded in accordance with state property law prior to acceptance of final closure of the landfill.

(5) Post-closure maintenance. A residual landfill shall be maintained for two (2) years following the closure of the site in a manner that complies with the applicable environmental performance standards in 401 KAR 30:030 and in accordance with any approved post-closure monitoring and maintenance plan approved by the cabinet.

(6) The cabinet may place additional requirements on the owner/operator of a residual landfill in addition to those stated where necessary to insure compliance with the applicable environmental performance standards in 401 KAR 30:030.

Section 13. Implementation. (1) The owner or operator of a proposed or existing solid waste site or facility shall, upon the date of promulgation of this regulation comply with the requirements as specified in Section 6(5) of this regulation.

(2) The requirements as specified in Section 1(9)(c) and (o) of this regulation shall be determined as of the date of promulgation of this regulation and shall be reported to the cabinet within sixty (60) days of the date of

promulgation of this regulation.

(3) An amendment to the permit application containing the requirements as specified in Sections 4(6), (7), (8), (9), 6(3) and (4) of this regulation shall be met by March 31, 1988.

(4) An amendment to the permit application containing the requirements as specified in Sections 1(8)(f), (9)(k), and 4(4) of this regulation and the requirements as specified in Section 5(8) of this regulation shall be met by September 1, 1988.

(5) The requirements as specified in Section 1(8)(h) of this regulation shall be met upon the specified renewal date for the permit.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: August 12, 1987

FILED WITH LRC: August 14, 1987 at 10 a.m.

STATEMENT OF EMERGENCY

Kentucky's solid waste management system is on the threshold of significant degradation due to landfill operator's and owner's interest in large quantities of waste from new areas of generation. In order to ensure that the best interest of the Commonwealth is preserved, the Natural Resources and Environmental Protection Cabinet must be able to immediately influence these decisions. Promulgation of these regulations as emergency regulations, will ensure the cabinet's immediate ability to reserve future landfill capacities and to provide reasonable assurances that the wastes meet Kentucky's solid waste quality standards. An ordinary regulation identical to this emergency regulation has been submitted and will replace this emergency regulation upon passage.

MARTHA LAYNE COLLINS, Governor

MARY HELEN MILLER, Secretary

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division of Waste Management

401 KAR 49:030E. Designation as a solid waste management area.

RELATES TO: KRS 109.011 to 109.280, 224.835, 224.842, 224.887, 224.888

PURSUANT TO: KRS 224.033, 224.887

EFFECTIVE: August 14, 1987

NECESSITY AND FUNCTION: KRS 224.887 requires the cabinet to promulgate regulations for counties and waste management districts in creating solid waste management areas. This chapter established the requirements for solid waste planning. This regulation identifies the criteria for receiving designation as a solid waste management area. This regulation neither prohibits nor discourages the participation of the private sector in any solid waste activity. Moreover, it is preferable for solid waste activities to be performed by the private sector when such is in the best interests of the public and conforms with the policies and provisions set forth in KRS Chapter 109.

Section 1. Application for Designation as a Solid Waste Management Area. All counties shall apply to the cabinet for designation as a solid waste management area. The application may be

made by a single county, two (2) or more counties or a waste management district and shall be on a form provided by the cabinet. The application shall include:

- (1) Name of the proposed area;
- (2) Name and address of the primary agency responsible for area plan development;
- (3) Name, address and telephone number of the individual identified as the contact person for the primary agency;
- (4) Copies of actions of each fiscal court approving the waste management plan and a resolution to apply as a solid waste management area;
- (5) The agreement or contract establishing the proposed area, if applicable;
- (6) The proposed rules, regulations or by-laws governing the proposed area;
- (7) A list of the members of the fiscal court or board of directors, or, in the case of an urban-county government, the body in which legislative power is vested, and their titles, if appropriate;
- (8) A map of the proposed area drawn to scale, of at least 1:125,000;
- (9) A copy of the public notice required under Section 4(1) of this regulation for area plan adoption;
- (10) A description of the general administrative process to implement the plan which shall include when applicable budgeting, enforcement, plan review, public information, management and operation of the waste management activities or facilities proposed and shall identify agencies or persons charged with overseeing plan implementation;
- (11) The area plan prepared in accordance with 401 KAR 49:020, Submission of area plan; and
- (12) A resolution approving the plan from those city legislative bodies in the proposed area that have participated in and provided financial assistance in plan development.

Section 2. Designation as a Solid Waste Management Area. (1) Approval of the application. The cabinet shall review the information submitted pursuant to Section 1 of this regulation to determine whether the application and area plan are consistent with the Kentucky Waste Management Plan and in compliance with all applicable state laws and regulations. If the information is in compliance, the cabinet will approve the application in writing within thirty (30) days.

(2) Rejection of the application. Rejection of the application shall be in writing and accompanied by a list of deficiencies which, if corrected, would justify approval of a revised area plan. If the deficiencies in the area plan are substantial or significant, the cabinet may, in addition to a list of deficiencies, present a suggested course of action to the fiscal court, board of directors or, in the case of an urban-county government, the body in which legislative power is vested, or the assigned office or agency, which could expedite the submission of an acceptable area plan.

Section 3. Duration of Designation. Unless otherwise specified as a condition for designation as a solid waste management area, designation as a solid waste management area will be for a term not to exceed five (5) years. Redesignation as a solid waste management area shall be based upon the review conducted in

accordance with Section 5 of 401 KAR 49:020 and Section 2 of this regulation, or upon a revision to the area plan in accordance with Section 4 of this regulation. If the county, counties or waste management district of a designated area amends, modifies, or dissolves the agreement establishing the area, the cabinet shall be notified in writing no later than thirty (30) days after such action. Each county or counties from a dissolved solid waste management area shall submit a revised proposed area plan, approved by the fiscal court of the county or counties within the proposed area or, in the case of an urban-county government, the body in which legislative power is vested, within six (6) months of the date of dissolution of the area. The cabinet will review the notification of amendment or modification of an agreement and make a written determination as to whether the county or counties shall submit a revised area plan. Failure to comply with the provisions of this section regarding revision of the area plan shall be grounds for revocation of area designation.

Section 4. Area Plan Adoption and Revision. Prior to applying for designation as a solid waste management area, the fiscal court of each county in the proposed area or, in the case of an urban-county government, the body in which legislative power is vested, shall issue a public notice indicating their intent to apply for designation as a solid waste management area and that a solid waste management plan is available for public review.

(1) Public hearings. If a public hearing is requested as a result of this public notice, the fiscal court of each county in the proposed area shall hold at least one (1) public hearing prior to adopting or approving the application for designation as a solid waste management area. The cabinet recommends that each comment received be evaluated and that a written response be prepared. A transcript or a summary of the comments received and the consideration of comments, if prepared, shall be made available to the members of the fiscal court of each county in the proposed area and the board of directors, if applicable, prior to adoption or approval of the application for designation as a solid waste management area or area plan. Copies of the comments and any consideration of comments shall be made available to the public through public libraries, public offices, individual copies, or any similar means, and shall be available to the cabinet upon request.

(2) Each fiscal court in the proposed area prior to adopting the area solid waste management plan shall:

(a) Notify each city which is located within the county of the availability of the proposed area plan; and

(b) Allow adequate time to receive and review comments from the cities.

(3) Approval by the county. The fiscal court of each county in the proposed area or, in the case of an urban-county government, the body in which legislative power is vested, shall approve the application for designation as a solid waste management area and the area plan. Approval shall not take place prior to a public hearing or meeting on the application for designation as a solid waste management area, the proposed area plan or substantial revision as required by subsection (1) of this section. Approval of an

application for designation as a solid waste management area, proposed area plan or revision shall be by resolution and shall state concurrence with the following:

- (a) The objectives set forth in the area plan;
- (b) The schedule for implementation of the program;

(c) Procedures to obtain financing for the recommended public program through the short-term planning period; and

(d) The duties and responsibilities of the county identified in the area plan.

(4) Updates and revisions to the area plan. Updates and revisions shall be made:

(a) If the cabinet determines that the approved area plan or any part thereof is inadequate based on new or revised information, conditions or circumstances. The cabinet will notify the solid waste management area in writing that an amendment or revision to the area plan is required.

(b) If a solid waste management area determines that the approved plan or any part thereof is inadequate based on new or revised information, conditions or circumstances. The area may amend, modify or revise the approved plan and the revised plan shall be approved by the fiscal court of each county within the area or, in the case of an urban-county government, the body in which legislative power is vested, and submitted to the cabinet for review and approval.

(c) All area plans shall be updated and readopted in accordance with the provisions of this section at least every four (4) years. The updated plan shall use current data and shall assure compliance with the Kentucky Waste Management Plan and all applicable laws and regulations.

Section 5. City Government and Private Sector Roles in Solid Waste Management. (1) No city shall be authorized to prepare an area plan or apply for designation as a solid waste management area unless the county or waste management district delegates responsibility for area plan development to the city. Area plans prepared by a city shall address solid waste management problems and activities at both the city and county levels.

(2) If a county fails to submit an area plan by June 30, 1986, a city may provide solid waste services and shall have all the powers and restrictions set forth for counties in KRS 109.041, 109.056, 109.059, and 109.062.

(3) As provided in KRS 109.011(8), it is preferable for solid waste activities to be performed by the private sector when such is in the best interests of the public and conforms with the policies and provisions set forth in KRS Chapter 109. An area as authorized by KRS 109.041(7) may provide for the delivery of solid waste activities through use of a public agency, or a franchise, contract, or lease. In areas where it can be demonstrated that the private sector can adequately deliver solid waste management services without public agency involvement, the area plan shall address itself to what steps the proposed area could take, if any, to assure that such services will be provided.

Section 6. Area Submission. (1) Submission date. The application for designation as a solid waste management area and area plan shall be

submitted to the cabinet by December 30, 1985. One (1) six (6) month extension may be granted by the cabinet, if the county, city, or waste management district has demonstrated, in the cabinet's judgment, a good faith effort to develop an area plan. Should a county, counties or waste management district find a six (6) month extension necessary, the fiscal court(s), board of directors, or, in the case of an urban-county government, the body in which legislative authority is vested, or other duly delegated office or agency shall submit a request in writing to the cabinet which details the extent of plan development accomplished and cites the need for an extension of the deadline date.

(2) Copies required. The county, counties or waste management district shall submit one (1) copy of the application for designation as a solid waste management area and at least three (3) copies of the area plan. Copies must be eight and one-half (8 1/2) inches by eleven (11) inches and each page shall be securely bound in a notebook, folder or a similar means designed to keep pages in order. Pages shall be numbered and a table of contents provided. A title sheet or transmittal letter identifying the plan and the agency or office which developed the plan shall be placed at the beginning of the area plan package.

Section 7. Enforcement. (1) Failure to prepare an area solid waste management plan by December 30, 1985, or if an extension is granted by June 30, 1986, will subject a county to the penalty provisions contained within KRS 224.994.

(2) Citizen petition. If a fiscal court or, in the case of an urban-county government, the body in which legislative authority is vested, fails to establish a solid waste management plan by December 30, 1985, the citizens of the county may petition the county judge/executive or, in the case of an urban-county government, the official in whom chief executive power is vested, to request preparation of an area plan. The petition shall be signed by a number of citizens equal to ten (10) percent of the votes cast in the county for the office receiving the greatest total votes in the last general election. The petition shall be filed with the county judge/executive or, in the case of an urban-county government, the official in whom chief executive power is vested, asking that the proposition whether to develop a plan be placed on the ballot of the next general election.

(3) Implementation deficiencies. If the cabinet determines that an area solid waste management plan is not being implemented as approved, it will notify the solid waste management area in writing of implementation deficiencies. The solid waste management area shall within forty-five (45) days respond in writing demonstrating the action taken or planned to correct the implementation deficiencies, or request a revision to the approved plan in accordance with Section 4 of this regulation. If amendments or revisions to the plan are not made, the cabinet may conduct a public hearing or meeting to determine whether the approved plan should be revised or revoked. If the cabinet determines that a plan is not capable of being implemented, area designation shall be revoked and the cabinet shall require the county or counties to submit a new proposed area plan. Designation of a county, counties,

urban-county government or waste management district, as a solid waste management area shall also be revoked until such time as a new plan is approved.

(4) Permit application and compliance with area plan. Where new solid waste sites or facility or expansions to existing solid waste sites or facilities are proposed in areas with approved plans, the cabinet will review the area plan [to insure that the proposed facility complies and is consistent with the area plan before a permit is issued. In reviewing the application for a new facility,] The cabinet will consult with the solid waste management area(s) to determine if the proposed solid waste site or facility or expansion to an existing solid waste site or facility is consistent with the approved area solid waste management plan(s). If the proposed facility is not consistent or in compliance with the approved area(s) plan, the cabinet may deny the permit application for the new solid waste site or facility or expansion unless a revision to the plan(s) is requested by the solid waste management area and approved by the cabinet. If the proposed solid waste site or facility is consistent and in compliance with the area plan(s) and other applicable laws and regulations, cabinet review will follow KRS 224.855.

(5) When a proposed application for a modification to a solid waste site or facility pursuant to Section 6 of 401 KAR 47:020 is for an increase in the volume of waste, the cabinet may deny the application when the additional volume will adversely affect the midterm requirements for disposal of solid waste in areas with approved area plans that designated the facility as a disposal site.

Section 8. Severability. If any section, paragraph, phrase, sentence or clause of this chapter is declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: August 12, 1987

FILED WITH LRC: August 14, 1987 at 10 a.m.

STATEMENT OF EMERGENCY

Kentucky's solid waste management system is on the threshold of significant degradation due to landfill operator's and owner's interest in large quantities of waste from new areas of generation. In order to ensure that the best interest of the Commonwealth is preserved, the Natural Resources and Environmental Protection Cabinet must be able to immediately influence these decisions. Promulgation of these regulations as emergency regulations, will ensure the cabinet's immediate ability to reserve future landfill capacities and to provide reasonable assurances that the wastes meet Kentucky's solid waste quality standards. An ordinary regulation identical to this emergency regulation has been submitted and will replace this emergency regulation upon passage.

MARTHA LAYNE COLLINS, Governor
MARY HELEN MILLER, Secretary

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division of Waste Management

401 KAR 49:050E. Establishment of fees.

RELATES TO: KRS 109.011 through 109.280, 224.835, 224.842, 224.887, 224.888

PURSUANT TO: KRS 13A.210, 109.041(8), 224.033, 224.887

EFFECTIVE: August 14, 1987

NECESSITY AND FUNCTION: KRS 109.041(8) authorizes counties to charge a reasonable fee to haulers for the handling of their waste at a solid waste management facility approved by the cabinet. This regulation establishes more detailed procedures and mechanisms to implement this authority.

Section 1. Applicability. If a county or waste management district has been approved as a solid waste management area and has had its solid waste management plan amended and approved accordingly, it may charge a reasonable fee to solid waste haulers for the handling of their waste at any solid waste management facility which has been approved by the cabinet.

Section 2. The fee charged pursuant to Section 1 of this regulation may be based on one (1) or a combination of the following:

(1) The distance between the farthest source of any waste in a vehicle and the waste management facility. Using this factor, a fixed amount per mile would be adopted. Distance may be measured in actual miles traveled or as straight-line distance between the facility and the source.

(2) The zone from which the solid waste is transported. Concentric zones are created with radii of multiples of fifty (50) miles from the solid waste management facility. A fee is established which escalates as the distance from the solid waste management facility increases. For example, for vehicles from the first zone a fee of X per vehicle or unit of other means of transport might be assessed. For vehicles or units of other means of transport from the next zone, a fee of two (2) X per vehicle might be assessed; and from the next zone, five (5) X per vehicle or unit of other means of transport might be assessed.

(3) A fixed or variable fee per vehicle or unit of other means of transport considering size, weight, volume, means of transport or other similar considerations.

(4) A fixed or variable fee per the number of vehicles or units of other means of transport per a unit of time as determined by the county or district. For example, a county or district could set a fixed fee per vehicle for a hauler who has one (1) - two (2) vehicles per unit of time and a higher fixed fee per vehicle for a hauler who has three (3) to five (5) vehicles per unit of time.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: August 12, 1987

FILED WITH LRC: August 14, 1987 at 10 a.m.

STATEMENT OF EMERGENCY

It is necessary that 811 KAR 2:096 be adopted as an emergency regulation for the following reasons: 812 KAR 1:095, Medication of horses, was omitted from the administrative rules by the previous Quarter Horse Commission. Quarter horse racing is scheduled to start on July 30, 1987. Therefore, it is necessary to have the proper medication rules to sustain integrity of racing and publish the rules and guidelines for testing the blood and urine samples of horses designated to be tested. This regulation shall be replaced by a permanent regulation upon approval of the administrative regulations review subcommittee.

MARTHA LAYNE COLLINS, Governor
CARL B. LARSEN, Executive Director

PUBLIC PROTECTION & REGULATION CABINET
Kentucky Harness Racing Commission
Quarter Horse, Appaloosa, & Arabian Commission

811 KAR 2:096E. Medication of horses.

RELATES TO: KRS 230.410 to 230.447

PURSUANT TO: KRS Chapter 13A

EFFECTIVE: July 24, 1987

NECESSITY AND FUNCTION: To regulate conditions under which quarter horse, appaloosa and Arabian racing shall be conducted in Kentucky. The function of this regulation relates to the use of medication on the horses and requirements and controls thereof.

Section 1. Use of Medication. Full use of modern therapeutic measures and medication calculated to improve or protect the health of a horse may be administered to a horse in training, under the direction of a licensed veterinarian. In the interest of protecting the racing public, health of the horse, safety of the participants in a race, nurturing formful racing, and improvement of the breed of quarter horse, appaloosa, and Arabian.

(1) No horse while participating in a race shall carry in its body any medication, or drug, or substance, or metabolic derivative thereof, which is a narcotic, or which could serve as a local anesthetic, or tranquilizer, of which could stimulate or depress the circulatory, respiratory, or central nervous system of a horse, thereby effecting its speed.

(2) Also prohibited are any drugs which might mask or screen the presence of the aforementioned prohibited drugs, or prevent or delay testing procedures.

(3) Proof of detection by the commission chemist of a medication, or drug, or substance, or metabolic derivative thereof, prohibited by subsection (1) of this section, in a saliva, urine, or blood specimen duly taken under the supervision of the commission veterinarian from a horse promptly after running a race, shall be prima facie evidence that such horse was administered and carried such prohibited medication, drug, or substance, in its body while running in such race in violation of this rule.

Section 2. When Administration Prohibited. No person other than a licensed veterinarian shall administer or cause to be administered, or participate, or attempt to participate, in any way in the administration to a horse registered

for racing of any medication, drug, or substance on the day of a race for which such horse is entered and prior to such race.

Section 3. Responsibility for Prohibited Administration. (1) Any person found to have administered a medication, drug, or substance which caused or could have caused a violation of Section 1 or 2 of this regulation, or caused, or participated, or attempted to participate in any way in such administration, shall be subject to disciplinary action.

(2) The licensed trainer of a horse found to have been administered a medication, drug, or substance in violation of Section 1 or 2 of this regulation shall bear the burden of proof showing freedom from negligence in the exercise of a high degree of care in safeguarding such horse from tampering; and, failing to prove such freedom from negligence (or reliance on the professional ability of a licensed veterinarian) shall be subject to disciplinary action.

(3) The assistant trainer, groom, stable watchman, or any other person having the immediate care and custody of a horse found to have been administered a medication, drug, or substance in violation of Section 1 or 2 of this regulation, if found negligent in guarding or protecting such horse from tampering shall be subject to disciplinary action.

Section 4. Record of Administrations. Daily reports of any treatment of any horse registered for racing with any medication, drug, or substance shall be submitted by the licensed veterinarian administering or prescribing such treatment, to the commission veterinarian. Detection of any unreported medication, drug, or substance by the commission chemist in a pre-race or post-race test may be grounds for disciplinary action.

(1) Such daily reports shall accurately reflect the identity of the horse treated, diagnosis, time of treatment, type and dosage of medication, drug, or substance, and method of administration.

(2) Such daily reports shall remain confidential except that the commission veterinarian may compile general data therefrom to assist the commission in formulating policies or rules, and the stewards may review same in investigating a possible violation of these rules.

Section 5. Commission Veterinarian List. As a guide to owners, trainers, and veterinarians, the commission veterinarian may from time to time publish a list of medications shown by brand and generic names, specifically prohibited for racing. Such list shall not be considered exclusive and medications shown thereon shall be considered only as among those, along with others not so listed, prohibited by general classification under Section 1 of this regulation.

Section 6. Detention Area. Each licensed association shall provide and maintain on association grounds a fenced enclosure sufficient in size and facilities to accommodate stabling of horses temporarily detained for the taking of sample specimens for chemical testing, and such detention area shall be under the supervision and control of the commission

veterinarian.

Section 7. Horses to be Tested. The stewards may at any time order the taking of a blood, urine, or saliva specimen from any horse entered to be tested. Any owner or trainer may at any time request that a specimen be taken from a horse he owns or trains by the commission veterinarian and tested by the commission chemist, provided the costs of such testing are borne by the owner or trainer requesting such test. In the absence of any such order or request, the commission chemist shall test same, all horses which: finish first in any race; finish first or second in any quinella or exacta race; finish first or second or third in any stakes; and any horse whose performance in a race, in the opinion of the stewards, may have been altered by a prohibited substance.

Section 8. Procedure for Taking Specimens. (1) All horses from which specimens are to be drawn are to be taken to the detention area at the prescribed time and remain there until released by the commission veterinarian. No person other than the owner, trainer, groom or hotwalker, of a horse to be tested, and no lead pony, shall be admitted to the detention area without permission of the commission veterinarian.

(2) Stable equipment other than necessary for washing and cooling out a horse are prohibited in the detention area; buckets and water will be furnished by the commission veterinarian. If a body brace is to be used, it shall be supplied by the responsible trainer and administered only with the permission and in the presence of the commission veterinarian. A licensed veterinarian may attend a horse in the detention area only in the presence of the commission veterinarian.

(3) During the taking of specimens from a horse, the owner, or responsible trainer (who, in the case of a claimed horse shall be the persons whose names such horse raced), or a stable representative designated by such owner or trainer, shall be present and witness the taking of such specimen and so signify in writing.

(4) All containers previously used for specimens shall be thoroughly cleaned in the commission chemist laboratory and shall be sealed with the laboratory stamp which shall not be broken except in the presence of the witness as provided by subsection (3) of this section. Only distilled water, with or without acetic acid, shall be used to moisten gauze used in collection of saliva. Instruments and utensils used in the taking of samples shall be sterilized after each use.

(5) Samples taken from a horse by the commission veterinarian or his assistant shall be placed in a container and sealed together with a double identification tag. One (1) portion of such tag bearing a printed identification number shall remain with the sealed container; the other portion of such tag bearing the same printed identification number shall be detached in the presence of the witness as provided by subsection (3) of this section, the commission veterinarian shall thereon identify the horse from which such specimen was taken, as well as the race and day, verified by such witness, and such detached portions of identification tags shall be placed in a sealed envelope by the commission veterinarian for delivery only to the stewards. The commission

veterinarian shall take every precaution to ensure that the commission chemist and no member of the laboratory staff shall know the identity of the horse from which a specimen was taken prior to the completion of all testing thereon.

(a) If after a horse remains a reasonable time in the detention area and a specimen may not be taken from such horse, the commission veterinarian may permit such horse to be returned to its barn and usual surroundings for the taking of a specimen under the supervision of the commission veterinarian.

(b) With the consent of the trainer or attendant the commission veterinarian may administer to the horse a diuretic to facilitate urination. Quantity, identity and time of administration shall be noted on both portions of the specimen identification tag by the commission veterinarian.

(c) The commission veterinarian shall be responsible for safeguarding all specimens while in his possession and shall cause such specimens to be delivered only to the commission chemist as soon as possible after sealing, but in such order or in such manner as not to reveal the identity of any horse from which each sample was taken.

Section 9. Procedure for Testing. (1) The commission chemist shall be responsible for safeguarding and testing each specimen delivered to his laboratory by the commission veterinarian. Each specimen shall be divided into portions so that one (1) portion shall be used for initial testing for unknown substances, and another portion used for confirmation tests. If a sufficient quantity of the specimen is available, a third portion shall be preserved for further testing as the commission may direct.

(2) The commission chemist shall conduct individual tests on each specimen capable of screening same for prohibited substances, and such other tests as to detect and identify any suspected prohibited substance or metabolic derivative thereof with specificity. Pooling of specimens shall be permitted only with the knowledge and approval of the commission veterinarian.

(3) Upon the finding of a test negative for prohibited substances, the remaining portions of such specimen may be discarded. Upon the finding of tests suspicious or positive for prohibited substances, such tests shall be reconfirmed, and the remaining portion, if available, of such specimen preserved and protected until such time as the stewards rule it may be discarded.

(4) The commission chemist shall submit to the state steward a written report as to each specimen tested, indicating thereon by specimen tag identification number, whether such a specimen was tested negative or positive for prohibited substances. Such report shall be submitted within twenty-four (24) hours after the conclusion of the last race of the preceding day, dark days excluded. The commission chemist shall report test findings to no person other than the state steward or his designated representative.

(a) In the event the commission chemist should find a specimen suspicious for a prohibited medication, he may request additional time for test analysis and confirmation.

(b) The racing association shall not make distribution of any purse until given clearance of chemical tests by the stewards.

(5) The commission chemist will make a further report to the state steward on any substance his tests showed, which are not normal in a horse. These reports shall be confidential and are not evidence for disciplinary action. They can be used as a warning to the trainer or veterinarian, by the stewards, by the commission veterinarian to improve his surveillance and by the Equine Research Program at the University of Kentucky. The residue of specimen material from such test will be preserved by the commission chemist until released by the racing commission.

(6) In reporting to the stewards a finding of a test positive for a prohibited substance, the commission chemist shall present documentary or demonstrative evidence acceptable in the scientific community and admissible in court in support of such professional opinion as to such positive finding.

CARL B. LARSEN, Executive Director

ROBERT DAVIS, Secretary

APPROVED BY AGENCY: July 20, 1987

FILED WITH LRC: July 24, 1987 at 11 a.m.

STATEMENT OF EMERGENCY

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

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

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

904 KAR 2:016E. Standards for need and amount;
AFDC.

RELATES TO: KRS 205.200(2), 205.210(1)

PURSUANT TO: KRS 205.200(2)

EFFECTIVE: August 13, 1987

NECESSITY AND FUNCTION: The Cabinet for Human Resources is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families with Dependent Children Program, hereinafter referred to as AFDC, in accordance with federal regulations and Title IV-A of the Social Security Act. This regulation sets forth the standards by which the need for and the amount of an AFDC assistance payment is established.

Section 1. Definitions. (1) "Assistance group" is composed of one (1) or more children and may include as specified relative any person specified in 904 KAR 2:006, Section 3. The assistance group shall include the dependent child, child's eligible parent(s), and all eligible siblings living in the home with the needy child. Additionally, if the dependent

child's parent is a minor living in the home with his/her eligible parent(s), the minor's parent(s) shall also be included in the assistance group if the minor's parent applied for assistance. The incapacitated natural or adoptive parent of the child(ren) who is living in the home shall be included as second parent if the technical eligibility factors are met.

(2) "Minor" means any person who is under the age of eighteen (18) or under the age of nineteen (19) in accordance with 45 CFR 233.90(b)(3). EXCEPTION: For the purpose of deeming income, a minor parent/legal guardian is considered any person under the age of eighteen (18).

(3) [(2)] "Sanctioned individual" means any person who is required to be included in the assistance group but who is excluded from the assistance group due to failure to fulfill an eligibility requirement.

(4) [(3)] "Full-time employment" means employment of thirty (30) hours per week or 130 hours per month or more.

(5) [(4)] "Part-time employment" means employment of less than thirty (30) hours per week or 130 hours per month or not employed throughout the entire month.

(6) [(5)] "Full-time school attendance" means a workload of at least:

(a) The number of hours required by the individual program for participation [Twenty-five (25) clock hours per week] in a General Educational Development (GED) program; or

(b) Twelve (12) semester hours or more in a college or university; or six (6) semester hours or more during the summer term; or the equivalent in a college or university if other than a semester system is used; or

(c) The number of hours required by the individual high school/vocational school to fulfill their definition of full time; or

(d) Eight (8) clock hours per month in a literacy program.

(7) [(6)] "Part-time school attendance" means a workload of anything less than "full-time school attendance."

(8) [(7)] "Gross income limitation standard" means 185 percent of the sum of the assistance standard, as set forth in Section 8 of this regulation, and any educational allowance as set forth in Section 9 of this regulation.

(9) [(8)] "Prospective budgeting" means computing the amount of assistance based on income and circumstances which will exist in the month(s) for which payment is made.

(10) [(9)] "Recoupment" means recovery of overpayments of assistance payments.

(11) [(10)] "Retrospective budgeting" means computing amount of assistance based on actual income and circumstances which existed in the second month prior to the payment month.

(12) [(11)] "Lump sum income" means income that is not earned, does not occur on a regular basis, and does not represent accumulated monthly income received in a single sum.

Section 2. Resource Limitations. Real and personal property owned in whole or in part by an applicant or recipient including sanctioned individual(s) and his/her parent(s), even if the parent(s) is not an applicant or recipient, if the applicant/recipient is a dependent child living in the home of said parent, shall be considered. The amount that can be reserved by each assistance group shall not be in excess of

\$1,000 equity value excluding those items specifically listed in subsection (1) as follows:

(1) Excluded resources. The following resources shall be excluded from consideration:

- (a) One (1) owner-occupied home;
- (b) Home furnishings, including all appliances;
- (c) Clothing;
- (d) One (1) motor vehicle, not to exceed \$1,500 equity value;
- (e) Farm machinery, livestock or other inventory, and tools and equipment other than farm, used in a self-employment enterprise;
- (f) Items valued at less than fifty (50) dollars each;
- (g) One (1) burial plot/space per family member;

(h) Funeral agreements not to exceed maximum equity of \$1,500 per family member;

(i) Real property which the assistance group is making a good faith effort to sell. This exemption shall not exceed a period of nine (9) months and is contingent upon the assistance group agreeing to repay AFDC benefits received beginning with the first month of the exemption. Any amount of AFDC paid during that period that would not have been paid if the disposal of property had occurred at the beginning of the period is considered an overpayment. The amount of the repayment shall not exceed the net proceeds of the sale. If the property has not been sold within the nine (9) months, or if eligibility stops for any other reason, the entire amount of assistance paid during the nine (9) month period shall be treated as an overpayment;

(j) Other items/benefits mandated by federal regulations.

(2) Disposition of resources. An applicant/recipient must not have transferred or otherwise divested himself/herself of property without fair compensation in order to qualify for assistance. If the transfer was made expressly for the purpose of qualifying for assistance and if the uncompensated equity value of the transferred property, when added to total resources, exceeds the resource limitation, the household's application shall be denied, or assistance discontinued. The time period of ineligibility shall be based on the resulting amount of excess resources and begins with the month of transfer. If the amount of excess transferred resources does not exceed \$500, the period of ineligibility shall be one (1) month; the period of ineligibility shall be increased one (1) month for every \$500 increment up to a maximum of twenty-four (24) months.

Section 3. Income Limitations. In determining eligibility for AFDC the following will apply:

(1) Gross income test. The total gross non-AFDC income of the assistance group, as well as income of parent(s), sanctioned individuals and/or amount deemed available from the parent(s)/legal guardian(s) of a minor parent/legal guardian living in the home with such assistance group, and/or amount deemed available from a stepparent(s) living in the home, and/or amount deemed available from an alien's sponsor and sponsor's spouse if living with the sponsor, shall not exceed the gross income limitation standard. Disregards specified in Section 4, subsection (1), shall apply. If total gross income exceeds the gross income limitation standard, the assistance group is ineligible.

(2) Applicant eligibility test. If the gross income is below the gross income limitation standard and the assistance group has not received assistance during the four (4) months prior to the month of application, the applicant eligibility test shall be applied. The total gross income after application of exclusions/disregards set forth in Section 4, subsections (1) and (2), shall be compared to the assistance standard set forth in Section 8. If income exceeds this standard, the assistance group is ineligible. For assistance groups who meet the gross income test but who have received assistance any time during the four (4) months prior to the application month, the applicant eligibility test shall not apply.

(3) Benefit calculation. If the assistance group meets the criteria set forth in subsections (1) and (2) of this section, benefits shall be determined by applying disregards in Section 4, subsections (1), (2), and (3). If the assistance group's income, after application of appropriate disregards, exceeds the assistance standard, the assistance group is ineligible. Amount of assistance for the initial two (2) months of eligibility shall be determined prospectively in accordance with 45 CFR 233.34 and for subsequent months retrospectively, in accordance with 45 CFR 233.35.

(4) A period of ineligibility shall be established in accordance with 45 CFR 233.20(a)(3)(ii)(F), for applicants/recipients whose income in the month of application or during any month for which assistance is paid exceeds the limits as set forth in subsections (2) or (3) of this section due to receipt of lump sum income. The ineligibility period shall be recalculated if any of the following circumstances occur:

(a) The standard of need increases and the amount of grant the assistance group would have received also changes.

(b) The income received has become unavailable to the assistance group for reasons beyond their control.

(c) The assistance group incurs and pays medical expenses in accordance with 42 CFR 435.831(C).

Section 4. Excluded/Disregarded Income. All gross non-AFDC income received or anticipated to be received by the assistance group, natural parent(s) and/or parent(s)/legal guardian(s) of a minor parent/legal guardian living in the home with such assistance group and/or stepparent(s) living in the home, shall be considered with the applicable exclusions/disregards as set forth below:

(1) Gross income test. All incomes listed below shall be excluded/disregarded:

(a) Disregards applicable to stepparent income and/or income of the parent(s)/legal guardian(s) of a minor parent/legal guardian living in the home with the assistance unit, as set forth in Section 5 of this regulation;

(b) Disregards applicable to alien sponsor's income, as set forth in Section 6 of this regulation;

(c) Disregards applicable to self-employment income, as set forth in 45 CFR 233.20(a)(6)(v)(B) and 45 CFR 233.20(a)(11)(i)(b)(1)(i);

(d) Work Incentive Program (WIN) incentive payments;

(e) Earnings received by a dependent child

from participation in the Summer Youth Program under the Job Training Partnership Act (JTPA) for a period not to exceed six (6) months within a given year;

(f) Unearned income received by a dependent child from participation in a JTPA program;

(g) Reimbursement for training-related expenses made by a manpower agency to applicants or recipients in institutional and work experience training programs under the WIN program;

(h) Value of the monthly allotment of food stamp coupons or value of United States Department of Agriculture (USDA) donated foods;

(i) Non-emergency medical transportation payments;

(j) Principal of loans;

(k) Educational grants, loans, scholarships, including payments for actual educational costs made under the GI Bill, obtained and used under conditions that preclude their use for current living costs and all education grants and loans to any undergraduate made or insured under any program administered by the United States Commissioner of Education;

(l) Highway relocation assistance;

(m) Urban renewal assistance;

(n) Federal disaster assistance and state disaster grants;

(o) Home produce utilized for household consumption;

(p) Housing subsidies received from federal, state or local governments;

(q) Receipts distributed to members of certain Indian tribes which are referred to in Section 5 of Public Law 94-114 that became effective October 17, 1975;

(r) Funds distributed per capita to or held in trust for members of any Indian tribe under Public Law 92-254, Public Law 93-134 or Public Law 94-540;

(s) Benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended;

(t) Payments for supporting services or reimbursement of out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other programs under Titles II and III, pursuant to Section 418 of Public Law 93-113;

(u) Payments to volunteers under Title I of Public Law 93-113 pursuant to Section 404(g) of Public Law 93-113 except when the value of such payments when adjusted to reflect the number of hours volunteers are serving is the same as or greater than the minimum wage under state or federal law, whichever is greater;

(v) The value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended, and the special food service program for children under the National School Lunch Act, as amended;

(w) Payments from the Cabinet for Human Resources, Department for Social Services, for child foster care, adult foster care, or subsidized adoption;

(x) Payments made under the Low Income Home Energy Assistance Act (LIHEAP) and other energy assistance payments which are permitted to be excluded pursuant to 45 CFR 233.53 (c)(5)(i);

(y) The first fifty (50) dollars of child support payments collected in a month which

represents the current month's support obligation and is returned to the assistance group;

(z) For a period not to exceed six (6) months within a given year, earnings of a dependent child in full-time school attendance; and

(aa) The first thirty (30) dollars of small non-recurring gifts received per calendar quarter for each individual included in the assistance group.

(2) Applicant eligibility test. The exclusions/disregards set forth in subsection (1) of this section and those listed below shall be applied:

(a) Earnings received from participation in the Job Corps Program under JTPA by an AFDC child;

(b) Earnings of a dependent child in full-time school attendance for a period not to exceed six (6) months within a given year;

(c) Standard work expense deduction of seventy-five (75) dollars for full-time and part-time employment; and

(d) Child care, for a child(ren) or incapacitated adult living in the home and receiving AFDC, is allowed as a work expense is allowed not to exceed \$160 per month per individual for full-time employment or \$110 per month per individual for part-time employment.

(3) Benefit calculation. After eligibility is established, exclude/disregard all incomes listed in subsections (1) and (2), as well as:

(a) Child support payments assigned and actually forwarded or paid to the department; and

(b) First thirty (30) dollars and one-third (1/3) of the remainder of each individual's earned income not already disregarded, if that individual's needs are considered in determining the benefit amount. The one-third (1/3) portion of this disregard shall not be applied to an individual after the fourth consecutive month it has been applied to his/her earned income. The thirty (30) dollar portion of this disregard shall be applied concurrently with the one-third (1/3) disregard, however, it shall be extended for an additional eight (8) months following the four (4) months referenced in the preceding sentence. These disregards shall be applied in accordance with 45 CFR 233.20(a)(11)(i)(D) and 45 CFR 233.20(a)(11)(ii)(B) and shall not be available to the individual until he/she has not been a recipient for twelve (12) consecutive months; and

(c) Earnings of a child in full-time school attendance or earnings of a child in part-time school attendance, if not working full-time.

(4) Exceptions. Disregards from earnings in subsection (2)(c) and (d) and subsection (3)(b) shall not apply for any month in which the individual:

(a) Reduces, terminates, or refuses to accept employment within the period of thirty (30) days preceding such month, unless good cause exists as follows:

1. The individual is unable to engage in such employment or training for mental or physical reasons; or

2. The individual has no way to get to and from the work site or the site is so far removed from the home that commuting time would exceed three (3) hours per day; or

3. Working conditions at such job or training would be a risk to the individual's health or safety; or

4. A bona fide offer of employment at a

minimum wage customary for such work in the community was not made.

(b) Fails to make a timely report of earnings unless good cause exists as follows:

1. The assistance group moved and reported the move timely, however, the move resulted in a delay in receiving or failure to receive the mandatory monthly report form; or

2. An immediate family member living in the home was institutionalized or died during the filing period; or

3. The specified relative was out of town during the entire filing period; or

4. The assistance group has been directly affected by a natural disaster (i.e., fire, flood, storm, earthquake).

(c) Requests assistance be terminated for the primary purpose of evading the four (4) month limitation on the deduction in subsection (3)(b) of this section.

(5) Sanction exception. The earned income of sanctioned individuals shall be counted without providing the exclusion/disregards in either subsections (2) and (3) of this section.

Section 5. Income and Resources. Income and resources of a stepparent living in the home with a dependent child and/or parent(s)/legal guardian(s) living in the home with a minor parent/legal guardian but whose needs are not included in the grant are considered as follows:

(1) Income. The gross income is considered available to the assistance group, subject to the following exclusions/disregards:

(a) The first seventy-five (75) dollars of the gross earned income for full-time employment and/or the first seventy-four (74) dollars of the gross earned income for part-time employment;

(b) An amount equal to the AFDC assistance standard for the appropriate family size, for the support of the stepparent or parent(s)/legal guardian(s) of a minor parent/legal guardian and any other individuals living in the home but whose needs are not taken into consideration in the AFDC eligibility determination and are or could be claimed by the stepparent or parent(s)/legal guardian(s) of a minor parent/legal guardian as dependents for purposes of determining his/her federal personal income tax liability;

(c) Any amount actually paid by the stepparent or parent(s)/legal guardian(s) of a minor parent/legal guardian to individuals not living in the home who are or could be claimed by him/her as dependents for purposes of determining his/her personal income tax liability;

(d) Payments by the stepparent and/or parent(s)/legal guardian(s) of a minor parent/legal guardian for alimony or child support with respect to individuals not living in the household; and

(e) Income of a stepparent and/or parent(s)/legal guardian(s) of a minor parent/legal guardian receiving Supplemental Security Income (SSI) under Title XVI.

(2) Sanction exception. The needs of any sanctioned individual are not eligible for the exclusion(s) listed in this section.

(3) Resources. Resources which belong solely to the stepparent and/or parent(s)/legal guardian(s) of a minor parent/legal guardian are not considered in determining eligibility of the parent or the assistance group.

Section 6. Alien Income and Resources. The gross non-AFDC income and resources of an alien's sponsor and sponsor's spouse (if living with the sponsor) hereinafter referred to as sponsor shall be deemed available to the alien(s), subject to disregards as set forth below, for a period of three (3) years following entry into the United States. If an individual is sponsoring two (2) or more aliens, the income and resources shall be prorated among the sponsored aliens. A sponsored alien is ineligible for any month in which adequate information on the sponsor/sponsor's spouse is not provided. If an alien is sponsored by an agency or organization, which has executed an affidavit of support, that alien is ineligible for benefits for a period of three (3) years from date of entry into the United States, unless it is determined that the sponsoring agency or organization is no longer in existence or does not have the financial ability to meet the alien's needs. The provisions of this section shall not apply to those aliens identified in 45 CFR 233.51(e).

(1) Income. The gross income of the sponsor is considered available to the assistance group subject to the following disregards:

(a) Twenty (20) percent of the total monthly gross earned income, not to exceed \$175;

(b) An amount equal to the AFDC assistance standard for the appropriate family size of the sponsor and other persons living in the household who are or could be claimed by the sponsor as dependents in determining his/her federal personal income tax liability, and whose needs are not considered in making a determination of eligibility for AFDC;

(c) Amounts paid by the sponsor to non-household members who are or could be claimed as dependents in determining his/her federal personal tax liability;

(d) Actual payments of alimony or child support paid to non-household members; and

(e) Income of a sponsor receiving SSI or AFDC.

(2) Resources. Resources deemed available to the alien(s) shall be the total amount of the resources of the sponsor and sponsor's spouse determined as if he/she were an AFDC applicant in this state, less \$1,500.

Section 7. Earned Income Tax Credit (EITC). In the case of an applicant or recipient of AFDC, EITC payments shall be considered as earned income when received.

Section 8. Assistance Standard. The AFDC assistance standard, including amounts for food, clothing, shelter, utilities and non-medical transportation from which countable income is deducted in determining eligibility for and the amount of the AFDC assistance payment, is as follows:

Number of Eligible Persons	Monthly Standard
1 Child	\$140
2 Persons	\$170
3 Persons	\$197
4 Persons	\$246
5 Persons	\$288
6 Persons	\$325
7 or more Persons	\$362

Section 9. Educational Allowance. An

educational allowance shall be included in the assistance standard each month at the request of the caretaker relative, if the criteria in subsection (1) of this section are met and verified for said month(s) and funds are available. Households receiving the educational allowance shall be subject to time frames, procedures, and penalties established for households required to report monthly.

(1) Technical requirements. The following requirements must be met during any month for which an education allowance is paid.

(a) The caretaker relative must be included in the assistance grant;

(b) The caretaker relative must be enrolled full time, as defined in Section 1, in a literacy program, high school (including primary and secondary), vocational school, or a General Educational Development (GED) program for which no wage or child care allowance is received. If attending college, the caretaker relative must be enrolled either full or part-time, as defined in Section 1;

(c) A cost must have been incurred for the care of a child(ren) who is/are under the age of thirteen (13) or a child(ren) who is/are under the age of eighteen (18), if a physician determines said child is unable to attend school due to a physical or mental disability, and is/are included in the assistance grant; and

(d) The payment for child care is made to a provider who is not a household member.

(2) Educational allowance payment standards. The amount of monthly educational allowance payment shall be based on the number of eligible children for whom care is being provided and whether or not enrollment is full or part-time. The payment standards are as follows:

	<u>One (1) Child</u>		<u>Two (2) or More Children</u>	
	<u>Full-time</u>	<u>Part-time</u>	<u>Full-time</u>	<u>Part-time</u>
<u>Literacy</u>	\$20	=	\$25	=
<u>GED</u>	\$94	=	\$117	=
<u>High School, Vocational School, or College/University</u>	\$174	\$103	\$218	\$129
[Number of Children]	Full-time Enrollment		Part-time Enrollment	
1	\$120		\$70	
2 or more	\$150		\$90]	

(3) Limitations. The number of months an educational allowance payment is made shall be limited according to the type of program in which the student enrolls and shall not be provided beyond completion of one (1) program at each level.

(a) Literacy: Type of Program Maximum
 Literacy 24 months

(b) [(a)] High school level.

1. A student may change programs within this level, however, the cumulative number of months payment is made shall not exceed the maximum for the program in which the student last enrolls as follows:

<u>Type of Program</u>	<u>Maximums</u>
General Educational Development (GED)	<u>16 months</u> [12 months]
High School (includes primary and secondary)	<u>27 months</u> [24 months]

2. A student wishing to continue his/her education past the high school level may be eligible for additional payments not to exceed the maximums for the post-high school level.

(c) [(b)] Post-high school level. A student may change programs within this level, however, the cumulative number of months payment is made shall not exceed the maximum for the program in which the student last enrolls as follows:

<u>Type of Program</u>	<u>Maximums</u>
Vocational School	24 months
College/University	50 months

Section 10. Recoupment. The following provisions are effective for all overpayments discovered on or after April 1, 1982, regardless of when the overpayment occurred.

(1) Necessary action will be taken promptly to correct and recoup any overpayments.

(2) Overpayments, including assistance paid pending hearing decisions, shall be recovered:

(a) The overpaid assistance unit;

(b) Any assistance unit of which a member of the overpaid assistance unit has subsequently become a member; or

(c) Any individual member of the overpaid assistance unit whether or not currently a recipient.

(3) Overpayments shall be recovered through:

(a) Repayment by the individual to the cabinet; and/or

(b) Reduction of future AFDC benefits, which shall result in the assistance group retaining, for the payment month, family income and liquid resources of not less than ninety (90) percent of the amount of assistance paid to a like size family with no income in accordance with Section 8; and/or

(c) Civil action in the court of appropriate jurisdiction.

(4) Overpayments may be waived for inactive non-fraud cases involving less than thirty-five (35) dollars in overpayment.

(5) In cases which have both an overpayment and an underpayment, the cabinet shall offset one against the other in correcting the payment to current recipients.

(6) Neither reduction in future benefits nor civil action shall be taken except after notice and an opportunity for a fair hearing is given and the administrative and judicial remedies have been exhausted or abandoned in accordance with Title 904, Chapter 2.

[Section 11. Provisions contained in this regulation shall become effective December 16, 1986.]

MIKE ROBINSON, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 3, 1987

FILED WITH LRC: August 13, 1987 at 3 p.m.

STATEMENT OF EMERGENCY

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

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

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

905 KAR 1:091E. Standards for facilities and agencies.

RELATES TO: KRS 199.011, 199.640, 199.650, 199.660, 199.670

PURSUANT TO: KRS 194.050

EFFECTIVE: August 7, 1987

NECESSITY AND FUNCTION: This regulation is necessary to carry out the provisions of KRS 199.640. It serves to provide minimum standards for the operation of all child caring facilities and child placing agencies.

Section 1. Definitions. The following definitions shall apply to all regulations and standards for child caring and child placing facilities and agencies.

(1) "Secretary" means the Secretary for Human Resources.

(2) "Cabinet" means the Cabinet for Human Resources.

(3) "Child" means any person who has not reached his 18th birthday.

(4) "Preschool child" means a child under six (6) years of age.

(5) "Child caring facility" means any institution or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption, or marriage to the person maintaining the facility.

(6) "Child placing agency" means any agency other than a state agency which supervises the placement of children in foster family homes or child caring facilities, or which places children for adoption.

(7) "Institution" means a child caring facility providing care and/or maintenance for nine (9) or more children.

(8) "Group home" means a homelike facility for not more than eight (8) foster children, not adjacent to or part of an institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources.

(9) "Executive director" means the agency and/or facility administrator who may be entitled, "administrator," "manager," "superintendent," and the like.

(10) "Infant" shall mean a child under two (2) years of age.

(11) "Emergency shelter" is a group home, private residence or similar home-like facility which provides temporary or emergency care of children and adequate staff and service consistent with the needs of each child.

(12) "Advisory committee" means a group, association or committee who counsels or recommends regarding the institution's or agency's services and programs.

(13) "Board of directors" means that group which is by law or charter delegated with the responsibility for governing and overall supervision of the agency or facility.

(14) "Adoption" means the legal process by which a child becomes the child of a person or persons other than his or her biological parents.

(15) "Foster care" means substitute family care for a child under supervision of the cabinet or a licensed child placing agency when his or her own family cannot care for the child.

(16) "Social services" means a planned program of assistance including individual and group counseling to help an individual move toward a mutual adjustment of the individual and his or her social environment.

(17) "Juvenile delinquent" means a child who has been adjudicated by the juvenile session of a county court, or a district court after January 1, 1978, as a result of a delinquency action.

Section 2. Administration. (1) Every child caring facility or child placing agency shall provide the following information when applying for a license, and annually thereafter as a part of the annual required inspection:

(a) The name, address, and telephone number of the agency or facility.

(b) The geographic area to be served.

(c) The maximum number of children for whom care will be provided.

(d) A copy of the articles of incorporation for all private agencies or copy of statute authorizing creation of any public agency.

(e) A copy of the constitution and bylaws.

(f) A statement of the purposes, objectives, scope of services to be provided, and intake policy specifying kinds of children to be accepted for care.

(g) A list of officers, board members, and advisory board members if any, including addresses and professions.

(h) A financial statement for previous fiscal year plus budget for coming year.

(i) A list of all staff including positions or title, qualifications and salary scale.

(j) Architect or engineer's drawings of any building to be constructed or substantially remodeled.

(k) The service or services the facility or agency plans to provide for licensing purposes.

(2) Every facility or agency shall comply with all applicable federal and state regulations in regard to program operations.

(3) The number for which the child caring facility is licensed shall be based on available space, adequacy of program, staff, and equipment. At no time shall the number of children served, including those children other than those served by the agency, exceed the number for which the facility is licensed, except for emergency situations not to exceed one (1) week.

(4) Each license shall specify the type(s) of care and service which the agency or facility is

authorized to provide based upon the application and inspection. The types of care and service include group home child care, institutional child care, child placing and child treatment.

(5) Facilities and agencies shall provide only the type(s) of care and service(s) for which they are licensed.

(6) License shall be issued for a specific physical location and for operation by a designated executive director and/or sponsoring organization.

(7) Licenses are not transferable.

(8) If any circumstances covered by the license, as enumerated above change, such change shall be reported promptly to the cabinet.

(9) Every facility or agency shall post its license in a conspicuous place.

(10) Every organization serving children shall have a board of directors consisting of a minimum of seven (7) members, the majority of whom must be residents of Kentucky and shall reflect a broad cross-section of the area served.

(11) The board of directors shall meet at least quarterly in every calendar year. Minutes of these meetings shall be taken and kept in written form.

(12) At least one board of directors' meeting shall be held at each facility or agency in every calendar year.

(13) The facility or agency shall be required to maintain the following records relating to financial affairs:

(a) An annual budget which shall reflect anticipated needs and goals as well as resources for meeting these needs and goals.

(b) An annual audit by an independent accounting firm or certified public accountant.

(14) Financial reports shall be submitted to the board, or governing body, at least quarterly.

(15) All fiscal policies shall be written and shall be in conformance with a standard and acceptable system of internal fiscal controls.

(16) All staff and board members having responsibility for funds of the agency shall be bonded in an amount equal to the gross funds handled in a three (3) month period.

(17) There shall be a written policy for cash disbursements. This shall include what amounts of money may be expended in cash, who shall authorize such payments, and what reporting is necessary to account for such expenditures.

(18) All facilities or agencies shall be required to keep work sheets or time schedules for all employees.

(19) Each facility or agency shall maintain written policies on purchase and receiving procedures. This shall include a listing of persons authorized to purchase and those authorized to sign for deliveries.

(20) Each facility or agency shall have a written policy for inventory control and methods of conducting inventory. Primarily, this shall cover how items are accounted for within the agency or facility.

(21) All facilities or agencies shall have the means of meeting financial responsibility for liability. This shall cover all children, visitors, and employees of the agency or facility.

(22) All facilities or agencies shall have an employee who shall be designated executive director.

(23) The executive director of a child caring facility or child placing agency shall be a full-time employee and have at least an

undergraduate degree in social work, or a related field, and three (3) years experience in a social agency serving children. Three (3) years of administrative experience in institutions serving children may be substituted for the three (3) years in a social agency serving children. The executive director shall be of good moral character attested to by three (3) written references at the time of employment.

(24) The duties of the executive director shall be determined by the board of directors and shall include, but shall not be limited to the following responsibilities:

(a) Select, employ staff, and terminate staff;

(b) Plan and coordinate all phases of the program and services within the framework of functions and policies established by the board of directors;

(c) Provide professional help to the board of directors in carrying out the responsibilities, interpreting to them the needs of the children, making recommendations when a change of policy seems desirable and assisting them in periodic evaluation of the facility's or agency's service;

(d) Supervise the preparation of an annual budget for board consideration;

(e) Keep the board informed of financial needs;

(f) Operate within the established budget;

(g) Attend board meetings;

(h) Provide orientation for all new employees and continuing training for all staff; and

(i) Delegate appropriate duties to other staff.

Section 3. Staff. (1) Staff members, including paid employees or volunteers, shall be at least eighteen (18) years of age unless under direct supervision of other staff.

(2) Retirement shall be mandatory at age sixty-five (65) unless that provision is waived by the board upon evidence of satisfactory performance of the assigned duties. Such waiver shall be for a specified period and allowed to continue beyond such period only after subsequent action by the board.

(3) There shall be a sufficient number of staff to perform effectively the tasks required of the facility or agency.

(4) Each member of the staff shall be selected on the basis of both written and oral information. Such information obtained by oral means shall be written into that employee's record for future reference. Criteria to be used for selection are:

(a) Education, training, and experience required to perform the particular job.

(b) Age as it affects physical energy and the capacity to learn.

(c) Willingness to work with others and to share responsibility.

(d) Mental and physical ability to provide good care, maintain responsible supervision and stimulate normal development.

(5) Staff shall have current practical knowledge of first aid.

(6) Volunteers who perform similar functions as paid staff shall meet the same requirements and qualifications.

(7) There shall be a certification of freedom from communicable diseases for each employee and volunteer prior to employment and annually thereafter.

(8) The facility or agency shall have a staff development program for the administrative, professional, volunteer, and support personnel.

(9) A personnel record shall be maintained on

each employee which shall contain the name of the employee, date, and place of birth, education, training, social security number, health record, position(s) and name of previous employers, date of current employment, a signed withholding tax form, present home address, an annual written job evaluation made by the immediate supervisor, and if terminated the date and reason for termination.

(10) The facility or agency shall maintain such written information as job descriptions, qualifications for each position, salary ranges, the basis upon which increments are given, work schedules, policy regarding vacations, sick leave, and educational leave, method of hiring, promotion, resignation, suspension, leave of absence, termination, grievance procedures, and lines of authority, and shall make these available to all employees.

(11) The facility or agency shall see that any employee under indictment or legally charged with felonious conduct which may effect their relationship with children shall be immediately removed from any contact with children within the facility or agency until such time the person is cleared of the charge.

Section 4. Interstate Placements. (1) Prior to accepting a child from another state, or prior to placing a child outside Kentucky, the institution shall comply with all applicable provisions of KRS 199.341 to 199.370 (Interstate Compact on Placement of Children) and KRS 208.600 (Interstate Compact on Juveniles).

(2) When a child committed to the Cabinet for Human Resources makes a brief visit out of state, not accompanied by facility or agency personnel, the agency shall notify the worker in the Department for Social Services who has case responsibility.

(3) In the event of an emergency placement of a child in a licensed child caring agency or institution compliance with KRS 199.341 to 199.370 and 208.600 shall be the responsibility of the placing agency. However, if the receiving agency is aware of non-compliance by the placing agency, then compliance shall become the responsibility of the receiving agency.

Section 5. Health and Safety. (1) Each child admitted to a facility or agency shall have a thorough and complete examination under supervision of a licensed physician at the time of admission or within forty-eight (48) hours thereafter. The examining physician shall report in writing his observations and findings including:

(a) The developmental history of the child, his illnesses, operations, and immunizations.

(b) The child's limitations precluding taking part in group activities, or a schedule of permitted activities when these must be limited.

(c) Visual and auditory tests.

(d) Recommendations and orders for future care, treatment, and examinations.

(e) Freedom from communicable disease (including T.B. and VDRL test) for children twelve (12) years and above shall be administered unless contraindicated by the physician.

(2) When an agency admits a child in need of emergency shelter care, the following shall apply:

(a) Each child on admission shall have a medical screening, including communicable

disease screening, using a form approved by a physician and administered by staff persons trained in its use. [The child shall be seen by a nurse for communicable disease screening prior to admission.]

(b) No child known to have, or suspected of having, a communicable disease shall be placed with other children unless there has been consultation with a physician who has determined that this can be done without hazard to the other children. [Within forty-eight (48) hours after an admission of a child in need of emergency shelter care, all of this section shall apply.]

(c) All children remaining in the facility longer than three (3) working days shall have a physical examination made by, or under the supervision of, and countersigned by, a licensed physician within five (5) days of admission, unless the child within the previous thirty (30) days has had an examination, and the report of the examination is made available; and, provided that the child during this period of time has been continuously under the care or supervision of the Department for Social Services or a licensed child caring or child placing agency.

(3) Each child cared for by the facility or agency shall be immunized in accordance with the requirements of KRS 214.034 or any other statute or regulation pertaining to immunizations within thirty (30) days of admission or placement.

(4) In the event a child dies in any facility or agency or any home operated or supervised by an agency or facility, the facility or agency shall notify immediately the county coroner. A verbal report of such death shall be made immediately to the office of the Commissioner, Department for Social Services. A written comprehensive report outlining the circumstances shall be forwarded to the office of the Commissioner, Department for Social Services on the next working day following the verbal report.

(5) Existing buildings shall be brought into and maintained in compliance with 815 KAR 10:015.

(6) Plans and specifications for new construction or substantial alteration shall be approved prior to construction by health and fire safety officials having jurisdiction.

(7) Every facility or agency shall maintain a current written emergency fire plan and diagrams, including evacuation routes and procedures and locations of fire extinguishers, which shall be conspicuously posted and reviewed by all personnel and children at least quarterly.

(8) Emergency plans shall consider suitable shelters in case of severe storm warnings, flash flooding and tornados.

(9) Dairying and food processing shall be subject to the following regulations:

(a) Dairy operations, food processing and slaughter houses shall be subject to state and federal health laws and regulations.

(b) Donated home processed foods shall be prohibited.

Section 6. Promotional Use of Children. (1) Exploitation of children for promotional purposes is prohibited.

(2) Children shall not be used in any manner in which they or their family could suffer discomfort or embarrassment.

(3) Children shall not be used personally for fund raising purposes for the agency or facility.

(4) In the event pictures, slides, recordings, or other private and personal effects of

children are utilized in fund raising or promotional efforts of facilities or agencies, written parental permission shall be obtained.

Section 7. Intake. (1) Every facility or agency shall provide an intake service.

(2) A clearly defined statement of intake policies and procedures and the age and type of client accepted for admission shall be maintained in writing.

(3) At intake, the clients' need for service shall be determined and the findings recorded in an individual record for each applicant.

(4) Policies, purposes, services, and programs of the facility or agency shall be interpreted to the applicant.

(5) The following factual and identifying information shall be obtained at intake by the agency or facility regarding each child:

(a) Documented verification of the child's birth and legal custody;

(b) A family history;

(c) Developmental history from birth to present;

(d) A medical history;

(e) Immunization record; and

(f) Report of school progress from last school attended by the child.

(6) Appropriate written consents shall be obtained from parents or guardians as these relate to the individual case.

(7) The record shall contain a written evaluation of the child's situation at intake including future plans and goals based upon known facts.

(8) All information concerning children, their parents, relatives, or guardian shall be kept in strict confidence by the staff, except for sharing information with individuals who are personally or professionally responsible for the well-being of the child. The child's record shall include data pertinent to the service plan.

(9) Subsections (4), (5), and (6) of this section shall not apply in cases of emergency shelter care.

Section 8. Case Records. (1) Every facility or agency shall maintain individual case records on each child.

(a) All records and reports regarding clients shall be current and complete.

(b) All information obtained at intake regarding a client shall be written in the case record.

(c) All identifying data shall be placed on an intake form. Changes in a client's identifying data shall be made as is appropriate.

(d) Written communications with appropriate courts and community social service workers shall be maintained in the case record in accordance with laws, policies and procedures developed by the facility, agency, or the cabinet.

(e) Any correspondence concerning a child or his case shall be filed in the case record.

(f) Every agency or facility shall have written authorization to care for the child which shall be included in the child's record.

(g) The date of acceptance of the child and/or family for services shall be kept in the child's record.

(2) Every facility or agency shall safeguard case records from fire and other hazards.

(3) Any report required by the cabinet or any information necessary to compile reports by the

cabinet shall be kept and the information made available to the cabinet upon request.

(4) Each agency or facility shall be responsible for the following practices in disposing of closed records:

(a) Each agency or facility licensed under KRS 199.640 shall keep a record containing:

1. The names, ages, present and former residences of all children received; the names, residence and occupation so far as is known of the parents; the dates of the reception, placing for adoption or foster care together with the names, occupation and residence of the person(s) with whom the child is placed; the date and cause of termination of its custody of each child; and brief history of each child until he shall have reached the age of eighteen (18) years or shall have been adopted or discharged according to the law.

2. This information shall be kept indefinitely and in the event the facility or agency closes, the director shall contact the office of the Commissioner, Department for Social Services, for disposition of such records.

(b) Any materials of a personal nature found in the child's records which can help the child recall his background and heritage shall follow the child where such information is not a part of adoptive records which have been sealed.

Section 9. Aftercare. (1) Every facility or agency shall provide aftercare services to the child and/or family.

(2) Discharge of the child from any facility or agency shall be done on a planned basis whether the child returns home, is placed with another facility or agency or in any other living arrangement.

(3) The facility or agency shall be responsible for preparing the child for the transition to a placement, and be of assistance to both the child and family in the readjustment process.

(4) The facility or agency services shall be made available to the child and/or family for as long as a need is indicated. When the placement proves satisfactory, discharge shall be affected.

(5) When further services are needed, appropriate referral(s) shall be made.

(6) All referrals shall be annotated in the case records of the child along with aftercare contacts with the child and family.

(7) This section shall not apply in cases of emergency shelter care.

ANNA GRACE DAY, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: July 29, 1987

FILED WITH LRC: August 7, 1987 at 3 p.m.

STATEMENT OF EMERGENCY

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

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

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services

907 KAR 1:016E. Psychiatric hospital services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

EFFECTIVE: July 17, 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 provisions relating to services in institutions for mental diseases for which payment shall be made by the Medical Assistance Program in behalf of both the categorically needy and the medically needy.

Section 1. Provision of Service. Inpatient services provided in an institution accredited by the appropriate state agency as a psychiatric hospital which meets the requirements specified in Section 1861(f) of the Social Security Act [by the Joint Commission on Accreditation of Hospitals] shall be made available to recipients of medical assistance age sixty-five (65) or

over or under age twenty-one (21) as limited by Section 1905(a)(14) and 1905(a)(16) of the Social Security Act.

Section 2. Durational Limitation. Durational limitation on payment in respect to the aged recipient is subject to the utilization review mechanism of the hospital. Notwithstanding a continuing need for psychiatric care, payment for services cannot be continued past the 22nd birthday for patients admitted prior to the 21st birthday.

Section 3. Condition of Eligibility for Participation. An appropriately accredited psychiatric hospital desiring to participate in the Medicaid program shall be required as a condition of eligibility to participate in the Medicare program when such hospital serves patients eligible for payments under the Medicare program.

Section 4. The amendments to this regulation as shown herein shall be effective for accreditations provided to the Medicaid program on or after July 1, 1987. Coverage for services under such accreditations may not extend retroactively for a period in excess of twelve (12) months.

R. HUGHES WALKER, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: July 15, 1987

FILED WITH LRC: July 17, 1987 at 2 p.m.

AS AMENDED

DEPARTMENT OF AGRICULTURE
(As Amended)

302 KAR 45:010. Ginseng, general provisions.

RELATES TO: KRS 246.650, 246.660

PURSUANT TO: KRS Chapter 13A, 246.660

EFFECTIVE: August 5, 1987

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. No registration shall be renewed until the ginseng dealer has met all

requirements of recordkeeping and reporting as required 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 April [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. Ginseng dealers shall also keep records of purchases from other dealers. These records shall include the month each purchase from a dealer is made, the weight of purchase, and the signature and registration number of the dealer from whom the purchase is made. All purchase records shall be submitted to the department on a monthly basis. No ginseng shall be certified until the purchase records are recorded by the department.

(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. Beginning September 1, 1988 and each year thereafter, wild ginseng will only be dug between September 1st [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 September 15th [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.] (1) 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.

(2) At the time of issuance of the certificate, the department official shall receive from the ginseng dealer copies of all purchase records covering the amount of ginseng certified. Records of ginseng purchased from other dealers shall be recorded with the department prior to a certificate being issued.

Section 10. No ginseng dug outside the borders of Kentucky 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.

AMENDED AFTER HEARING

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

405 KAR 7:070. Certification of blasters.

RELATES TO: KRS 350.430, 351.380

PURSUANT TO: KRS Chapter 13A, 224.033(20), 350.020, 350.028, 350.050, 350.465

NECESSITY AND FUNCTION: KRS Chapter 350 requires the cabinet to promulgate regulations to implement the Surface Mining Control and Reclamation Act of 1977 (PL 95-87). PL 95-87, along with [and] federal regulations promulgated pursuant thereto, requires the establishment of a blaster training, examination, and certification program. This regulation establishes a [blaster] certification program for blasters who are responsible for surface blasting operations incident to [using explosives in] surface coal mining and reclamation operations and coal exploration operations. The regulation contains [including] requirements for the training, examination, and certification of blasters; requirements to which

blasters must adhere in order to maintain their certifications; provisions whereby certified blasters may seek renewal of their certifications; and requirements for suspension, [and] revocation, and reinstatement of certifications.

Section 1. Blasting Operations to be Conducted under the Direction of a Certified Blaster. (1) As used in this regulation, the following terms shall have the indicated meanings:

(a) "Blaster" means a person who is directly responsible for surface blasting operations [the use of explosives] in surface coal mining and reclamation operations or coal exploration operations.

(b) "Surface blasting operations" means the on-site storage, transportation, and use of explosives in association with coal exploration operations, surface mining activities, and surface disturbances of underground mining activities. The term shall be interpreted broadly and shall encompass activities including, but not limited to, the design of individual blasts, the implementation of blast designs, the initiation of blasts, the monitoring of airblast and ground vibration, and

the use of protective measures such as access control and warning and all-clear signals.

(2) [On and after twelve (12) months from the approval of Kentucky's blaster certification program by OSM,] Each permittee and each [or] person conducting coal exploration operations shall have all surface blasting operations incident to surface coal mining and reclamation operations and coal exploration operations conducted under the direction of a blaster certified in accordance with this regulation. Notwithstanding the exemption in 405 KAR 7:030, Section 1, this section shall also apply to permittees of operations with an affected area of two (2) acres or less.

Section 2. Requirements for Certification. (1) A person desiring to become certified under this regulation shall file an application upon a form furnished by the cabinet. This application [which] shall identify the applicant's name, address, telephone number, and place of employment; shall contain the information required by subsections (2) through (7) of this section; and shall contain such additional information as the cabinet deems necessary for the purposes of this regulation. The application shall be submitted to the central office of the department's Division of Field Services, located in Frankfort, Kentucky, accompanied by a fee of twenty-five (25) dollars.

(2) The applicant shall demonstrate that he or she has received training in the technical aspects of blasting operations and Kentucky [state] and federal laws and regulations governing the storage, transportation, and use of explosives by completing a training course[s] approved by the cabinet. This course [These courses] shall provide training and discuss practical applications of the topics listed in subsection (5) of this section.

(3) The applicant shall demonstrate that he or she [currently] holds a valid Kentucky Blaster's License issued by the Kentucky Department of Mines and Minerals.

(4) The application shall include at least two (2) letters of reference on forms provided by the cabinet. Each of these letters [references] shall be from a person who has employed the applicant in blasting operations, from the applicant's supervisor while employed in blasting operations, [either former or present employers in blasting operations] or from a licensed blaster who has [have] worked with the applicant in blasting operations. The letters [of reference] shall indicate that the applicant has exhibited a pattern of conduct consistent with the acceptance of responsibility for blasting operations.

(5) The applicant shall pass a written examination on the technical aspects of blasting and Kentucky [state] and federal laws and regulations governing the storage, use, and transportation of explosives. The examination shall cover, at a minimum, the following topics:

(a) Explosives, including:

1. Selection of the type of explosive to be used;
2. Determination of the properties of explosives which will produce desired results at an acceptable level of risk; and
3. Handling, transportation, and storage of explosives.

(b) Blast designs, including:

1. Geologic and topographic considerations;

2. Design of a blast hole, with critical dimensions;

3. Pattern design, field layout, and timing of blast holes; and

4. Field applications.

(c) Loading blast holes, including priming and boosting.

(d) Initiation systems and blasting machines.

(e) Blasting vibrations, airblast, and flyrock, including:

1. Monitoring techniques; and

2. Methods to control adverse effects.

(f) Secondary blasting applications.

(g) Current federal and Kentucky [state] rules applicable to the storage, transportation, and use of explosives.

(h) Blast records.

(i) Schedules.

(j) Preblasting surveys, including:

1. Availability;

2. Coverage; and

3. Use of in-blast design.

(k) Blast-plan requirements.

(l) Certification and training.

(m) Signs, warning signals, and site control.

(n) Unpredictable hazards, including:

1. Lightning;

2. Stray currents;

3. Radio waves; and

4. Misfires.

(6) Any person who fails the examination discussed in subsection (5) of this section may retake it [the examination] after thirty (30) days; provided however, [.] any person failing the examination twice may not retake it [the exam] until after completing an approved training course and filing a new application.

(7)(a) Upon receipt of an application for certification [submitted pursuant to subsection (1) of this section], the cabinet shall review the application and promptly notify the applicant, in writing, as to the application's completeness.

1. If the application is incomplete, the notification shall specify the application's deficiencies. The applicant may then submit, or cause to be submitted, documentation of test results, verification of training, letters of reference, or any other information necessary to correct the cited deficiencies. The applicant shall have three (3) months, beginning on the date on which the notification of incompleteness is mailed or otherwise delivered to the applicant, during which the deficiencies may be corrected. If the deficiencies are not corrected during this three (3) month period, the application file shall be closed and, at the cabinet's discretion, discarded. Once the application file has been closed, the certification shall not be issued unless and until a new application is submitted pursuant to subsection (1) of this section and compliance is demonstrated with all applicable requirements of this regulation.

2. If the application is complete, the notification shall either be accompanied by the issued certificate or it shall state that the cabinet is verifying information pursuant to paragraph (b) of this subsection. After any such verification is performed and the cabinet is satisfied that all applicable requirements of this regulation have been met, the cabinet shall promptly issue the certification.

(b)1. The cabinet may, at its discretion, verify any of the information contained in the

application. If, as a result of any such verification effort, the cabinet determines that the applicant has knowingly caused falsified or misrepresented information to be submitted in the application [information contained in the application has been falsified or misrepresented], the cabinet shall deny certification and the applicant shall be ineligible to re-apply for certification for at least [the following] one (1) year period.

2. After the period of ineligibility defined pursuant to subparagraph 1 of this paragraph, certification may only be granted if a new application is submitted pursuant to subsection (1) of this section. All of the information contained in the application shall be provided anew: this shall include new letters of reference pursuant to subsection (4) of this section; documentation that the applicant has been retrained pursuant to subsection (2) of this section and retested pursuant to subsection (5) of this section; and a demonstration, pursuant to subsection (3) of this section, that the applicant holds a valid blaster's license issued by the Kentucky Department of Mines and Minerals. [The applicant shall demonstrate compliance with all applicable requirements of this regulation and shall demonstrate, to the cabinet's satisfaction, that falsification or misrepresentation of information is not likely to reoccur.]

(8)(a) [Section 3. Issuance of Certification.] The cabinet shall issue a blaster certification [certificate] to any applicant who meets the requirements of subsections (1) through (7) of this section. [Section 2 of this regulation] except [that] the cabinet shall deny certification if the applicant cannot reasonably be expected to conduct himself or herself in a manner consistent with the acceptance of responsibility for blasting operations. The cabinet shall make determinations regarding issuance or denial of the certification based upon the blaster's actions during any prior term of certification. the information contained in the application, and any other pertinent information that is available to the cabinet. [has exhibited a pattern of conduct inconsistent with the acceptance of responsibility for blasting operations.]

(b) The certification [certificate] shall be issued for a term of [valid for] three (3) years.

(9) Any person aggrieved by a determination under this section may request a formal hearing in accordance with 405 KAR 7:090, Section 5.

Section 3. [4.] Renewal of Certification. Subject to the provisions of this section, certified blasters shall have the right to successive renewal of their certifications.

(1)(a) Applications for certification renewal shall be submitted on forms provided by the cabinet. Each such application shall identify the applicant's name, address, telephone number, and place of employment; shall contain the information required by subsection (3) of this section; and shall contain such additional information as the cabinet deems necessary for the purposes of this regulation. The application shall be submitted to the central office of the department's Division of Field Services, located in Frankfort, Kentucky, and shall be accompanied by a renewal fee of ten (10) dollars, plus any re-examination fee required pursuant to subsection (3) of this section. The renewal

application shall not be submitted more than ninety (90) days prior to certification expiration. [A certified blaster may apply for renewal of his or her certificate by submitting an application on a form furnished by the cabinet at least sixty (60) days prior to the expiration of the certificate. The application shall be accompanied by a fee of ten (10) dollars.]

(b)1. The cabinet shall neither accept nor process the renewal application of a blaster who does not hold a valid Kentucky blaster's license, whose certification is revoked, [whose certification is invalid pursuant to Section 4(7) of this regulation,] whose certification is suspended pursuant to Section 4(2)(b) of this regulation, or whose certification is revoked pursuant to an order rendered under Section 4(4)(b)3 or (5) of this regulation. If a blaster's certification is suspended pursuant to an order rendered under Section 4(4)(b)3 or (5) of this regulation, a renewal application will be accepted and processed only in accordance with Section 9(2)(a)2 and only if the term and conditions of the suspension have been met.

2. If an application for renewal is submitted and, prior to renewal, the certification is suspended, revoked, or otherwise invalidated, the renewal application shall be rendered null and void and shall be returned to the applicant.

(2)(a)1. If the blaster seeking renewal desires for his or her certification not to lapse, the renewal application must be submitted sixty (60) or more days prior to the expiration date identified on the blaster's certificate. For applications which are so submitted, the cabinet shall renew the certification, deny the renewal request, or withdraw the renewal request for submission of additional information pursuant to subsection (1)(a) of this section, prior to the date of the certification's expiration. A blaster who submits a renewal application pursuant to this subparagraph shall be eligible for an extension of his or her certification pursuant to subparagraph 2 of this paragraph, should such an extension be necessary and justified as provided for in that subparagraph.

2. If the blaster has submitted a renewal application sixty (60) or more days prior to the expiration date identified on the blaster's certificate, and if the cabinet has not taken final action on the application by the certificate's expiration date, the cabinet may postpone expiration of certification, in order to lessen the likelihood of a lapse in certification during the interim period between the expiration date identified on the certificate and issuance of the renewed certification. Such postponement shall be granted by written letter signed by the director of the department's Division of Field Services and shall delay certification expiration for a period of sixty (60) days. A postponement pursuant to this subparagraph may only be granted once per renewal application and may only be granted if:

a. Through no fault of the certified blaster, the cabinet has not taken final action on the renewal request as of the expiration date identified on the blaster's certificate; and

b. The blaster is making a good faith effort to obtain renewal.

(b) If the blaster desiring renewal fails to

submit his or her renewal application sixty (60) or more days prior to the expiration date identified on the certificate, the certification may only be renewed if the renewal application, complete with all information necessary for the cabinet to grant the renewal, is submitted prior to certification expiration or within ninety (90) [thirty (30)] days following certification expiration. However, if the application is so submitted, the certification shall be considered to have lapsed [in accordance with subsection (6) of this section] during any interim period between expiration of the certificate and issuance of the renewed certificate. Blasters who apply for renewal pursuant to this paragraph shall not be eligible for postponement of certification expiration pursuant to paragraph (a)2 of this subsection.

(c) If the blaster fails to comply with the requirements of paragraph (a) or (b) of this subsection, he or she may be recertified only by re-applying for certification under Section 2 of this regulation. All of the information contained in an application for recertification shall be provided anew; this shall include new letters of reference pursuant to Section 2(4) of this regulation; documentation that the applicant has been retrained pursuant to Section 2(2) of this regulation and retested pursuant to Section 2(5) of this regulation; and a demonstration, pursuant to Section 2(3) of this regulation, that the applicant holds a valid blaster's license issued by the Kentucky Department of Mines and Minerals. The blaster's certification shall be considered to have lapsed [in accordance with subsection (6) of this section] during the interim period between expiration of the certificate and issuance of the following certificate. Blasters who apply for recertification pursuant to this paragraph shall not be eligible for postponement of certification expiration pursuant to paragraph (a)2 of this subsection.

(3)(a) The applicant for certification renewal [pursuant to subsection (2)(a) or (b) of this section] [(2) The applicant] shall:

1. [(a)] Demonstrate that he or she has worked in blasting operations associated with surface coal mining and reclamation operations and/or coal exploration operations, in a manner that demonstrates the blaster's competency, during at least one and one-half (1 1/2) years of the three (3) years prior to the expiration date identified on the [of the current] certificate; or

2. Demonstrate that he or she has:

a. Worked, in a manner that demonstrates the blaster's competency, during at least one and one-half (1 1/2) years of the three (3) years prior to the expiration date identified on the certificate in blasting operations associated with road construction, noncoal mining, or other activities that involve blasting techniques similar to those associated with surface coal mining and reclamation operations and/or coal exploration operations;

b. Retaken and passed a written examination on the cabinet's laws and regulations pertaining to the use of explosives; and

c. Submitted a re-examination fee of fifteen (15) dollars; or

3. [(b)] Retake and pass the written examination specified in Section 2(5) of this regulation and submit a re-examination fee of

fifteen (15) dollars; provided, however, consecutive renewals pursuant to this subparagraph shall not be granted without the applicant for renewal being retrained pursuant to Section 2(2) of this regulation.

(b) In addition to submitting the documentation required pursuant to paragraph (a) of this subsection, each applicant for renewal [(3) The applicant] shall demonstrate that he or she [currently] holds a valid Kentucky Blaster's License issued by the Kentucky Department of Mines and Minerals.

(4) The provisions of Section 2(7)(b) of this regulation shall apply to applicants for renewal pursuant to this section.

(5)(a) [(4)] The cabinet shall renew the certification [certificate] of any [certified] blaster who meets [has met] the requirements of subsections (1) through (4) of this section, except [that] the cabinet shall deny renewal [of certification] if the blaster cannot reasonably be expected to conduct himself or herself in a manner consistent with the acceptance of responsibility for blasting operations. The cabinet shall make determinations regarding issuance or denial of the renewal based upon the applicant's actions during the most recent term of certification, the information contained in the renewal application, and any other pertinent information [applicant has exhibited a pattern of conduct inconsistent with the acceptance of responsibility for blasting operations].

(b) The term of a renewed certification [The renewed certificate] shall be [valid for] three (3) years.

[(5) A certified blaster who fails to renew his certificate within six (6) months after the expiration date of his last valid certificate shall be required to reapply under Section 2 of this regulation. Certified blasters not falling in this category may have their certificates renewed by applying for renewal under this section.]

(6) A blaster's certification shall expire on the expiration date identified on his or her most recent certificate, unless expiration of certification has been postponed pursuant to subsection (2)(a)2 of this section.

(7) [(6)] Any person aggrieved by a determination under this section may request a formal hearing in accordance with 405 KAR 7:090, Section 5.

Section 4. [5.] Suspension and Revocation. (1) For the purposes of this section, a blaster shall be considered to be in violation if he or she: [An authorized representative of the cabinet shall issue a blaster suspension order to the certified blaster, describing the violation and temporarily suspending the certificate until a hearing can be conducted, when any violation listed in subsection (7) of this section is likely to threaten public safety or the environment. The authorized representative may order remedial action where applicable. Temporary relief from a blaster suspension order may be granted in accordance with the procedures and criteria established in 405 KAR 7:090, Section 8, for orders for cessation and immediate compliance.]

(a) Fails to comply with any order of the cabinet;

(b) Handles or uses explosives while under the influence of alcohol, narcotics, or other dangerous drugs, or uses same in the workplace;

(c) Violates any provision of federal explosives laws or regulations or Kentucky's explosives laws or regulations;

(d) Provides false information or a misrepresentation to obtain certification; or

(e) Fails to comply with the conditions of certification specified in Section 6 of this regulation.

(2)(a)1. Unless the cabinet immediately suspends certification pursuant to paragraph (b) of this subsection, the cabinet shall evaluate the following when the cabinet determines that a blaster is or has been in violation [pursuant to subsection (1) of this section]: [For violations listed in subsection (7) of this section which are not likely to threaten public safety or the environment, an authorized representative of the cabinet shall issue a blaster citation to the certified blaster describing the violation. The authorized representative may order remedial action where applicable.]

a. Whether well-founded blasting procedures and reasonable precautions were used in endeavoring to prevent the violation;

b. The seriousness of the violation;

c. The history of the blaster's performance;

d. The existence of any information suggesting that the blaster willfully committed or caused the violation; and

e. Any other pertinent information.

2. Subsequent to conducting the evaluation required by subparagraph 1 of this paragraph, and based upon and commensurate with the results of that evaluation, the cabinet shall issue a written notice to the blaster if the cabinet has reason to believe that he or she willfully committed or caused the violation, or if the cabinet otherwise determines that suspension or revocation of certification is warranted. The written notice shall advise the blaster of the provision(s) of which he or she was in violation and shall advise him or her that the cabinet intends to seek suspension or revocation of the certification.

(b) When the cabinet determines that a blaster is or has been in violation [pursuant to subsection (1) of this section], the cabinet shall issue an order immediately suspending the blaster's certification if further blasting operations conducted by or under the direction of the blaster may reasonably be expected to constitute an imminent danger to the health and safety of the public or cause significant, imminent environmental harm.

(c)1. Regardless of whether the cabinet pursues recourse against the blaster pursuant to paragraph (a) or (b) of this subsection, if the cabinet determines that a blaster is or has been in violation [pursuant to subsection (1) of this section], the cabinet shall retain a description of the violation, a description of the procedures used in evaluating the violation, the conclusion which was reached as a result of the evaluation, and any supporting information which was used in reaching the conclusion. This documentation shall be used in compiling a history of the blaster's performance for use pursuant to paragraph (a) of this subsection and Sections 2(8) and 3(5) of this regulation.

2. When a violation is placed on a blaster's record pursuant to subparagraph 1 of this paragraph, the cabinet shall issue a written statement to the blaster advising him or her of the documented violation. The blaster shall be

allowed to challenge the fact of the violation, or his or her responsibility for same, in accordance with the provisions of 405 KAR 7:090, Section 5. [If the violation is subsequently used to the blaster's disadvantage under paragraph (a) of this subsection or Section 2(8) or 3(5) of this regulation, he or she shall be allowed to challenge the fact of the violation or his or her responsibility for the violation at any hearing conducted at that time.]

(3)(a) Notices issued pursuant to subsection (2)(a)2 of this section, [Service of] blaster suspension orders issued pursuant to subsection (2)(b) of this section, statements issued pursuant to subsection (2)(c)2 of this section, and orders of the secretary rendered pursuant to subsections (4)(b)3 and (5) of this section [and blaster citations] shall be served [made upon the blaster] promptly after issuance. Service to the blaster shall be made by hand; by certified mail, return receipt requested; or by registered mail. A copy of each order and each notice shall also be mailed or otherwise delivered to the Kentucky Department of Mines and Minerals. [Such orders and citations shall be served by hand or by certified mail, return receipt requested, or by registered mail to the blaster.] In addition, if the order suspends or revokes certification, a copy of the order [the notice] shall be mailed or otherwise delivered [served by hand] to the blaster's employer as documented in the cabinet's files and to any other person who, to the best knowledge of the cabinet, employs the blaster as a certified blaster [individual who, based upon reasonable inquiry by the authorized representative, appears to be in charge at the site of the surface coal mining and reclamation operation or coal exploration operation referred to in the order or citation.]

(b) Service, whether by hand or by mail, shall be complete upon tender of the order, notice, or statement [or citation] and shall not be deemed incomplete because of refusal to accept. Moreover, service by mail shall not be deemed incomplete because of failure to claim the document prior to its return to the cabinet by the U.S. Postal Service, nor shall it be deemed incomplete because of the U.S. Postal Service's inability to deliver a document which has been properly addressed with the intended recipient's most recent address known to the cabinet. Service by mail to the blaster shall be addressed to the permanent address shown on the certification or renewal [blaster certificate] application, or if the blaster has submitted notice of an address change pursuant to Section 7 of this regulation, [; or if no address is shown on the application,] to such other address as is known to the cabinet. [department. If no person is present at the site of the operation, service by mail shall by itself be sufficient notice. A copy shall also be mailed to the permittee at the address shown on the permit application and to the Department of Mines and Minerals.]

(4) The following provisions shall apply to suspension orders issued pursuant to subsection (2)(b) of this section: [An authorized representative of the cabinet may by written notice modify a blaster suspension order or blaster citation for good cause.]

(a) Upon issuance of the suspension order, all rights and privileges granted by certification shall be suspended until the order is vacated

[pursuant to paragraph (c) of this subsection] or the certification is restored in accordance with an order of the secretary [the order rendered pursuant to paragraph (b)3 of this subsection]; however, the blaster shall not be required to surrender his or her certificate unless and until the secretary renders an order [is rendered pursuant to paragraph (b)3 of this subsection] requiring revocation or further suspension[, at which time the provisions of subsection (6)(d)2 of this section shall apply].

(b) Unless vacated [pursuant to paragraph (c) of this subsection], the suspension order shall be adjudicated in accordance with the following:

1. A hearing shall be scheduled upon issuance of the suspension order. This hearing shall be scheduled to be held within ten (10) working days of issuance of the order. The blaster shall be promptly notified, in accordance with 405 KAR 7:090, Section 6, of the time, date, and location of the scheduled hearing.

2. The chief hearing officer or any other designated hearing officer shall preside over the hearing, and except as otherwise specified or provided for in this paragraph, the hearing shall be conducted pursuant to the provisions of 405 KAR 7:090, Section 5. Within five (5) working days following the hearing, the hearing officer shall issue a report on the findings of fact and conclusions of law concerning the violation.

3. The provisions of 405 KAR 7:090, Section 5(13) shall apply to the filing of exceptions to the hearing officer's report, and the final order of the secretary concerning the violation shall be issued forthwith.

4. The time schedule for adjudication as specified in subparagraphs 1 and 2 of this paragraph may be extended by the cabinet upon written request by the blaster to whom the suspension order was issued.

(c) Prior to the hearing held pursuant to paragraph (b) of this subsection, a suspension order determined to have been issued in error may be vacated by the director of the Division of Field Services.

(d) The forms on which blaster suspension orders are issued shall be at the discretion of the cabinet and may include the forms used pursuant to 405 KAR 12:020.

(5) Upon issuance of a notice pursuant to subsection (2)(a)2 of this section, the cabinet shall schedule a formal hearing for review of the violation. This hearing shall be held pursuant to 405 KAR 7:090, Section 5. [A blaster suspension order or blaster citation determined to have been issued in error may be vacated by the Director of the Division of Field Services upon the recommendation of the regional administrator and the authorized representative of the cabinet who issued the order or citation.]

(6)(a) Orders of the secretary rendered pursuant to subsections (4)(b)3 and (5) of this section may suspend or revoke the blaster's certification and may carry requirements for additional training or testing or other appropriate corrective measures; provided however, if the violation was caused or committed willfully, suspension or revocation of certification shall be obligatory. [Upon the issuance of a blaster suspension order or a blaster citation, the cabinet shall provide written notice and schedule a formal hearing in

accordance with 405 KAR 7:090, Section 5, to determine whether the certification should be further suspended or revoked. History of the competence of the certified blaster as evidenced by previously issued blaster suspension orders, blaster citations or actions taken as a result of previous hearing shall be considered by the cabinet in making the decision to suspend or revoke.]

(b) The termination date of a suspension shall be specified in the order or the suspension shall be for an indefinite period contingent upon completion of required remedial action. An order for revocation shall specify the ending date of the period during which the blaster will be ineligible for reinstatement, with said period exceeding the minimum required by Section 9(1) of this regulation if appropriate.

(c) The term and conditions of each order rendered by the secretary pursuant to subsection (4)(b)3 or (5) of this section shall be commensurate with the pertinent factors surrounding the blaster and the violation(s). These factors may include, but not necessarily be limited to, the seriousness of the violation(s), the blaster's culpability for the violation(s), the history of the blaster's performance, and whether the blaster took reasonable care in determining that the operation would be in compliance with applicable laws and regulations.

(d)1. [(8)] Upon service [notice] of a suspension or revocation order rendered pursuant to subsection (4)(b)3 or (5) of this section, the [certified] blaster shall [immediately] surrender [to the cabinet] the suspended or revoked certificate to the cabinet in accordance with subparagraph 2 of this paragraph. All rights and privileges granted by certification shall be suspended or revoked in accordance with the term and conditions of the order.

2. If the suspension or revocation order [rendered pursuant to subsection (4)(b)3 or (5) of this section] is hand delivered by a cabinet representative, the suspended or revoked certificate shall be immediately surrendered to the representative delivering the order. If the order is served by certified or registered mail, the certificate shall be immediately [hand] delivered and surrendered to the department's appropriate regional office.

(7)(a) If the blaster's Kentucky Blaster's License expires, is revoked, or otherwise lapses or becomes invalid during the term of certification, in accordance with Section 6(5) of this regulation the blaster's certification shall automatically be rendered invalid. Once the certification has been rendered invalid, the certificate shall immediately be delivered [by hand] and surrendered to the department's appropriate regional office. The certificate shall only be returned and certification reinstated after the blaster has demonstrated, and the cabinet has found, that the blaster once again holds a valid Kentucky Blaster's License. [If certification expires during the period in which the certification is invalid, the provisions of Section 3 of this regulation shall apply; in addition, the cabinet shall not accept an application for certification renewal unless and until the Kentucky Blaster's License has been restored.] [The cabinet may, and upon a finding of willful conduct shall, suspend the certification for a definite or indefinite period, or revoke the certification of a blaster

during the term of the certification or take other necessary action if the certified blaster:]

[(a) Fails to comply with any order of the cabinet or its authorized representative.]

(b) The provisions of paragraph (a) of this subsection shall apply automatically, and issuance of a notice or a suspension order pursuant to subsection (2) of this section shall not be required in order to invalidate a blaster's certification pursuant to Section 6(5) of this regulation. [Handles or uses explosives while under the influence of alcohol, narcotics or other dangerous drugs or uses same in the workplace.]

[(c) Violates any provision of the state or federal explosives laws or regulations.]

[(d) Provides false information or a misrepresentation to obtain certification.]

[(e) Fails to comply with the conditions of certification specified in Section 7 of this regulation.]

Section 5. [6.] Protection of Certification. Certified blasters shall take every reasonable precaution to protect their certificates from loss, theft, [and [or[]] unauthorized duplication. Any such occurrence shall be immediately reported [immediately] to the cabinet.

Section 6. [7.] Conditions. The following are conditions for maintaining certification:

(1)(a) His or her [A] Kentucky Blaster's License, his or her [and a] Kentucky Blaster Certificate, and at least one (1) other form of identification [Certification] shall be carried by the certified blaster during blasting operations. If the blaster is operating under a postponement of certification expiration rendered pursuant to Section 3(2)(a)2 of this regulation, the blaster shall also carry the letter granting the postponement.

(b) A certified blaster shall immediately exhibit his or her certificate, Kentucky Blaster's License, letter postponing expiration of certification (if applicable), and one (1) other form of identification to any authorized representative of the cabinet or OSM upon request.

(2) Blasters' certifications shall not be assigned or transferred.

(3) Certified blasters shall not delegate their responsibilities [responsibility] to any persons [individual] who are [is] not [a] certified blasters.

(4) The certified blaster who is responsible for conducting blasting operations [blasters] shall provide direction and on-the-job training to noncertified persons who are assigned to his or her [a] blasting crew or who assist in the storage, use, or transportation of explosives incident to the blasting operations.

(5) Each certified blaster [blasters] shall hold a valid Kentucky Blaster's License throughout the term of the certification.

Section 7. Change of Information. A certified blaster shall submit written notification to the cabinet whenever there is a change in his or her name, address, telephone number, or place of employment. Such notifications shall be submitted to the central office of the department's Division of Field Services, located in Frankfort, Kentucky, within thirty (30) days of the change.

Section 8. Reciprocity. For any person who is a certified blaster under OSM's blaster certification program or under any OSM approved state blaster certification program, the submission of satisfactory documentation demonstrating that he or she is [they are] so certified shall be considered an adequate demonstration of compliance with Section 2(2), (4), and (5) of this regulation. However, compliance with Section 2(1) and (3) of this regulation shall occur prior to obtaining certification pursuant to this regulation.

Section 9. Reinstatement. (1) Reinstatement following revocation. Unless a longer term is specified in the Secretary's revocation order [rendered pursuant to Section 4(4)(b)3 or (5) of this regulation], during the one (1)-year period following issuance of the order the blaster shall not be eligible for reinstatement of certification. After this period of ineligibility, certification shall only be reinstated after re-applying for certification pursuant to Section 2 of this regulation. All of the information contained in the application shall be provided anew; this shall include new letters of reference pursuant to Section 2(4) of this regulation; documentation that the applicant has been retrained pursuant to Section 2(2) of this regulation and retested pursuant to Section 2(5) of this regulation; and a demonstration, pursuant to Section 2(3) of this regulation, that the applicant holds a valid blaster's license issued by the Kentucky Department of Mines and Minerals. [A certified blaster who has had his certificate revoked for the term of certification may reapply for certification after the term of certification has passed. The procedure for reinstatement of certification shall be as set forth in Sections 2 and 3 of this regulation except that] In addition to containing such information [those requirements], the application [applicant] must demonstrate, and the cabinet must find, that the conditions that led to the revocation have been corrected and are not likely to reoccur. When these requirements have been met, the cabinet may reissue the [a] blaster certification.

(2) Reinstatement following suspension.

(a)1. Following suspension of certification pursuant to an order of the secretary [rendered under Section 4(4)(b)3 or (5) of this regulation], certification shall be reinstated only upon a demonstration by the blaster that he or she has met the term and conditions of the suspension.

2. The cabinet shall not reinstate a certification which has expired [pursuant to Section 3(6) of this regulation] solely upon a demonstration that the requirements of subparagraph 1 of this paragraph have been met. If the certification expires during the suspension period, in order to have certification reinstated without re-applying under Section 2 of this regulation, a renewal application must be submitted within thirty (30) days of meeting the term and conditions of the suspension; provided however, if the order suspending certification does not specify a termination date for the suspension, the remedial measures prescribed in the order must be completed within one (1) year following certification expiration to qualify for reinstatement through the renewal process. Renewal applications filed for reinstatement

shall contain the information required by subparagraph 1 of this paragraph and the information and fees required by Section 3(1)(a) of this regulation. Failure to submit a renewal application within these constraints will result in certification being reinstated only if, in addition to complying with subparagraph 1 of this paragraph, the application requirements of Section 2 of this regulation are met, with all of the information contained in the application being provided anew; this shall include new letters of reference pursuant to Section 2(4) of this regulation; documentation that the applicant has been retrained pursuant to Section 2(2) of this regulation and retested pursuant to Section 2(5) of this regulation; and a demonstration, pursuant to Section 2(3) of this regulation, that the applicant holds a valid blaster's license issued by the Kentucky Department of Mines and Minerals.

(b) After the demonstrations required by paragraph (a) of this subsection have been made and the cabinet is satisfied as to the adequacy of the demonstrations, the cabinet shall either return the surrendered certificate, renewed if applicable, or shall tender to the blaster the reissued certificate. The surrendered or reissued certificate shall be accompanied by a notice of reinstatement.

Section 10. Delegation to Department of Mines and Minerals. The cabinet and the Kentucky Department of Mines and Minerals may enter into agreements whereby the Department of Mines and Minerals may administer part or all of this regulation.

[Section 11. The provisions of Sections 1 through 4 and Sections 6 through 10 of this regulation shall become effective on the date of approval of Kentucky's blaster certification program by OSM. The provisions of Section 5 of this regulation shall become effective on the date twelve (12) months after approval of Kentucky's blaster certification program by OSM.]

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: August 6, 1987

FILED WITH LRC: August 7, 1987 at 10 a.m.

CABINET FOR HUMAN RESOURCES
Office of Inspector General
(Amended After Hearing)

902 KAR 20:230. [Facility specifications;] Comprehensive physical rehabilitation hospital; facility specifications.

RELATES TO: KRS 216B.010 to 216B.131, 216B.990
PURSUANT TO: KRS 216B.040(2) to 216B.105,
Executive Order 86-366

NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105(3) mandate that the Cabinet for Human Resources regulate health facilities and health services. Executive Order 86-366 transferred the authority to regulate health services and health facilities from the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board to the Office of the Inspector General. This regulation provides the licensure requirements for the structural specifications and physical plant requirements for new construction and alteration and maintenance of comprehensive physical rehabilitation hospitals

[facilities]. Comprehensive physical rehabilitation hospitals [facilities] licensed prior to the effective date of this regulation shall meet the structural specifications in force on the date of their most recent licensure inspection.

Section 1. Definitions. (1) "Certificate of need" means an authorization by the Commission for Health Economics Control in Kentucky to proceed to acquire, to establish, to offer, to substantially change the bed capacity, or to substantially change a health service pursuant to KRS Chapter 216B.

(2) "Commission" means the Commission for Health Economics Control in Kentucky.

(3) "Facility" means a comprehensive physical rehabilitation hospital.

(4) [(3)] "License" means an authorization issued by the Commission for the purpose of operating a hospital facility.

(5) [(4)] "Licensure agency" means the Division for Licensing and Regulation in the Office of the Inspector General, Cabinet for Human Resources.

Section 2. Preparation and Approval of Plans and Specifications. After receiving a certificate of need, the following procedures shall be followed:

(1) Before construction is begun for the erection of new buildings or alterations to existing buildings or any change in a facility, the licensee or applicant shall submit plans to the licensure agency for approval.

(2) All architectural, mechanical and electrical drawings shall bear the seal of an architect registered in the Commonwealth of Kentucky or the seal of a professional engineer registered in the Commonwealth of Kentucky, or both.

(3) Drawings shall not exceed thirty-six (36) inches by forty-six (46) inches when trimmed.

(4) All such plans and specifications must be approved by the licensure agency prior to commencement of construction of new buildings or alterations of existing buildings.

(5) Plans and specifications in specific detail as required by the Kentucky Building Code shall be submitted, together with architectural and/or engineering stamps as required by KRS Chapters 322 and 323, to the Department of Housing, Buildings and Construction for determining compliance with the Kentucky Building Code. All such plans and specifications must be approved by the Department of Housing, Buildings and Construction. Appropriate local building permits shall be obtained prior to commencement of construction.

Section 3. Submission of Plans and Specifications for Facilities. (1) First stage, schematic plans.

(a) Single line drawings of each floor shall show the relationship of the various departments or services to each other and the room arrangement in each department. The name of each room shall be noted. Drawings shall include typical patient room layouts scaled (one-half (1/2) inch = one (1) foot) with dimensions noted. The proposed roads and walks, service and entrance courts, parking and orientation shall be shown in a plot plan.

(b) If the project is an addition, or is otherwise related to existing buildings on the

site, plans shall show the existing facilities and general arrangements of those buildings.

(2) Second stage, preliminary plans. Preliminary sketch plans shall include the following:

(a) Architectural.

1. Plans of basement, floors and roof showing space assignment, sizes, and outline of fixed and movable equipment;

2. All elevators and typical sections;

3. Plot plan showing roads, parking, and sidewalks;

4. Areas and bed capacities by floors.

(b) Mechanical.

1. Single line layout of all duct and piping systems;

2. Riser diagrams for multistory construction;

3. Scale layout of boilers and major associated equipment and central heating, cooling, and ventilating units.

(c) Electrical.

1. Plans showing space assignments, sizes and outlines of fixed equipment such as transformers, main switch and switchboards, and generator sets;

2. Simple riser diagram for multistory building construction, showing arrangement of feeders, subfeeders, bus work, load centers, and branch circuit panels.

(d) Outline specifications.

1. General description of the construction, including interior finishes, types and locations of acoustical material, and special floor covering;

2. Description of the air-conditioning, heating, and ventilation systems and their controls; duct and piping systems; and dietary, laundry, sterilizing and other special equipment;

3. General description of electrical service including voltage, number of feeders, and whether feeders are overhead or underground.

(3) Third stage, contract documents.

(a) Working drawings. Working drawings shall be complete and adequate for bid, contract, and construction purposes. Drawings shall be prepared for each of the following branches of the work: architectural, structural, mechanical, and electrical. They shall include the following:

1. Architectural drawings.

a. Approach plan showing all new topography, newly established levels and grades, existing structures on the site (if any), new building structures, roadways, walks, and parking areas;

b. Plan of each basement, floor, and roof;

c. Elevations of each facade;

d. Sections through building;

e. Required scale and full-size details;

f. Schedule of doors, windows, and room finishes;

g. Layout of typical and special rooms indicating all fixed equipment and major items of movable equipment. Equipment not included in contract shall be so indicated;

h. Conveying systems. Details of construction, machine and control spaces necessary, size and type of equipment, and utility requirements for the following: dumbwaiters: electric, hand, hydraulic; elevators: freight, passenger, patient; loading dock devices; pneumatic tube systems.

2. Structural drawings.

a. Plans for foundations, floors, roofs, and all intermediate levels with sizes, sections, and the relative location of the various structural members;

b. Dimensions of special openings;

c. Details of all special connections, assemblies, and expansion joints.

3. Mechanical drawings.

a. Heating, steam piping, and air-conditioning systems. Radiators and steam heated equipment such as sterilizers, warmers, and steam tables; heating and steam mains and branches with pipe sizes; diagram of heating and steam risers with pipe sizes; sizes, types, and capacities of boilers, furnaces, hot water heaters with stokers, oil burners, or gas burners; pumps, tanks, boiler breeching, and piping and boiler room accessories; air-conditioning systems with required equipment, water and refrigerator piping, and ducts; supply and exhaust ventilation systems with heating/cooling connections and piping; air quantities for all room supply and exhaust ventilating duct openings.

b. Plumbing, drainage, and standpipe systems - size and elevation of: street sewer, house drains, street water main, and water service into the building; location and size of soil, waste, and water service with connection to house drains, clean-outs, fixtures, and equipment; size and location of hot, cold and circulating branches, and risers from the service entrance, and tanks; riser diagram for all plumbing stacks with vents, water risers, and fixture connections; gas, oxygen, and vacuum systems; standpipe and sprinkler systems where required; all fixtures and equipment that require water and drain connections.

4. Electrical drawings.

a. Electric service entrance with switches and feeders to the public service feeders, characteristics of the light and power current, transformers and their connections if located in the building;

b. Location of main switchboard, power panels, light panels, and equipment. Diagram of feeders and conduits with schedule of feeder breakers or switches;

c. Light outlets, receptacles, switches, power outlets and circuits;

d. Telephone layout showing service entrance telephone switchboard, strip boxes, telephone outlets and branch conduits;

e. Nurses' call systems with outlets for beds, duty stations, door signal light, annunciators, and wiring diagrams;

f. Emergency electrical system with outlets, transfer switch, sources of supply, feeders, and circuits;

g. All other electrically operated systems and equipment.

(b) Specifications. Specifications shall supplement the drawings to fully describe types, sizes, capacities, workmanship, finishes and other characteristics of all materials and equipment and shall include:

1. Cover or title sheet;

2. Index;

3. Sections describing materials and workmanship in detail for each class of work.

(c) Access to the work. Representatives of the appropriate state agencies shall have access at all reasonable times to the work wherever it is in preparation or progress, and the contractor shall provide proper facilities for such access and inspection.

Section 4. Compliance with Building Codes, Ordinances and Regulations. (1) This section may

be administered independently from other sections of this regulation.

(2) General. Nothing stated herein shall relieve the sponsor from compliance with building codes, ordinances, and regulations which are enforced by city, county, or state jurisdictions.

(3) The following requirements shall apply where applicable and as adopted by the respective agency authority:

(a) Requirements for safety pursuant to 815 KAR 10:020, as amended;

(b) Requirements for plumbing pursuant to 815 KAR 20:010-191, as amended;

(c) Requirements for air contaminants for incinerators pursuant to 401 KAR 59:020 and 401 KAR 61:010;

(d) Requirements for elevators pursuant to 815 KAR 4:010;

(e) Requirements for making buildings and facilities accessible to and usable by the physically handicapped pursuant to KRS 198B.260 and regulations promulgated thereunder.

(4) Prior to occupancy the facility shall have final approval from appropriate agencies.

(5) All facilities shall be currently approved by the Fire Marshal's office in accordance with the Life Safety Code before relicensure is granted by the licensing agency.

Section 5. Facility Requirements and Special Conditions. (1) A copy of the narrative program as submitted in the Certificate of Need application for each project shall be provided by the sponsor which describes the functional space requirements, staffing patterns, departmental relationships, and other basic information relating to the fulfillment of the objectives of the facility.

(2) The extent (number and types of rooms) of the diagnostic, clinical, and administrative facilities to be provided shall be determined by the services contemplated and the estimated patient load as described in the narrative program.

(3) Facilities shall be available to the public, staff, and patients who may be physically handicapped with special attention given to ramps, drinking fountain height, and mirrors.

Section 6. Nursing Unit. (1) Patient rooms. Each patient room shall meet the following requirements:

(a) Maximum room capacity shall be four (4) patients.

(b) Minimum room areas exclusive of toilet rooms, closets, lockers, wardrobes, or vestibules shall be 125 square feet in one (1) bed rooms and 100 square feet per bed in multi-bed rooms.

(c) Multi-bed rooms shall be designed to permit no more than two (2) beds side by side parallel to the window wall with not less than a four (4) foot space provided between beds, and at least a three (3) foot space between the side of a bed and the nearest wall, fixed cabinet, or heating/cooling element. A minimum of four (4) feet is required between foot of bed and opposite wall, or foot of the opposite bed in multi-bed rooms.

(d) Window. All patient rooms must have windows operable without the use of tools and shall have sills not more than three (3) feet above the floor. Window area shall be at least

eight (8) percent of patient room floor area.

(e) Nurses' calling system. See Section 34(7) of this regulation.

(f) Lavatory. In single and two (2) bed rooms with private toilet room, the lavatory may be located in the toilet room. Where two (2) patient rooms share a common toilet, a lavatory shall be provided in each patient room.

(g) Wardrobe or closet for each patient. Minimum clear dimensions shall be one (1) foot ten (10) inches by one (1) foot and eight (8) inches with full length hanging space, clothes rod and shelf.

(h) Cubicle curtains, or equivalent built-in devices shall be provided to furnish complete privacy for each patient at any one time in multi-bed rooms. Design for privacy shall not restrict patient access to the toilet, lavatory, or room entrance.

(i) No patient room shall be located more than 120 feet from the nurses' station, the clean workroom and the soiled workroom. No room shall be used as a patient room where the access is through another patient's room. At least sixty (60) percent of the beds in the nursing unit shall be located in rooms designed for one (1) or two (2) beds.

(2) Service areas in each nursing unit. The size and disposition of each service area will depend on the number of beds and types of disabilities to be served. Although identifiable spaces are required for each of the indicated functions, consideration will be given to multiple-use design solutions which provide equal, though unspecified, areas. Certain service areas may be arranged and located to serve more than one (1) nursing unit, but at least one (1) such service area shall be provided on each nursing floor unless noted otherwise. Service areas shall include:

(a) Administrative center or nurses' station for charting, doctors' charting, communications, and storage for supplies and nurses' personal effects.

(b) Clean workroom or clean holding area. The clean workroom shall contain a work counter, handwashing and storage facilities. The clean holding room shall be part of a system for storage and distribution of clean and sterile supplies and shall be similar to the clean workroom except that the work counter and handwashing facilities may be omitted.

(c) Soiled workroom or soiled holding room. The soiled workroom shall contain a clinical sink or equivalent flushing rim fixture, sink equipped for handwashing, work counter, waste receptacle, and linen receptacle. A soiled holding room shall be part of a system for collection and disposal of soiled materials and shall be similar to the soiled workroom except that the clinical sink and work counter may be omitted.

(d) Lounge and toilet room(s) for staff including lockers for storage of personal effects readily accessible. (May serve more than one (1) nursing unit.)

(e) Multi-purpose room for conferences, demonstrations and consultation. (May serve more than one (1) nursing unit.)

(f) Medicine area. Provision shall be made for convenient and prompt twenty-four (24) hour distribution of medicine to patients. This may be from a medicine preparation room or unit, a self-contained medicine dispensing unit, or by another approved system. If used, a medicine

preparation room or unit shall be under the nursing staff's visual control and a work counter, refrigerator, and locked storage for biologicals and drugs. A medicine dispensing unit may be located at the nurses' station, in the clean workroom, or in an alcove or other space under direct control of the nursing or pharmacy staff. The controlled substances locker must be under double lock. A handwashing facility shall be provided.

(g) Clean linen storage. There shall be an enclosed storage space for clean linen. This area may be designated within the clean workroom. If a closed cart system is used, storage may be in an alcove.

(h) Nourishment station. This shall contain a sink equipped for handwashing equipment for serving between scheduled meals, refrigerator, storage cabinets, and icemaking-dispenser units to provide patient service and treatment. (May serve more than one (1) nursing unit on the same floor.)

(i) Stretcher and wheelchair parking area or alcove. This shall be located out of the path of normal traffic. (May serve more than one (1) nursing unit on the same floor.)

(j) Janitor's closet for storage of housekeeping supplies and equipment with a floor receptor or service sink. (May serve more than one (1) nursing unit on the same floor.)

(k) Equipment storage room with sufficient space for equipment such as I.V. stands, inhalators, air mattresses, and walkers. (May serve more than one (1) nursing unit on the same floor.)

(l) Emergency equipment storage. Space for equipment such as crash carts shall be provided and be under direct control of the nursing staff in close proximity to the nurses' station and out of traffic. (May serve more than one (1) nursing unit on the same floor.)

(3) Patients' bathing facilities. There shall be at least one (1) shower stall or one (1) bathtub for each twelve (12) beds not individually served. Each tub or shower shall be in an individual room or privacy enclosure which provides space for the private use of the bathing fixture, for drying and dressing, and for a wheelchair and an assisting attendant. Showers and central bathing facilities shall be at least four (4) feet square without curbs, and designed to permit use by a wheelchair patient.

(4) Patient toilet rooms.

(a) The minimum dimensions of a room containing only a water closet shall be five (5) feet by six (6) feet. Additional space shall be provided if a lavatory is located within the same room. The configuration of patient toilet rooms must provide for side transfers.

(b) A toilet room shall be directly accessible from each patient room without going through the general corridor. One (1) toilet room may serve two (2) patient rooms, but not more than four (4) beds. (The lavatory may be omitted from the toilet room if one is provided in each patient room.)

(c) Doors to toilet rooms shall have a minimum width of two (2) feet ten (10) inches to admit a wheelchair.

(5) Isolation room. If provided for in the program narrative, isolation room(s) shall be required for those prone to infections as well as those suffering from infections. Each isolation room shall have:

(a) Only one (1) patient per room;

(b) Separate toilet room with bath or shower and lavatory for the exclusive use of the patient allowing for direct entry from the patient bed area; and

(c) Facilities outside and immediately adjacent to the patient room for maintaining aseptic conditions.

Section 7. Outpatient Suite. (1) General. Facilities for outpatient clinic care shall be provided if included in the narrative plan.

(2) Outpatient department. If outpatient services are provided, the extent of the administrative, clinical and diagnostic facilities to be provided will depend on the estimated patient load as described in the program narrative. The planning of outpatient facilities shall provide for the privacy and dignity of the patient during interview, examination, and treatment. Facilities shall be located so that outpatients do not traverse inpatient areas and the following shall be provided:

(a) Entrance at grade level which is sheltered from weather and able to accommodate wheelchair access.

(b) Reception and control area located near the entrance and waiting area(s).

(c) Wheelchair storage out of the line of direct traffic.

(d) Public waiting area with toilet facilities, public telephone and drinking fountain.

(e) Interview space(s) for private interviews relating to social service, credit and admissions.

(f) General purpose examination room(s) for medical examinations. Each room shall have a minimum floor area of eighty (80) square feet, excluding such spaces as vestibule, toilet, closet and work counter. Examination table shall be placed to provide at least thirty (30) inches clearance to each side and at the foot of the table. A lavatory or sink equipped for handwashing shall be provided in each room.

(g) Patient toilet facilities shall be provided. The number required will depend on the actual patient load of the department.

(h) Nurses' station for nurses' charting, doctors' charting, communications and storage for supplies and nurses' personal effects.

(i) Staff toilet room located convenient to the nurses' station.

(j) Clean workroom. It shall contain a work counter, sink equipped for handwashing, and storage space for clean and sterile supplies.

(k) Soiled workroom. It shall contain a clinical sink or equivalent flushing type fixture, work counter, sink equipped for handwashing, waste receptacle and linen receptacle.

(l) Drug distribution station for storage and preparation of medication. It shall contain a work counter, sink equipped for handwashing, and storage facilities. Controlled substances shall be under double lock.

(m) Wheelchair and stretcher alcove located convenient to the entrance to the department.

(n) Janitor's closet. It shall contain a floor receptor or service sink with storage space for housekeeping supplies and equipment for exclusive use in the outpatient department.

(o) Equipment storage room.

Section 8. Radiology Suite. If the facility

provides diagnostic radiology services directly, then the suite shall contain the following:

- (1) Radiographic room(s);
- (2) Film processing facilities;
- (3) Viewing and administrative area(s);
- (4) Film storage facilities;
- (5) Toilet room with handwashing facility. It shall be located directly accessible from each fluoroscopy room without entering the general corridor area;
- (6) Dressing area(s) for ambulatory patients with convenient access to toilets;
- (7) Waiting room or alcove for ambulatory patients;
- (8) Holding area for stretcher patients. It shall be located out of the direct line of normal traffic; and
- (9) Handwashing facilities shall be provided in each radiographic room unless the room is used only for routine diagnostic screening such as for chest x-rays.

Section 9. Laboratory Suite. Facilities shall be provided directly or through an effective contract arrangement with a nearby hospital for laboratory service for the following:

- (1) Hematology;
- (2) Clinical chemistry. An acid-shower and eye-washing facility shall be provided nearby;
- (3) Urinalysis. A specimen toilet with handwashing facility shall be provided nearby;
- (4) Cytology;
- (5) Bacteriology;
- (6) Waiting area for ambulatory patients;
- (7) Administrative support areas;
- (8) Blood storage facilities;
- (9) Blood specimen collection area. It shall contain work counter, handwashing facilities, and space for patient seating;
- (10) Glasswashing and sterilizing facilities; and
- (11) Recording and filing facilities.

Section 10. Physical Therapy Suite. Each rehabilitation facility shall provide physical therapy services; however, the physical therapy area can be shared with the occupational therapy services, if called for in the program narrative. Each physical therapy suite shall contain the following items:

- (1) Office space;
- (2) Waiting space;
- (3) Treatment area(s) for thermotherapy, diathermy, ultrasonics, hydrotherapy, etc. Cubicle curtains around each individual treatment area shall be provided for privacy purposes. Handwashing facilities shall be provided but one (1) lavatory or sink may serve more than one (1) treatment cubicle. Facilities for collection of wet and soiled linen or other material shall be provided;
- (4) Exercise area(s);
- (5) Storage for clean linen, supplies, and equipment;
- (6) Patients' dressing areas, showers, lockers and toilet rooms;
- (7) Janitor's closet with floor receptor or service sink and storage space for housekeeping supplies and equipment; and
- (8) Wheelchair and stretcher storage area. (Items contained in subsections (1), (2), (5), (7) and (8) of this section may be planned and arranged for shared use by occupational therapy patients and staff if the approved narrative program reflects this sharing concept.)

Section 11. Occupational Therapy Suite. Each rehabilitation facility shall provide occupational therapy services; however, the occupational therapy area can be shared with the physical therapy services, if called for in the program narrative. The following shall be provided:

- (1) Office space;
- (2) Waiting space;
- (3) Work areas and counters suitable for wheelchair access;
- (4) Handwash facilities;
- (5) Storage for supplies and equipment.

Section 12. Social Work Suite. Each rehabilitation facility shall contain a social work suite. The following shall be provided:

- (1) Office space(s) for staff.
- (2) Office space for private interviewing and counseling for all family members.

Section 13. Psychological Services Suite. Each rehabilitation facility shall contain a psychological service suite. The following shall be provided:

- (1) Office(s).
- (2) Workspace for testing, evaluation, and counseling.

Section 14. Speech and Language Therapy Suite. Each rehabilitation facility shall contain a speech and language therapy suite. The following shall be provided:

- (1) Office(s) for therapists.
- (2) Space for evaluation and treatment.
- (3) Space for equipment and storage.

Section 15. Area for Teaching Activities of Daily Living (should be combined with rehabilitative engineering function, as needed).

- (1) An area for teaching activities shall be provided.
- (2) It shall include a bedroom, bath, kitchen, and space for stairs.

Section 16. Prosthetics and Orthotics Service. Depending on the needs of those served and the stated institutional goals, the facility shall provide or make arrangements for the following:

- (1) Work space for technician(s).
- (2) Space for evaluation and fittings (with a provision for privacy).
- (3) Space for equipment, supplies, and storage.

Section 17. Vocational Therapy Services. Depending upon the needs of those served and the stated institutional goals, the facility shall provide or make arrangements for the following:

- (1) Office(s).
- (2) Workspace for vocational services activities such as evaluation (prevocational and vocational).
- (3) Training.
- (4) Counseling and placement.

Section 18. Respiratory Therapy Services. Depending upon the needs of those served and the stated institution goals, the facility shall provide or make arrangements for the following:

- (1) Storage for equipment and supplies.
- (2) Space and utilities for cleaning and sanitizing equipment.
- (3) Service facilities for calibrating, adjusting, servicing, and minor repairs and equipment.

(4) Respiratory services shall be conveniently accessible on a twenty-four(24) hour basis to the facility.

(5) If respiratory services such as testing and demonstration for outpatients are part of the program, additional facilities and equipment shall be provided as necessary for appropriate function of the service, including but not limited to:

- (a) Patient waiting area with provision for wheelchairs.
- (b) Reception and control station.
- (c) Patient toilets and handwashing facilities.
- (d) Room(s) for patient education and demonstration.

Section 19. Pharmacy Suite. If required by program, the size and type of services to be provided in the pharmacy will depend upon the type of drug distribution system to be used and whether the facility proposes to provide, purchase, or share pharmacy services. This shall be explained in the narrative program. Provision shall be made for the following functional areas:

- (1) Dispensing area with handwash facility.
- (2) Editing or order review area.
- (3) Area for compounding.

Section 20. Dietary Department. Food facilities shall be designed and equipped to meet requirements of the narrative program. If a commercial service will be used, dietary areas and equipment shall be designed to accommodate the requirements for sanitary storage, processing, and handling. The department shall include the following facilities unless acceptable commercially prepared dietary services, meals, and or disposables are to be used:

(1) Control station for the receiving of food supplies.

(2) Food preparation facilities. Conventional food preparation systems require space and equipment for preparing, cooking, and baking. Convenience food service systems such as frozen prepared meals, bulk packages entrees, and individual package portions, or systems using contractual commissary services require space and equipment for thawing, portioning, cooking and/or baking.

(3) Handwashing facility(ies) located conveniently accessible in the food preparation area.

(4) Patients' meals service facilities. Examples are those required for tray assembly and distribution.

(5) Dishwashing space. It shall be located in a room or alcove separate from the food preparation and serving area. Commercial-type dishwashing equipment shall be provided. Space shall also be provided for receiving, scraping, sorting and stacking of soiled dishware and tableware prior to clean-up. The area shall be designed to allow clean dishware and tableware to be removed at a different location than the one used for the soiled dishware and tableware. A handwashing lavatory shall be conveniently located.

(6) Potwashing facilities.

(7) Refrigerated storage to accommodate a three (3) day minimum supply.

(8) Dry storage to accommodate a three (3) day minimum supply.

(9) Storage areas and sanitizing facilities for cans, carts and mobile tray conveyors.

(10) Waste storage facilities shall be located in a separate room easily accessible to the outside for direct pick-up or disposal.

(11) Dining space for ambulatory patients, staff and visitors.

(12) Office(s) or desk spaces for dieticians or the dietary service manager.

(13) Toilets with handwashing facilities for use by the dietary staff shall be immediately available.

(14) Janitor's closet located within the department. It shall contain a floor receptor or service sink with storage for housekeeping supplies and equipment to be used exclusively in this area.

Section 21. Patient's Dining, Recreation, and Day Spaces. The following areas shall be provided and may be in separate or adjoining spaces:

(1) Inpatients and residents. A total of twenty-five (25) square feet per bed.

(2) Outpatients. A total of twenty (20) square feet per person when dining is a part of their day care program. (If dining is not part of the program, provide at least ten (10) square feet per person for recreation and day spaces.)

(3) Storage. Storage spaces shall be provided for recreational equipment and supplies.

Section 22. Administrative and Public Areas. The following shall be provided:

(1) Lobby. It shall include:

- (a) Storage space for wheelchairs;
- (b) Reception and information counter or desk;
- (c) Waiting space(s); and
- (d) Public toilet facilities designed for use by the physically handicapped.

(2) Interview space(s) for private interviews relating to social services, credit, and admissions.

(3) Director of nurses' office.

(4) Staff toilet rooms.

(5) Medical library facilities.

(6) General or individual office(s) for business transactions, medical and financial records, administrative and professional staffs use.

(7) Administrator's office.

(8) Multi-purpose room(s) for conferences, meetings, and health education purposes including provisions for showing visual aids.

(9) Storage for office equipment and supplies.

Section 23. Medical Records Unit. This unit shall include:

(1) Medical records administrator/technician office or space;

(2) Active record storage area;

(3) Record review and dictating room; and

(4) Work area for sorting, recording, and microfilming.

Section 24. Sterilizing Facilities. A system for the sterilization of equipment and supplies shall be provided. Storage area for clean supplies and sterile supplies shall be provided.

Section 25. Central Stores. The following shall be provided:

(1) Offstreet unloading facilities.

(2) Control station for receiving supplies.

(3) General storage rooms which are adequate in size to meet the needs of the facility.

Section 26. Laundry. On-site processing and off-site processing.

(1) If linen is to be processed on the site, the following shall be provided:

(a) Soiled linen receiving, holding, and sorting room with handwashing facilities.

(b) Laundry processing room with commercial-type equipment which can process seven (7) days of linen needs within a regularly scheduled work week. Handwashing facilities shall be provided.

(c) Storage for laundry supplies.

(d) Clean linen inspection and mending room.

(e) Clean linen storage, issuing, and holding room or area.

(f) Janitor's closet. It shall contain a floor receptor or service sink with storage space for housekeeping supplies and equipment to be utilized exclusively in this department.

(g) Cart storage and cart sanitizing facilities.

(h) Arrangement of equipment and procedures shall be in a manner to permit an orderly work flow with a minimum of cross traffic that might mix clean and soiled operations.

(2) If linen is to be processed off the site, the following shall be provided:

(a) Soiled linen holding room with a handwashing facility conveniently accessible.

(b) Clean linen receiving, holding, inspection and storage room(s).

Section 27. Employees' Facilities. (1) Female locker room. This room shall have lounge space, lockers for personal effects and a separate toilet room. The area shall be designed for use by the physically handicapped. In some cases shower facilities may be appropriate depending on the size of the facility.

(2) Male locker room. This room shall have lockers and a separate toilet room. The area shall be designed for use by the physically handicapped. In some cases shower facilities may be appropriate depending on the size of the facility.

Section 28. Engineering Service and Equipment Areas. The following shall be provided:

(1) Room(s) or separate building(s) for boilers, mechanical equipment and electrical equipment;

(2) Engineer's office;

(3) Maintenance shop;

(4) Storage room for building maintenance supplies;

(5) Storage room for central housekeeping equipment and supplies;

(6) Office and administrative support space for person(s) in charge of central housekeeping; and

(7) Yard equipment storage.

Section 29. Waste Processing Services. Rehabilitation facilities which are part of an acute care hospital may share waste processing. Freestanding facilities shall provide the following:

(1) Storage and disposal. Space and facilities shall be provided for the sanitary storage and disposal of waste by incineration, mechanical destruction, compaction, containerization, removal or by a combination of these techniques.

(2) Incinerator. A gas, electric, or oil-fired incinerator shall be provided for the complete destruction of pathological and infectious

waste. Infectious waste includes, but is not limited to, waste materials from isolation rooms, dressings and material from open wounds and laboratory specimens. The incinerator may be shared by two (2) or more institutions located on a common "campus." sterilization or incineration.

(a) The incinerator capacity required will vary with the type and quantity of waste to be processed. If approved by local authorities and described in the functional program, items of small mass such as dressings, isolation room waste, laboratory specimens, may be sterilized on site by autoclaving or rendered safe by other acceptable procedure and disposed of in municipal landfill or incinerator. Waste tissue and contaminated combustible solids shall be rendered safe by such methods as sterilization or incineration. Culture plates, tubes, sputum cups, contaminated sponges, swabs and the like shall be sterilized before they are washed and discarded.

(b) Consideration shall be given to the recovery of waste heat from on-site incinerators which are used to dispose of large amounts of waste materials.

Section 30. Details and Finishes. (1) Details.

(a) All doors to patient-room toilets and patient-room bathrooms shall swing outward or be equipped with hardware that will permit access in an emergency.

(b) Windows and outer doors which may be frequently left in an open position shall be provided with insect screens.

(c) Thresholds and expansion joint covers shall be made flush with the floor surface to facilitate use by wheelchairs and carts and shall be constructed to resist passage of smoke.

(d) The location and arrangements of lavatories and sinks equipped with blade handles for handwashing purposes shall provide a minimum of sixteen (16) inches clearance to each side of the centerline of the fixture.

(e) Provisions for hand drying shall be included at all handwash facilities except scrub sinks. These shall be single use, separate paper or cloth units enclosed in such a way as to provide protection against dust or soil and insure single unit dispensing. Hot air dryers are permitted provided that installation is such as to minimize contamination by recirculated air.

(f) Grab bars shall be provided at all patients' toilets, showers, and tubs. The bars shall have one and one-half (1 1/2) inches clearance to walls and shall be of sufficient strength and anchorage to sustain a concentrated load of 250 pounds for a period of five (5) minutes.

(g) Handrails shall be provided on both sides of corridors used by patients. A clear distance of one and one-half (1 1/2) inches shall be provided between the handrail and the wall, and the top of the rail shall be about thirty-two (32) inches above the floor, except for special care areas such as those serving children.

(h) Ends of handrails and grab bars shall be constructed to prevent snagging the clothes of patients.

(i) Location and arrangement of handwashing facilities shall permit their proper use and operation. Particular care should be given to clearance required for blade-type operating handles. Lavatories intended for use by handicapped patients shall be installed to

permit wheelchairs to slide under them.

(j) Recessed soap dishes shall be provided at all showers and bathtubs.

(k) Mirrors shall be arranged for convenient use by patients in wheelchairs as well as by patients in a standing position.

(l) Protection requirements of x-ray and gamma-ray installations shall be approved by the Radiation and Product Safety Branch, Office of Consumer Health Protection, Department for Health Services, Cabinet for Human Resources.

(m) The minimum ceiling height shall be eight (8) feet, with the following exceptions:

1. Boiler rooms shall have ceiling clearances not less than two (2) feet six (6) inches above the main boiler header and connecting piping.

2. Radiographic, and other rooms containing ceiling-mounted equipment or ceiling-mounted light fixtures shall have sufficient height to accommodate the equipment or fixtures and their normal movement.

3. Ceiling and corridors, storage rooms, and toilet rooms shall be not less than seven (7) feet eight (8) inches. Ceilings in small minor spaces which are normally unoccupied may be reduced to seven (7) feet.

4. Suspended tracks, rails, and pipes located in the path of traffic for patients in beds and/or stretchers, including service areas for inpatients shall be not less than seven (7) feet above the floor.

(n) Recreation rooms, exercise rooms, and similar spaces where impact noises may be generated shall not be located directly over patient bed areas, unless special provisions are made to minimize such noise.

(o) Rooms containing heat-producing equipment such as boiler rooms, laundries, and food preparation areas shall be insulated and ventilated to prevent any floor surface from exceeding a temperature of ten (10) degrees Fahrenheit above the ambient room temperature.

(p) Noise reduction criteria. Partition, floor, and ceiling construction in patient areas shall comply with Table 1, Section 35 of this regulation.

(2) Finishes.

(a) Floor materials shall be easily cleanable and have wear resistance appropriate for the location involved. Floors in areas used for food preparation or food assembly shall be water-resistant and greaseproof. Joints in tile and similar material in such areas shall be resistant to food acids. In all areas subject to frequent wet cleaning methods, floor materials shall not be physically affected by germicidal and cleaning solutions. Floors that are subject to traffic while wet, such as shower and bath areas, kitchens and similar work areas, shall have a non-slip finish.

(b) Adjacent dissimilar floor materials shall be flush with each other to provide an unbroken surface.

(c) Walls generally shall be washable; and in the immediate area of plumbing fixtures, the finish shall be smooth and moisture-resistant. Finish, trim, and floor and wall construction in dietary and food preparation areas shall be free from spaces that can harbor rodents and insects.

(d) Wall bases in kitchens, and other areas subject to frequent wet cleaning methods shall be made integral and coved with the floor, tightly sealed within the wall, and constructed without voids that can harbor harmful bacteria.

(e) Ceilings throughout the facility shall be

easily cleanable. Ceilings in dietary and food preparation areas shall have a finished ceiling covering all overhead piping and ductwork. Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas and similar spaces, unless required for fire-resistive purposes.

(f) Acoustical type ceilings shall be provided for corridors in patient areas, nurses' stations, dayrooms, recreation rooms, dining areas, and waiting areas.

Section 31. Elevators. General. All buildings having patients' facilities, such as bedrooms, dining rooms or recreation areas, or critical services, such as diagnostic or therapy areas, located on other than the main entrance floor shall have elevators.

(1) Number of elevators.

(a) At least one (1) hospital-type elevator shall be installed where one (1) to fifty-nine (59) patient beds are located on any floor other than the main entrance floor.

(b) At least two (2) hospital-type elevators shall be installed where sixty (60) to 200 patient beds are located on floors other than the main entrance floor, or where the major inpatient services are located on a floor other than those containing patient beds.

(c) At least three (3) hospital-type elevators shall be installed where 201 to 350 patient beds are located on floors other than the main entrance floor, or where the inpatient services are located on a floor other than those containing patient beds.

(d) For facilities with more than 350 beds number of elevators shall be determined from a study of the facility plan and the estimated vertical transportation requirements.

(2) Cars and platforms. Cars of hospital-type elevators shall have inside dimensions that will accommodate a hospital bed and attendant and shall be at least five (5) feet wide by seven (7) feet and six (6) inches deep. The car door shall have a minimum clear opening of not less than three (3) feet and eight (8) inches.

(3) Leveling. Elevators shall have automatic leveling of the two (2) way automatic maintaining type with accuracy within plus or minus one-half (1/2) inch.

(4) Operation. Elevators, except freight elevators, shall be equipped with a two (2) way special service switch to permit cars to bypass all landing button calls and be dispatched directly to any floor.

Section 32. Construction. (1) Design. Every building and every portion thereof shall be designed and constructed to sustain all dead and live loads in accordance with accepted engineering practices and standards, including seismic forces when applicable.

(2) Foundations. Foundations shall rest on natural solid bearing, if a satisfactory bearing is available at reasonable depths. Proper soil-bearing values shall be established in accordance with recognized standards. If solid bearing is not encountered at practical depths, the structure shall be supported on driven piles, augured piles, poured caissons or equivalent designed to support the intended load without detrimental settlement, except that one (1) story buildings may rest on a fill designed by a soils engineer. When engineered fill is used, site preparation and placement of fill

shall be done under the direct full-time supervision of the soils engineer. The soils engineer shall issue a final report on the compacted fill operation and certification of compliance with the job specifications. All footings shall extend to a depth not less than one (1) foot below the estimated frost line.

(3) Natural disasters. Special provisions shall be made in the design of buildings in geographic areas where local experience reflects loss of life or extensive damage to buildings resulting from tornadoes, floods, earthquakes, etc.

Section 33. Mechanical Requirements. (1) General. Prior to completion of the contract and final acceptance of the facility, the architect and/or engineer shall obtain from the contractor certification in writing that all mechanical systems have been tested and that the installation and performance of these systems conform with the final plans and specifications.

(2) Incinerators. The design and installation shall comply with the current Kentucky standards for control of air contaminants for incinerators regulations as applicable to hospitals.

(3) Steam and hot water systems.

(a) Boilers. If boilers are used, a minimum of two (2) shall be provided and the combined capacity of the boilers, based upon the published Steel Boiler Institute or Institute of Boiler and Radiation Manufacturer's net rating, must be able to supply 150 percent of the normal requirements for all systems and equipment in the facility.

(b) Boiler accessories. Boiler feed pumps, condensate return pumps, fuel oil pumps, and circulation pumps shall be connected and installed to provide normal and standby service.

(c) Valves. Supply and return mains and risers of cooling, heating, and process steam systems shall be valved to isolate the various sections of each system. Each piece of equipment shall be valved at the supply and return ends except that vacuum condensate returns need not be valved at each piece of equipment.

(4) Thermal and acoustical installation.

(a) Insulation shall be provided on the following within the building:

1. Boilers, smoke breeching, and stacks;
2. Steam supply and condensate return piping;
3. Hot water piping above 120 degrees Fahrenheit at all hot water heaters, generators and convertors;
4. Chilled water, refrigerant, other process piping and equipment operating with fluid temperatures below ambient dew point;
5. Water supply and drainage piping on which condensation may occur;
6. Air ducts and casings with outside surface temperature below ambient dew point or temperature above eighty (80) degrees Fahrenheit; and
7. Other piping, ducts, and equipment as necessary to maintain the efficiency of the system.

(b) Insulation on cold surfaces shall include an exterior vapor barrier.

(5) Air-conditioning, heating and ventilation systems.

(a) Temperatures for areas occupied by inpatients, the indoor winter design temperature shall be seventy-five (75) degrees Fahrenheit. For all other occupied areas, the indoor winter design temperature shall be seventy-two (72)

degrees Fahrenheit. For all other occupied areas, the indoor summer design temperature shall be seventy-five (75) degrees Fahrenheit.

(b) Ventilation system details. All air-supply and air-exhaust systems shall be mechanically operated. All fans serving exhaust systems shall be located at the discharge end of the system. The ventilation rates as shown on Table 2, Section 35 of this regulation, shall be considered as minimum acceptable rates and shall not be construed as precluding the use of higher ventilation rates.

1. Outdoor air intakes shall be located as far as practical but not less than twenty-five (25) feet from exhaust outlets of ventilation systems, combustion equipment stacks, medical surgical vacuum systems, plumbing vent stacks, or from areas which may collect vehicular and other noxious fumes. Plumbing and vacuum vents that terminate above the level of the top of the air intake may be located as close as ten (10) feet. The bottom of outside air intakes serving central air systems shall be located as high as practical but not less than six (6) feet above ground level or if installed above the roof, three (3) feet above roof level.

2. The ventilation systems shall be designed and balanced in accordance with the pressure relationship as shown in Table 2, Section 35 of this regulation.

3. Where two (2) filter beds are required in central ventilation and air-conditioning equipment, Filter Bed No. 1 shall be located upstream of the air-conditioning equipment and Filter Bed No. 2 shall be located downstream of the supply fan, any recirculating spray water system, and water reservoir type humidifiers. Where only one (1) filter bed is required, it shall be located upstream of the air-conditioning equipment unless an additional pre-filter is employed. In this case, the pre-filter shall be located upstream of the equipment and the main filter may be located further downstream.

4. All room supply, return and exhaust outlets shall be located not less than three (3) inches AFF.

5. All central ventilation or air-conditioning systems shall be equipped with filters having minimum efficiencies as listed below:

Area Designation	Minimum No. of Filters	Filter Efficiencies %	
		No. 1.	No. 2
Burn Care Unit	2	25	90
Patient Care, Treatment, Diagnostic and Related Areas	2	25	90*
Food Preparation and Laundry	1	80	--
Administrative, Storage, and Soiled Holding	1	25	--

*May be reduced to eighty (80) percent for systems using all-outdoor air.

6. All filter efficiencies as listed above shall be average atmospheric dust spot efficiencies tested in accordance with ASHRAE Standard 52-76.

7. Filter frames shall be durable and carefully dimensioned, and shall provide an air-tight fit with the enclosing ductwork. All joints between filter segments and the enclosing ductwork shall be gasketed or sealed to provide a positive seal against air leakages.

8. A manometer or its equivalent shall be

installed across each filter bed in central air systems.

9. Ducts which penetrate construction intended for x-ray or other ray protection shall not impair the effectiveness of the protection.

10. Laboratories shall be provided with outdoor air at a rate of two (2) air changes per hour. If this ventilation rate does not provide the air required to ventilate fume hoods and safety cabinets, additional outdoor air shall be provided. A filter with ninety (90) percent minimum efficiency shall be installed in the air supply system at its entrance to the media transfer room.

11. Laboratory hoods for general use shall have a minimum average face velocity of seventy-five (75) feet per minute. Hoods in which infections or highly radioactive materials are processed shall have a face velocity of 100 feet per minute and each hood shall have an independent exhaust system with the fan installed at the discharge point of the system. Hoods used for processing infectious materials shall be equipped with a means of disinfection.

12. Duct systems serving hoods in which highly radioactive materials and strong oxidizing agents are used shall be constructed of stainless steel for a minimum of ten (10) feet from the hood and shall be equipped with washdown facilities.

13. Boiler rooms shall be provided with sufficient outdoor air to maintain combustion rates of equipment and reasonable temperatures in the rooms and in adjoining areas.

(6) Plumbing systems. All plumbing systems shall be designed and installed in accordance with the requirements of the current Kentucky plumbing standards regulations applicable to hospitals.

(a) Plumbing fixtures.

1. The material used for plumbing fixtures shall be of non-absorptive acid-resistant material.

2. Lavatories and sinks required in patient care areas shall have the water supply spout mounted so that its discharge point is a minimum of five (5) inches above the rim of the fixture. All fixtures used by medical and nursing staff and all lavatories used by patients and food handlers shall be equipped with valves which can be operated without the use of hands. Where blade handles are used for this purpose, they shall not exceed four and one-half (4 1/2) inches in length, except that handles on scrub sinks and clinical sinks shall be not less than six (6) inches long.

3. Clinical sinks shall have an integral trap in which the upper portion of a visible trap seal provides a water surface.

4. Shower bases and tubs shall provide non-slip surfaces for patients.

(b) Water supply systems.

1. Systems shall be designed to supply water at sufficient pressure to operate all fixtures and equipment during maximum demand periods.

2. Each water service main, branch main, riser and branch to a group fixture shall be valved. Stop valves shall be provided at each fixture.

3. Backflow preventers (vacuum breakers) shall be installed on hose bibbs, laboratory sinks, janitors' sinks, bedpan flushing attachments, and all other fixtures to which hoses or tubing can be attached.

4. Flush valves installed on plumbing fixtures shall be of a quiet operating type.

5. Bedpan flushing devices shall be provided in each patient toilet room and in the soiled workrooms located in the patient nursing units.

6. An auxiliary water supply shall be available to provide potable water in case of emergencies.

(c) Hot water heating systems.

1. The hot water heating equipment shall have a sufficient capacity to supply water at the temperature and amounts indicated below:

	Hotwater Use		
	Clinical	Dishwasher	Laundry
Gal/hr/bed	6 1/2	4	4 1/2
Temp. F.	125	180*	160**

*Temperature may be reduced to 160 degrees Fahrenheit if a chloritizer is used. Required temperatures must be provided throughout the wash and rinse cycles.

**Required temperature of 160 degrees Fahrenheit is that measured in the washing machine and shall be supplied so that the temperature will be maintained over the entire wash and rinse cycles.

2. Storage tank(s) shall be fabricated or corrosive-resistant metal or be lined with non-corrosive material.

(d) Drainage systems.

1. Drain lines from sinks in which acid wastes may be poured shall be fabricated from an acid-resistant material.

2. Piping over food preparation centers, food serving facilities, food storage areas, and other critical areas shall be kept to a minimum and shall not be exposed. Special precautions shall be taken to protect these areas from possible leakage or condensation from necessary overhead piping systems.

3. Building sewers shall discharge into a community sewerage system. Where such a system is not available, a facility providing sewage treatment shall be installed which conforms to all applicable local and state regulations.

4. Nonflammable medical gas systems. If used, nonflammable medical gas systems installations shall be in accordance with the requirements of NFPA Standard 56A and 56F.

5. At least two (2) patient rooms in each nursing unit and the examination/treatment rooms shall have oxygen and vacuum outlets.

6. In patient rooms with oxygen and vacuum outlets, one (1) set of those outlets may serve two (2) beds.

Section 34. Electrical Requirements. (1) General.

(a) All material including equipment, conductors, controls, and signaling devices shall be installed to provide a complete electrical system with the necessary characteristics and capacity to supply the electrical facilities shown in the specifications or indicated on the plans. All materials shall be listed as complying with applicable standards of Underwriters' Laboratories, Inc., or other similarly established standards.

(b) All electrical installations and systems shall be tested to show that the equipment is installed and operates as planned or specified. A written record of performance tests on special electrical systems and equipment shall be supplied to the owner.

(2) Switchboard and power panels. Circuit breakers or fusible switches that provide disconnecting means and overcurrent protection for conductors connected to switchboards and panelboards shall be enclosed or guarded to provide a dead-front type of assembly. The main switchboard shall be located in a separate enclosure accessible only to authorized persons. The switchboard shall be convenient for use, readily accessible for maintenance, clear of traffic lanes, and in a dry ventilated space devoid of corrosive fumes or gases. Overload devices shall be suitable for operating properly in the ambient temperature conditions.

(3) Panelboards. Lighting and appliance panelboards shall be located on the same floor as the circuits they serve.

(4) Lighting.

(a) All spaces occupied by people, machinery, and equipment within buildings, and the approaches thereto, and parking lots shall have lighting.

(b) Patients' bedrooms shall have general lighting and night lighting. A reading light shall be provided for each patient. Flexible light arms shall be mechanically operated to prevent the bulb from coming in contact with the bed linen. Patients' reading lights and other fixed lights not switched at the door shall have switch controls located convenient to the luminaire. A fixed type night light, mounted at approximately sixteen (16) inches above the floor, shall be provided in each patient room. All switches for control of lighting in patient areas shall be of the quiet operating type. Switches in patients' rooms shall be installed not more than forty-eight (48) inches above the floor to be reached from a wheelchair.

(c) Nursing unit corridors shall have general illumination with provisions for reduction of light levels at night. Refer to Table 3, Section 35 of this regulation.

(5) Receptacles (convenience outlets).

(a) Bedroom. Each patient bedroom shall have duplex receptacles as follows: one (1) on each side of the head of the bed; one (1) for the television, if used; and one (1) on another wall. Receptacles for general use shall be located convenient for use from a wheelchair.

(b) Corridors. Duplex receptacles for general use shall be installed approximately fifty (50) feet apart and within twenty-five (25) feet of ends of corridors.

(6) Equipment installation in special areas.

(a) X-ray and gamma-ray installations. X-ray stationary installations and mobile equipment shall conform to the current Kentucky standards for radiographic and radioisotope equipment and use regulations applicable to hospitals.

(b) X-ray film illuminator units. At least two (2) units shall be installed in the x-ray viewing room.

(c) The electrical circuit(s) to fixed or portable equipment in hydrotherapy units shall be provided with five (5) milliampere ground fault interrupters.

(7) Nurses' calling system.

(a) General. In general patient areas, each room shall be served by at least one (1) calling station and each bed shall be provided with a call button. Two (2) call buttons serving adjacent beds may be served by one (1) calling station. Calls shall register at an annunciator panel at the nurses' station and shall actuate a visible signal in the corridor at the patient

room door, in the clean workroom, the soiled workroom, the nourishment station, and the nurses' lounge of the nursing unit. In multicorridor nursing units, additional visible signals shall be installed at corridor intersections. In rooms containing two (2) or more calling stations, indicating lights shall be provided at each station. Nurses' calling systems which provide two (2) way voice communication shall be equipped with an indicating light at each calling station which lights and remains lighted as long as the voice circuit is operating.

(b) Patients' emergency. A nurses' call emergency button shall be provided for patients' use at each patient's toilet, bath, and shower room on the nursing unit floors. Such buttons shall be usable by a collapsed patient lying on the floor; inclusion of a pull cord will satisfy this requirement.

(8) Fire alarms and fire detection systems. The design and installation of these systems must be approved by the State Fire Marshal's Office.

(9) Emergency electrical.

(a) General. To provide electricity during interruption of the normal electric supply, an emergency source of electricity shall be provided and connected to certain circuits for lighting and power.

(b) Sources. The source of this emergency electric service shall be as follows:

1. An emergency generating set, when the normal service is supplied by one (1) or more central station transmission lines.

2. An emergency generating set or a central station transmission line, when the normal electric supply is generated on the premises.

(c) Emergency generating set. The required emergency generating set, including the prime mover and generator, shall be located on the premises and shall be reserved exclusively for supplying the emergency electrical system. Generator sets shall be self-sufficient insofar as possible without dependency on public utilities that may be subject to cutoff or outages. Exception: A system of prime movers which are ordinarily used to operate other equipment and alternately used to operate the emergency generator(s) will be permitted provided that the number and arrangement of the prime movers are such that when one (1) of them is out of service (due to breakdown or for routine maintenance), the remaining prime mover(s) can operate the required emergency generator(s) and provided that the connection time requirements as listed in Section 34(9)(e) of this regulation are met. The emergency generator set shall be of sufficient kilowatt capacity to supply all lighting and power load demands of the emergency electrical system. The power factor rating of the generator shall be not less than eighty (80) percent.

(d) Emergency electrical connections. Emergency electric service shall be provided to circuits as follows:

1. Lighting.

a. Exitways and all necessary ways of approach thereto, including exterior of exits, exit doorways, stairways, and corridors.

b. Laboratory, nursing station, medication preparation dispensing area.

c. Generator set location, switch-gear location, mechanical room and boiler room.

d. Elevator cabs.

e. Night light in patient rooms.

2. Equipment. Essential to life safety and for protection of important equipment or vital materials:

a. Nurses' calling system.

b. Paging or speaker systems, if intended for issuing instructions during emergency conditions. Alarms required for medical gas systems.

c. Fire pump and jockey pump, if installed.

d. Pump for central suction system.

e. Sewerage or sump lift pump, if installed.

f. Blood bank refrigerator.

g. Duplex receptacles in patient corridors, and at least one (1) duplex receptacle located on the patient headwall in each patient room.

h. Elevator service that will reach every patient floor. Manual throwover facilities shall be provided to allow temporary operation of any elevator for the release of persons who may be trapped between floors.

i. Equipment necessary for maintaining telephone service.

3. Heating. Equipment for heating general patient rooms; except that service for heating of those rooms will not be required under either of the following conditions:

a. The design temperature is higher than twenty (20) degrees Fahrenheit, based on the Median of Extremes as shown in the current edition of the ASHRAE Handbook of Fundamentals.

b. The facility is supplied by two (2) or more electrical services supplied from separate generating sources, or a utility distribution network having multiple power light sources and arranged to provide mechanical and electrical separation, so that a fault between the facility and generating sources will not likely cause an interruption of the facility service feeders.

(e) Details. The emergency electrical system shall be so controlled that after interruption of the normal electric power supply, the generator is brought to full voltage and frequency and it must be connected within ten (10) seconds through one (1) or more primary automatic transfer switches to all emergency lighting systems; alarms systems; blood banks; nurses' calling systems; equipment necessary for maintaining telephone service; pump for central suction system; and task illumination and receptacles in patient rooms and patient corridors. All other lighting and equipment required to be connected to the emergency system shall either be connected through the above described primary automatic transfer switching or shall be subsequently connected through other automatic or manual transfer switching. Receptacles connected to the emergency system shall be distinctively marked for identification. Storage-battery-powered lights, provided to augment the emergency lighting or for continuity of lighting during the interim of transfer

switching immediately following an interruption of the normal service supply, shall not be used as a substitute for the requirement of a generator. Where stored fuel is required for emergency generator operation, the storage capacity shall be sufficient for not less than twenty-four (24) hours of continuous operation.

Section 35. Table 1 - Sound Transmission Limitations for Rehabilitation Facilities. Table 2 - Pressure Relationships and Ventilation of Certain Rehabilitation Areas. Table 3 - Lighting Levels for Rehabilitation Facilities.

Table 1.
Sound Transmission Limitations
in Rehabilitation Facilities.

Location	Airborne Sound Transmission Class (STC) a*	Impact Insulation Class (IIC) b*	
	Partitions	Floors	Floors
Patients' room to patients' room	45	45	45
Public space to patients' room d*	50	50	50 c*
Service areas to patients' room e*	55	55	55 c*

a* - Sound transmission class (STC) shall be determined by tests in accordance with the methods set forth in ASTM Standard E-90 and ASTM Standard E-413.

b* - Impact insulation class (IIC) shall be determined in accordance with criteria set forth in HUD FT/TS-24, "A Guide to Airborne, Impact and Structure Borne Noise - Control in Multi-Family Dwellings."

c* - Impact noise limitation applicable only when corridor, public space, or service area is over patients' room.

d* - Public space includes lobbies, dining rooms, recreation rooms, treatment rooms, and similar spaces.

e* - Service areas include kitchens, elevators, elevator machine rooms, laundries, garages, maintenance rooms, boiler and mechanical equipment rooms, and similar spaces of high noise. Mechanical equipment located on the same floor or above patients' rooms, offices, nurses' stations and similar occupied spaces shall be effectively isolated relating to noise transmission.

Note: The requirements set forth in this table assume installation methods which will not appreciably reduce the efficiency of the assembly as tested.

(See table on following page)

Table 2.
Pressure Relationships and
Ventilation of Certain Rehabilitation Areas.

Area Designation	Pressure Relationship to Adjacent Areas	Minimum Air Changes of Outdoor Air per Hour	Minimum Total Air Changes per Hour	All Air Exhausted Directly to Outdoors	Recirculated Within Room Units
Isolation anteroom	N		2	8	
Yes		No			
Isolation room	E		2	8	
Yes		No			
Dental operatory	N		2	6	
Optional		No			
Patient room	V		1	4	
Optional	Optional				
Patient area corridor	N		1	4	
Optional	Optional				
Occupational therapy	N		1	4	
Optional	Optional				
Physical therapy	N		2	6	
Optional	Optional				
and hydrotherapy					
Speech & hearing unit	V		1	4	
Optional	Optional				
Soiled workroom	N		2	8	
Yes		No			
and clean holding					
Clean workroom	P		1	4	
Optional	Optional				
and clean holding					
Activities of daily	V		1	4	
Optional	Optional				
living					
X-ray, diagnostic	V		2	6	
Optional	Optional				
Treatment room	V		2	6	
Optional	Optional				
Laboratory	N		2	6	
Optional	Optional				
Dark room Y	N		2	10	
Yes		Yes			
Toilet room and	N	Optional	10		
Yes		No			
locker rooms					
Bedpan room	N	Optional	10		
Yes		No			
Bathroom	N	Optional	10		
Yes		No			
Janitor's closet	N	Optional	10		
Yes		No			
Sterilizer equip-	N	Optional	10		
Yes		No			
ment room					
Linen and trash	N	Optional	10		
Yes		No			
chute room					
Food preparation	N	Optional	10		
Yes		No			
center					
Warewashing room	N		2	10	
Yes		No			
Personal care room	N	Optional	10		
Yes		No			
Dietary day storage	V	Optional	2	Optional	
No					
Laundry, general	V		2	10	
Yes		No			
Soiled linen	N	Optional	10		
Yes		No			
sorting and storage					
Clean linen storage	P	Optional	4	Optional	Optional

P = Positive N = Negative E = Equal V = May Vary

Table 3.
Lighting Levels for Rehabilitation Facilities

Area	Footcandles*
Administrative and lobby areas, day	100
Administrative and lobby areas, night	20
Chapel and quiet area	30
Corridors and interior ramps	30
Corridor night lighting	10
Dining area and kitchen	50
Doorways	10
Examination and treatment room:	
General	50
Examining table	100
Exit stairways and landings	30
Janitor's closet	20
Nurses' station, general, day	50
Nurses' station, general, night	20
Nurses' desk or counter, for charts and records	150
Nurses' medicine area, preparations and storage	100
Occupational therapy	30
Patient care unit or room, general	10
Patient care room, reading	50
Patient care room, night light (variable)	.5 to 1.5
Physical therapy	30
Stairways other than exits	50
Toilet and bathing facilities	30
Clean workroom	100
Soiled workroom	100
Nurses' lounge	30
Laundry, general	50

*Minimum on task at anytime.

E. AUSTIN, JR., Secretary
WILLIAM M. GARDNER, Inspector General
APPROVED BY AGENCY: July 27, 1987
FILED WITH LRC: August 3, 1987 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Delano Miller

(1) Type and number of entities affected: Four hospitals in Kentucky.

(a) Direct and indirect costs or savings to those affected: Since these standards are comparable with national standards, there would be very little cost or savings associated with this regulation.

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: Reporting requirements would be the same as any other state licensure category.

(2) Effects on the promulgating administrative body: The Cabinet for Human Resources may have to bear some of the costs through the Medicaid and Medicare programs.

(a) Direct and indirect costs or savings: N/A

1. First year: (See above)

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Minimal increase.

(3) Assessment of anticipated effect on state and local revenues:

(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS requires minimum standards be developed for licensure.

(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: N/A
TIERING: Was tiering applied? No. This is a state licensure regulation. All comprehensive physical rehabilitation hospitals must meet the same standards.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This regulation mirrors the federal guidelines for the construction of Comprehensive Physical Rehabilitation facilities as published by the U.S. Department of Health and Human Services.

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

CABINET FOR HUMAN RESOURCES

Office of Inspector General
(Amended After Hearing)

902 KAR 20:240. Comprehensive physical rehabilitation hospital services.

RELATES TO: KRS 216B.010 to 216B.131, 216B.990(1), (2)

PURSUANT TO: KRS 216B.040(2), 216B.105, Executive Order 86-366

NECESSITY AND FUNCTION: Executive Order 86-366 transferred the authority to regulate health services and health facilities from the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board to the Office of the Inspector General. This regulation provides the minimum licensure requirements for inpatient comprehensive physical rehabilitation services including the provision of rehabilitation services in hospitals which have a rehabilitation unit.

Section 1. Scope of Operation and Services. Comprehensive physical rehabilitation programs are provided in permanent institutions [facilities] with inpatient beds. These programs include medical, nursing, therapeutic, restorative, psychosocial, vocational and educational services which enable an individual with an injury or disability, either acquired or congenital, to function at their maximum potential. Comprehensive physical rehabilitation programs offer a wide range of therapeutic services provided by registered, certified, licensed or degreed professionals utilizing a multidisciplinary, goal-oriented, team approach with treatment plans designed specifically for the individual patient's needs.

Section 2. Definitions. (1) "Governing authority" means the individual, agency, partnership, or corporation, in which the

ultimate responsibility and authority for the conduct of the institution is vested.

(2) "Medical staff" means an organized body of physicians, and dentists when applicable, appointed to the institution staff by the governing authority. All members of the medical staff shall be licensed to practice medicine or dentistry in Kentucky, with the exception of graduate physicians who are in the first year of facility training.

(3) "Registered records administrator" means a person who is certified as a Registered Records Administrator by the American Medical Record Association.

(4) "Accredited record technician" means a person who has graduated from a program for medical record technicians accredited by the Council on Medical Education of the American Medical Association and the American Medical Record Association; and who is certified as an Accredited Record Technician by the American Medical Record Association.

(5) "Qualified dietitian" or "nutritionist" means:

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

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

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

(6) "Certified radiation operator" means a person who has been certified pursuant to KRS 211.870 and 902 KAR 105:010 to 105:070 as an operator of sources of radiation.

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

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

(9) "Full-time equivalent" (FTE) for this regulation only means one (1) employee working thirty-seven and five-tenths (37.5) hours per week or a combination of the hours worked by more than one (1) part-time employee totaling thirty-seven and five-tenths (37.5) hours per week.

(10) "Institution" means the freestanding specialty hospital [facility] or a general [the in-] hospital based unit utilized for the delivery of inpatient comprehensive physical rehabilitation [therapy] services.

Section 3. Administration and Operation. (1) Governing authority.

(a) The institution shall have a governing authority that has overall responsibility for the management and operation of the institution and for compliance with federal, state, and local laws and regulations pertaining to its operation.

(b) The governing authority shall appoint an administrator whose qualifications, responsibilities, authority and accountability are defined in writing and approved by the

governing authority, and shall designate a mechanism for the periodic performance review of the administrator.

(2) Administrator.

(a) The administrator shall be responsible for the daily management of the institution and provide liaison between the governing authority and the medical staff.

(b) The administrator shall keep the governing authority fully informed concerning the conduct of the institution through periodic reports and by attendance at meetings of the governing authority.

(c) The administrator shall hold interdepartmental and departmental meetings (where appropriate), shall attend or be represented at such meetings on a regular basis, and shall report to such departments, as well as to the governing authority the pertinent activities of the institution.

(3) Administrative records and reports.

(a) Administrative reports shall be established, maintained and utilized as necessary to guide the operation, measure productivity and reflect the programs of the institution. Such reports shall include: minutes of the governing authority and staff meetings, financial records and reports, incident investigation reports, and other pertinent reports made in the regular course of business.

(b) The institution shall maintain a patient admission and discharge register.

(c) Licensure inspection reports and plans of correction shall be made available to the general public upon request.

(4) Policies. The institution shall have written policies and procedures governing all aspects of the operation of the institution and the services provided including:

(a) A written mission statement of the comprehensive physical rehabilitation service shall be made available to the general public upon request;

(b) A written program narrative which describes in detail the rehabilitation problems and conditions for which the institution provides services, the delivery of these services, and the goals and treatment;

(c) A written description of the organizational structure of the facility including lines of authority, responsibility and communication, and departmental organization;

(d) Admission policies which assure that patients shall be admitted to the institution in accordance with policies of the medical staff;

(e) Constraints imposed on admissions by limitations of services, physical facilities, staff coverage or other factors;

(f) Financial requirements for patients on admission;

(g) Requirements for informed consent by patient, parent, guardian or legal representative for diagnostic and treatment procedures;

(h) Procedures for recording accidents involving a patient, visitor or staff, and incidents of drug reactions, medication errors, etc. and for reporting in writing through the appropriate committees;

(i) Use of restraints and a mechanism for monitoring and controlling their use;

(j) Discharge and termination of services; and

(k) A policy describing the use of volunteers in program activities.

(5) Patient identification. The institution

shall have a system for identifying each patient from time of admission to discharge (e.g., an identification bracelet imprinted with name of patient, date of admission, and name of case manager).

(6) Discharge planning.

(a) The discharge decision and plan shall be established with the participation of the person served, if possible, or a significant other person. Discharge planning shall begin early in the treatment phase; all professions involved with the person shall participate in formulating the discharge plan, including professionals from agencies outside the institution who have been or will be involved in the patient's care, if possible.

(b) A discharge authorization and summary shall be prepared for each person who has been discharged or transferred from the institution to a supportive service. The summary shall contain the reason for referral, the diagnosis, the rehabilitation problem, the services provided, the results of services, and any referral action recommended; it shall note procedures and activities to be utilized by the person served and the family to assist the individual to maintain or improve post-discharge functioning and increased independence.

(c) The individual family, appropriate staff of the institution, the referring source and other community agencies that will be working with the patient, shall receive advance notice concerning the discharge decision and plan. The requirements for notice of discharge will vary depending upon the complexity of the individual's presenting problems, the discharge plan, and the kinds and extent of resources required to implement the plan.

(7) Patient follow-up.

(a) The institution shall establish and follow procedures for follow-up of persons served. Follow-up shall be conducted when the person served is discharged from the institution, transferred from the program to a supportive service, or is placed in an inactive status.

(b) Follow-up reports shall be prepared which detail the individual's current status as it relates to program goals and objectives.

(8) Transfer procedures and agreements.

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

(b) If the patient is transferred to another health care facility a transfer form shall accompany the patient. The transfer form shall include at least: the attending physician's instructions for continuing care, a current summary of the patient's medical record, information as to special supplies or equipment needed for patient care and pertinent social information on the patient and family. When such transfer occurs, a copy of the patient's signed

discharge summary shall be forwarded to the other health care facility within fifteen (15) days of the patient's discharge.

(9) Medical staff.

(a) The institution shall have a medical staff organized by bylaws approved by the governing authority, which is responsible to the governing authority of the facility for the quality of medical care provided to the patients and for the ethical and professional practice of its members.

(b) The medical staff shall develop and adopt policies or bylaws, subject to the approval of the governing authority, which shall:

1. State the necessary qualifications for medical staff membership. For purposes of this document, medical staff shall mean physicians and dentists, when applicable.

2. Define and describe the responsibilities and duties of each category of medical staff (e.g., active, associate, courtesy, consulting, or honorary), delineate the clinical privileges of staff members, and establish a procedure for granting and withdrawing staff privileges, to include credentials review.

3. Provide a mechanism for appeal of decisions regarding staff membership and privileges.

4. Provide a method for the selection of officers of the medical staff.

5. Establish requirements regarding the frequency of, and attendance at, general staff and department/service meetings of the medical staff.

6. Provide for the appointment of standing and special committees, and include requirements for composition and organization, frequency of and attendance at meetings, and the minutes and reports which shall be part of the permanent records of the institution. These committees may include: executive committee, credentials committee, medical records committee, infections control committee, pharmacy and therapeutics committee, utilization review committee, and quality assurance committee.

(10) Director of rehabilitation. The institution shall have a director of rehabilitation who provides services on a full-time basis for a freestanding specialty hospital [facility] or at least twenty (20) hours per week for a general hospital-based unit, is a physician, and has had, after completing a one (1) year facility internship, at least two (2) years of training or experience in the medical management of inpatients requiring rehabilitation services.

(11) Quality assurance and review.

(a) There shall be a planned and systematic process for monitoring and evaluating the quality and appropriateness of patient care and for resolving identified problems.

(b) The quality and appropriateness of patient care shall be monitored and evaluated in all major clinical functions of the comprehensive physical rehabilitation program. Such monitoring and evaluating shall be accomplished through the following means:

1. Routine collection of information about important aspects of rehabilitation care; and

2. Periodic assessments of the collective information in order to identify important problems in patient care and opportunities to improve care. Objective criteria shall be established and applied that reflect current knowledge and clinical experience concerning the services offered by the institution [compre-

hensive physical rehabilitation program].

(c) When important problems in patient care or opportunities to improve care are identified:

1. Action shall be taken; and
2. The effectiveness of the action shall be evaluated.

(d) The findings from and conclusions of monitoring, evaluating, and problem-solving activities and the actions taken to resolve problems and improve patient care, and information about the impact of the actions taken, shall be documented and shall be reported to the administrator and appropriate committees.

(e) When an outside source(s) provides rehabilitation services the quality and appropriateness of patient care provided shall be monitored and evaluated, and identified problems resolved.

(12) Personnel.

(a) The institution shall employ a sufficient number of qualified personnel to provide effective patient care and all other related services. Written personnel policies and procedures shall be available to all personnel.

(b) There shall be a written job description for each position. Job descriptions shall be reviewed and revised as necessary. Where a job description includes activities which are subject to professional licensure, the employee shall have the appropriate current license.

(c) There shall be an employee health program for mutual protection of employees and patients including provisions for pre-employment and periodic health examination. The institution shall comply with the following tuberculosis testing requirements:

1. The skin test status of all staff members shall be documented in the employee's personnel record. A skin test shall be initiated on all new staff members before or during the first week of employment and the results shall be documented in the employee's personnel record within the first month of employment. No skin testing is required at the time of initial employment if the employee documents a prior skin test of ten (10) or more millimeters of induration or if the employee is currently receiving or has completed six (6) months of prophylactic therapy or a course of multiple-drug chemotherapy for tuberculosis. Two (2) step skin testing is required for new employees over age forty-five (45) whose initial test shows less than ten (10) millimeters of induration, unless they can document that they have had a tuberculosis skin test within one (1) year prior to their current employment. All staff who have never had a skin test of ten (10) or more millimeters induration must be skin tested annually on or before the anniversary of their last skin test.

2. All staff who are found to have a skin test of ten (10) or more millimeters induration, on initial employment testing or annual testing, must receive a chest x-ray unless a chest x-ray within the previous two (2) months showed no evidence of tuberculosis, or the individual can document the previous completion of a course of prophylactic treatment with isoniazid. Employees whose initial skin test shows ten (10) or more millimeters of induration shall be advised of the symptoms of the disease and instructed to report to their employer and seek medical attention promptly if symptoms persist.

3. The institution director shall be responsible for ensuring that all skin tests and

chest x-rays are done in accordance with subparagraphs 1 and 2 of this paragraph. All skin testing dates and results and all chest x-ray reports shall be recorded as a permanent part of the personnel record.

4. The following shall be reported by the institution administrator to the local health department having jurisdiction immediately upon becoming known: names of staff who convert from a skin test of less than ten (10) to a skin test of ten (10) or more millimeters of induration; names of staff who have a skin test of ten (10) millimeters or more induration at the time of employment; and all chest x-rays suspicious for tuberculosis.

5. Prophylaxis of persons with recent infection but no disease. Any resident or staff whose skin test status changes on annual testing from less than ten (10) to ten (10) or more millimeters of induration shall be considered to be recently infected with *Mycobacterium tuberculosis*. Such recently infected persons who have no signs or symptoms of tuberculosis disease on chest x-ray or medical history should be given preventive therapy with isoniazid for six (6) months unless medically contraindicated by a licensed physician. Medications shall be administered to patients only upon the written order of a physician. If such individual is unable to take isoniazid therapy, the individual shall be advised of the clinical symptoms of the disease, and have an interval medical history and a chest x-ray taken and evaluated for tuberculosis disease every six (6) months during the two (2) years following conversion, for a total of five (5) chest x-rays.

6. Any staff who can document completion of preventive treatment with isoniazid shall be exempt from further screening requirements.

(d) Current personnel records shall be maintained for each employee which shall include the following:

1. Name, address, and social security number;
2. Health records;
3. Evidence of current registration, certification or licensure of personnel;
4. Records of training and experience;
5. Records of performance evaluation;
6. Evidence that employees have an orientation to the facility's written policies initiated within the first month of employment; and
7. Evidence of regular in-service training which corresponds with job duties and includes a list of training and dates completed.

(13) Physical and sanitary environment.

(a) The condition of the physical plant and overall institution environment shall be maintained in such a manner that the safety and well-being of patients, personnel and visitors are assured.

(b) A person shall be designated responsible for services and for the establishment of practices in each of the following areas: plant maintenance, laundry operations (if applicable), and housekeeping.

(c) The institution's buildings, equipment and surroundings shall be kept in a condition of good repair, neat, clean, free from all accumulations of dirt and rubbish, and free from foul, stale or musty odors.

(d) The institution shall be kept free from insects and rodents with harborages and entrances for these eliminated.

(e) Garbage and trash shall be stored in areas separate from those used for preparation and

storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly.

(f) Hazardous cleaning solutions, compounds, and substances shall be labeled, stored in closed containers and kept separate from other cleaning materials.

(g) The institution shall have available at all times a quantity of linen essential for the proper care and comfort of patients.

1. Linens shall be handled, stored and processed so as to control the spread of infection.

2. Clean linen and clothing shall be stored in clean, dry, dust-free areas.

3. Soiled linen and clothing shall be placed in suitable bags or closed containers and stored in separate areas.

(h) Sharp wastes, such as broken glass, scalpel blades, and hypodermic needles, shall be segregated from other wastes and aggregated in rigid disposable containers immediately after use. Needles and syringes shall not be cut, dismantled, or destroyed after use, but shall be placed intact directly into a rigid container. The rigid containers of sharp wastes shall be incinerated on site or off site, and disposed of in a sanitary land fill approved pursuant to 401 KAR 47:020.

(14) Patient case records.

(a) The institution shall have a case records service with administrative responsibility for case records. A case record shall be maintained, in accordance with accepted professional principles, for every patient admitted to the facility or receiving outpatient services.

(b) The case records service shall be directed by a registered record administrator, either on a full-time, part-time, or consultative basis, or by an accredited record technician on a full-time basis, and shall have available a sufficient number of regularly assigned employees so that case record services may be provided as needed.

(c) All case records shall be retained for a minimum of five (5) years from date of discharge, or in the case of a minor three (3) years after the patient reaches the age of majority under state law, whichever is longer.

(d) Provision shall be made for written designation of specific location(s) for storage of case records in the event the facility ceases to operate because of disaster, or for any other reason. It shall be the responsibility of the institution to safeguard both the record and its content against loss, defacement, and tampering.

(e) A system of identification and filing to insure the prompt location of a patient's case record shall be maintained.

1. There shall be a system for coordinating the inpatient/outpatient case record of any patient who has received both inpatient and outpatient services.

2. All clinical information pertaining to a patient's stay shall be centralized in the patient's case record.

(f) Records of patients are the property of the institution and shall not be taken from the institution except by court order. This does not preclude the routing of the patients records, or a portion thereof, including x-ray film, to physicians for consultation.

1. Only authorized personnel shall be permitted access to the patients records.

2. Patient information shall be released only on authorization of the patient, the patient's

guardian or the executor of the estate.

(g) Case record review.

1. The institution shall review and evaluate its case records and related policies and procedures regularly; representatives of its service units shall participate to evaluate their adequacy and to propose improvements in the recordkeeping system.

2. A case record committee, representative of the major professional services and responsible to the administrator, shall be established. The committee shall:

a. Review, at least quarterly, an appropriate sample of the case records to measure their adequacy and fulfillment of recordkeeping requirements; and

b. Review, at least annually, the policies and procedures concerning case records and reports, and make recommendations which should be considered by the chief executive.

(h) Statements of professional judgment and reports of services to an individual shall be signed by the person qualified by professional competency and official position. The case record shall confirm, in writing, that services recommended and planned actually have been received by the individual patient at the time stated. Such assurances may be in the form of the signature of the staff person rendering the service.

(i) Individual case records shall be maintained on a current basis; clinical information shall be recorded within forty-eight (48) hours of the event, and discharge summaries recorded within two (2) weeks following discharge. Completed case records shall include:

1. Case identification data including name, address and next of kin;

2. The name and address of the personal representative, conservator, guardian, and/or representative payee, if one has been appointed for the person served;

3. Pertinent history, diagnosis of disability, rehabilitation problem, goals, and prognosis;

4. Reports from referring sources;

5. Reports of service referrals;

6. Reports from outside consultation, and from laboratory, radiology, orthotic and prosthetic services, etc.;

7. Designation of the program manager for the individual. A written policy identifying who is responsible for the plan management of given groups would remove the necessity for this information in the case record;

8. Evidence of the individual's participation in the decision making process of his or her own plan;

9. Evaluation reports from each service;

10. Reports of staff conferences;

11. The individual's total treatment plan;

12. Treatment plans from each service;

13. Signed and dated service and progress reports from each service;

14. Correspondence pertinent to the person being served;

15. When information and/or photographs have been released or used, there shall be a signed and dated authorization from the person served or the parent or guardian as appropriate, to release the information or use the photograph;

16. Discharge report; and

17. Followup reports.

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

(a) No medication or treatment shall be given

without a written order signed by a physician or dentist, when applicable. Telephone orders for medications shall be given only to a registered nurse or a pharmacist and signed by the medical staff member within twenty-four (24) hours from the time the order is given.

(b) Medications shall be administered by a physician, registered nurse, or dentist except in the case of a licensed practical nurse under the supervision of a registered nurse.

(c) No form of patient restraint or protective device other than bed rails, and wheelchair safety belts shall be used, except in an emergency until the attending medical staff member can be contacted, or upon written or telephone orders of the attending medical staff member. When such restraint is necessary, the least restrictive form of protective device shall be used which affords the patient the greatest possible degree of mobility and protection. In no case shall a locking restraint be used.

(d) Patient physical. A physician shall conduct a physical examination, and a determination that the patient can benefit from a rehabilitation program through the use of therapies provided by the institution shall be made within twenty-four (24) hours after admission.

(e) Psychosocial history. All patients shall have a history and assessment interview within seventy-two (72) hours after admission for rehabilitation entered into the patient record which includes:

1. A determination of current emotional state;
2. Vocational history;
3. Familial relationships;
4. Educational background;
5. Social support system; and
6. A determination that the patient can benefit from a rehabilitation program through the use of therapies provided by the institution.

(f) Basic cardiopulmonary resuscitation shall be available within the institution twenty-four (24) hours a day, seven (7) days a week.

(2) Staffing requirements.

(a) The program shall have adequate personnel to meet the needs of patients on a twenty-four (24) hour basis. The number and classification of personnel required shall be based on the number of patients and the individual treatment plans. If the staff/patient ratio does not meet the needs of the patients, the Division for Licensing and Regulation shall determine and inform the program administrator in writing how many additional personnel are to be added and of what job classification, and shall give the basis for this determination.

(b) The staffing ratio of therapists and pathologists to patients shall be equal to or greater than one (1) full-time equivalent for every three (3) patients. Only licensed or certified therapists or speech and language pathologists in the areas of physical therapy, occupational therapy, speech and language pathology, or psychology shall be utilized in the computation of this ratio. Certified or licensed assistants shall not be utilized in the computation of this ratio. The staffing for the whole facility shall be utilized in the computation of this ratio rather than on a department by department basis.

(c) There shall not be more than one (1) aide or assistant for each licensed or certified therapist or speech and language pathologist on staff.

(3) Medical staff services.

(a) Medical care provided in the institution shall be under the direction of the medical director or a medical staff member in accordance with staff privileges granted by the governing authority.

(b) Physician services shall be available twenty-four (24) hours a day on at least an on-call basis.

(c) There shall be sufficient medical staff coverage for services provided in the institution in keeping with the size of the institution, the scope of services provided and the types of patients admitted to the facility.

(d) An individual rehabilitation program plan shall be developed for each patient under the supervision of a physician. The attending physician shall attend and actively participate in conferences concerning those served.

(e) The attending physician shall complete the discharge summary and sign the records within fifteen (15) days of discharge.

(f) The physician responsible for the patient's rehabilitation program shall have specialized training or experience in rehabilitation.

(g) There shall be direct individual contact by a physician on any day in which there is an active interdisciplinary treatment program.

(4) Nursing services.

(a) These services provide prevention of complications of disability, restoration of optimal functioning, and adaptation to an altered lifestyle through the use of the nursing process (assessment, planning, intervention, and evaluation).

1. The institution shall have a nursing department organized to provide basic nursing services as well as rehabilitation nursing services. A registered nurse with training and experience in rehabilitative nursing shall serve as director of the nursing department.

2. There shall be a registered nurse on duty at all times.

a. There shall be registered nurse supervision of nursing staff personnel for each nursing unit to insure immediate availability of a registered nurse with rehabilitation experience for all patients on a twenty-four (24) hour basis.

b. There shall be other nursing personnel in sufficient numbers to provide nursing care not requiring the services of a registered nurse.

c. Nursing care shall be documented on each shift by persons rendering care to patients. This documentation shall describe the nursing care provided and include information and observations of significance which contribute to the continuity of patient care.

(b) Rehabilitation nursing services. Services shall include physical and psychosocial assessment of function of the following:

1. All body systems related to the patient's physical rehabilitation nursing needs, with special emphasis on skin integrity, bowel and bladder function, and respiratory and circulatory systems function;
2. Self-care skills development;
3. Interpersonal relationships;
4. Adaptation mechanisms and patterns used to manage stress; and
5. Sleep and rest patterns.

(c) Nursing services shall also include the following interventions:

1. Health maintenance and discharge teaching;
2. Prevention of the complications of immobility;

3. Physical care including hygiene, skin care, physical transfer from one place to another, positioning, and bowel and bladder care;

4. Psychosocial care including socialization, adaptation to an altered lifestyle; and

5. Reinforcement of the multidisciplinary treatment plan.

(d) As appropriate, nurses collaborate with the patient, family, other disciplines and agencies in discharge planning and teaching.

(e) Rehabilitation nursing shall monitor the degree of achievement of individualized nursing patient care goals.

(5) Multidisciplinary team. There shall be a multidisciplinary team responsible for developing the individual treatment plans, discharge plans and conducting the quality assurance reviews. The multidisciplinary team should include a physician, rehabilitation nurse, social worker, or psychologist, and those therapists involved in the patient's care. At a minimum, a team must include a physician, rehabilitation nurse and two (2) therapists.

(6) Program manager.

(a) A single program manager shall be designated for each patient served. The provision of services by the institution to each patient shall be organized through the patient's program manager. The program manager shall:

1. Assume responsibility for the patient during the course of treatment;

2. Coordinate the treatment plan; and

3. Cultivate the patient's participation in the program.

(b) When more than one (1) major program is being provided simultaneously, there shall be only one (1) program manager. When the patient's plan changes sequentially from one (1) program area to another, a new program manager may be assigned.

(c) The patient's program manager shall evaluate regularly the appropriateness of the treatment plan in relation to the progress of the patient toward the attainment of stated goals. The program manager shall assure that:

1. The person is adequately oriented;

2. The plan proceeds in an orderly, purposeful, and timely manner; and

3. The discharge decision and arrangements for follow-up are properly made.

(7) Treatment plan.

(a) The multidisciplinary team, with the participation of the patient shall, within seven (7) days after admission for rehabilitation, develop an individual treatment plan based on the patient's medical evaluation and psychosocial history and assessment, and which should be reviewed at least biweekly. The treatment plan shall include:

1. A multidisciplinary assessment of the biological, social and psychological needs of the patients performed by qualified health care professionals;

2. A description of the patient's capacities, strengths, disabilities, and weaknesses;

3. Identification of the patient's rehabilitation goals stated in functional, performance and behavioral objectives relative to the performance of life tasks and capabilities, with criteria for termination of treatment or discharge from the program;

4. Participation of the patient and his/her family, to the extent possible;

5. Physician input relative to both the general medical and rehabilitation medical needs of the patient;

6. Discharge planning addressed as part of goal setting as early as possible in the rehabilitation process;

7. Time intervals at which treatment or service outcomes will be reviewed;

8. Anticipated time frame(s) for the accomplishment of the individual's specified goals;

9. The measures to be used to access the effects of treatment or services; and

10. The person(s) responsible for implementation of the plan.

(b) The institution shall obtain and retain a signed consent form where applicable.

(c) The institution shall adopt a procedure to protect against the release of the person served to an unauthorized individual when individuals served are unable to represent their own interests.

(8) Therapeutic services.

(a) In addition to physician and nursing services the institution shall provide the following allied services directly or under contract. These services shall be provided at an intensity appropriate to the disability and to the patient's response to treatment with a minimum average level of three (3) to five (5) hours of therapeutic service per person per day at least five (5) days per week.

(b) Occupational therapy services shall be provided by or under the supervision of an individual certified by the American Occupational Therapy Association as an occupational therapist. Services shall include:

1. Assessment and treatment of functional performance; independent living skills; pre-vocational/work adjustment skills; educational, play/leisure and social skills.

2. Assessment and treatment of performance components; neuromuscular, sensori-integrative, cognitive and psychosocial skills.

3. Therapeutic interventions, adaptations and prevention.

4. Individualized evaluations of past and current performance shall be achieved through observation of individual or group tasks, standardized tests, record review, interviews, or activity histories.

5. Assess architectural barriers in home and workplace, and recommend equipment, adaptations, and different arrangements.

6. Treatment goals shall be achieved through use of selected modalities and techniques which include:

a. Tasks oriented activities; simulation or actual practice of work, self-care, home management, leisure and social skills and their components, creative media, games, computers and other equipment;

b. Pre-vocational training;

c. Sensorimotor activities;

d. Patient/family education and counseling;

e. Design, fabrication and application of orthotic devices;

f. Guidance in use of adaptive equipment and prosthetic devices;

g. Adaptation to physical and social environment, and use of therapeutic milieu;

h. Joint protection/body mechanics;

i. Positioning;

j. Work simplification/energy conservation; and

k. Cognitive remediation.

7. Occupational therapy services monitor the extent to which goals are met relative to assessing and increasing patient's functional abilities in daily living skills.

(c) Physical therapy services shall be provided by or under the supervision of a licensed physical therapist employed on a full-time basis.

1. Services shall include the following:

a. An initial physical therapy evaluation and assessment of the patient prior to the provision of services;

b. Development of treatment goals and plans in accord with the initial evaluation findings with treatment aimed at preventing or reducing disability or pain, and restoring lost function;

c. Therapeutic interventions which focus on posture, locomotion, strength, endurance, balance, coordination, joint mobility, flexibility, and restoring loss of function.

2. Physical therapy services monitor the extent to which services have met therapeutic goals relative to the initial and all subsequent examinations, and the degree to which improvement occurs relative to the identified movement dysfunction or reduction of pain associated with movement.

(d) Psychological services shall be provided by or under the supervision of a licensed psychologist.

1. Assessment areas shall include psychological, vocational, and neuropsychological functioning.

2. Interventions include individual and group psychotherapy; family consultation and therapy; and design of such specialized psychological intervention programs as behavior modification, behavioral treatment regimens for chronic pain patients, and the use of biofeedback and relaxation procedures.

3. Psychological services monitor the cognitive and emotional adaptation of the patient and family to the patient's disability.

(e) Speech-language services shall be provided by or under the supervision of a licensed speech-language pathologist who meets the standards for the Certificate of Clinical Competency by the American Speech-Language, and Hearing Association. Services shall include:

1. Screening to identify individuals who require further evaluation to determine the presence or absence of a communicative disorder.

2. When the speech and language competencies of individuals are evaluated, the pathologist plans, directs and conducts habilitative, rehabilitative, and counseling programs to improve language, voice, cognitive linguistic skills, articulation, fluency, and adjustment to hearing loss, and assesses and provides alternative and augmentative communicative devices.

3. Plans for discharge and provides for the patient's understanding of communication abilities and prognosis.

4. Services are monitored for effectiveness of actions taken to improve communication skills of patients.

(9) The institution shall provide the following services directly or through a contractual arrangement with other providers as needed in accordance with the institution's program narrative:

(a) Social work services shall be provided by an individual with a masters degree in social work from a curriculum accredited by the Council for Social Work Education.

1. The scope of rehabilitation social services shall include the following areas related to work assessment and interventions to facilitate rehabilitation:

a. Assessment of the personal coding history and current psychosocial adaptation to the disability;

b. Assessment of immediate and extended family and other support persons relative to increasing support networks;

c. Assessment of housing, living arrangements, and stability and source of income relative to facilitating discharge plans; and

2. Intervention strategies, aimed at increasing effectiveness of coping, strengthening informal support systems, and facilitating continuity of care, shall include at least the following:

a. Discharge planning activities;

b. Casework with individual patients;

c. Family counseling and therapy;

d. Group work focused on both education and therapy; and

e. Community service linkage/referrals.

3. Social work services monitor the achievement of goals relative to discharge planning activities designed to meet the basic sustenance, shelter, and comfort needs of patients and their families.

(b) Audiology services provided by or under the supervision of a licensed audiologist, and certified by the American Speech-Language, and Hearing Association. When the range, nature, and degree of the patient's auditory and vestibular function using instrumentation such as audiometers, electroacoustic emittance equipment, brain stem evoked response equipment, and electronystagmographic equipment is determined; the professional plan directs and conducts aural habilitation and rehabilitation programs. These shall include:

1. Hearing aid and assistive listening device selection and orientation;

2. Counseling, guidance and auditory training; and

3. Speech reading.

(c) Vocational and vocational rehabilitation services. These services provide assessment and evaluation of the patient's/client's need for services to enable return to productive activity through the use of testing, counseling, and other service related activities. These identified needs are met either directly or through appropriate referrals. Services shall include:

1. Evaluation and assessment focusing on maximizing the independent productive functioning of the individual, and;

2. Comprehensive services shall include, at a minimum, the following areas:

a. Physical and intellectual capacity evaluation;

b. Interest and attitudes;

c. Emotional and social adjustment;

d. Work skills and capabilities;

e. Vocational potential and objectives; and

f. Job analysis.

3. Appropriate instruments, equipment and methods, under supervision of a qualified therapist shall be used.

4. A written report with interpretation and recommendations shall be prepared and shared with the individual and referral source.

5. Services shall monitor the degree to which appropriate work skills are achieved; the improvement in independent functioning relative to work skill capability; and, the achievement of vocational objectives.

(d) Prosthetic and/or orthotic services.

1. These services shall be provided by

authorized specialists who are qualified to manage the orthotic (prosthetic) needs of disabled persons by performing an examination; by participating in the prescribing of needed specialized equipment; by designing and fitting such equipment; and by following up to ensure that the equipment is properly functioning and fitting.

2. Monitoring of prosthetic and/or orthotic services shall include:

a. Documented evidence of communication with the prescribing physician; and

b. Patient satisfaction with the orthosis or prosthesis relative to function and fit of the equipment.

(e) Therapeutic recreation services shall be provided by or under the supervision of a therapeutic recreation specialist employed on a full-time basis, or under the supervision of an occupational therapist. These services may be provided in conjunction with occupational therapy services. Services shall include the following:

1. Assessment of the patient's leisure/social/recreational abilities, deficiencies, interests, barriers, life experiences, needs, and potential;

2. Treatment services designed to improve social, emotional, cognitive and physical functional behaviors as a necessary prerequisite to future leisure/social involvement;

3. Leisure education designed to help the patient acquire knowledge, skills and attitudes needed for independent leisure/social involvement, community adjustment, responsible decision-making, and use of free time; and

4. Monitoring which measures the extent to which goals are achieved relative to the use of leisure time and socialization skills.

(f) Pharmaceutical services. The institution shall have adequate provisions for the handling, storing, recording, and distributing of pharmaceuticals in accordance with state and federal laws and regulations. An adequate supply and other medicinal agents shall be available at all times to meet the requirements of the institution. They shall be stored in a safe manner and kept properly labeled and accessible. Controlled substances and other dangerous or poisonous drugs shall be handled in a safe manner to protect against their unauthorized use. Controlled substances must be under double lock. There shall be adequate refrigeration for biologicals and drugs which require refrigeration. The existing laws, rules and regulations governing drugs and poisons shall be complied with.

1. An institution which maintains a pharmacy for the compounding and dispensing of drugs shall provide pharmaceutical services under the supervision of a registered pharmacist on a full-time or part-time basis, according to the size and demands of the program.

a. The pharmacist shall be responsible for supervising and coordinating all the activities of the pharmacy department.

b. Additional personnel competent in their respective duties shall be provided in keeping with the size and activity of the department.

2. Facilities not maintaining a pharmacy shall have a drug room utilized only for the storage and distribution of drugs, drug supplies and equipment. Prescription medications shall not be dispensed by a registered pharmacist in this area. The drug room shall be operated under the supervision of a pharmacist employed at least on

a consultative basis.

a. The consulting pharmacist shall assist in drawing up correct procedures, rules for the distribution of drugs, and shall visit the institution on a regularly scheduled basis in the course of his duties.

b. The drug room shall be kept locked and the key shall be in the possession of a responsible person on the premises designated by the administrator.

(c) Records shall be kept of all transactions of the pharmacy or drug room and correlated with other institution records where indicated.

3. In accordance with accounting procedures of the institution, the pharmacy shall establish and maintain a system of records and bookkeeping in accordance with policies of the institution for maintaining adequate control over the requisitioning and dispensing of all drugs and drug supplies and charging patients for drugs and pharmaceutical supplies.

4. A record of the stock on hand and of the dispensing of all controlled substances shall be maintained in such a manner that the disposition of any particular item may be readily traced.

5. The medical staff in cooperation with the pharmacist and other disciplines, as necessary, shall develop policies and procedures that govern the safe administration of drugs, including:

a. The administration of medications only upon the order of an individual who has been assigned medical clinical privileges or who is an authorized member of the house medical staff;

b. Review of the physician's, or dentist's when applicable, original order, or a direct copy, by the pharmacist dispensing the drugs;

c. The establishment and enforcement of automatic stop orders;

d. Proper accounting for and disposition of unused medications or special prescriptions returned to the pharmacy as a result of the patient being discharged, or when such medications/prescriptions do not meet sterile and label requirements;

e. Provision for emergency pharmaceutical services; and

f. Provision for reporting adverse medication reactions to the appropriate committee of the medical staff.

6. Therapeutic ingredients of medications dispensed shall be included in the United States Pharmacopoeia, National Formulary, United States Homeopath-Pharmacopoeia, New Drugs, or Accepted Dental Remedies (except for any drugs unfavorably evaluated therein), or shall be approved for use by the appropriate committee of the medical staff.

a. A pharmacist shall be responsible for determining specifications and choosing acceptable sources for all drugs, with approval of the appropriate committee of the medical staff.

b. There shall be available a formulary or list of drugs accepted for use in the institution which shall be developed and amended at regular intervals by the appropriate committee of the medical staff.

g. Radiology services.

1. The institution shall provide diagnostic radiology services directly or through arrangements with a radiology service which has a current license or registration pursuant to KRS 211.842 to 211.850 and any regulations promulgated thereunder. If the institution provides radiology services directly:

a. The institution shall have a radiologist, on at least a consulting basis to function as medical director of the department and to interpret films that require specialized knowledge for accurate reading.

b. Personnel adequate to supervise and conduct the services shall be provided.

2. There shall be written policies and procedures governing radiologic services and administrative routines that support sound radiologic practices.

a. Signed reports shall be filed in the patient's record and duplicate copies kept in the department.

b. Radiologic services shall be performed only upon written order of a physician or dentist, and the order shall contain a concise statement of the reason for the service/examination.

c. Reports of interpretations shall be written or dictated and signed by the radiologist.

d. The use of all x-ray apparatus shall be limited to certified radiation operators, under the direction of medical staff members as necessary. The same limitation shall apply to personnel applying and removing radium element, its disintegration products, and radioactive isotopes.

3. The radiology department shall be free of hazards for patients and personnel. Proper safety precautions shall be maintained against fire and explosion hazards, electrical hazards and radiation hazards.

(h) Laboratory services. The institution shall provide laboratory services directly or through arrangements with a licensed facility which has the appropriate laboratory facilities, or with an independent laboratory licensed pursuant to KRS 333.030 and any regulations promulgated thereunder.

1. Laboratory facilities and services shall be available at all times.

a. Adequate provision shall be made to assure the availability of emergency laboratory services twenty-four (24) hours a day, seven (7) days a week, including holidays, either in the institution or through a contractual arrangement as specified in subsection (10) of this section.

b. If services are provided by an outside laboratory, the conditions, procedures, and availability of such services shall be in writing and available in the institution.

2. Dated reports of all laboratory services provided shall be filed with the patient's medical record and duplicate copies kept in the department.

a. When work is performed by an outside laboratory, the original report from this laboratory shall be contained in the patient's medical record.

b. The laboratory report shall have the name of the technologist who performed the test.

c. There shall be a procedure for assuring that all requests for laboratory tests are ordered and signed by a medical staff member.

3. If laboratory services are provided directly, there shall be a basic clinical laboratory which provides services necessary for routine examinations.

a. Equipment necessary to perform the basic tests shall be provided by the facility.

b. All equipment shall be in good working order, routinely checked, and precise in terms of calibration.

c. Provision shall be made to carry out adequate clinical laboratory examinations including chemistry, microbiology, hematology,

serology, and clinical microscopy.

d. There shall be a clinical laboratory director and a sufficient number of supervisors, technologists and technicians to perform promptly and proficiently the tests requested of the laboratory. Laboratory services shall be under the direction of a pathologist on a full-time, part-time, or a consultative basis. The laboratory shall not perform procedures and tests which are outside the scope of training of the laboratory personnel.

(i) Dietary services.

1. The institution shall provide dietary services directly or by contract.

2. The dietary service shall be organized, directed and staffed to provide quality food service and optimal nutritional care.

a. The dietary department shall be directed on a full-time basis by an individual who by education or specialized training and experience is knowledgeable in food service management.

b. The dietary service shall have at least one (1) qualified dietitian or nutritionist, either full time, part time, or on a consultative basis, to supervise the nutritional aspects of patient care.

c. Sufficient additional personnel shall be employed to perform assigned duties to meet the dietary needs of all patients.

d. The dietary department shall have available for all dietary personnel current written policies and procedures for food storage, handling, and preparation.

e. An in-service training program, which shall include the proper handling of food, safety and personal grooming, shall be given at least quarterly for new dietary employees.

3. Menus shall be planned, written and rotated to avoid repetition. Nutritional needs shall be met in accordance with recommended dietary allowances of the Food and Nutrition Board of the National Research Council of the National Academy of Sciences and in accordance with the medical staff member's orders.

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

5. All diets, regular and therapeutic, shall be prescribed in writing, dated, and signed by the attending medical staff member. Information on the diet order shall be specific and complete and shall include the title of the diet, modifications in specific nutrients stating the amount to be allowed in the diet, and specific problems that may affect diet or eating habits.

6. Food shall be prepared by methods that conserve nutritive value, flavor, and appearance, and shall be served at the proper temperatures and in a form to meet individual needs (e.g., it shall be cut, chopped, or ground to meet individual patient needs).

7. If a patient refuses foods served, nutritious substitutions shall be offered.

8. At least three (3) meals or their equivalent shall be served daily with not more than a fifteen (15) hour span between a substantial evening meal and breakfast unless otherwise directed by the attending medical staff member. Meals shall be served at regular times with between-meal or bedtime snacks of nourishing quality offered.

9. The institution shall comply with all applicable provisions of KRS 219.011 to KRS

219.081 and 902 KAR 45:005 (Kentucky's Food Service Establishment Act and Food Service Code).

(10) When services are provided under contract, the contract shall:

1. Assure that services are provided in accordance with the plan of care approved by the physician responsible for the patient's care (except in the case of an adverse reaction to a specific treatment).

2. Specify the geographical areas in which services are to be furnished;

3. Provide that personnel and services contracted for meet the same requirements as those which would be applicable if the personnel and services were furnished directly;

4. Provide that personnel will participate in conferences required to coordinate the care of an individual patient, as needed;

5. Provide for the preparation of treatment records, with progress notes and observations, and for the prompt incorporation of such into the clinical records of the institution;

6. Specify the period of time the contract is to be in effect and the manner of termination or renewal.

(11) Outpatient services.

(a) An institution which has an organized outpatient department shall have written policies and procedures relating to the staff, functions of service, and outpatient medical records.

(b) The outpatient department shall be organized in sections (clinics), the number of which shall depend on the size and degree of departmentalization of the medical staff, the available facilities, the needs of the patient it serves, and the program narrative.

(c) The outpatient department shall have appropriate cooperative arrangements and communications with community agencies such as home health agencies, the local health department, social and welfare agencies, and other outpatient departments.

(d) Services offered by the outpatient department shall be under the direction of a physician who is a member of the medical staff.

1. A registered nurse shall be responsible for the nursing services of the department.

2. The number and type of other personnel employed shall be determined by the volume and type of services provided and type of patient served in the outpatient department.

(e) Necessary laboratory and other diagnostic tests shall be available either through the facility or a laboratory in a licensed facility or a laboratory licensed pursuant to KRS 333.030 and any regulations promulgated thereunder.

(f) Case records shall be maintained and, where appropriate, coordinated with other institution case records.

1. The outpatient medical record shall be filed in a location which ensures ready accessibility to the medical staff members, nurses, and other personnel of the outpatient department.

2. Information in the medical record shall be complete and sufficiently detailed relative to the patient's history, physical examination, laboratory and other diagnostic tests, diagnosis, and treatment to facilitate continuity of care.

WILLIAM M. GARDNER, Inspector General

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: July 27, 1987

FILED WITH LRC: August 3, 1987 at 11 a.m.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Delano Miller

(1) Type and number of entities affected: Four hospitals in Kentucky.

(a) Direct and indirect costs or savings to those affected: Since these standards are comparable with national standards, there would be very little cost or savings associated with this regulation.

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: Reporting requirements would be the same as any other state licensure category.

(2) Effects on the promulgating administrative body: The Cabinet for Human Resources may have to bear some of the costs through the Medicaid and Medicare programs.

(a) Direct and indirect costs or savings: N/A

1. First year: (See above)

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Minimal increase.

(3) Assessment of anticipated effect on state and local revenues:

(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS requires minimum requirements be developed for licensure.

(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: N/A
TIERING: Was tiering applied? No. This is a state licensure regulation. All comprehensive physical rehabilitation hospitals must meet the same standards.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: These regulations incorporate all the services covered by federal standards, and in some specific cases are less stringent than these standards. This regulation also addresses areas not covered in federal standards.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: This regulation sets guidelines for services a Comprehensive Physical Rehabilitation may deliver through its program, but are not addressed in federal standards. These guidelines would only apply to these institutions which would choose to deliver these additional services.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Since some services are not addressed in federal standards, the state has the responsibility to assure quality services through minimum standards.

PROPOSED AMENDMENTS

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

301 KAR 2:044. Taking of migratory wildlife.

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

PURSUANT TO: KRS 13A.350, 150.025

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

Section 1. Seasons. (1) Doves: September 1 through October 31; November 28 [29] through December 6 [7].

(2) Woodcock: October 1 through December 4.

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

(4) Experimental September duck: September 2 [10] through September 13 [14].

Section 2. Limits.

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

*Daily bag limit is four (4) ducks, no more than two (2) of which may be wood ducks, and no more than one (1) of which may be a species other than teal or wood duck. The possession limit is double the daily bag limit.

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

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

Section 4. Shooting Hours. (1) Doves: from 11 a.m. until sunset during the period September 1 through October 31; from sunrise to sunset during the period November 28 [29] through December 6 [7].

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

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

Section 5. Falconry Hunting. The wildlife

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

Section 6. Exceptions to Statewide Migratory Bird Seasons on Specified Wildlife Management Areas. Unless excepted below, all sections of this regulation apply to the following areas:

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

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

(b) Woodcock and snipe: seasons closed.

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

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

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

(c) All tracts designated by numbers followed by the letter "A" are closed to hunting.

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

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

(b) Woodcock and snipe: seasons closed.

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

(a) Doves: September 1 through September 30 and December 1 through December 6 [7] only.

(b) Woodcock and snipe: December 1 through December 4 only.

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

(a) Doves: September 3 [1] through September 25 [26], September 26 [27] through October 31 as announced by Fort Campbell Hunting and Fishing Unit, and November 28 [29] through December 6 [7] only. Hunting permitted during these periods in designated areas only.

[(b) Shooting hours for doves: from twelve (12) o'clock noon until sunset during the period September 1 through October 31; sunrise to sunset during the period November 29 through December 7.]

(b) [(c)] Woodcock and snipe: November 26 through December 4.

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

Section 7. [Kentucky] Waterfowl Stamp Requirements. Those hunting ducks during the experimental September duck season must possess appropriate state and federal waterfowl stamps

as stipulated in KRS 150.330 and 150.603. [(1) Persons sixteen (16) through sixty-four (64) years of age hunting wild ducks or geese shall possess, in addition to the appropriate hunting license, a Kentucky waterfowl stamp unless exempted under the provisions of KRS 150.170(3), (6), or (7).]

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

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

APPROVED BY AGENCY: August 6, 1987

FILED WITH LRC: August 6, 1987 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing will be held on September 25, 1987 at 2 p.m. in the Commission Room of the Department of Fish and Wildlife Resources, Central Offices at Frankfort, Kentucky. Those interested in attending this hearing shall contact Lauren Schaaf, Director, Wildlife Division, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick

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

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

1. First year: Persons participating in the hunting proposed for authorization by this regulation would be required to possess a valid hunting license (\$8.50 for residents) unless exempt by regulations. Waterfowl hunters would be required to possess a \$10 federal migratory bird hunting and conservation stamp and a \$5.25 state waterfowl stamp.

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

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

(b) Reporting and paperwork requirements: Randomly selected waterfowl hunters will be asked to report their hunting success by completing and mailing a Kentucky Waterfowl Survey in a postage paid envelope.

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

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

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

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

3. Additional factors increasing or decreasing costs: None

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

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

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

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

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

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division of Waste Management (Proposed Amendment)

401 KAR 47:020. Solid waste permit process.

RELATES TO: KRS 224.005, 224.830 through 224.860, 224.868, 224.869, 224.994, 224.995

PURSUANT TO: KRS 13A.210, 224.033

NECESSITY AND FUNCTION: KRS 224.855 specifies minimum requisites for issuance of waste disposal permits, and KRS 224.835 and 224.842 prohibit use or operation of a waste disposal site or facility without first obtaining a permit from the Natural Resources and Environmental Protection Cabinet. The cabinet is authorized by KRS 224.033 to promulgate administrative regulations not inconsistent with the provisions of law administered by the cabinet. This chapter establishes standards for solid waste sites or facilities. This regulation specifies the general requirements for all solid waste disposal permits.

Section 1. General Requirements for Permitting. (1) No person or state or federal agency shall engage in the disposal of solid waste without having first obtained a permit, permit by rule or a variance from the cabinet.

(2) A permit shall authorize the owner/operator to engage in the disposal of solid waste in a manner prescribed by the cabinet for a period of not more than five (5) years from the date of issuance or renewal.

(3) The permit shall confer upon the owner/operator a qualified right to dispose of solid waste, but shall not relieve the owner/operator of responsibility to comply with all applicable federal, state and local laws and regulations, including but not limited to the Clean Water Act (33 U.S.C. 1251), the Safe Drinking Water Act (42 U.S.C. 7041), the Occupational Safety and Health Act (29 U.S.C. 651), the Endangered Species Act (16 U.S.C. 1530), and the Resource Conservation and Recovery Act (42 U.S.C. 6901), as amended.

(4) The permit shall be issued in the name of the applicant, and shall be nontransferable without written approval by the cabinet. Any successor operator prior to the final closure of the facility whether by sale, assignment, lease or otherwise may be required to submit an application or independently provide financial responsibility for closure or both.

(5) Disposal of certain industrial wastes which are solid wastes by a practice common to the industry are presumed to hold a permit and can operate pursuant to this permit by rule provided the operation is not in violation of the applicable environmental performance standards of 401 KAR 30:030, and does not present a threat of imminent hazard to the public health or substantial environmental impact.

(a) A permit by rule is hereby granted for the following disposal facilities or practices:

1. Sawdust piles.
2. Disposal of asphalt residue.
3. Oil production brine pits, and gas and oil drilling mud pits.
4. Disposal of septic tank pumpings by a properly registered septic tank pumping hauler.
5. Disposal of waste from the mining, processing or primary beneficiation of ores and minerals.
6. Operation of a solid waste incinerator excluding the disposal of the residue from the incinerator.
7. Junkyards.
8. Pits, ponds and lagoons permitted by other environmental programs in the cabinet for the disposal of residual waste from pollution control devices.
9. One (1) time construction material fills at the place of generation.
10. Beneficial reuse or recycling of solid waste except for wastes regulated by 401 KAR 47:050.
11. Inert disposal site of less than one (1) acre.
12. Disposal of demolition waste on the property where demolition occurred.
13. Disposal of land clearing debris on the property where clearing occurred.

(b) A permit by rule can be granted by the cabinet for the disposal of insignificant amounts of a specific industrial waste. Any request for a permit by rule may be granted after evaluation by the cabinet of the following criteria:

1. Size of the disposal site or facility.
2. Potential for adverse effects on health and the environment as identified in the environmental performance standards, 401 KAR

30:030.

3. Quantity of waste generated.

4. Chemical and physical characteristics of the waste including reactivity and explosivity.

5. Hydrogeological and geologic characteristics of the facility including the topography of the area and the proximity to surface waters.

6. Method of disposal.

(c) A permit by rule may be granted by the cabinet for the landfarming of specified solid waste as defined in 401 KAR 47:050, Section 1(2).

Section 2. Considerations of Federal Law. Permits shall be issued in a manner and shall contain conditions consistent with requirements of applicable federal laws. These laws may include:

(1) The Wild and Scenic Rivers Act. 16 U.S.C. 1273 et seq. Section 7 of the Act prohibits the assisting by license or otherwise the construction of any water resources project that would have a direct, adverse effect on the values for which a national wild and scenic river was established.

(2) The National Historic Preservation Act of 1966. 16 U.S.C. 470 et seq. Section 106 of the Act and implementing regulations (36 CFR Part 800) require the adoption measures before issuing a license, when feasible to mitigate potential adverse effects of the licensed activity and properties listed or eligible for listing in the National Register of Historic Places. The Act's requirements are to be implemented in cooperation with State Historic Preservation Officers and upon notice to, and when appropriate, in consultation with the Advisory Council on Historic Preservation.

(3) The Endangered Species Act. 16 U.S.C. 1531 et seq. Section 7 of the Act and implementing regulations (50 CFR Part 402) require that in consultation with the Secretary of the Interior or Commerce, any action authorized is not likely to jeopardize the continued existence of any endangered or threatened species or adversely affect its critical habitat.

(4) The Fish and Wildlife Coordination Act. 16 U.S.C. 661 et seq. requires that, before issuing a permit proposing or authorizing the impoundment (with certain exemptions), diversion or other control or modification of any body of water, consult with the appropriate state agency exercising jurisdiction over wildlife resources to conserve those resources.

Section 3. Issuance of Permit. (1) The cabinet shall issue a construction permit, if after completing a technical review of the administratively complete application, it finds that the person or state or federal agency desiring the permit has met all the requirements for application and the requirements of KRS 224.855, and has the ability to meet the operational and closure requirements of the solid waste regulations. An application for a permit may be denied or an active permit revoked for failure to comply with applicable state statutes or regulations, including but not limited to any failure to provide or maintain adequate financial responsibility.

(2) No construction permit shall be issued until at least thirty (30) days have expired following publication of a notice of application as required under KRS 224.855. A verified affidavit from the publisher of the notice,

establishing the date of publication, shall be received by the cabinet before a construction permit is issued. This publication shall be made after the owner/operator receives written notice that the cabinet has completed the technical review of the application.

(3) An operational permit shall be issued by the cabinet when:

(a) The applicant notifies the cabinet, in writing, that construction has been completed;

(b) A representative of the cabinet inspects the site and verifies in writing that the site has been developed according to plans and that necessary equipment is available to the site; and

(c) The required financial responsibility for closure has been established, by posting a bond or establishing an escrow account as required by KRS 224.846 in an amount of \$10,000 or greater if so determined by an approved closure plan and cost estimate. The approved cost estimate for closure and corresponding bond shall be reviewed and adjusted at least once every five (5) years.

(4) The cabinet shall make a determination whether an application is complete within thirty (30) days of receipt. The cabinet shall act on the complete permit application within ninety (90) days of receipt or shall, within that time period, inform the applicant of a projected schedule for review.

(5) The cabinet may issue a permit subject to special conditions which include but are not limited to types of wastes which may be accepted or disposed, average daily capacity and/or area(s) of solid waste generation, special operating conditions, schedules for compliance for corrective actions, and the issuance of other applicable permits of the cabinet.

Section 4. Copies and Display of Permits and Application. (1) The applicant shall submit one (1) copy of all information required for review of the permit application to the cabinet.

(2) When review is complete the applicant shall provide the cabinet with at least three (3) copies of the final application for formal certification and issuance of the permit document.

(3) One (1) copy shall be returned to the permittee and the permit with all applicable conditions shall be conspicuously displayed at the solid waste site or facility, with the exception of landfarming sites, for the duration of the permit. A copy of the approved application including plans shall be reasonably available at the site.

Section 5. Termination and Renewal of Permit.

(1) A permit shall automatically terminate at the end of five (5) years. A shorter period may be specified. Permit by rule shall be perpetual until modified, revoked, or suspended by the cabinet.

(2) A permit may be renewed. Renewal requests shall be made in writing to the cabinet not less than sixty (60) days prior to the permit expiration date and shall include any changes or modifications in the approved plan of operation for the facility.

(3) The cabinet, in issuing a renewal, shall consider whether all conditions of the original permit and modifications of permit conditions by agreed order or otherwise are being met. The cabinet may request updated information necessary for re-evaluating the permit's suitability for reissuance and impose additional

or modified permit conditions if deemed appropriate.

Section 6. Modification of Operating Methods or Proposed Closure by Owner/Operator. (1) The owner/operator shall submit in writing to the cabinet for preliminary review any proposed change in the approved closure and other plans or any proposed change in the operating methods. Any change includes but is not limited to:

(a) Any additional wastes from an area of solid waste generation not listed in the most current permit;

(b) Exclusive of seasonal variation in the average daily capacity of residential solid waste received from the permitted area of solid waste generation as described in the application, an increase above the average daily capacity for residential solid waste for a one (1) month period of: [not listed at the time of the original permit issuance or]

1. Ten (10) percent for a landfill with a permitted average daily capacity of 200 tons or more;

2. Twenty-five (25) percent for a landfill with a permitted average daily capacity of of less than 200 tons; or

3. Any residential solid wastes from the area of solid waste generation that presents special problems may be considered exclusive of the average daily capacity when so identified in the permit application.

(c) Any other request for a variance from existing permit requirements.

(2) Permit modifications for specific waste streams may be granted upon proper request made by either the disposal facility or the waste generator.

(3) The cabinet shall notify the owner within thirty (30) days if the modification will require prior administrative analysis and review and the payment of a fee, or if further information is required before the modification, change, or variance can be approved or denied. The cabinet will respond to the request within thirty (30) days of receipt of all applicable fees and information with a letter of acknowledgement, issuance of a variance or issuance of a permit modification as appropriate.

(4) The owner/operator shall not proceed with the proposed closure or change in operating methods as specified in subsections (1), (2) and (3) of this section without written approval of the cabinet.

Section 7. Repealer and Effective Dates. (1) The regulations in 401 KAR Chapter 47 supersede solid waste regulation 401 KAR 2:010.

(2) Existing permitted solid waste disposal sites classified as landfills under 401 KAR 2:010 will be classified as inert landfills on March 1, 1983. Existing permitted solid waste disposal sites classified as sanitary landfills under 401 KAR 2:010 will be classified as residential landfills on March 1, 1983. Existing facilities thus classified will not be required to meet the design, location and construction standards of 401 KAR 47:040 provided that they are in compliance with the environmental performance standards of 401 KAR 30:030. Those existing facilities desiring to request a different classification will be required to meet the changed requirements for location, design or construction before the modification in classification is approved by the cabinet.

(3) All persons subject to the solid waste regulations shall meet the March 1, 1983, solid waste facility operating standards by August 28, 1983.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: August 12, 1987

FILED WITH LRC: August 14, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on September 24, 1987, at 1 p.m. EST in the Capital Plaza Tower. Any person interested in attending this hearing shall submit by September 19, 1987, a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on September 19, 1987, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on September 24, 1987.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The proposed amendments to this regulation may affect the 77 residential landfills currently accepting residential waste and the 11 inert landfills serving the public.

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

1. First year: Any permitted landfill which increases the amount of waste received above a specified level or receives waste from a new area of solid waste generation must apply for a permit modification. There is no fee charged to apply for the modification; however, the cost to prepare the request is estimated to be \$100 per request for a modification.

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: The cabinet will incur the cost to review the request for a permit modification and to send the determination to the facility. The cost to the cabinet is estimated to be \$200 per facility.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Additional permit modification criteria were assessed. The permit modifications for increased average daily capacity and new areas of solid waste generation are sufficient to allow counties or district to calculate the anticipated life of the disposal facility. The anticipated life is necessary to enable counties or districts to accurately determine the necessary lead time for siting a new facility.

(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? Yes. The proposed amendments apply only to facilities for the disposal of solid waste. The permit modification for an increased average daily capacity was based upon the current permitted average daily capacity.

LOCAL MANDATE IMPACT STATEMENT

Regulation No.: 401 KAR 47:020

SUBJECT/TITLE: Solid waste permit process.

SPONSOR:

NOTE SUMMARY

LOCAL GOVERNMENT MANDATE: Yes

TYPE OF MANDATE:

LEVEL(S) OF IMPACT: City, County and Urban County Government.

BUDGET UNIT(S) IMPACT:

FISCAL SUMMARY: Expenditures - less than \$10,000; Net Effect - less than \$10,000.

MEASURE'S PURPOSE: These amendments are necessary to provide the information concerning solid waste management to enable counties or districts to plan for adequate disposal systems.

PROVISION/MECHANICS: Provides for permit modification and for granted permits by rule for solid waste sites or facilities.

FISCAL EXPLANATION: These costs will result from the costs for obtaining granted permits by rule and permit modifications at facilities owned or operated by local governments.

PREPARER: M. K. Harker

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: There is no federal mandate for a specific permitting process. The federal mandate only requires that the state have a permit program for disposal sites or facilities.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: The federal mandate has no requirements for disposal site permitting programs. The modification based on the average daily capacity and are of solid waste generation do not exist in the federal mandate.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: The federal regulation at 40 CFR Part 256 contains recommendations for solid waste planning by states. These proposed requirements if implemented will ensure that counties and districts have access to information necessary for planning for solid waste management.

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

401 KAR 47:040. Sanitary landfills.

RELATES TO: KRS 224.835, 224.842, 224.855

PURSUANT TO: KRS 13A.210, 224.017, 224.033(24)

NECESSITY AND FUNCTION: KRS 224.033 and the waste management provisions of KRS Chapter 224 require the cabinet to adopt regulations for the management of solid waste. This chapter establishes standards for solid waste sites or facilities. This regulation sets forth the permit application requirements and general design and operating requirements for solid waste sites or facilities which are sanitary landfills as defined in 401 KAR 30:010. Sections 1, 2 and 3 apply to inert landfills. Sections 1 through 6 apply to residential landfills. Sections 1 through 9 apply to contained landfills. Sections 10 through 12 apply to residual landfills.

Section 1. Contents of Permit Applications for Inert Landfills. A person or state or federal agency desiring a landfill permit shall submit a complete application to the cabinet. The application shall be on a form and presented in a manner as prescribed by the cabinet, and shall include, but not be limited to, the following:

(1) Name, address, and phone number of applicant. If applicant is a government agency, corporation, company or partnership, include the name and address and phone number of process agent or other contact individual.

(2) Written certification from the county judge/executive or chairman of the local planning and zoning board that the site meets all local planning and zoning requirements.

(3) Approval of the local KRS Chapter 109 District Board (if one exists for the county in which the site is proposed).

(4) Name, address and phone number of the landowner.

(5) A copy of the deed to the property and a copy of a lease showing a two (2) year right of re-entry following final closure of the facility if the landowner is not the applicant.

(6) A geological report of the site including but not limited to:

(a) A description of all soils at the site, in detail, including their suitability for the proposed site;

(b) A description of the surface and subsurface geology of the site, including an assessment of such geologic hazards as: seismic activity, stability, and karstic weathering; and

(c) A description of the hydrologic characteristics of the site, including surface and groundwater current use, potential use and flow.

(7) An original current U.S.G.S. topographic map that has the boundaries of the site clearly and accurately marked thereon.

(8) Plans drawn to scale for the site which shall bear the seal of a professional engineer registered in Kentucky, and shall include the following:

(a) Initial and proposed final contour intervals sufficient to reveal the character of the site.

(b) Existing roads, surface drainage,

buildings and other man-made features, on-site fire protection equipment, and property lines.

(c) A buffer zone between the property line and the outer limits of the fill area, and a buffer zone between the fill and any existing residence or blue-line streams.

(d) The location of all-weather on-site roads sufficient to handle anticipated traffic.

(e) Site access controls including lockable entrance ways.

(f) Appropriate cross-sections and baseline profiles which shall include: existing surface, bedrock, seasonal high water table, limits of excavation, final waste cells, final surface elevations, volumes of airspace available for waste disposal in cubic yards, and other subsurface and surface features including but not limited to shafts, roads and drainage.

(g) A typical lift cross-section showing details of the final cover, length and depth of cells, width of cell walls, and depth of waste.

(h) A diagram illustrating the sequence of the areas to be filled referenced to the cross section and baseline profile (with methods to be used).

(i) A typical section detail of site roadways, showing base, wearing surface, side slopes, drainage, width, and other information relevant to roadway design.

(9) The complete application narrative which shall include:

(a) A written description of the location of the site using roads or highways.

(b) A description of the sequence of operation.

(c) A list of all types of wastes which will be disposed at the landfill, the sources which generate the waste identified by location (area(s) of solid waste generation), the chemical and physical characteristics of industrial or special wastes, and the anticipated volume of each category of waste for each area of solid waste generation.

(d) The source and availability of equipment including back-up equipment and fire protection equipment.

(e) An engineering statement of the site flood frequency exposure.

(f) The number of acres to be filled and the total number of acres to be permitted, including buffer zone.

(g) A brief safety and communication plan, including certification of fire protection from the appropriate fire marshal or local official and method of emergency communication.

(h) A description of the access controls.

(i) A description of the covering program including frequency of cover, total volume and source of borrow material available, and total estimated volume and source of cover required (final, daily and interim).

(j) The proposed revegetation program, including provisions for liming, fertilization, seed types and seeding schedule, erosion control during early growth period, and interim cover vegetation program.

(k) A final cover maintenance program covering the entire site and lasting two (2) years beyond closure, to include erosion control, reseeding, refertilization and growth control and surface and groundwater monitoring.

(l) A detailed plan for closure of the landfill in accordance with KRS 224.846 along with an estimate of closure costs.

(m) The estimated life of the site in volume and number of years.

(n) A description of the method to be used for compaction of waste and cover material including the placement of waste and direction of compaction, the placement of cover material and direction of compaction, and the ground pressure developed by the equipment used for compaction.

(o) Map(s) showing the area(s) of solid waste generation.

(p) Such additional information as the cabinet deems necessary for a determination regarding issuance of the permit.

Section 2. General Design Requirements for Inert Landfills. (1) Landfills in the 100-year floodplain shall be designed and operated to prevent the washout of wastes. Further, they shall not restrict the flow of the 100-year flood or significantly reduce the temporary water storage capacity of the floodplain. Where available, empirical data shall be used to determine the frequency of flood exposure. Where data is not available, the frequency of flood exposure shall be established by the unit hydrograph technique.

(2) Landfills subject to a high seasonal water table shall be restricted to sites which provide greater than two (2) feet of compacted earth between deposited waste and the maximum water table, and include measures to prevent contamination of groundwater.

(3) The bottom of the waste in the landfill shall be at least two (2) feet above bedrock, sand or gravel, excluding any sand or gravel used in a leachate collection system.

(4) Landfill locations shall conform to applicable local zoning laws pursuant to KRS Chapter 100.

(5) Surface contours shall minimize surface water running onto or through the operational or completed fill area. Surface storm water features shall be designed for the maximum flows occurring up to a 100-year, twenty-four (24) hour storm flows. Surface water sediment basins shall be designed to detain ten (10) year, twenty-four (24) hour storms with emergency spillway flows of 100-year, twenty-four (24) hour storms.

(6) Disposal of wastes presenting special handling problems shall be separately considered in design of the landfill.

(7) A 100-foot minimum buffer zone between the fill area and the property line, a 200-foot minimum buffer zone between the fill and a blue-line stream, and a 250-foot minimum buffer zone between the fill and existing residences shall be provided.

(8) Adequate cover material shall be available to cover solid wastes at intervals sufficient to prevent fire hazards, unsightly appearance, disease vectors and for interim and final cover.

(9) Sufficient equipment shall be available to comply with the requirements of this chapter. This equipment is not required on-site at all times.

(10) Other requirements may be stipulated by the cabinet.

Section 3. General Operating Requirements for Inert Landfills. (1) The owner/operator of a landfill shall operate the facility in accordance with the requirements of KRS Chapter 224 and the regulations promulgated pursuant thereto, the conditions of the solid waste facility permit issued by the cabinet, and the approved operational plan filed with the cabinet.

(2) Landfill operators shall not permit or engage in open burning of waste. Any open burning shall be immediately extinguished. Wastes which are burning or smoldering shall not be deposited in the fill. Such materials shall be deposited at a location safely removed from the normal fill area.

(3) No liquids or hazardous wastes shall be discharged to or placed in a landfill without obtaining a permit modification or a written variance from the cabinet. In considering such requests the cabinet shall use the standards specified in KRS 224.866.

(4) The grounds in and about a landfill shall not be allowed to become a nuisance. When necessary, interior fences may be required to prevent litter from blowing from the landfill. The permitted area shall be policed on a routine basis to collect all scattered material.

(5) Scavenging is prohibited. Salvage and recycling operations shall not be allowed in conjunction with a landfill unless conducted in a sanitary manner.

(6) Landfill operators shall not allow uncontrolled public access which would expose the public to potential health and safety hazards. Days and time of operation shall be clearly posted.

(7)(a) Landfill operators shall not allow a discharge of fill material, erosion sediment, leachate or other pollutants into waters of the Commonwealth that is in violation of the requirements of the National Pollutant Discharge Elimination System (NPDES) under Section 402 of the Clean Water Act or the Kentucky Pollutant Discharge Elimination System program approved by the U.S. EPA or that exceeds the water quality standards for surface waters established in 401 KAR 5:031.

(b) Landfill operators shall not allow a discharge of pollutants into the air in violation of the Clean Air Act or the Kentucky Air Pollution Control Regulations.

(8) Final cover and closure.

(a) Those areas of a landfill that will receive no additional deposits of solid waste within 365 days of the last placement of waste shall receive final cover. A minimum final cover of two (2) feet shall be required in addition to any daily and interim cover required.

(b) Before earth-moving equipment is removed from the site, an inspection of the entire site shall be made by an authorized representative of the cabinet to determine compliance with approved plans and specifications. The owner/operator shall submit a closure schedule based on the approved closure plan thirty (30) days prior to the last intended use of a solid waste facility.

(c) Final cover shall be graded as provided in the approved closure plan in a manner to prevent ponding. For a period of two (2) years, the surface of final cover shall be maintained at the proper elevation.

(d) Final cover shall be revegetated. After grading, final cover shall be fertilized, as necessary, seeded, and/or planted with legumes, perennial grasses or other vegetation according to the approved closure plan. The owner/operator may be required to repeat this process until adequate vegetation is obtained to insure soil stabilization.

(e) Other necessary corrective work required by the cabinet, if any, shall be performed before the landfill is accepted as closed and

financial responsibility funds released.

Section 4. Additional Contents of Permit Application for a Residential Landfill. In addition to the requirements of Contents of Permit Application for Inert Landfills, Section 1 of this regulation, the complete application for residential landfills shall include but not be limited to the following additional information:

(1) A leachate contingency plan and specifications for collecting and treating or other control of leachate generated at the site.

(2) A methane gas contingency control plan and specifications shall be given for all sites within 500 feet of a residential, farm, commercial or industrial building.

(3) The plans shall include grades for proper drainage of each lift and a typical cross-section of each lift. Identical lift plans need not be repeated.

(4) The site plan shall show locations of personnel structures, toilet facilities, equipment maintenance areas, emergency communication devices, operating scales, when required, and all other structures within 1000 feet of the site.

(5) A groundwater monitoring plan to include location and specifications of wells, and monitoring parameters and schedules may be required by the cabinet upon examination of geological aspects and other relevant factors. The monitoring system shall be capable of detecting any contamination of the uppermost aquifer beneath the site.

(6) A surface water monitoring plan shall include location of sampling points, monitoring parameters and schedule. The monitoring system shall be capable of detecting contamination of surface waters leaving the site and verifying the proper performance of systems used to protect surface waters from contamination. For new sanitary landfills this plan will include sampling to occur prior to any construction activity.

(7) The narrative shall specify the method to be used to determine the volume of waste received on a daily basis. At a minimum, the plans must reflect that actual weight data shall be collected four (4) times each year for all wastes received over a period of one (1) week. These determinations shall be made in the months of February, May, August, and November.

(8) The narrative shall identify a system of recordkeeping that includes:

(a) Construction requirements such as liners, hydrologic systems, and leachate collection systems;

(b) Daily volume of solid waste received;

(c) Compliance with soil cover requirements;

(d) Utilization of airspace;

(e) Permit modification waste received in accordance with Section 6(2) of 401 KAR 47:020; and

(f) Environmental monitoring, and other permit conditions.

(9) The narrative shall include a complete analysis of the laws, regulations, ordinances and agencies from each area of solid waste generation in a format which compares these laws and regulations to 401 KAR Chapter 31, 401 KAR 32:030, and 401 KAR 47:040. This analysis should provide sufficient information to ensure that hazardous wastes are excluded from the solid waste consistent with the laws of Kentucky.

Section 5. Residential Landfill Design Requirements. In addition to the requirements in General Design Requirements for Inert Landfills, Section 2 of this regulation, residential landfills shall meet the following design requirements:

(1) Residential landfills shall not be located in the ten (10) year floodplain.

(2) A personnel shelter shall be designed to provide all-weather protection for site operating personnel.

(3) Leachate and methane gas contingency plans shall contain long-term plans for post-closure maintenance if not self-maintaining by design. If long-term maintenance is necessary, a performance bond may be required by the cabinet before the release of financial responsibility closure funds can be approved.

(4) Groundwater monitoring, if required, shall contain a minimum of one (1) upgradient monitoring well and two (2) downgradient wells designed to detect the influence of the site on underground drinking water sources.

(5) The concentration of methane generated by a residential landfill shall not exceed twenty-five (25) percent of the lower explosive limit for methane in facility structures (excluding gas control or recovery system components), and shall not exceed the lower explosive limit for methane at the property boundary.

(6) The landfill shall be designed to keep surface water flows and leachate separate.

(7) A minimum of four (4) soil boring holes for the first ten (10) acres, and one (1) for each five (5) additional acres shall be required. The "K" test results from a falling head permeability test or other approved permeability test shall be shown on the boring records. There shall be available sufficient material to provide a layer of at least twelve (12) inches of 1×10^{-7} cm/sec. permeability or its equivalent under the waste and to provide a cap above the completed waste cells of six (6) inches of 1×10^{-7} cm/sec. permeability or its equivalent during final closure. An artificial liner or a greater thickness of more permeable material may be judged "equivalent" to twelve (12) inches of 1×10^{-7} cm/sec.

(8) For sanitary landfills with greater than 200 tons average daily capacity, scales to measure the volume of waste received.

Section 6. Residential Landfill Operating Requirements. In addition to the requirements in General Operating Requirements for Inert Landfills, Section 3 of this regulation, residential landfills shall meet the following operating requirements:

(1) The following improvements shall be made before a residential landfill site is placed in operation.

(a) All-weather roads shall be provided within the site for vehicular movement. Separate areas within the site may be provided to allow for wet or dry weather operation and access. When necessary to prevent a dust nuisance, roads within the site shall be surfaced or treated.

(b) A shelter shall be provided which is accessible to operating personnel. The shelter shall be screened and provided with heating facilities and adequate lighting. Safe drinking water, sanitary handwashing and toilet facilities shall be available at or near the site.

(c) Arrangements shall be made for fire protection services. A fire protection district or other public fire protection service is acceptable. When such a service is not available, alternate arrangements shall be made.

(d) Adequate communication facilities shall be provided for emergency purposes.

(e) Operating equipment shall be on-site, capable of spreading and compacting the volume of waste received at the site, and capable of handling the daily and interim earthwork requirements. Backup equipment shall be available within twenty-four (24) hours of primary equipment breakdown.

(2) Residential landfill operations shall be in accordance with approved plans and the following additional requirements:

(a) Access to the site shall be permitted only when operating personnel are on the site.

(b) Dumping of solid waste on the site shall be confined to the smallest practical area.

(c) Unloading shall be supervised.

(d) Disease vector control measures in addition to daily cover shall be required by the cabinet when necessary.

(e) Solid waste shall be spread within two (2) hours of depositing at the site, in shallow layers not to exceed two (2) feet in depth and compacted with appropriate equipment to the maximum practical density. The completed cell shall consist of the solid waste admitted and compacted during one (1) working day, regardless of overall height and volume. Unless excluded from the site, large bulky items shall be deposited in a manner approved by the cabinet.

(f) A compacted layer of at least six (6) inches of soil shall be used to cover all exposed solid waste at the end of each working day. Surfaces that will not receive an additional depth of refuse or final cover within sixty (60) days shall receive, in addition to daily cover, an interim layer of compacted cover of at least one (1) foot total. All daily and interim cover depths shall be maintained until the landfill is closed.

(g) The entire site including the area of the landfill being actively worked shall be maintained as necessary to prevent erosion or washing of the fill, and graded as necessary to drain rain water from the fill area and to prevent standing water. No surface water shall drain to the fill area.

(3) Records shall be maintained at the landfill as specified by Section 4(8) of this regulation. A quarterly report shall be submitted to the cabinet on a form specified by the cabinet no later than the 15th of the month following the determination as specified in Section 4(7) of this regulation.

(4) For sanitary landfills with a fifty (50) tons per day or larger average daily capacity an annual survey shall be conducted by the owner or operator to determine airspace remaining, and waste volume filled. The survey shall be conducted annually and the results shall be submitted to the cabinet no later than fifteen (15) days following the actual survey. This survey shall be certified by the individual conducting the survey. The owner or operator shall notify the cabinet no less than fifteen (15) calendar days prior to the date the survey will be conducted.

(5) The owner or operator of a solid waste site or facility shall not exceed the average daily capacity as established in accordance with

Sections 3(5) and 6(1)(b) of 401 KAR 47:020.

(6) The owner/operator of a residential landfill must record a notice that will in perpetuity notify any potential purchaser of the property of the location and time of operation of the facility, and a statement that future disturbance of this area should only occur after an examination of potential gas or leachate migration problems. Such notice shall be recorded in accordance with state property law prior to acceptance of final closure of the landfill.

Section 7. Additional Contents of Permit Applications for Contained Landfills. In addition to the requirements in Contents of Permit Application for Inert Landfills, Section 1 of this regulation, and Additional Contents of Permit Applications for a Residential Landfill, Section 4 of this regulation, the complete application for a contained landfill shall include but not be limited to the following:

(1) A description and specifications of an in-place groundwater monitoring system shall be given in the site plan and the narrative.

(2) A description and details of an in-place leachate collection and treatment system shall be given in the site plan and the narrative.

Section 8. Contained Landfill Design Requirements. In addition to the requirements in General Design Requirements for Inert Landfills, Section 2 of this regulation, and Residential Landfill Design Requirements, Section 5 of this regulation, contained landfills shall meet the following requirements:

(1) A groundwater monitoring system approved by the cabinet shall be in place. The monitoring plan shall consist of a minimum of one (1) upgradient and three (3) downgradient wells, and a monitoring schedule.

(2) A leachate collection and treatment or other control system approved by the cabinet shall be in place.

(3) The design and specifications for special areas, if any, which will receive exempt hazardous waste, spill residues and other sludges and residual solid waste shall be approved by the cabinet.

Section 9. Contained Landfill Operating Requirements. In addition to the requirements in General Operating Requirements for Inert Landfills, Section 3 of this regulation, and Residential Landfill Operating Requirements, Section 6 of this regulation, contained landfills shall meet the following operation standards:

(1) The owner/operator of a contained landfill shall keep permanent records of the source, amount, characteristics and disposal location of any spill residues or small generator exclusion waste, and records as to the source and quantity of all other wastes disposed of at the contained landfill. This record shall be available for cabinet inspection and shall be summarized in a report and submitted to the cabinet with the request for permit renewal.

(2) Receipt of exempt hazardous waste shall be limited to those wastes which meet the characteristics for hazardous waste but are not regulated by the state hazardous waste program because they are generated in small quantities (or otherwise exempted) having been determined as not harmful to public health or the

environment consistent with the federal Resource Conservation and Recovery Act, as amended.

Section 10. Contents of Permit Application for Residual Landfills. This section applies to owners and operators of residual landfills that require solid waste site or facility permits. A person or state or federal agency desiring a residual landfill permit shall submit a complete application to the cabinet. The application shall be on a form and presented in a manner as prescribed by the cabinet, and shall include but not be limited to the following:

(1) Name, address, and phone number of applicant. If applicant is a government agency, corporation, company or partnership, include the name and address and phone number of process agent or other contact individual.

(2) Written certification from the County Judge/Executive or chairman of the local planning and zoning board that the site meets all local planning and zoning requirements.

(3) Approval of the local KRS Chapter 109 District Board (if one exists for the county in which the site is proposed).

(4) Name, address and phone number of the land owner.

(5) A copy of the deed to the property or copy of a lease showing a two (2) year right of re-entry following final closure of the facility if the landowner is not the applicant.

(6) A geological report of the site including but not limited to:

(a) A description of all soils at the site, in detail, including their suitability for the proposed site;

(b) A description of the surface and subsurface geology of the site, including an assessment of such geologic hazards as: seismic activity, stability, and karstic weathering; and

(c) A description of the hydrologic characteristics of the site, including surface and groundwater current use, potential use and flow.

(7) An original current U.S.G.S. topographic map that has the boundaries of the site clearly and accurately marked.

(8) The plans drawn to scale including a closure plan for the site which shall bear the seal of a professional engineer registered in Kentucky.

(9) The complete application narrative which shall include:

(a) A written description of the location of the site.

(b) A description of the sequence of operation.

(c) A list of all types of wastes which will be disposed at the landfill, the sources which generate the waste, the chemical and physical characteristics of industrial or special wastes, and the anticipated volume of each category of waste.

(d) The number of acres to be filled and the total number of acres to be permitted.

(e) A closure plan.

(10) Draft permit conditions for the duration of the facility to assure compliance with the applicable environmental performance standards in 401 KAR 30:030.

Section 11. Residual Landfill Design Requirements. Residual landfills shall meet the following design requirements:

(1) The engineering design must demonstrate compliance with the environmental performance

standards in 401 KAR 30:030 and reflect a consideration of:

(a) The physical and chemical characteristics of the waste, including compatibility, to be disposed of at the facility;

(b) Volume of waste;

(c) The climatic conditions in the area;

(d) The permeability of the liner material;

(e) The properties of the soil underlying the facility;

(f) Hydrogeological characteristics of the facility including quality, quantity, current use and direction of groundwater flow;

(g) The design of the facility leachate control system, runoff control system, and gas migration control, if required, must consider the physical and chemical characteristics of the waste. The climatic condition of the specific location, the volume of leachate or contaminated runoff that could be produced and available options for managing leachate or contaminated runoff collected at the facility must be considered; and

(h) The proximity to surface water.

(2) Residual landfill locations shall conform to applicable local zoning laws pursuant to KRS Chapter 100.

(3) The closure plan shall specify the function and design of the final cover for the facility. The closure design should assure compliance with the applicable environmental performance standards in 401 KAR 30:030 and must reflect consideration of:

(a) The type and amount of waste in the facility;

(b) The mobility and expected rates of migration of the waste;

(c) The site location, topography and surrounding land use, and final site use;

(d) The climatic conditions in the area;

(e) The characteristics of the cover material including erodibility, slope stability, final surface contours, thickness, porosity, permeability, slope, length of run of slope, and type of vegetation on the cover; and

(f) The geological and soil profiles and surface and subsurface hydrology of the site.

Section 12. Residual Landfill Operating Requirements. Residual landfills shall meet the following operational standards:

(1) The owner/operator of a residual landfill shall operate the facility in accordance with the requirements of KRS Chapter 224 and the regulations promulgated pursuant thereto, the conditions of the facility permit issued by the cabinet, and the operational plan filed with and approved by the cabinet.

(2) The owner/operator of a residual landfill shall operate the facility in such a manner as to assure compliance with the applicable environmental performance standards in 401 KAR 30:030.

(3) The owner/operator of the facility must inspect the site and operation at a sufficient frequency to assure compliance with the applicable environmental performance standards in 401 KAR 30:030.

(4) Closure of the residual landfill.

(a) A residual landfill must be closed in a manner that will assure compliance with the applicable environmental performance standards in 401 KAR 30:030. The closure shall include the placement of a final cover over the facility as specified in the approved design of the site.

(b) Any necessary corrective work required by the cabinet shall be performed before the residual landfill is accepted as closed and financial responsibility funds released.

(c) The owner/operator of a residual landfill must record a notice that will in perpetuity notify any potential purchaser of the property of the location, and time of the operation of the facility and nature of the waste placed in the site and a caution against future disturbance of the area. Such notice shall be recorded in accordance with state property law prior to acceptance of final closure of the landfill.

(5) Post-closure maintenance. A residual landfill shall be maintained for two (2) years following the closure of the site in a manner that complies with the applicable environmental performance standards in 401 KAR 30:030 and in accordance with any approved post-closure monitoring and maintenance plan approved by the cabinet.

(6) The cabinet may place additional requirements on the owner/operator of a residual landfill in addition to those stated where necessary to insure compliance with the applicable environmental performance standards in 401 KAR 30:030.

Section 13. Implementation. (1) The owner or operator of a proposed or existing solid waste site or facility shall, upon the date of promulgation of this regulation comply with the requirements as specified in Section 6(5) of this regulation.

(2) The requirements as specified in Section 1(9)(c) and (d) of this regulation shall be determined as of the date of promulgation of this regulation and shall be reported to the cabinet within sixty (60) days of the date of promulgation of this regulation.

(3) An amendment to the permit application containing the requirements as specified in Sections 4(6), (7), (8), (9), 6(3) and (4) of this regulation shall be met by March 31, 1988.

(4) An amendment to the permit application containing the requirements as specified in Sections 1(8)(f), (9)(k), and 4(4) of this regulation and the requirements as specified in Section 5(8) of this regulation shall be met by September 1, 1988.

(5) The requirements as specified in Section 1(8)(h) of this regulation shall be met upon the specified renewal date for the permit.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: August 12, 1987

FILED WITH LRC: August 14, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on September 24, 1987, at 1 p.m. EST in the Capital Plaza Tower. Any person interested in attending this hearing shall submit by September 19, 1987, a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on September 19, 1987, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on September 24, 1987.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: There are currently 77 permitted residential landfills and 11 permitted inert landfills that will be expected to comply with the changes due to this promulgation. Some landfills currently have scales and will incur no costs for this regulatory change. An estimated 50 percent of residential landfills currently keep records as a part of their business procedures. The proposed recordkeeping requirements will only necessitate a change in the manner in which records are kept. Table 1 (following Regulatory Impact Analysis) shows the volume of residential solid waste that is disposed of in the state by size group.

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

1. First year: The costs for residential landfills to comply with these proposed changes are detailed in Table 2 (following Regulatory Impact Analysis). The costs represent the cost for landfills which currently keep no records, have no monitoring and do not collect any volume or weight data. Therefore, these costs are higher than any single landfill will incur. For inert landfills, there are no anticipated increased costs.

2. Continuing costs or savings: See Table 2. The subsequent year costs include a five year amortization for the purchase of scales.

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

(b) Reporting and paperwork requirements: These regulations initiate a requirement to collect data and report the data to the cabinet. This requirement is for quarterly reporting of information to be collected on a daily, monthly and quarterly basis. These proposed regulations require an annual survey to be submitted to the cabinet.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: The cabinet will require an additional 5 man years to assure compliance and aid the permittee, cities and counties in solving solid waste management problems. In addition to the 5 man years, an automated data base is needed to support the permitting, planning, inspection, operator certification and enforcement activities of the division. This will be an increased cost to the division of \$175,000 for the first year and \$150,000 for subsequent years.

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: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The alternatives to this regulation are to utilize the existing requirements to manage permitted solid waste facilities and assure compliance with the solid waste plans required by KRS 224.887, 224.888 and 401 KAR Chapter 49 or to mandate more stringent requirements through these proposed regulations for landfills permitted by the cabinet.

These regulations are proposed for the purpose

of requiring the solid waste facility permits to have a specific capacity derived from the areas designated in the county solid waste plans and approved areas which are sources for each solid waste disposal facility. The proposed changes in this regulation will allow the cabinet to make meaningful decisions when it issues permits for solid waste disposal sites and facilities and to regulate the sources that may contribute waste to these permitted entities. It provides the cabinet with the opportunity to assure a landfill operator will not misuse his facility and preclude counties from having assurance that their solid waste disposal needs will be prematurely used.

A less stringent approach to the proposal will leave the counties with a less than effective ability to assure that the disposal capacity will be available to its citizens. Although the current regulations contain provisions that may be used to secure some of the required information needed for management, the authority to regulate these facilities relative to assurances needed by counties is unclear. Further, the quality of data collected will be inconsistent unless the improved standards for measuring the wastes and management of landfill volumes are provided.

A more stringent approach could be taken by requiring longer periods of time for assurance of capacity or prohibiting the acceptance of waste unless there is absolute conformance with solid waste plans. These more stringent measures were rejected because the nature of the solid waste business is constantly changing with regard to source, disposal sites, volumes and other factors. The proposed regulations provide the needed flexibility to accommodate these changes while maintaining sufficient control to keep the people who need to know informed and in a position to make informed decisions.

(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? Yes. Landfills were analyzed by capacity and tiered for sites based upon the average daily capacity. This tiering will provide less accurate data from the smaller facilities but will not preclude effective solid waste management.

TABLE 1
Residential Solid Waste Landfills

Daily Capacity Tons Per Day	No. of Facilities	Total Daily Volume Handled as a Percent of the Total Volume Generated Statewide
500 +	5	43
200-500	3	10
100-200	12	20
50-100	18	16
0-50	<u>39</u>	<u>11</u>
	77	100

TABLE 2
Costs of Implementation of 401 KAR 47:040

Facility Size Tons Per Day	First Year	Subsequent Years
500 +	\$125,000	\$120,000
200-500	99,000	95,000
100-200	25,000	20,000
50-100	15,000	10,000
0-50	5,000	2,500

Cost Per Ton

Facility Size Tons Per Day	First Year	Subsequent Years
500 +	.46	.44
200-500	.77	.74
100-200	.46	.37
50-100	.55	.37
0-50	.55	.28

LOCAL MANDATE IMPACT STATEMENT

Regulation No.: 401 KAR 47:040

SUBJECT/TITLE: Sanitary landfill.

SPONSOR:

NOTE SUMMARY

LOCAL GOVERNMENT MANDATE: Yes

TYPE OF MANDATE: Sanitary landfill management improvements.

LEVEL(S) OF IMPACT: City, County and Urban County Government.

BUDGET UNIT(S) IMPACT:

FISCAL SUMMARY: Revenues - none; Expenditures - costs will be approximately \$.50 per capita per year.

MEASURE'S PURPOSE: To improve management of sanitary landfills and assure future disposal capacity is provided through planning.

PROVISION/MECHANICS: To regulate the sources and capacity of sanitary landfills.

FISCAL EXPLANATION: The costs are derived based on anticipated expenditures needed for a landfill to comply and the size of the population served by the facility.

PREPARER: Shelby C. Jett

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The proposed state standards are supported by federal criteria and guidelines related to solid waste management.

40 CFR 241 - Guidelines for the Land Disposal of Solid Wastes. The minimum standards (40 CFR 241.204) requires the collection of groundwater and surface water information and design to assure protection of these resources. The federal guidelines (40 CFR 241.212) require the collection of data and recordkeeping for information related to environmental impacts and operational information including sources, volumes, and types of solid waste; the utilization of scales and topographic surveys.

40 CFR 243 - Guidelines for the Storage and Collection of Residential, Commercial, and Institutional Solid Waste. Guidelines at 40 CFR 243 provide minimum guidance for storage, safety, collection equipment, collection frequency and collection management. These federal guidelines are more stringent than this

proposed regulation. It is not proposed that the cabinet regulate the standards of the collection of solid waste. These guidelines contain provisions relating to vehicles involved in interstate commerce.

40 CFR 255 - Identification of Regions and Agencies for Solid Waste Management. 40 CFR Part 255 contains criteria, procedures and responsibilities of agencies for the identification of regions for solid waste management. These criteria are to improve a state's ability to create a positive environment for regional solid waste planning and set out a framework for grants that may become available under section 4007 of RCRA. The proposed regulations do not specifically address issues as related to this part 255.

40 CFR Part 256 - Guidelines for Development and Implementation of State Solid Waste Management Plans. 40 CFR Part 256 sets out the basic elements of a state solid waste plan. It includes solid waste disposal programs, resource conservation and recovery programs, and facility planning. The proposed regulations are for the purpose of providing information and controls necessary to conduct effective state and regional planning.

40 CFR Part 257 - Criteria for Classification of Solid Waste Disposal Facilities and Practices. The criteria at 40 CFR Part 257 identify specific design and performance measures for sanitary landfills. The proposed changes are necessary to assure criteria which are in the current regulation will be met. This will be done by requiring improved data collection and recordkeeping at landfills.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. The federal guidelines and criteria address landfill management as it is related to these proposed changes. Specifically, source control, volume measurement of waste. Surveys, environmental data collection and reporting are all supported in these guidelines and criteria.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: The additional requirements are necessary to be able to make appropriate decisions when issuing or modifying solid waste permits and to provide counties the necessary information and control to properly manage solid waste.

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

401 KAR 49:030. Designation as a solid waste management area.

RELATES TO: KRS 109.011 to 109.280, 224.835, 224.842, 224.887, 224.888

PURSUANT TO: KRS 224.033, 224.887

NECESSITY AND FUNCTION: KRS 224.887 requires the cabinet to promulgate regulations for counties and waste management districts in creating solid waste management areas. This chapter established the requirements for solid waste planning. This regulation identifies the

criteria for receiving designation as a solid waste management area. This regulation neither prohibits nor discourages the participation of the private sector in any solid waste activity. Moreover, it is preferable for solid waste activities to be performed by the private sector when such is in the best interests of the public and conforms with the policies and provisions set forth in KRS Chapter 109.

Section 1. Application for Designation as a Solid Waste Management Area. All counties shall apply to the cabinet for designation as a solid waste management area. The application may be made by a single county, two (2) or more counties or a waste management district and shall be on a form provided by the cabinet. The application shall include:

- (1) Name of the proposed area;
- (2) Name and address of the primary agency responsible for area plan development;
- (3) Name, address and telephone number of the individual identified as the contact person for the primary agency;
- (4) Copies of actions of each fiscal court approving the waste management plan and a resolution to apply as a solid waste management area;
- (5) The agreement or contract establishing the proposed area, if applicable;
- (6) The proposed rules, regulations or by-laws governing the proposed area;
- (7) A list of the members of the fiscal court or board of directors, or, in the case of an urban-county government, the body in which legislative power is vested, and their titles, if appropriate;
- (8) A map of the proposed area drawn to scale, of at least 1:125,000;
- (9) A copy of the public notice required under Section 4(1) of this regulation for area plan adoption;
- (10) A description of the general administrative process to implement the plan which shall include when applicable budgeting, enforcement, plan review, public information, management and operation of the waste management activities or facilities proposed and shall identify agencies or persons charged with overseeing plan implementation;
- (11) The area plan prepared in accordance with 401 KAR 49:020, Submission of area plan; and
- (12) A resolution approving the plan from those city legislative bodies in the proposed area that have participated in and provided financial assistance in plan development.

Section 2. Designation as a Solid Waste Management Area. (1) Approval of the application. The cabinet shall review the information submitted pursuant to Section 1 of this regulation to determine whether the application and area plan are consistent with the Kentucky Waste Management Plan and in compliance with all applicable state laws and regulations. If the information is in compliance, the cabinet will approve the application in writing within thirty (30) days.

(2) Rejection of the application. Rejection of the application shall be in writing and accompanied by a list of deficiencies which, if corrected, would justify approval of a revised area plan. If the deficiencies in the area plan are substantial or significant, the cabinet may, in addition to a list of deficiencies, present a

suggested course of action to the fiscal court, board of directors or, in the case of an urban-county government, the body in which legislative power is vested, or the assigned office or agency, which could expedite the submission of an acceptable area plan.

Section 3. Duration of Designation. Unless otherwise specified as a condition for designation as a solid waste management area, designation as a solid waste management area will be for a term not to exceed five (5) years. Redesignation as a solid waste management area shall be based upon the review conducted in accordance with Section 5 of 401 KAR 49:020 and Section 2 of this regulation, or upon a revision to the area plan in accordance with Section 4 of this regulation. If the county, counties or waste management district of a designated area amends, modifies, or dissolves the agreement establishing the area, the cabinet shall be notified in writing no later than thirty (30) days after such action. Each county or counties from a dissolved solid waste management area shall submit a revised proposed area plan, approved by the fiscal court of the county or counties within the proposed area or, in the case of an urban-county government, the body in which legislative power is vested, within six (6) months of the date of dissolution of the area. The cabinet will review the notification of amendment or modification of an agreement and make a written determination as to whether the county or counties shall submit a revised area plan. Failure to comply with the provisions of this section regarding revision of the area plan shall be grounds for revocation of area designation.

Section 4. Area Plan Adoption and Revision. Prior to applying for designation as a solid waste management area, the fiscal court of each county in the proposed area or, in the case of an urban-county government, the body in which legislative power is vested, shall issue a public notice indicating their intent to apply for designation as a solid waste management area and that a solid waste management plan is available for public review.

(1) Public hearings. If a public hearing is requested as a result of this public notice, the fiscal court of each county in the proposed area shall hold at least one (1) public hearing prior to adopting or approving the application for designation as a solid waste management area. The cabinet recommends that each comment received be evaluated and that a written response be prepared. A transcript or a summary of the comments received and the consideration of comments, if prepared, shall be made available to the members of the fiscal court of each county in the proposed area and the board of directors, if applicable, prior to adoption or approval of the application for designation as a solid waste management area or area plan. Copies of the comments and any consideration of comments shall be made available to the public through public libraries, public offices, individual copies, or any similar means, and shall be available to the cabinet upon request.

(2) Each fiscal court in the proposed area prior to adopting the area solid waste management plan shall:

(a) Notify each city which is located within the county of the availability of the proposed

area plan; and

(b) Allow adequate time to receive and review comments from the cities.

(3) Approval by the county. The fiscal court of each county in the proposed area or, in the case of an urban-county government, the body in which legislative power is vested, shall approve the application for designation as a solid waste management area and the area plan. Approval shall not take place prior to a public hearing or meeting on the application for designation as a solid waste management area, the proposed area plan or substantial revision as required by subsection (1) of this section. Approval of an application for designation as a solid waste management area, proposed area plan or revision shall be by resolution and shall state concurrence with the following:

(a) The objectives set forth in the area plan;

(b) The schedule for implementation of the program;

(c) Procedures to obtain financing for the recommended public program through the short-term planning period; and

(d) The duties and responsibilities of the county identified in the area plan.

(4) Updates and revisions to the area plan. Updates and revisions shall be made:

(a) If the cabinet determines that the approved area plan or any part thereof is inadequate based on new or revised information, conditions or circumstances. The cabinet will notify the solid waste management area in writing that an amendment or revision to the area plan is required.

(b) If a solid waste management area determines that the approved plan or any part thereof is inadequate based on new or revised information, conditions or circumstances. The area may amend, modify or revise the approved plan and the revised plan shall be approved by the fiscal court of each county within the area or, in the case of an urban-county government, the body in which legislative power is vested, and submitted to the cabinet for review and approval.

(c) All area plans shall be updated and readopted in accordance with the provisions of this section at least every four (4) years. The updated plan shall use current data and shall assure compliance with the Kentucky Waste Management Plan and all applicable laws and regulations.

Section 5. City Government and Private Sector Roles in Solid Waste Management. (1) No city shall be authorized to prepare an area plan or apply for designation as a solid waste management area unless the county or waste management district delegates responsibility for area plan development to the city. Area plans prepared by a city shall address solid waste management problems and activities at both the city and county levels.

(2) If a county fails to submit an area plan by June 30, 1986, a city may provide solid waste services and shall have all the powers and restrictions set forth for counties in KRS 109.041, 109.056, 109.059, and 109.062.

(3) As provided in KRS 109.011(8), it is preferable for solid waste activities to be performed by the private sector when such is in the best interests of the public and conforms with the policies and provisions set forth in KRS Chapter 109. An area as authorized by KRS

109.041(7) may provide for the delivery of solid waste activities through use of a public agency, or a franchise, contract, or lease. In areas where it can be demonstrated that the private sector can adequately deliver solid waste management services without public agency involvement, the area plan shall address itself to what steps the proposed area could take, if any, to assure that such services will be provided.

Section 6. Area Submission. (1) Submission date. The application for designation as a solid waste management area and area plan shall be submitted to the cabinet by December 30, 1985. One (1) six (6) month extension may be granted by the cabinet, if the county, city, or waste management district has demonstrated, in the cabinet's judgment, a good faith effort to develop an area plan. Should a county, counties or waste management district find a six (6) month extension necessary, the fiscal court(s), board of directors, or, in the case of an urban-county government, the body in which legislative authority is vested, or other duly delegated office or agency shall submit a request in writing to the cabinet which details the extent of plan development accomplished and cites the need for an extension of the deadline date.

(2) Copies required. The county, counties or waste management district shall submit one (1) copy of the application for designation as a solid waste management area and at least three (3) copies of the area plan. Copies must be eight and one-half (8 1/2) inches by eleven (11) inches and each page shall be securely bound in a notebook, folder or a similar means designed to keep pages in order. Pages shall be numbered and a table of contents provided. A title sheet or transmittal letter identifying the plan and the agency or office which developed the plan shall be placed at the beginning of the area plan package.

Section 7. Enforcement. (1) Failure to prepare an area solid waste management plan by December 30, 1985, or if an extension is granted by June 30, 1986, will subject a county to the penalty provisions contained within KRS 224.994.

(2) Citizen petition. If a fiscal court or, in the case of an urban-county government, the body in which legislative authority is vested, fails to establish a solid waste management plan by December 30, 1985, the citizens of the county may petition the county judge/executive or, in the case of an urban-county government, the official in whom chief executive power is vested, to request preparation of an area plan. The petition shall be signed by a number of citizens equal to ten (10) percent of the votes cast in the county for the office receiving the greatest total votes in the last general election. The petition shall be filed with the county judge/executive or, in the case of an urban-county government, the official in whom chief executive power is vested, asking that the proposition whether to develop a plan be placed on the ballot of the next general election.

(3) Implementation deficiencies. If the cabinet determines that an area solid waste management plan is not being implemented as approved, it will notify the solid waste management area in writing of implementation deficiencies. The solid waste management area

shall within forty-five (45) days respond in writing demonstrating the action taken or planned to correct the implementation deficiencies, or request a revision to the approved plan in accordance with Section 4 of this regulation. If amendments or revisions to the plan are not made, the cabinet may conduct a public hearing or meeting to determine whether the approved plan should be revised or revoked. If the cabinet determines that a plan is not capable of being implemented, area designation shall be revoked and the cabinet shall require the county or counties to submit a new proposed area plan. Designation of a county, counties, urban-county government or waste management district, as a solid waste management area shall also be revoked until such time as a new plan is approved.

(4) Permit application and compliance with area plan. Where new solid waste sites or facility or expansions to existing solid waste sites or facilities are proposed in areas with approved plans, the cabinet will review the area plan [to insure that the proposed facility complies and is consistent with the area plan before a permit is issued. In reviewing the application for a new facility,] The cabinet will consult with the solid waste management area(s) to determine if the proposed solid waste site or facility or expansion to an existing solid waste site or facility is consistent with the approved area solid waste management plan(s). If the proposed facility is not consistent or in compliance with the approved area(s) plan, the cabinet may deny the permit application for the new solid waste site or facility or expansion unless a revision to the plan(s) is requested by the solid waste management area and approved by the cabinet. If the proposed solid waste site or facility is consistent and in compliance with the area plan(s) and other applicable laws and regulations, cabinet review will follow KRS 224.855.

(5) When a proposed application for a modification to a solid waste site or facility pursuant to Section 6 of 401 KAR 47:020 is for an increase in the volume of waste, the cabinet may deny the application when the additional volume will adversely affect the midterm requirements for disposal of solid waste in areas with approved area plans that designated the facility as a disposal site.

Section 8. Severability. If any section, paragraph, phrase, sentence or clause of this chapter is declared invalid or unconstitutional for any reason, the remainder of this chapter shall not be affected thereby.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: August 12, 1987

FILED WITH LRC: August 14, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on September 24, 1987, at 1 p.m. EST in the Capital Plaza Tower. Any person interested in attending this hearing shall submit by September 19, 1987, a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on September 19, 1987, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address

above. Written comments will be accepted until the end of the comment period, which will be close of business on September 24, 1987.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: This regulation affects solid waste management areas and new or expanded solid waste sites and facilities and modifications to permits.

(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: There will be a slight cost incurred by the cabinet. This cost results from the extra resources to review the appropriate part of the solid waste management plan.

2. Continuing costs or savings: See (2)(a)(1) above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: An alternative regulation could have required the cabinet to deny all permits that were not consistent with the solid waste management plan. The cabinet did not choose this alternative since it could affect the facility's ability to negotiate solid waste contracts on a reasonably limited basis. The cabinet did not choose an alternative which would allow all landfills to accept all waste load increases. This option could have resulted in inadequate landfill capacity for Kentucky's counties and districts.

(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? Yes. This regulation applies to new solid waste sites or facilities or solid waste sites or facilities which require a permit modification. This regulation also applies to solid waste management areas.

LOCAL MANDATE IMPACT STATEMENT

Regulation No.: 401 KAR 49:030

SUBJECT/TITLE: Designation as a solid waste management area.

SPONSOR:

NOTE SUMMARY

LOCAL GOVERNMENT MANDATE: No

TYPE OF MANDATE:

LEVEL(S) OF IMPACT:

BUDGET UNIT(S) IMPACT:

FISCAL SUMMARY: Revenues - \$0; Expenditures - \$0; Net Effect - \$0.

MEASURE'S PURPOSE:

PROVISION/MECHANICS:

FISCAL EXPLANATION:

PREPARER: M. K. Harker

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: There are no federal requirements for solid waste management areas. However 40 CFR Part 256 suggests that state manage solid waste through a planning process.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. There is no federal mandate which imposes requirements or responsibilities.

3. If the proposed regulation imposes additional requirements or responsibilities; justify the imposition of these stricter standards, requirements or responsibilities: These requirements allow counties or districts to have adequate time to develop new solid waste disposal sites.

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 August 14 [July 15], 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 NonUniformed 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 100000-21	Photocopies for NonIndigent Inmates with Special Court Deadlines
KSP 020000-10	Overtime Policy	KSP 110000-03	Governor's Meritorious Good Time Award Committee
KSP 020000-15	Legal Assistance	KSP 110000-04	Parole Progress Report
KSP 020000-20	Equal Employment Opportunity Complaints	KSP 110000-06	General Guidelines of the Classification Committee
KSP 020000-23	Recruitment and Employment of Ex-Offenders	KSP 110000-07	Statutory Good Time Restoration
KSP 020000-24	Educational Assistance Program	KSP 110000-08	Award of Meritorious Good Time
KSP 020000-29	Promotional Opportunity Announcement Program	KSP 110000-10	Special Needs Inmates (<u>Amended 8/14/87</u>)
KSP 030000-01	Inventory Records and Control	KSP 110000-11	Classification Committee - Transfer Requests
KSP 030000-04	Requisition and Purchase of Supplies and Equipment	KSP 110000-12	Classification Committee - Inmate Work Assignments
KSP 030000-05	Inmate Personal Funds	KSP 110000-13	Classification Document
KSP 030000-06	Inmate Commissary Program	KSP 110000-14	Vocational School Placement
KSP 040000-01	Management Information System	KSP 110000-15	Transfers to Kentucky Correctional Psychiatric Center (KCPC)
KSP 040000-02	Inmate Records	KSP 110000-16	Consideration of Further Treatment Requirements for Inmates Prior to Release
KSP 040000-08	Inmate Equal Opportunity Policy	KSP 110000-19	Custody/Security Guidelines
KSP 050000-14	Searches and Preservation of Evidence (<u>Amended 8/14/87</u>)	KSP 120000-04	Academic Education
KSP 060000-01	Special Security Unit	KSP 120000-07	Community Center Program
KSP 060000-02	Operational Procedures for Disciplinary Segregation, Administrative Segregation, Administrative Control and Behavioral Control Units	KSP 120000-08	Inmate Furloughs
KSP 060000-04	Protective Custody Unit	KSP 120000-11	Religious Services - Staffing
KSP 060000-11	Criteria for Disciplinary Segregation and Incentive Time Reduction Program	KSP 120000-18	Religious Services - Religious Programming (<u>Amended 8/14/87</u>)
KSP 070000-01	Hospital Services	KSP 120000-20	Marriage of Inmates
KSP 070000-02	Sick Call	KSP 120000-24	Muslim Services
KSP 070000-03	Health Evaluations [(Amended 7/15/87)]	KSP 120000-31	Extended Furloughs
KSP 070000-04	Consultations	KSP 120000-32	Discharge of Inmates by Shock Probation
KSP 070000-05	Emergency Medical Procedure	KSP 130000-10	Execution Plan
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 (<u>Amended 8/14/87</u>)		
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 (<u>Amended 8/14/87</u>)		
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 Inmate Property (<u>Amended 8/14/87</u>)		
KSP 100000-14	Property Room: Clothing Storage and Inventory (<u>Amended 8/14/87</u>)		
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		

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: August 14, 1987

FILED WITH LRC: August 14, 1987 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 22, 1987 at 9 a.m. 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: 305 employees of the Kentucky State Penitentiary, 778 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 August 14 [April 15], 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 03-09-01	Management Staff
LLCC 01-09-01	Public Information and News Media Access	LLCC 03-10-01	Promotion Board
LLCC 01-12-01	Duty Officer Responsibilities	LLCC 03-12-01	Affirmative Action: EEO
LLCC 02-01-02	Fiscal Management: Accounting Procedures		Confidentiality of Information Roles and Services of Consultants, Contract Personnel and Volunteers
LLCC 02-01-03	Fiscal Management: Agency Funds	LLCC 08-01-01	Offender Records
LLCC 02-01-04	Fiscal Management: Insurance	LLCC 08-04-01	Storage of Expunged Records
LLCC 02-03-01	Fiscal Management: Audits	LLCC 10-03-09	Duties and Responsibilities of Building 1 and 2 Officer
LLCC 02-06-01	Property Inventory	LLCC 11-03-01	LLCC Population Categories
LLCC 02-07-01	<u>Screening Disbursements from Inmate Personal Accounting (Added 8/14/87)</u>	LLCC 11-07-01	Adjustment Procedures for Minor Rule Violations
LLCC 03-01-01	General Guidelines for LLCC Employees	LLCC 11-09-01	Rules and Regulations of the Unit
LLCC 03-01-02	Service Regulations, Attendance Accumulation and use of Leave	LLCC 11-13-01	Inmate Dress and Use of Access Areas
LLCC 03-02-01	Proper Dress for Uniformed Personnel	LLCC 11-15-01	Postparole Furloughs
LLCC 03-02-02	Replacement of Damaged or Destroyed Personal Property	LLCC 11-16-01	Restoration of Forfeited Good Time
LLCC 03-03-01	Employee Grievance Mechanism	LLCC 11-18-02	Use of Monitor Telephone
LLCC 03-04-01	Employee Records	LLCC 11-19-01	Unit Shakedowns/Control of Excess Property
LLCC 03-05-01	Personnel Registers	LLCC 11-20-01	Program Services for "Special Needs"/Mentally Ill Inmates
LLCC 03-06-01	Work Planning: Employee Evaluations and Evaluation Control	LLCC 12-01-01	Special Management Inmates
LLCC 03-08-01	Shift Transfers	LLCC 12-01-02	<u>Disciplinary Segregation Time Calculation (WTR) (Added 8/14/87)</u>
LLCC 03-08-02	Rotation of Correctional Officers Between Central Security and Unit	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
		LLCC 14-01-01	Sanitation, Living Condition Standards, and Clothing Issue
		LLCC 14-05-01	Institutional Inspections
		LLCC 15-01-01	Health Maintenance Services; Sick Call and Pill Call [(Amended 4/15/87)]
		LLCC 15-02-01	Mental Health/Psychological Services
		LLCC 15-03-01	Pharmacy
		LLCC 15-03-02	Use of Psychotropic Medications [(Amended 4/15/87)]
		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 [(Amended 4/15/87)]
		LLCC 15-06-04	First Aid/CPR Training Program
		LLCC 15-06-05	Suicide Prevention and Intervention Program
		LLCC 15-07-01	Health Records [(Amended 4/15/87)]
		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 [(Amended 4/15/87)]
		LLCC 15-16-01	Health Education/Special Health Programs
		LLCC 15-17-01	Serious and Infectious Diseases [(Added 4/15/87)]
		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
 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 Parole Progress Report
 LLCC 28-04-02 Parole Eligibility Dates

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: August 14, 1987

FILED WITH LRC: August 14, 1987 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 22, 1987 at 9 a.m. 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: 214 employees of the Luther Luckett Correctional Complex, 614 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 August 14 [July 15], 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 01-03-01 Organization and Assignment of Responsibilities (Added 8/14/87)
 NTC 01-05-01 Extraordinary Occurrence Reports (Amended 8/14/87)
 NTC 01-10-01 Legal Assistance for Staff
 NTC 01-11-01 Political Activities of Merit Employees [(Amended 7/15/87)]
 NTC 01-15-01 Establishment of the Warden as Chief Executive Officer
 NTC 01-17-01 Relationships with Public, Media and Other Agencies
 NTC 02-02-02 Warden's Participation in the Agency Budgeting Process
 NTC 02-03-01 Fiscal Management: Audits
 NTC 02-04-01 Internal Control and Monitoring of Accounting Procedures
 NTC 02-08-01 Inmate Canteen
 NTC 02-10-01 Insurance Coverage
 NTC 02-12-01 Inmate Personal Accounts (Amended 8/14/87)
 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 [(Amended 7/15/87)]
 NTC 03-04-01 Shift Assignments and Transfers [(Amended 7/15/87)]
 NTC 03-06-01 Worker's Compensation [(Amended 7/15/87)]
 NTC 03-08-01 Procedures for New Employees Reporting for Employment [(Amended 7/15/87)]
 NTC 03-09-01 Maintenance, Confidentiality and Challenge of Information Contained in Employee Personnel File (Amended 8/14/87) [(Amended 7/15/87)]
 NTC 03-10-01 Employment of Ex-Offenders
 NTC 03-11-01 Submission of Northpoint Training

	Center	Staff	Recommendation/ Changes (Added 8/14/87)		
NTC 03-11-02	Employee Suggestion System [(Added 7/15/87)]			NTC 13-01-02	Emergency and Specialized Health Services (Amended 8/14/87)
NTC 03-13-01	Travel Reimbursement for Official Business and Professional Meetings [(Amended 7/15/87)]			NTC 13-02-01	Administration and Authority for Health Services
NTC 03-14-01	Procedures for Selection, Retention, Promotion, and Lateral Transfer of Merit System Employees [(Amended 7/15/87)]			NTC 13-03-01	Sick Call and Pill Call
NTC 03-14-02	Procedures for Promotional Opportunities [(Amended 7/15/87)]			NTC 13-04-01	Utilization of Pharmaceutical Products (Amended 8/14/87)
NTC 03-15-01	Time and Attendance; Accumulation and Use of Accrued Time [(Amended 7/15/87)]			NTC 13-05-01	Dental Services (Amended 8/14/87)
NTC 03-15-02	Procedures for Control of Excessive Leave Use [(Amended 7/15/87)]			NTC 13-06-01	Licensure and Training Standards
NTC 03-15-03	Inclement Weather and Emergency Conditions [(Amended 7/15/87)]			NTC 13-07-01	Provisions for Health Care Delivery (Amended 8/14/87)
NTC 03-16-01	Affirmative Action and EEO [(Amended 7/15/87)]			NTC 13-08-01	Medical and Dental Records
NTC 03-17-01	Employee Grievance Procedure [(Added 7/15/87)]			NTC 13-09-01	Special Diets
NTC 03-18-01	Educational Assistance Program [(Amended 7/15/87)]			NTC 13-11-01	Inmate Health Screening and Evaluation
NTC 03-18-02	Educational Achievement Award [(Amended 7/15/87)]			NTC 13-12-01	Special Health Care Programs
NTC 03-19-01	Holding of Second Jobs by Employees			NTC 13-17-01	Inmates Assigned to Health Services
NTC 03-20-01	Assistance and Counseling Services for Employees and their Families (Added 8/14/87)			NTC 13-19-01	Mental Health Care Program
NTC 03-21-01	Procedures for Employee Evaluation System [(Amended 7/15/87)]			NTC 13-19-03	Suicide Prevention and Intervention Program
NTC 04-01-01	Training and Staff Development (Amended 8/14/87)			NTC 13-20-01	Infectious Disease
NTC 04-04-01	Firearms and Chemical Agents Training			NTC 13-21-01	Vision Care/Optomety Services
NTC 06-01-01	Offender Records (Amended 8/14/87)			NTC 13-22-01	Informed Consent
NTC 06-01-02	Records - Release of Information			NTC 13-23-01	Special Needs Inmates
NTC 06-01-03	Taking Offender Record Folders onto the Yard			NTC 14-01-01	Legal Services Program (Amended 8/14/87)
NTC 08-05-01	The [Duties of] Fire and Safety Officer (Amended 8/14/87)			NTC 14-02-01	Inmate Grievance Procedure (Amended 8/14/87)
NTC 08-05-02	Fire Procedures (Amended 8/14/87)			NTC 14-03-01	Inmate Rights and Responsibilities
NTC 08-05-03	Fire Prevention (Amended 8/14/87)			NTC 14-03-02	Board of Claims
NTC 08-05-04	Storage of Flammables and Dangerous Chemicals and Their Use			NTC 14-04-01	Inmate Search Policy
[NTC 08-06-01]	Safety Officer (Deleted 8/14/87)]			NTC 15-01-01	Restoration of Forfeited Good Time (Amended 8/14/87)
NTC 08-07-01	Safety Standards			NTC 15-02-01	Due Process/Disciplinary Procedures (Amended 8/14/87)
NTC 10-01-01	Special Management Inmates (SMU) (Amended 8/14/87)			NTC 15-02-02	Extra Duty Assignments (Amended 8/14/87)
NTC 10-02-01	Security Guidelines for Special Management Inmates			NTC 15-02-03	Hearing Officer (Amended 8/14/87)
NTC 10-03-01	Protective Custody			NTC 15-03-01	Rules for Inmates Assigned to Outside Detail (Amended 8/14/87)
NTC 11-03-01	Food Services: General Guidelines (Amended 8/14/87)			NTC 15-03-02	Rules and Regulations for General Population Dormitories (Amended 8/14/87)
NTC 11-04-01	Food Service: Meals			NTC 15-04-01	Inmate Identification
NTC 11-04-02	Menu, Nutrition and Special Diets (Amended 8/14/87)			NTC 16-01-01	Mail Regulations (Amended 8/14/87)
NTC 11-05-02	Health Standards/Regulations for Food Service Employees (Amended 8/14/87)			NTC 16-02-01	Visiting (Amended 8/14/87)
NTC 11-06-01	Inspections and Sanitation			NTC 16-02-03	Honor Dorm Visiting
NTC 11-07-01	Purchasing, Storage and Farm Products (Amended 8/14/87)			NTC 16-03-01	Inmate Furloughs
NTC 12-01-01	Institutional Inspections			NTC 16-05-01	Telephone Use and Control
NTC 12-02-01	Personal Hygiene for Inmates; Clothing and Linens (Amended 8/14/87)			NTC 17-01-01	Personal Property Control (Amended 8/14/87)
NTC 12-02-02	Issuance of Personal Hygiene Products (Amended 8/14/87)			NTC 17-01-02	Authorized Inmate Personal Property (Amended 8/14/87)
NTC 13-01-01	Emergency Medical Care Plan (Amended 8/14/87)			NTC 17-01-03	Unauthorized Inmate Property (Amended 8/14/87)
				NTC 17-01-04	Disposition of Unauthorized Property (Amended 8/14/87)
				NTC 17-03-01	Assessment/Orientation
				NTC 18-01-01	Preparole Progress Report
				NTC 18-02-01	Classification (Amended 8/14/87)
				NTC 18-02-02	Classification - 48 Hour Notification
				NTC 18-03-01	Special Notice Form
				NTC 18-05-01	Transfers of Inmates (Amended 8/14/87)
				NTC 18-05-02	Transfer of Inmates to Kentucky Correctional Psychiatric Center
				NTC 19-01-01	Inmate Work Program (Amended 8/14/87)
				[NTC 19-01-02]	Restricted Outside Work Crew (Deleted 8/14/87)]
				NTC 19-01-03	Temporary Leave from Job Assignment
				NTC 19-02-01	Correctional Industries (Amended 8/14/87)

NTC 20-01-01 Academic School Program (Amended 8/14/87)
 NTC 21-01-01 Library Services
 NTC 22-03-01 Conducting Inmate Organizational Meetings and Programs
 NTC 23-01-01 Religious Services
 NTC 23-03-01 Marriage of Inmates
 NTC 24-04-01 Honor Status
 NTC 24-05-01 Unit Management
 NTC 25-01-01 Release Preparation Program
 NTC 25-01-02 Temporary Release/Community Center Release
 NTC 25-01-03 Graduated Release
 NTC 25-02-01 Funeral Trips and Bedside Visits
 NTC 25-03-01 Inmate Release Procedure
 NTC 26-01-01 Citizen Involvement and Volunteer Services Program (Amended 8/14/87)

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: August 14, 1987

FILED WITH LRC: August 14, 1987 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 22, 1987 at 9 a.m. in the State Office Building Auditorium. 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: 236 employees of the Northpoint Training Center, 715 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 6:130. Western Kentucky Farm Center.

RELATES TO: KRS Chapters 196, 197, 439

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

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on August 14 [July 15], 1987 and hereinafter should be referred to as Western Kentucky Farm Center Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

WKFC 03-00-01 Fishing and Hunting on the Property of Western Kentucky Farm Center
 WKFC 04-02-01 Employee Training and Development
 WKFC 05-01-01 Inmate Participation in Research and use of Consultants and Student Interns
 WKFC 06-00-01 Offender Records and Information Access (Amended 8/14/87)
 WKFC 06-00-02 Court Orders, Orders of Appearance, Warrants, Detainers, Etc. (Amended 8/14/87)
 WKFC 08-03-01 Emergency Planning (Added 8/14/87)
 WKFC 09-00-01 Drug Abuse Testing
 WKFC 09-09-01 Transportation of Inmate(s) [(Added 7/15/87)]
 WKFC 09-14-01 Count Procedure
 WKFC 09-15-01 Institutional Entry and Exit (Added 8/14/87)
 WKFC 10-02-01 Special Management Inmate(s) (Added 8/14/87)
 WKFC 11-00-02 Food Service Inmate Work Responsibilities, Evaluations, and Health Requirements
 WKFC 11-00-03 Food Service Inspections, Sanitation, Purchasing, Storage, and Corrections Cabinet Farm Products
 WKFC 11-02-01 Food Service General Guidelines
 WKFC 11-02-02 Food Service Security
 WKFC 11-03-01 Food Service Meals, Menus, Nutrition and Special Diets
 WKFC 12-01-01 Inmate Clothing
 WKFC 13-00-01 Special Health Programs (Added 8/14/87)
 WKFC 13-02-01 Health Care Services [(Added 7/15/87)]
 WKFC 14-00-01 Inmate Rights and Responsibilities (Amended 8/14/87)
 WKFC 14-04-01 Legal Services Program
 WKFC 14-06-01 Inmate Grievance Procedure
 WKFC 15-01-01 Hair and Grooming Standards
 WKFC 15-03-01 Meritorious Good Time
 WKFC 15-05-01 Restoration of Forfeited Good Time
 WKFC 16-01-01 Visiting Policy and Procedures
 WKFC 16-02-01 Inmate Correspondence (Amended 8/14/87)
 WKFC 16-03-01 Inmate Access to Telephones

WKFC 16-04-01 Inmate Packages (Amended 8/14/87)
 [(Amended 7/15/87)]
 WKFC 17-01-01 Inmate Personal Property
 WKFC 18-01-01 Structure, Guidelines, and
 Functions of the Classification
 Committee
 WKFC 18-13-01 Meritorious Housing
 WKFC 19-03-01 Inmate Wage Program
 WKFC 19-04-01 Work/Program Assignments
 WKFC 20-04-01 Academic Education Program(s)
 WKFC 20-03-01 Vocational Education Program(s)
 WKFC 22-00-01 Inmate Recreation and Leisure
 Time Activities
 WKFC 22-00-02 Inmate Clubs & Organizations
 [(Added 7/15/87)]
 WKFC 23-00-01 Religious Services [(Added
 7/15/87)]
 WKFC 25-01-01 Gratuities
 WKFC 25-02-01 Inmate Release Process
 WKFC 25-03-01 Pre-Release Programs
 WKFC 26-01-01 Volunteer Services Program (Added
 8/14/87)

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: August 14, 1987

FILED WITH LRC: August 14, 1987 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 22, 1987 at 9 a.m. 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: 75 employees of the Western Kentucky Farm Center, 287 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 Highways (Proposed Amendment)

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

RELATES TO: KRS 189.271, 189.221, 189.222

PURSUANT TO: KRS 174.080, 189.271

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

Section 1. All applications for an industrial materials permit authorized by KRS 189.271 shall be on forms prescribed and furnished by the Transportation Cabinet. Such forms are available at any highway district office. An application for an industrial materials permit shall be submitted to the chief district engineer having jurisdiction over the major portion of the proposed haul routes and shall be accompanied by a transportation plan. The transportation plan, in addition to such other information as may be required by the cabinet, shall indicate the portions of the state primary road system which the applicant intends to utilize in the transportation of industrial materials and [,] the identities of the highways and bridges on the state primary road system over which the applicant proposes to transport industrial materials[, and the specification of weight and dimensional limits on such highways and bridges. In the event an industrial materials permit is obtained, any deviation from the transportation plan shall be sufficient cause for the cabinet to revoke the industrial materials permit].

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

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

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

Section 5. Any industrial materials permit

issued by the cabinet allowing for a variance in either height or length dimensions from the provisions [, as provided for] in KRS 189.222, shall be restricted to use on the roads set forth in 603 KAR 5:070 [comply with 23 CFR 658] and shall meet all safety requirements of the Transportation Cabinet and shall be subject to such other terms and conditions as the cabinet may impose.

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

Section 7. In the event the applicant is required to give a bond by the cabinet, the applicant shall be the principal obligor on the bond and the Commonwealth shall be the obligee. The bond may not exceed \$6,000 per vehicle and the applicant may file a corporate bond or a cash bond which bond may be conditioned upon compliance with the terms of any transportation plan and/or industrial materials permit issued by the cabinet. In the event the applicant's liability is discharged upon a bond, the cabinet may require the filing of a new bond.

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

C. LESLIE DAWSON, Secretary/Commissioner

APPROVED BY AGENCY: July 20, 1987

FILED WITH LRC: July 27, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this administrative regulation on September 22, 1987, at 1:30 p.m., local prevailing time, in the 4th Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by September 17, 1987 so notify: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen

(1) Type and number of entities affected: All companies applying for an industrial haul permit.

(a) Direct and indirect costs or savings to those affected: None as a result of the changes in this regulation.

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None as a result of the changes in this regulation.

(2) Effects on the promulgating administrative body: None as a result of the changes in this 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: Clean up only. Accomplished as part of the work on HB 310.

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. All applicants for an industrial haul permit should be treated the same.

TRANSPORTATION CABINET Department of Vehicle Regulation (Proposed Amendment)

601 KAR 12:020. Expired or suspended license; requirements for renewal.

RELATES TO: KRS 186.440, 186.480

PURSUANT TO: KRS 186.400

NECESSITY AND FUNCTION: This regulation requires a driver whose Kentucky Operator's License has been expired for a period in excess of one (1) year to demonstrate that he is able to safely operate a motor vehicle. It further requires proof that a driving privilege withdrawal period has ended prior to licensing.

Section 1. (1) Any person whose Kentucky operator's license has been expired for a period in excess of one (1) year shall be required to comply with KRS 186.480(1) [and] unless the applicant has a visible or known physical defect, the actual demonstration of his driving ability may [driving test will] be waived. This regulation shall not [in no matter intends to] validate any license which has been expired.

(2) A [Such] person[s] whose Kentucky operator's license has [have not] been expired for a period [in excess] of one (1) year shall make application as prescribed in the Kentucky Revised Statutes.

Section 2. No person whose driving privilege has been withdrawn, denied, suspended, cancelled, or revoked in any state or licensing jurisdiction shall be issued a Kentucky operator's license until proof of clearance or termination of the driving privilege withdrawal has been submitted to the Transportation Cabinet.

C. LESLIE DAWSON, Secretary

JOHN PENROD, Commissioner

APPROVED BY AGENCY: July 21, 1987

FILED WITH LRC: July 27, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public comment

hearing will be held on this administrative regulation on September 22, 1987, at 9 a.m., local prevailing time, in the 4th Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by September 17, 1987 so notify: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen

(1) Type and number of entities affected: All persons whose driving privilege has been withdrawn or expired.

(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: If the person's driving privilege was withdrawn by another licensing jurisdiction, it would be necessary to obtain a clearance letter from that jurisdiction prior to licensing.

(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: The do-nothing alternative was rejected because Kentucky does not wish to inadvertently issue an operator's license to an ineligible person.

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. All licensees or potential licensees should be treated the same.

TRANSPORTATION CABINET
Department of Vehicle Regulation
(Proposed Amendment)

601 KAR 12:030. Instruction permit.

RELATES TO: KRS 186.450

PURSUANT TO: KRS 186.400

NECESSITY AND FUNCTION: This regulation requires a new driver to possess an instruction permit for a minimum of one (1) calendar month prior to taking a driving test. This gives the new driver an opportunity to practice good driving habits.

Section 1. An applicant for an operator's license [All new drivers] who is [are] unable to present evidence of previously being licensed

shall be required to obtain [hold] an instruction permit issued pursuant to KRS 186.450 at least [for a minimum of] one (1) calendar month before being allowed to submit [submitting] to the actual demonstration of his driving ability [driving test].

C. LESLIE DAWSON, Secretary

JOHN PENROD, Commissioner

APPROVED BY AGENCY: July 21, 1987

FILED WITH LRC: July 27, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this administrative regulation on September 22, 1987, at 9:30 a.m., local prevailing time, in the 4th Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by September 17, 1987 so notify: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen

(1) Type and number of entities affected: All new drivers in Kentucky.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Clean up only. Accomplished as part of the work on HB 310.

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. All new drivers should be treated the same.

TRANSPORTATION CABINET
Department of Vehicle Regulation
(Proposed Amendment)

601 KAR 12:040. Driving history record; fee.

RELATES TO: KRS 61.874

PURSUANT TO: KRS 61.874, 186.400

NECESSITY AND FUNCTION: KRS 61.874 authorizes any agency required to keep public records to adopt reasonable fees to defray costs of furnishing copies to the public. This regulation is adopted to provide a reasonable fee to defray the costs of furnishing a copy of a person's

driving history record to a person making a proper request.

Section 1. Upon payment of three (3) dollars and the completion of any forms which may be required by the Transportation Cabinet, any person may obtain a copy of a driving history record which is in custody and control of the Transportation Cabinet.

Section 2. Any person [user] submitting requests for driving history records by any method of data processing recording media adaptable to the Transportation Cabinet's system shall be given a ten (10) cent reduction in cost per record. Those [users] submitting requests by any other method which requires the request to be manually entered into the computer system [Division of Driver Licensing to key the transaction] shall be charged the full amount.

C. LESLIE DAWSON, Secretary
JOHN PENROD, Commissioner

APPROVED BY AGENCY: July 21, 1987

FILED WITH LRC: July 27, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this administrative regulation on September 22, 1987, at 10 a.m., local prevailing time, in the 4th Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by September 17, 1987 so notify: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen

(1) Type and number of entities affected: All persons requesting the one million driving history records sold each year.

(a) Direct and indirect costs or savings to those affected: No change as a result of changes to this regulation.

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: No changes as a result of changes to this regulation.

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None as a result of changes to this regulation.

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: Clean up only. Accomplished as part of the work on HB 310.

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments:
TIERING: Was tiering applied? Yes

TRANSPORTATION CABINET Department of Vehicle Regulation (Proposed Amendment)

601 KAR 13:010. Medical Review Board; basis for examination, evaluation, tests.

RELATES TO: KRS 186.570(1)(c)

PURSUANT TO: KRS 186.400

NECESSITY AND FUNCTION: The Medical Review Board has existed by virtue of administrative regulations since June, 1964. Subjects who come to the department's attention because of physical or mental problems which may affect their driving ability are required to submit to physical examinations. The results of these exams are then reviewed by the physicians on the board. Based on their professional experience they recommend either total denial of a license or a limited one (e.g. daylight hours, left and right rearview mirrors, another examination in three (3) months, etc.), or they determine that the disability suffered should not affect the person's driving ability. This negates the [and] capriciousness which could exist in the great discretion granted the department by the legislature in KRS 186.570. Whenever the recommendation of the board is for suspension or an extremely limited license, the subject is entitled to a hearing on the matter (since the Supreme Court's BELL v. BURSON decision) and this regulation sets out the procedure for same.

Section 1. There is hereby created a Medical Review Board to determine whether any applicant for or any holder of a valid Kentucky operator's license has physical or mental infirmities which affect or limit the driving ability or make it unsafe for said person to operate a motor vehicle upon the public highways. The board shall consist[s] of the Commissioner of the Department of Vehicle Regulation of the Transportation Cabinet or his representative, not less than three (3) physicians licensed to practice medicine in the Commonwealth of Kentucky, and anyone else deemed necessary to properly review a case brought before the board. The physicians on the board shall be appointed by the Commissioner of the Department of Vehicle Regulation. The Commissioner of the Department of Vehicle Regulation or his representative shall prescribe the time and place for the board to meet. Any proceeding conducted by the board shall be construed to be a meeting within the meaning of this section when three (3) physician members are present and participating. Members of the board who participate in a meeting shall be reimbursed for necessary expenses incurred in attending such meeting.

Section 2. (1) When[ever] the Commissioner of the Department of Vehicle Regulation or his representative receives notice that one (1) or more of the conditions listed in Section 4 of this regulation exists in a person and that such physical or mental infirmities may render [has reason to believe, within the meaning of Section 4 of this regulation, a person is afflicted with physical or mental infirmities rendering] it unsafe for him to operate a motor vehicle upon the public highways, the commissioner [he] shall

refuse to issue an operator's license to said person or he shall suspend the existing driving privilege of said person unless the person [he shall] submits to an examination by a qualified physician within forty-five (45) days of notification of the commissioner's intentions.

(2) If the Medical Review Board deems [it is deemed necessary] that an examination by a qualified physician is necessary, the required medical examination shall be conducted at the person's [subject's] own expense by any licensed physician of his choice. The examining physician shall report within forty-five (45) days the results of his examination directly to the Medical Review Board on a form furnished [him] by the Department of Vehicle Regulation.

(3) As soon as possible after receipt of the completed form, the Medical Review Board shall evaluate it and may [, to] make recommendations to the Department of Vehicle Regulation for further examination or testing or on restriction [thereon, such as total suspension] of the person's driving privilege[, further medical or psychiatric examinations, or an investigative test which will assist the board in making its recommendation]. When the board recommends further examination or investigative testing, the Commissioner of the Department of Vehicle Regulation or his representative shall notify the person of the date by which he shall comply in order to retain or obtain his driving privilege [subject how much time he has in which to comply to retain his driving privilege if he possesses a valid Kentucky operator's license].

Section 3. When[ever] the Medical Review Board, pursuant to Section 2(3), recommends total suspension of a person's driving privilege or any limitations thereon, the Commissioner of the Department of Vehicle Regulation or his representative shall notify the person at the last known address of said person that this action will be taken unless a written request for a hearing before the board is received within twenty (20) days following delivery of the notice. The hearing shall be scheduled as early as practicable at a time and place designated by the commissioner or his representative and notice of same shall be mailed to the person involved no later than ten (10) days prior to the hearing date. The commissioner or his representative shall preside at the hearing before the Medical Review Board and at least three (3) physician members shall be present. The presiding officer may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers. The scope of the hearing shall [will] be limited to the presentation of the evidence upon which the Medical Review Board made their recommendation and any medical evidence the petitioner wishes to present in explanation or refutation of this evidence. Evidence may be presented in the form of depositions. All testimony at the hearing shall be recorded and together with any depositions or exhibits introduced at the hearing shall form the complete record. Within ten (10) working days after the hearing, the commissioner shall issued a decision and this shall be promptly forwarded to the petitioner.

Section 4. The Commissioner of the Department of Vehicle Regulation or his representative shall promptly notify the person involved to

submit to the physical examination set out in Section 2 when one or more of the following conditions exist:

(1) Driver has indicated that he "blacked out," lost consciousness or suffered a seizure prior to a reportable motor vehicle accident;

(2) Driver has been named in an affidavit by at least two (2) citizens as being incapable of properly operating a motor vehicle due to physical or mental infirmities;

(3) Driver has been reported by a physician as being incapable of driving safely due to physical or mental condition or due to medication prescribed for an extended time;

(4) Driver has been reported by a law enforcement officer after being observed driving or behaving in an erratic or dangerous manner which indicates a possibility of physical or mental infirmity;

(5) Applicant for operator's license or for renewal of same has obvious physical or mental impairment;

(6) Driver's official record kept by the Department of Vehicle Regulation indicates a possibility of physical or mental impairment;

(7) Driver has reported that he/she has suffered an epileptic seizure or any type of syncopal episode;

(8) Driver has been reported by a commonwealth attorney, county attorney, county clerk, circuit clerk, sheriff, or judge as being incapable of driving due to a physical or mental impairment.

C. LESLIE DAWSON, Secretary

JOHN PENROD, Commissioner

APPROVED BY AGENCY: July 21, 1987

FILED WITH LRC: July 27, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this administrative regulation on September 22, 1987, at 10:30 a.m., local prevailing time, in the 4th Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by September 17, 1987 so notify: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen

(1) Type and number of entities affected: All persons recommended to the Medical Review Board.

(a) Direct and indirect costs or savings to those affected: None as a result of changes to this regulation.

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None as a result of changes to this regulation.

(2) Effects on the promulgating administrative body: None as a result of changes to this 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: Clean up only. Accomplished as part of the work on HB 310.

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Care must be taken to insure that drivers reported to have physical or mental problems which may impair their driving abilities are carefully considered.

TRANSPORTATION CABINET
Department of Vehicle Regulation
(Proposed Amendment)

601 KAR 13:020. Point system.

RELATES TO: KRS 186.570, 186.572

PURSUANT TO: KRS 186.400

NECESSITY AND FUNCTION: This regulation specifies [is] the so-called "point system" whereby each traffic offense [violation] conviction is assigned a certain number of points, according to the seriousness of the offense, as determined by accident-cause statistics. Certain offenses have proven so dangerous that they, along with certain license violations, are made cause for suspension periods rather than point accumulation. The purpose of this is to establish a criterion whereby the discretion allowed the Transportation Cabinet in determining the "habitually reckless or negligent driver" or the "serious violator" will not be exercised arbitrarily and capriciously, but each license holder will be treated like every other one, and each will know or can determine his "point" status at any given time.

Section 1. To assist the Transportation Cabinet in making a determination that a person is an habitually reckless or negligent driver of a motor vehicle or has committed a serious violation of the motor vehicle laws [for the purpose of denying, suspending, or revoking that person's license] in accordance with KRS 186.570 a schedule of penalty points is hereby established for the purpose of denying, suspending or revoking that person's driving privilege and operator's license [shall govern]. Value points for the various [different] classifications of moving traffic offenses [hazardous violations], or a driving privilege suspension period for certain named offenses [violations], shall be assessed as set out in Sections 2 and 3 of this regulation for all persons [drivers]. Points shall be assessed or driving privilege suspensions invoked for conviction, forfeiture of bail, or payment of fine, with or without a court appearance, for the enumerated offenses [regardless of] whether the conviction is received from a court of competent jurisdiction within the Commonwealth of Kentucky or any other jurisdiction, [(except that [for] out-of-state speeding offenses shall not be considered by the cabinet)]. Information regarding convictions may be secured from any official source or record available to public or cabinet inspection. Complete records of driving

privilege suspensions and point system assessments shall be maintained in the Transportation Cabinet for a period of five (5) years.

Section 2. Conviction for any one of the following serious violations of the motor vehicle laws shall be cause for suspension of the driving privilege of the person so convicted for the period of time indicated:

Racing.....90 days
Speeding 26 MPH or more over limit.....90 days
Attempting to elude law enforcement officer by use of motor vehicle.....90 days

Section 3. Conviction for any one of the following moving traffic offenses [hazardous violations] shall be cause for assessment of the penalty points indicated: [Points]

Speeding 15 MPH or less over the limit.....3
(Except that pursuant to KRS 186.572 when [where] the moving hazardous violation occurred on a limited access highway or a limited access highway of four (4) or more lanes in Kentucky on which the speed limit is 55 MPH or higher, [In such case] no penalty points shall be assessed for a speeding conviction of 15 MPH or less over the limit.)
Speeding 16 MPH or more, but less than 26 MPH, over the limit.....6
Improper passing.....5
Reckless driving.....4
Driving on wrong side of road.....4
Following too closely.....4
Failure to yield to emergency vehicle.....4
Changing drivers in a moving vehicle.....4
Vehicle not under control.....4
Stop violation (electric signal, railroad crossing, stop sign).....3
Failure to yield.....3
Wrong way on one-way street.....3
Too fast for conditions.....3
Too slow for conditions.....3
Improper start.....3
Improper driving.....3
Careless driving.....3
Improper lane usage.....3
Failure to illuminate headlights.....3
Failure to dim headlights.....3
Any other moving hazardous violations.....3
Commission of a moving hazardous violation which involves an accident.....6
Combination of two or more moving hazardous violations in any one occurrence.....6

Section 4. If a person [(1) On the] accumulates [accumulation of] six (6) or more penalty points within a two (2) year period, [against any driver] the Transportation Cabinet may send a letter to the address shown on his driving history [driver license] record that shall advise him of the number of penalty points on his driving history record. The letter shall inform the person of the penalties which may be imposed if he were to accumulate twelve (12) points within two (2) years. [will require said driver to be interviewed by a driver improvement officer for the purpose of seeking a solution to his errant driving behavior. Failure to report for the interview may be cause for the cabinet to suspend the person's driving right for a period of not less than thirty (30) days.]

[(2) After this interview, the cabinet may require the driver to attend a driver improvement clinic approved by the

Transportation Cabinet. Failure to successfully complete the driver improvement clinic may be cause for the cabinet to suspend the person's driving rights for a period of not less than thirty (30) days.]

[(3) Upon evidence to the cabinet that a valid license holder has successfully completed this clinic, a four (4) point credit shall be given on the driver record of those who voluntarily complete the driver improvement clinic after the effective date of this regulation. This subsection shall not apply when a driver is required to attend the driver improvement clinic as a condition of his probation.]

[(4) No driver shall be permitted to attend this clinic until two (2) years have elapsed following the date of completion of a previous clinic for the reduction of points or reduction of a suspension period.]

Section 5. (1) If a person accumulates [Upon the accumulation of] twelve (12) points [by any driver] within a period of two (2) years, the cabinet may suspend the driving privilege [operating right] of such person [driver] for a period of six (6) months for the first such accumulation of twelve (12) points, one (1) year for the second such accumulation of twelve (12) points, and two (2) years for any subsequent accumulation of twelve (12) points within a [the] two (2) year period.

(2) For any offense [violation] for which the suspension of the driving privilege is six (6) months or less for the first offense, the second conviction of a similar offense shall result in a suspension period of not less than one (1) year, and any subsequent conviction for any similar offense not less than two (2) years.

[(3) Provided the driver is eligible for "probation," the cabinet may waive the remainder of a driver's suspension period after he has served one-half (1/2) of it. Upon this waiver, the cabinet shall place the driver on "probation" as outlined in Section 6 (2) of this regulation, for two (2) times the amount of time remaining on the suspension period.]

Section 6. (1) Any person [driver] who accumulates twelve (12) points or more within a period of two (2) years, or who is convicted of any offense that could result in a [discretionary] suspension of his driving privilege under the provisions of this regulation, may be placed on probation in lieu of suspension.

[(2) A driver receiving a conviction from a moving hazardous violation from any court outside the boundaries of Kentucky which may result in a suspension shall be offered a hearing prior to any suspension of his driving right.]

(2) [(3)] "Probation" for the purpose of this regulation means that a pending driving privilege suspension period is held in abeyance provided the person attends an approved driver improvement clinic and provided his driving privilege is not suspended in any other jurisdiction. If a person on probation receives [upon] any additional [future] conviction for a moving traffic offense [violation] with or without court appearance, or upon his failure to successfully enroll in and complete the driver improvement clinic, the person [driver] shall have his driving privilege [right] in Kentucky suspended for the period of time outlined in

Section 5(1) and (2). If a person [In the situation where a driver] has been convicted of driving under the influence of intoxicants in a foreign jurisdiction, probation may include successful completion of the alcohol driver education course in lieu of the driver improvement clinic [terms previously stated].

(3) [(4)] Once a person [driver] has been placed on probation by the cabinet, he shall not be considered for probation again until a lapse of two (2) years from the ending date of any previous probation period granted, whether served or not.

(4) If the person is eligible for probation, the cabinet may waive the remainder of a driving privilege suspension period after he has served one-half (1/2) of it. Upon this waiver, the cabinet shall place the driver on probation for two (2) times the amount of time remaining on the suspension period.

Section 7. Any person [driver] who holds a valid operator's [driver's] license from another licensing jurisdiction and who after establishing residence in Kentucky applies [desires] to become a valid license holder [in Kentucky, upon establishing residency in this state, but has a driving record of one (1) or more convictions for moving violations within the preceding two (2) years,] may be considered for an operator's license in Kentucky. However, such person's driving privilege shall [must] not be under suspension or revocation by any jurisdiction [state] at the time of his application in Kentucky. [This driver applicant may be required to appear for an interview, as outlined in Section 4(1), and may be required by the cabinet to successfully complete a driver improvement clinic, as outlined in Section 4(2), as a prerequisite to obtaining a permanent Kentucky operator's license.]

Section 8. When[ever] a conviction report is used by the Transportation Cabinet to impose [for] a driving privilege suspension or probation, it shall never be used for the imposition of an unrelated [an additional] suspension or probation. It may be used to show that the person's driving privilege [driver] has previously been suspended [on his record].

Section 9. No person's driving privilege shall [right will] be suspended under any section of this regulation without his first being offered a hearing, unless such hearing offer has been waived.

Section 10. (1) As soon as the Transportation Cabinet is made aware that a person has committed sufficient offenses that his driving privilege is placed in jeopardy, the cabinet shall establish a time and place for the hearing on the matter. The cabinet shall notify that person of the hearing by first class mail delivered to his last known address as reflected on the person's driving history record.

(2) The person shall appear for the hearing at the established time and place. The hearing shall be conducted by an appointed representative of the Transportation Cabinet. The testimony given at the hearing shall be recorded and such recordings retained by the cabinet for a period of sixty (60) days.

(3) Based upon the evidence and testimony received at the hearing and the person's driving

history record, the hearing officer determines whether the cabinet may withdraw the person's driving privilege. If he determines that the cabinet may withdraw the person's driving privilege, he may either order suspending the person's driving privilege or grant probation to the person.

(4) If probation is granted, the terms shall be carefully explained to the person. The person shall indicate his understanding and acceptance of those terms by signing a standard form prepared by the Transportation Cabinet.

(5) If probation is not granted the person, the hearing officer shall prepare the order suspending the person's driving privilege at the close of the hearing. The effective date of the suspension shall be included in the order. The hearing officer shall hand the order to the person prior to his departure.

(6) The person may in writing file a grievance with the Transportation Cabinet if he is aggrieved by any action taken by the cabinet under the guidelines of this administrative regulation. The grievance shall state the reasons he believes the Transportation Cabinet has taken erroneous action. In not less than fifteen (15) nor more than thirty (30) days thereafter the aggrieved party may file an action against the Transportation Cabinet in the circuit court of the county in which he resides or in Franklin Circuit Court.

C. LESLIE DAWSON, Secretary

JOHN PENROD, Commissioner

APPROVED BY AGENCY: July 21, 1987

FILED WITH LRC: July 27, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this administrative regulation on September 22, 1987, at 11 a.m., local prevailing time, in the 4th Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by September 17, 1987 so notify: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen

(1) Type and number of entities affected: Approximately 2500 people whose driving privilege is withdrawn each year based on the point system regulation.

(a) Direct and indirect costs or savings to those affected: May reduce number of meetings with driver licensing hearing officers.

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: Allows the cabinet to send a letter after a person accumulates six points instead of allowing the cabinet to set up a hearing.

(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: Sets forth hearing procedure that has been followed for years. Required to do so by KRS Chapter 13A.

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments:

TIERING: Was tiering applied? Yes.

TRANSPORTATION CABINET

Department of Vehicle Regulation
(Proposed Amendment)

601 KAR 13:030. Alcohol driver education clinic.

RELATES TO: KRS 186.560

PURSUANT TO: KRS 186.400

NECESSITY AND FUNCTION: The purpose of this regulation is to establish an Alcohol Driver Education Clinic to effectuate the policy set out in KRS 186.560(4). This regulation also requires a reasonable fee to defray the cost of operating the clinic.

Section 1. The cabinet shall [will] set up and conduct alcohol driver education clinics to effectuate the policy set out in KRS 186.560(4).

Section 2. Once the cabinet has determined in accordance with the provisions of KRS 186.560(4) that a licensee is eligible to take part in alcohol driver education, he shall [will] be notified by mail to [appear for an interview before a driver improvement officer for the purpose of] enroll[ment] in such a clinic. Failure to enroll shall [appear at the interview without good cause will] be considered [tantamount to] failure to satisfactorily complete the clinic.

Section 3. Upon enrollment in a Transportation Cabinet alcohol driver education clinic, the licensee shall pay a fee of fifty (50) dollars. This fee shall be credited to a special account within the road fund, and shall be used exclusively by the Transportation Cabinet for the purpose of setting up, conducting and expanding the driver improvement program.

C. LESLIE DAWSON, Secretary

JOHN PENROD, Commissioner

APPROVED BY AGENCY: July 21, 1987

FILED WITH LRC: July 27, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this administrative regulation on September 22, 1987, at 1 p.m., local prevailing time, in the 4th Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by September 17, 1987 so notify: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen

(1) Type and number of entities affected: 2500 persons who attend the alcohol driver education clinic each year will not have to attend a hearing prior to attending the clinic.

(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: None

(2) Effects on the promulgating administrative body: Even though the regulation required a hearing, one hadn't been held in years so there is no change in our current procedure.

(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: Since the procedure had been changed, during our compliance with HB 310 it was essential to amend the 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: N/A

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. All enrollees in the clinic should be treated alike.

TRANSPORTATION CABINET
Department of Highways
(Proposed Amendment)

603 KAR 1:030. Crushed stone, bituminous materials; certificate of eligibility to bid.

RELATES TO: KRS 45.360(3), 176.070, 176.130(3), 176.140

PURSUANT TO: KRS 174.080, 176.140

NECESSITY AND FUNCTION: KRS 176.140 authorizes the Department of Highways to determine [by various methods] the eligibility of proposed suppliers of materials. This regulation is adopted to determine the procedure to be followed by the supplier to establish this eligibility.

Section 1. Any [All] person desiring to bid on crushed stone in lots of more than 1,000 tons or on bituminous materials in tank car lots shall [must] first obtain a certificate of eligibility.

Section 2. Applications for certificates of eligibility shall contain information required by the Transportation Cabinet, Department of Highways, and be on forms prepared by the department. Such applications may be obtained from the Division of Purchases [Service and Supply], Transportation Cabinet, Frankfort, Kentucky 40622.

Section 3. All certificates of eligibility shall be valid until the first June 30 after issuance unless revoked prior to such date. Certificates of eligibility shall [must] be renewed before June 30 of each year or otherwise will become invalid.

C. LESLIE DAWSON, Secretary/Commissioner

APPROVED BY AGENCY: July 27, 1987

FILED WITH LRC: July 27, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this administrative regulation on September 22, 1987, at 2 p.m., local prevailing time, in the 4th Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by September 17, 1987 so notify: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen

(1) Type and number of entities affected: All suppliers of crushed stone. There are currently no bituminous in tank car suppliers.

(a) Direct and indirect costs or savings to those affected: None as a result of change to regulation.

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None as a result of change to regulation.

(2) Effects on the promulgating administrative body: A different division supplies the forms. No other change.

(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: Administrative change was made and therefore the regulation had to be amended to reflect this change.

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments:

TIERING: Was tiering applied? Yes

TRANSPORTATION CABINET
Department of Highways
(Proposed Amendment)

603 KAR 5:100. Permits for moving houses and buildings.

RELATES TO: KRS 189.222, 189.270

PURSUANT TO: KRS 174.080, 189.222, 189.270

NECESSITY AND FUNCTION: KRS 189.270 authorizes the Department of Highways [Vehicle Regulations]

to issue permits to exceed the prescribed weights and limits of certain highways for specified periods and under usual conditions. This regulation is adopted to provide a method by which permits may be issued.

Section 1. Permits for movement of houses or other buildings shall be issued by the Department of Vehicle Regulation, Division of Motor Carriers [central office].

Section 2. House moving permits may only [will] be issued for movement during off-peak hours when other traffic will be least affected, [and] The mover shall [will] be required to furnish all escorts and flagmen required in the interest of public safety.

Section 3. No permits shall be issued for movement of any buildings on either toll roads or interstate highways if the width of the building exceeds twelve (12) feet.

Section 4. The Division of Motor Carriers shall contact the appropriate Department of Highways' district office for specific routing restrictions or local highway conditions prior to the issuance of the permit. Specific restrictions shall be identified on the permit. Deviation from the restrictions shall void the permit.

C. LESLIE DAWSON, Secretary/Commissioner

APPROVED BY AGENCY: August 6, 1987

FILED WITH LRC: August 11, 1987 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this administrative regulation on September 22, 1987 at 2:30 p.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. Any person who intends to attend this hearing must in writing by September 17, 1987 so notify: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, Tenth Floor, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen

(1) Type and number of entities affected: All companies in the business of moving houses and buildings.

(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: The application for a permit has been submitted for years to the Division of Motor Carriers. However, it was easy to misinterpret the regulation and assume that the application should be submitted to the Department of Highways.

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Clarification of the permit application process was needed.

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments:

TIERING: Was tiering applied? Yes.

PUBLIC PROTECTION & REGULATION CABINET Kentucky State Racing Commission (Proposed Amendment)

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

RELATES TO: KRS 230.210 to 230.360

PURSUANT TO: KRS 13A.350

NECESSITY AND FUNCTION: To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this regulation is to outline requirements for entry, subscription and declaration of horses in order to race.

Section 1. Entering Required. No horse shall be qualified to start in any race unless such horse has been and continues to be duly entered therein. Entries or subscriptions for any horse, or the transfer of same, may be refused or cancelled by the association without notice or reason given therefor.

Section 2. Procedure for Making Entries. (1) All entries, subscriptions, declarations, and scratches shall be lodged with the racing secretary and shall not be considered as having been made until received by the racing secretary who shall maintain a record of time of receipt of same for a period of one (1) year.

(2) Every entry must be in the name of such horse's licensed owner, as completely disclosed and registered with the racing secretary under these rules, and made by the owner, or trainer, or a licensed authorized agent of such owner or trainer.

(3) Every entry must be in writing, except that an entry may be made by telephone to the racing secretary, but must be confirmed in writing should the stewards, the racing secretary, or an assistant to the racing secretary so request.

(4) Every entry shall clearly designate the horse so entered. When entered for the first time during a meeting, every horse shall be designated by name, age, color, sex, sire, and dam, as reflected by such horse's registration certificate.

(a) No horse may race unless correctly identified to the satisfaction of the stewards as being a horse duly entered.

(b) In establishing identity of a horse, responsibility shall be borne by any person attempting to identify such horse as well as the owner of such horse, all such persons being subject to appropriate disciplinary action for incorrect identification.

(c) Every entry shall clearly state any and all medications, drug, or substances which the horse shall receive as pre-race treatment. Medications, drugs, or substances shall be categorized into two (2) sections and shall be designated as follows: NSAID (non-steroidal anti-inflammatory) shall be designated by (B); and any and all bleeder medications shall be designated by (L). Horses racing for the first time with either of the above categories shall be clearly designated with (1).

(5) No alteration may be made in any entry after the closing of entries, but an error may be corrected with permission of the stewards.

(6) No horse may be entered in two (2) races to be run on the same day.

(7) No horse which has not started in the past ninety (90) days shall be permitted to start unless it has at least one (1) published work-out within twenty (20) days of entry at a distance satisfactory to the stewards of the meeting. In the event that a horse has done the requisite work-out, but through no fault of the trainer, such work-out does not appear in the past performances, the horse shall be permitted to start and the correct work-out announced. No horse which has never started shall be entered until the trained has produced satisfactory evidence to indicate to the starter that it has been adequately schooled from the starting gate.

Section 3. Stabling Requirement. No entry shall be accepted for any horse not stabled on association grounds where such race is to be run, unless its stabling elsewhere has been approved by the commission in its approved off-track stable list. For purposes of the "rules of racing," off-track stables are considered those stabling horses entered in thoroughbred racing in the Commonwealth of Kentucky and are considered extensions of racing association backside and are subject to all applicable rules.

(1) The fee for an annual license for an off-track stable shall be \$100 for those with fifty (50) stalls or less and \$250 for those with fifty-one (51) stalls or more. An annual inspection by the commission is required. The license must be displayed to the public.

(2) It shall be the responsibility of the off-track stable to ensure that all personnel on the grounds are licensed by the commission except for those making occasional deliveries of goods. It shall also be the responsibility of the off-track stable to adhere to the "rules of racing." Failure to do either of the aforementioned may result in a fine, a penalty, and/or loss of license.

(3) All off-track stables shall have a training track with an inner rail and a minimum length of one-half (1/2) of a mile.

(4) Each off-track stable shall adhere to the applicable security provisions of Rule VI, Section 21 of the "rules of racing."

Section 4. Limitation as to Spouses. No entry in any race shall be accepted for a horse owned wholly or in part by, or trained by, a person whose husband or wife is under license suspension at time of such entry; except that, if the license of a jockey has been suspended for a routine riding offense, then the stewards may waive this rule as to the duly licensed husband or wife or such suspended jockey.

Section 5. Mutuel Entries. (1) All horses entered in the same race and trained by the same trainer shall be joined as a mutuel entry and single betting interest. All horses entered in the same race and owned wholly, or in part by the same owner or spouse thereof, shall be joined as a mutuel entry and single betting interest.

(2) No more than two (2) horses having common ties through ownership or training as to be joined as a mutuel entry may be entered in a purse race. When making such double entry, a preference for one (1) of the horses must be made.

(3) In no case may two (2) horses having common ties through ownership start in a purse race to the exclusion of a single interest. In races in which the number of starters is limited to ten (10) or less, no two (2) horses having common ties through training may start to the exclusion of a single entry.

Section 6. Subscriptions. (1) Nominations to or entry of a horse in a stakes race is a subscription. Any subscriber to a stakes race may transfer or declare such subscription prior to closing.

(2) Joint subscriptions and entries may be made by any one (1) of the joint owners of a horse, and each such owner shall be jointly and severally liable for all payments due thereon.

(3) Death of a horse, or a mistake in its entry when such horse is eligible, does not release the subscriber or transferee from liability for all stakes fees due thereon. No fees paid in connection with a subscription to a stakes race that is run shall be refunded, "except as otherwise stated in the conditions of a stakes race."

(4) Death of a nominator or original subscriber to a stakes race shall not render void any subscription, entry, or right of entry thereunder. All rights, privileges, and obligations shall attach to the successor owner, including the legal representatives of the decedent.

(5) When a horse is sold privately, or sold at public auction, or claimed, stakes engagements for such horse shall be transferred automatically with such horse to its new owner; except that, if such horse is transferred to a person whose license is suspended or otherwise unqualified to race or enter such horse, then such subscription shall be void as of the date of such transfer.

(6) All stakes fees paid toward a stakes race shall be allocated to the winner thereof unless otherwise provided by the condition for such stakes race. In the event a stakes race is not run for any reason, all such subscription fees paid shall be refunded.

Section 7. Closing. (1) Entries for purse races and subscriptions to stakes races shall close at the time designated by the association in previously published conditions for such races. If a race is not split, no entry, subscription, or declaration shall be accepted after such closing time; except that in event of an emergency, or if a purse race fails to fill them the racing secretary may, with the approval of a steward, extend such closing time.

(2) If the hour of closing is not specified for stakes races, then subscriptions and declarations therefor may be accepted until

midnight of the day of closing; provided, they are received in time for compliance with every other condition of such race.

(3) Entries which have closed shall be complied without delay by the racing secretary and, along with declarations, be posted.

Section 8. Number of Starters in a Race. (1) The maximum number of starters in any race shall be limited to the number of starting positions afforded by the association starting gate and extensions thereof approved by the commission as can be positioned across the width of the track at the starting point for such race; and such maximum number of starters further shall be limited by the number of horses which, in the opinion of the stewards, considering the safety of the horses and riders, and the distance from the start to the first turn, can be afforded a fair and equal start.

(2) At tracks measuring less than a mile in circumference, no more than ten (10) horses may start in any race without consent of the stewards, and no more than twelve (12) horses may start without approval of the commission [under any circumstance].

(3) Any claiming race in the printed condition book for which eight (8) or more horses representing different betting interests are entered must be run. All other purse races in the printed condition book for which six (6) or more horses representing different betting interests are entered must be run.

(4) If any purse race in the printed condition book fails to fill with the minimum number of entries required by subsection (3) of this section to be run, then the association may cancel or declare off such race. The names of all horses entered therein shall be publicly posted in the office of the racing secretary not later than 1 p.m. the same day.

Section 9. Split or Divided Races. (1) In the event a race is cancelled or declared off, the association may split any race programmed for the same day and which may previously have been closed. Races printed in the condition book shall have preference over substitute and extra races.

(2) When a purse race is split, forming two (2) or more separate races, the racing secretary shall give notice thereof not less than fifteen (15) minutes before such races are closed so as to grant time for the making of additional entries to such split races.

(3) Division of entries upon the splitting of any race shall be made in accordance with the conditions under which entries and subscriptions thereof were made, and in the absence of specific prohibition of such conditions:

(a) Horses originally joined as a mutuel entry may be placed in different divisions of a split race unless the person making such multiple entry, at the time of such entry indicates such coupling of horses is not to be uncoupled when such race is split.

(b) Division of entries in any split stakes race may be made according to age, or sex, or both.

(c) Entries for any split race not divided by any method provided above by this rule, shall be divided by lot so as to provide a number of betting interests as near equal as possible for each division of such split race.

Section 10. Post Positions. Post positions for all races shall be determined by lot, drawn in the presence of those making the entries for such race. Post positions in split races also shall be redetermined by lot in the presence of those making the entries for such split race. The racing secretary shall assign pari-mutuel numbers for each starter to conform with the post position drawn, except when a race included two (2) or more horses joined as a single betting interest.

Section 11. Also-Eligible List. (1) If the number of entries for a race exceeded the number of horses permitted to start in such race as provided by Section 8 of this regulation, then the names of as many as eight (8) horses entered but not drawn into such race as starters shall be posted on the entry sheet as "also-eligible" to start.

(2) After any horses have been excused from a race at scratch time, a new drawing shall be taken as to horses on the also-eligible list, and the starting and post position of such horses drawn from the also-eligible list shall be determined by the sequence drawn, unless otherwise stipulated in published conditions of the race.

(3) Any owner or trainer of any horse on the also-eligible list who does not wish to start such horse in such race shall so notify the racing secretary prior to scratch time for such race and such horse shall forfeit any preference to which it may have been entitled.

(4) Where entries are closed two (2) racing days prior to the running of a race, any horse on an also-eligible list, and which also has been drawn into a race as a starter for the succeeding day, shall not be permitted to run in the race for which it had been listed as also-eligible.

Section 12. Preferred List; Stars. (1) The racing secretary shall maintain a list of horses which were entered but denied an opportunity to race because eliminated from a race programmed in the printed condition book either by overfilling or failure to fill. The racing secretary shall submit for approval of the commission at least thirty (30) days prior to the opening date of a race meeting a detailed description of the manner in which preference will be allocated.

(2) No preference shall be given a horse otherwise entitled thereto for a race if such horse also is entered for a race on the succeeding day.

Section 13. Arrears. No horse may be entered or raced if the owner thereof is in arrears as to any stakes fees due by such owner; except with the approval of the racing secretary.

Section 14. Declarations. Withdrawal of a horse from a race before closing thereof by the owner or trainer or person deputized by either, such being known as a "declaration," shall be made in the same manner as to form, time, and procedure as provided for the making of entries. Declarations and scratches are irrevocable. No declaration fee shall be required by any licensed association.

Section 15. Scratches. Withdrawal of a horse from a race after closing thereof by owner or

trainer or person deputized by either, such being known as a "scratch," shall be permitted only under the following conditions:

(1) A horse may be scratched from a stakes race for any reason at any time up until fifteen (15) minutes prior to post time for the race preceding such stakes race by the filing in writing of such intention with the racing secretary, unless a list of also-eligibles has been drawn, in which case scratches must be filed at the regular scratch time as posted by the racing secretary, and no horse will be excused thereafter without a valid physical reason. Upon receiving a scratch from a stakes race, the racing secretary shall promptly notify the stewards and pari-mutuel manager, and shall cause public announcement of same to be made.

(2) No horse may be scratched from a purse race without approval of the stewards and unless such intention to scratch has been filed in writing with the racing secretary or his assistant at or before the time conspicuously posted as "scratch time." Scratch of one (1) horse coupled in a mutuel entry in a purse race must be made at or before the posted scratch time, unless permission is granted by the stewards to allow both horses to remain in the race until a later appointed scratch time therefor.

(3) In purse races, horses that are physically disabled or sick shall be permitted to be scratched first. Should horses representing more than ten (10) betting interests in either of the two (2) daily double races, or horses representing more than eight (8) betting interests in any other purse race, remain in after horses with physical excuses have been scratched, then owners or trainers may be permitted at scratch time to scratch horses without physical excuses down to such respective minimum numbers for such races, this privilege to be determined by lot if an excessive number of owners or trainers wish to scratch their horses.

(4) Entry of any horse which has been scratched, or excused from starting by the stewards, because of a physical disability or sickness shall not be accepted until the expiration of three (3) calendar days after such horse was scratched or excused.

Section 16. In determining eligibility, allowances and penalties, the reports, records, and statistics as published in the Daily Racing Form and the monthly chart books, or corresponding official publications of any foreign county, shall be considered official, but may be corrected until forty-five (45) minutes prior to post time of the race.

MARTHA H. BROADBENT, Chairman

APPROVED BY AGENCY: July 31, 1987

FILED WITH LRC: August 7, 1987 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on Tuesday, September 22, 1987 at 10 a.m. at the offices of the Kentucky State Racing Commission at 535 West Second Street, Lexington, Kentucky. Those interested in attending the hearing should contact in writing: Michael A. Fulkerson, Chief Administrative Officer, Kentucky State Racing Commission, P.O. Box 1080, Lexington, Kentucky 40588.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Mike Fulkerson

(1) Type and number of entities affected: 4 thoroughbred racing associations.

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

1. First year: Zero

2. Continuing costs or savings: Zero

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

(b) Reporting and paperwork requirements: Zero

(2) Effects on the promulgating administrative body: See (6)

(a) Direct and indirect costs or savings:

1. First year: Zero

2. Continuing costs or savings: Zero

3. Additional factors increasing or decreasing costs: Zero

(b) Reporting and paperwork requirements: See (6)

(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: The original intent of this regulation was to prohibit more than 12 horses from starting a race on a track less than a mile. This was never a problem at any of the four tracks because their tracks are a mile or greater in circumference. However, the new turf course at Churchill Downs is 7/8 of a mile and the current rule would prohibit more than 12 starters on the turf course. Churchill would like to start in excess of that number on Breeders' Cup day and the commission feels that their turf course is wide enough to exceed 12 starters. Hence, the change in the rule.

TIERING: Was tiering applied? No. N/A

PUBLIC PROTECTION & REGULATION CABINET

Department of Housing, Buildings & Construction
Office of State Fire Marshal
(Proposed Amendment)

815 KAR 10:020. Fire safety standards.

RELATES TO: KRS Chapter 227

PURSUANT TO: KRS 227.300

NECESSITY AND FUNCTION: KRS 227.300 requires the Commissioner of Housing, Buildings and Construction to promulgate regulations to provide a reasonable degree of safety for human life and insure as far as practicable against fire loss. This regulation establishes the minimum requirements and controls which will be enforced by the State Fire Marshal's Office and local fire officials for the prevention of fire, explosion or panic arising from storage, handling or use of substances, materials or devices or the use of a building.

Section 1. Title and Scope. (1) This regulation shall constitute and may be cited as part of the "Standards of Safety;" and except as

otherwise specifically provided, all buildings, structures, marine vessels, occupancies, installations, processes and conditions, the transportation by air, land or water, and the storage, handling or use of hazardous materials, shall conform to the standards adopted by this regulation. The State Fire Marshal may delegate in writing the authority and responsibilities of this section to the local fire marshal.

(2) These standards apply to existing buildings, structures, uses, practices, conditions, materials and equipment where safety to life or protection of the public interest requires their enforcement. Any such existing buildings, uses or conditions not in strict compliance with this regulation may be permitted, when in the sole discretion of the State Fire Marshal, they do not constitute a distinct hazard to life or the property of others.

(3) Upon written request from the owner of an existing building or structure the State Fire Marshal may issue a certificate of use and occupancy, provided there are no violations of law or orders of the building official or State Fire Marshal pending, and it is established that the alleged use of the building or structure has heretofore existed.

(4) While safety to life warrants as close compliance as possible with the "Standards of Safety," nothing contained herein shall apply to farm property, unless there are activities of an industrial nature sufficient to require consideration of the State Fire Marshal from a public life hazard standpoint.

(5) Where the purpose of any provision of the "Standards of Safety," as it pertains to safety to life and property from fire, can be fulfilled by other means the State Fire Marshal may modify the provision to permit certain specific alternatives, so long as substantially equivalent safety shall be maintained.

(6) Each application for an alternative shall be filed with the State Fire Marshal and shall be accompanied by such evidence, letters, statements, results of tests or other supporting information as may be required to justify the request. The State Fire Marshal shall keep a record of his actions on such applications and a signed copy of his decision shall be provided for the applicant.

Section 2. Definitions. Words defined in this section are intended only for use with the other sections of this regulation. Definitions set forth in any document referenced in this regulation shall be the acceptable definition for use of that document only. Where terms are not defined in this regulation, they shall have their ordinarily accepted meaning or such as the context may imply.

(1) "Alternate" means a system, condition, arrangement, materials or equipment submitted to the Fire Marshal as a substitute for a code requirement.

(2) "Authority having jurisdiction" means the Office of the State Fire Marshal.

(3) "Dwelling or private dwelling" means a single unit providing complete and independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

(4) "Fire chief" means the authorized head of a fire department that is recognized by the State Fire Marshal's Office.

(5) "Fire department" means a fire department recognized by the State Fire Marshal's Office.

(6) "Fire hazard" means any situation, process, material or condition which may cause a fire or explosion or provide a ready fuel supply to augment the spread or intensity of the fire or explosion which poses a threat to life or the property of others, and including any condition likely to result in collapse of some portion of the structure in case of such fire or explosion.

(7) "Fire hydrant" means a valved connection on a water supply system having one (1) or more outlets and which is used to supply hose and fire department pumpers with water.

(8) "Fire lane" means the road, path, or other passageway developed to allow the passage of fire apparatus through congested areas (both built-up and wildland).

(9) "Local fire marshal" means the enforcement officer of these standards as designated by the appointing authority of a local governmental jurisdiction. The fire chief may be designated as the enforcement officer by the State Fire Marshal where the appointing authority has not acted.

(10) "Marine vessel" means every description of water craft or other artificial contrivance used as a means of transportation in or on the water.

(11) "Private building" means a building, or that portion of a building, which is normally not frequented by, or open to, the public.

(12) "Process" means the manufacturing, handling, blending, conversion, purification, recovery, separation, synthesis or use, or any combination, of any commodity or material regulated by this code.

(13) "Single family dwelling" means one (1) unit providing complete independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation, and which is not connected to any other unit or building.

(14) "Smoking" means a lighting, igniting, holding or possessing any lighted cigar, cigarette or pipe; or, carrying, throwing, or depositing any lighted or smoldering cigar, cigarette or pipe.

(15) "Smoking area" means a designated area where smoking is permitted within premises where smoking is generally prohibited.

(16) "State Fire Marshal" means the administrative head of the Division of Fire Prevention, Department of Housing, Buildings and Construction, Commonwealth of Kentucky.

Section 3. Relationship with Existing Laws.

(1) The standards herein contained are to be used in conjunction with existing laws and nothing contained herein shall be construed as rendering other applicable laws invalid. However, if a conflict exists between a provision of this regulation or the codes adopted by reference herein and the Kentucky Building Code, the building code shall prevail.

(2) The planning, design and construction of new buildings and structures to provide egress facilities, fire protection, and built-in fire protection equipment shall be controlled by the building code listed in Section 4(2)(a) of this regulation; and any alternations, additions or changes in buildings required by the provisions of this code which are within the scope of the building code listed in Section 4(2)(a) of this regulation shall be made in accordance

therewith. [Any changes, alterations or repairs in existing buildings which are within the scope of the building code shall be made in accordance with the applicable provisions of the building code for the appropriate occupancy use group classification.]

(3) The State Fire Marshal shall have the authority to interpret and implement resolution of any conflict between provisions of this regulation and current regulations of the federal government.

(4) If any provision of this regulation is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, it shall not have the effect of voiding other provisions which may be determined to be legal; and it shall be presumed that this regulation would have been adopted without such invalid provisions.

(5) Except as may be deemed necessary by the State Fire Marshal for the general safety and welfare of the occupants and the public, buildings built under, and in full compliance with, the codes in force at the time of construction or alteration thereof, and that have been properly maintained and used for such use as originally permitted, shall be exempt from the requirements of this regulation pertaining to:

- (a) Fire protection of structural elements;
- (b) Exits required.

Section 4. Codes and Standards to be Enforced.

(1) Whenever the State Fire Marshal or local fire marshal shall find[s] in any structure or upon any premises dangerous conditions or materials as follows, [that any property is not safe as to fire loss or that the practices or methods of construction or operation, or processes or materials used in connection therewith do not afford adequate protection from fire loss under the terms of this regulation] he shall order such conditions or materials to be removed or remedied in accordance with the provisions of this regulation: [that additions, improvements, repairs or changes be made and such equipment provided or action taken as will reasonably render the property safe.]

(a) Dangerous conditions which are liable to cause or contribute to the spread of fire in or on said premises, building or structure or endanger the occupants, thereof.

(b) Conditions which interfere with the efficiency and use of any fire protection equipment.

(c) Obstructions to or on fire escapes, stairs, passageways, doors or windows, liable to interfere with the egress of occupants or the operation of the fire department in case of fire.

(d) Accumulations of dust or waste material in air conditioning or ventilating systems or grease in kitchen or other exhaust ducts.

(e) Accumulations of grease on kitchen cooking equipment, or oil, grease or dirt upon, under or around any mechanical equipment.

(f) Accumulations of rubbish, waste, paper, boxes, shavings, or other combustible materials, or excessive storage of any combustible material.

(g) Hazardous conditions arising from defective or improperly used or installed electrical wiring, equipment or appliances.

(h) Hazardous conditions arising from defective or improperly installed equipment for handling or using combustible, explosive or otherwise hazardous materials.

(i) Dangerous or unlawful amounts of combustible, explosive or otherwise hazardous materials.

(j) All equipment, materials, processes or operations which are in violation of the provisions and intent of this code.

(2) Unless specifically covered by another provision of this regulation, the following nationally recognized codes, standards and regulations shall be deemed safe practice requirements, providing a reasonable degree of safety from fire loss and shall be fully enforceable by [in the discretion of] the local and State Fire Marshal pursuant to this regulation:

(a) Code of Federal Regulations, 49, Transportation Parts 100 to 199, revised as of October 1, 1978, Parts 200 to 999 revised as of October 1, 1978, available from Superintendent of Documents, U.S. Government Printing Office, Washington, D. C., 20402, is filed herein by reference as if set forth at length.

(b) The Kentucky Building Code [BOCA Basic Building Code], as set forth [amended] in 815 KAR 7:010 and 7:020.

(c) The following National Fire Protection Association Pamphlets are filed herein by reference in their entirety. Such codes and pamphlets, and any later editions thereof, together with any unfiled pamphlets [of the 1979 Edition of the National Fire Codes] may be used for reference and guidance and as appropriate criteria for meeting the intent of this regulation.

National Fire Code - 1979 Edition		
NFPA Pamphlet	Volume Number	Title and Edition
70	6	National Electric Code - 1978
70A	6	ANSI Standard Electrical Code for One and Two Family Dwellings - 1978
78	7	Lightning Protection Code - 1977
701	11	Standard Methods of Fire Tests for Flame Resistant Textiles and Films - 1977
702	11	Standard for Classification of the Flammability of Wearing Apparel - 1975
Occupancy Protection		
32	3	Standard for Dry Cleaning Plants - 1974
76A	7	Standard for Essential Electrical Systems for Health Care Facilities - 1977
87	8	Standard for the Construction and Protection of Piers and Wharves - 1975
101	9	Code for Safety to Life from Fire in Buildings and Structures - 1976

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102	9	Standard for Assembly Seating, Tents and Air Supported Structures - 1978			Natural Gases at Utility Gas Plants - 1976
		Flammable and Combustible Liquids	59A	5	Standard for the Production, Storage and Handling of Liquefied Natural Gas (LNG) - 1975
30	2	Flammable and Combustible Liquids Code - 1977			
31	3	Standard for the Installation of Oil Burning Equipment - 1978	61B	5	Hazardous Materials & Processes Standard for the Prevention of Fire and Dust Explosions in Grain Elevators and Bulk Grain Handling Facilities - 1973
321	3	Standard on Basic Classification of Flammable and Combustible Liquids - 1976	61C	5	Standard for the Prevention of Dust Explosions in Flour and Feed Mills - 1973
327	3	Standard Procedures for Cleaning or Safeguarding Small Tanks and Containers - 1975	61D	5	Standard for the Milling of Agriculture Commodities for Human Consumption - 1973
385	3	Recommended Regulatory Standard for Tank Vehicles for Flammable and Combustible Liquids - 1974	63	5	Fundamental Principles for the Prevention of Dust Explosions in Industrial Plants - 1975
386	3	Standard for Portable Shipping Tanks - 1974	65	5	Standard for the Processing and Finishing of Aluminum - 1975
395	3	Standard for Storage of Flammable and Combustible Liquids on Farms and Isolated Construction Projects - 1977	481	3	Standard for the Production, Processing, Handling and Storage of Titanium - 1974
512	11	Recommended Good Practices for Truck and Fire Protection - 1978	490	3	Code for the Storage of Ammonium Nitrate - 1975
		Compressed and Liquefied Gases	495	4	Code for the Manufacturing, Transportation, Storage and Use of Explosive Materials - 1973
50	4	Standard for Bulk Oxygen Systems at Consumer Sites - 1974	651	5	Standard for the Prevention of Dust Explosions in the Manufacture of Aluminum of Magnesium Powder - 1974
50A	4	Standard for Gaseous Hydrogen System at Consumer Sites - 1978	653	5	Standard for the Prevention of Dust Explosions in Coal Preparation Plants - 1971
50B	4	Standard for Liquefied Hydrogen System at Consumer Sites - 1978	654	5	Standard for the Prevention of Dust Explosions in the Plastic Industry - 1975
51A	4	Standard for Acetylene Cylinder Charging Plants - 1974	655	5	Standard for the Prevention of Sulfur Fires and Explosions - 1971
56B	4	Standard for Respiratory Therapy - 1976	656	5	Standard for the Prevention of Dust Ignitions in Spice Grinding Plants - 1971
56F	4	Standard for Nonflammable Medical Gas Systems - 1977	664	5	Standard for the Prevention of Dust Explosions in Woodworking and Wood Flour Manufacturing Plants - 1971
56G	4	Inhalation Anesthetics in Ambulatory Care Facilities - 1975	704	11	Identification of the Fire Hazards of Materials - 1975
58	5	Standard for the Storage and Handling of Liquefied Petroleum Gases - 1979			
59	5	Standard for the Storage and Handling of Liquefied			

Hazardous Materials & Processes			54	4	National Fuel Gas Code - 1974
33	3	Standard for Spray Application Using Flammable and Combustible Materials - 1977	56D	4	Standard for Hyperbaric Facilities - 1977
34	3	Standard for Dip Tanks Containing Flammable or Combustible Liquids - 1974	56E	4	Standard for Hypobaric Facilities - 1977
35	3	Standard for the Manufacture of Organic Coatings - 1976	66	5	Standard for Pneumatic Conveying Systems for Handling Feed, Flour, Grain and Other Agricultural Dusts - 1973
36	3	Standard for Solvent Extraction Plants - 1978	69	5	Standard on Explosion Prevention Systems - 1978
40	3	Standard for the Storage & Handling of Cellulose Nitrate Motion Picture Film - 1974	75	7	Standard for the Protection of Electronic Computer/Data Processing Equipment - 1976
40E	3	Storage of Pyroxylin Plastic - 1975	80	7	Standard for Fire Doors & Windows - 1977
43A	3	Code for Storage of Liquids and Solid Oxydizing Materials - 1975	82	7	Standard for Incinerators & Rubbish - 1977
43C	3	Storage of Gaseous Oxidizing Materials - 1975	45	3	Fire Protection for Laboratories Using Chemicals - 1975
43D	3	Storage of Pesticides in Portable Containers - 1975	85	7	Standard for Prevention of Furnace Explosions in Fuel Oil and Natural Gas-Fired Watertube Boiler-Furnaces with One Burner - 1976
44A	3	Code for the Manufacture, Storage and Transportation of Fireworks - 1974	85B	7	Standard for Prevention of Furnace Explosions in Fuel Oil-Fired Multiple Burner Boiler-Furnaces - 1978
48	3	Standard for the Storage, Handling and Processing of Magnesium - 1974	85E	8	Standard for Prevention of Furnace Explosions in Pulverized Coal Fired Multiple Burner Boiler-Furnaces - 1978
51	4	Standard for the Installation and Operation of Oxygen Fuel Gas Systems for Welding and Cutting - 1977	85F	8	Installation and Operation of Pulverized Fuel Systems - 1978
51B	4	Standard for Fire Prevention in Use of Cutting and Welding Processes - 1977	85G	8	Prevention of Furnace Implosions in Multiple Burner Boiler-Furnaces - 1978
56C	4	Safety Standard for Laboratories in Health-Related Institutions - 1973	86A	8	Standard for Ovens and Furnaces, Design Location and Equipment - 1974
57	5	Standard for Fumigation - 1973	86B	8	Standard for Industrial Furnaces, Design Location and Equipment - 1974
61A	5	Standard for Manufacturing and Handling Starch - 1973	86C	8	Standard for Industrial Furnaces Using a Special Processing Atmosphere - 1977
Building Construction and Facilities			86D	8	Industrial Vacuum Furnaces - 1978
37	3	Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines - 1975	90A	8	Standard for the Installation of Air

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		Conditioning and Ventilating Systems - 1978	312	10	Standard for Fire Protection of Vessels During Construction, Repair & Lay-up - 1976
91	9	Standard for the Installation of Blower and Exhaust Systems for Dust, Stock, Vapor Removal or Conveying - 1973	407	10	Standard for Aircraft Fuel Servicing Including Aircraft and Fueling Hose, Aircraft Fuel Servicing Tank Vehicles, and Airport Fixed Fueling Systems - 1975
96	9	Standard for the Installation of Equipment for the Removal of Smoke & Grease Laden Vapors from Commercial Cooking Equipment - 1978	408	10	Standard on Aircraft Hand Fire Extinguishers - 1973
211	9	Standard for Chimneys, Fireplaces and Vents - 1977	409	10	Standard on Aircraft Hangars - 1975
214	9	Standard on Water Cooling Towers - 1977	415	10	Standard on Aircraft Fueling Ramp Drainage - 1977
220	9	Standard Types of Building Construction - 1975	416	10	Standard on Construction and Protection of Airport Terminal Buildings - 1975
224	9	Standard for Homes and Camps in Forest Areas - 1974	417	10	Standard on Construction and Protection of Aircraft Loading Walkways - 1977
241	9	Standard for Safeguarding Building Construction and Demolition Operations - 1975	418	10	Standard on Rooftop Helicopter Construction and Protection - 1973
251	9	Standard Methods of Fire Tests of Building Construction and Materials - 1972	498	4	Standard for Explosive Motor Vehicle Terminals - 1976
255	10	Methods of Test of Surface Burning Characteristics of Burning Materials - 1972	501A	10	Standard for Mobile Home Parks - 1977
252	9	Standard Methods of Fire Tests of Door Assemblies - 1976	501C	10	Standard for Recreational Vehicles (Travel Trailers, Camping Trailers, Truck Campers, Motor Homes) Installation of Plumbing, Heating and Electrical Systems - 1977
256	10	Methods of Fire Tests of Roof Coverings - 1976			
257	10	Standard for Fire Tests of Window Assemblies - 1975	501D	10	Standard for Recreational Vehicle Parks - 1977
703	11	Standard for Treatments of Buildings Materials - 1961	505	11	Fire Safety Standard for Powered Industrial Trucks - 1978
Transportation			Fire Extinguishing Systems		
88A	8	Standard for Parking Structure - 1973	11	1	Standard for Foam Extinguishing Systems - 1978
88B	8	Standard for Repair Garages - 1973	11A	1	Standard for High Expansion Foam Systems (Expansion Ratios from 100:1 to 1000:1) - 1976
302	10	Fire Protection Standard for Motor Craft (Pleasure & Commercial) - 1972	11B	1	Standard on Synthetic Foam and Combined Agent Systems - 1977
303	10	Fire Protection Standard for Marinas and Boatyards - 1975	12	1	Standard on Carbon Dioxide Extinguishing Systems - 1977
306	10	Standard for the Control of Gas Hazards on Vessels to be Repaired - 1975	12A	1	Standard on Halogenated Fire Extinguishing Agent Systems - Halon 1301 - 1977

12B	1	Standard on Halogenated Fire Extinguishing Agent Systems - Halon 1211 - 1977	Section 5. Jurisdiction and Inspection. (1) The State Fire Marshal shall have jurisdiction over all property in the state and shall enforce or aid in the enforcement of all laws relating to protection of the public from fire loss and the local fire marshal shall be responsible for the safety of places under his jurisdiction. The local fire marshal and the State Fire Marshal may establish by written agreement jurisdictional boundaries for enforcement of this regulation.
13	1	Standard for the Installation of Sprinkler System - 1978	(2) The State Fire Marshal shall supervise and make periodic inspection of all property within the state and assist cities having fire departments in making like periodic inspections in such cities, except occupied private dwellings.
13A	12	Recommended Practice for the Care and Maintenance of Sprinkler Systems - 1978	(3) The rights, powers and privileges of the State Fire Marshal shall not apply to single family dwellings; except that the State Fire Marshal may investigate the cause, origin and circumstances of fires for the proper detecting and suppressing arson and minimizing or preventing fire loss.
14	2	Standard for the Installation of Standpipe and Hose Systems - 1978	(4) The authorities of each county, city or other political subdivision shall adopt and enforce the fire safety standards as established herein.
15	2	Standard for Water Spray Fixed Systems for Fire Protection - 1977	(5) It shall be the duty of the local peace officers in each political subdivision to render all possible assistance in the enforcement of the provisions of the standards of safety for the protection of the public.
16	2	Standard for the Installation of Foam Water Sprinkler Systems and Foam Water Spray Systems - 1974	(6) The chief of a local fire department, whether paid or unpaid, is hereby authorized to inspect property, make written reports and order fire hazards to be remedied in accordance with Section 13 of this regulation.
17	2	Standard for Dry Chemical Extinguishing Systems - 1975	Section 6. Permits and Stop Work Orders. (1) Permits required by this regulation will be predicated upon compliance with the requirements of this regulation and shall constitute written authority of the local fire marshal or State Fire Marshal to maintain, store, use, transport or handle hazardous materials or to conduct processes or install equipment used in connection with such activities. Such permits may be suspended or revoked if the requirements of this regulation are violated.
18	2	Standard on Wetting Agents - 1972	(2) Any permit issued pursuant to this regulation shall not supplant any other license or permit which may be required by other codes or laws.
20	2	Standard for the Installation of Centrifugal Fire Pumps - 1978	(3) Whenever any installation that is subject to inspection prior to use is covered or concealed without having first been inspected, the State Fire Marshal may require by written notice that such work be exposed for inspection. The State Fire Marshal shall be notified when the installation is ready for inspection and the State Fire Marshal shall conduct the inspection within a reasonable time.
21	12	Standard for the Operation and Maintenance of National Standard Steam Fire Pumps - 1975	(4) When any construction or installation work is being performed in violation of the plans and specifications as approved by the State Fire Marshal, a written notice shall be issued to the responsible parties to stop work on that portion of the project which is in violation and no work shall be continued on that portion, nor may it be used until the violation has been corrected.
22	2	Standard for Water Tanks for Private Fire Protection - 1978	(5) No distributor or other person shall supply any hazardous materials to a tank or other equipment when the State Fire Marshal finds a hazardous condition after notification
24	2	Standard for Outside Protection - 1977	
26	12	Standard for the Supervision of Valves Controlling Water Supplies for Fire Protection - 1976	
194	2	Standard for Screw Threads and Gaskets for Fire Hose Connections - 1974	
196	2	Standard for Fire Hose - 1974	
198	12	Standard for Care of Fire Hose (Including Couplings and Nozzles) - 1972	
Portable Fire Extinguishers			
10	1	Standard for the Installation, Maintenance and Use of Portable Fire Extinguishers - 1978	
232	9	Standard for the Protection of Records - 1975	
46	12	Storage for Forest Products - 1978	

by the State Fire Marshal that the equipment or installation is not in compliance with this regulation.

Section 7. Local Permit Requirements. A permit shall be obtained from an authorized local fire marshal for the following:

(1) The storage or handling of Class I liquids in excess of one (1) gallon in any building of "residential occupancy," in excess of ten (10) gallons inside any other building, and in excess of 50 gallons outside of any building.

(2) Storage and handling of Class II liquids in excess of ten (10) gallons in any buildings of "residential occupancy," in excess of sixty gallons (60) inside any other building, and in excess of 120 gallons outside of any building.

(3) The storage and handling of Class III liquids in excess of 275 gallons inside any building, and in excess of 1,100 gallons outside of any building.

(4) Quantities of paints, oil, varnishes, and similar flammable liquids in excess of those given above, for use on the premises, stored for not more than thirty (30) days. For storage exceeding thirty (30) days, a state permit shall be required.

Section 8. State Permit Requirements for Flammable Liquids. A permit shall be obtained from the State Fire Marshal for all changes in construction, remodeling or operation of any refinery, bulk storage plant, distributing station, service station, or airports not under jurisdiction of Kentucky Building Code.

Section 9. State Permits for Liquefied Petroleum Gas. A permit shall be obtained from the State Fire Marshal prior to:

(1) The transportation, selling, storing for resale, or delivering of liquefied petroleum gases, or for engaging in the business of installing or servicing liquefied petroleum gas equipment; or for persons who actually perform such installations or servicing operations. Licenses issued under this section shall be in accordance with the provisions of KRS 234.120. Under this section licenses or permits are not required for storage or transportation in quantities of less than one (1) gallon where the gas is an integral part of a device for its utilization, or for use as a motor fuel while in the fuel tank of the motor vehicle.

(2) The construction or substantial remodeling of any plant or building containing an occupancy for which a license is required under KRS 234.120 relating to the storage and handling of liquefied petroleum gases. This requirement shall be a supplement to any Kentucky Building Code requirement.

[Section 10. Requirements for Drilling, Production or Operation of Oil Wells. (1) Scope of regulation. The provisions of this section shall apply to crude oil exploration and production facilities and activities and do not apply to any facilities or activities subsequent to lease custody transfer.]

[(2) Permits.]

[(a) No person, firm or corporation shall drill, bring in, or operate any oil well, or install any tanks, pipelines or other equipment for the storage or handling of oil in connection with such wells, inside the corporate limits or any city or town, without having first secured a

permit from the State Fire Marshal.]

[(b) Application for such permit shall be accompanied by plans and specifications in duplicate, showing the proposed location of well, sludge pond, tank or tanks, and pipelines, with reference to surrounding structures, roads, streets, and alleys; and the capacity of any tank, tanks or containers.]

[(3) Location of well. No oil well shall be drilled or brought in within 150 feet of any building or structure (except derrick or auxiliary buildings), or within twenty-five (25) feet of any road, street or alley.]

[(4) Sludge pond.]

[(a) No sludge pond shall be located within any point of its border closer than fifty (50) feet to any building, structure (except derrick or auxiliary buildings), road, street, or alley.]

[(b) All sludge ponds shall be drained and covered with earth as soon as practicable after drilling operations have been completed.]

[(5) Tanks and containers.]

[(a) No receiving tanks, or other containers, for the storage of oil shall be located closer than fifty (50) feet to any building or structure (except derrick or auxiliary buildings), or closer than twenty-five (25) feet to any highway, road, street, or alley.]

[(b) No such tank or container having a capacity in excess of 100 barrels and no group of more than two (2) such tanks or containers having an aggregate capacity in excess of 500 barrels shall be located within 100 feet of any building or structure (except derrick or auxiliary buildings).]

[(c) The individual capacity of any tank or container shall not exceed 500 barrels.]

[(d) The fabrication, location, installation, diking and protection of tanks or containers shall be in conformity with the requirements of NFPA Pamphlet No. 30, with particular attention given to those regulations pertaining to tanks or containers holding crude oil.]

[(6) Piping.]

[(a) All underground piping installed for use in handling of crude oil and petroleum products shall be suitable materials, and shall be installed and tested in accordance with the applicable provisions of NFPA Pamphlet No. 30.]

[(b) Aboveground piping shall be visually inspected and may be placed into immediate service, providing it is free of leaks or deformations, and the materials are suitable for the intended use.]

[(7) Valves.]

[(a) Cut-off control valves shall be provided at tanks and pipelines at points where such valves are needed to prevent drainage of tanks or pipes, or continuous flows from pumps, in the event of rupture, or during repairs involving any part of the equipment.]

[(b) In installations where the rock pressure is such that wells are of the "gusher" type, a cut-off control valve shall be installed in the shaft pipe at the point where this pipe rises above the ground or installed on the casing head.]

[(8) Applicability.]

[(a) Existing plants, equipment, buildings, structures and installations for the storage, handling or use of flammable or combustible liquids which are not in strict compliance with the terms of this code may be continued in use at the discretion of the authority having jurisdiction provided they do not constitute a

recognized hazard to life or adjoining property. The existence of a situation which might result in an explosion or sudden escalation of a fire, such as inadequate ventilation of confined spaces, lack of adequate emergency venting of a tank, failure to fireproof the supports of elevated tanks, or lack of drainage or dikes to control spills may constitute such a hazard.]

[(b) Whenever the State Fire Marshal, or any Deputy Fire Marshal, finds that any property is not safe as to fire loss, he shall order, in writing, that additions, repairs, improvements, or changes be made and such equipment be provided or action taken as will reasonably render the property safe.]

[(9) Alternative equipment or safety processes. Where the use of alternative equipment or safety practices would provide substantially equivalent safety to life and property, the State Fire Marshal may permit the use of such alternative equipment or safety practices in lieu of compliance with the provisions of this regulation.]

Section 10. [11.] Self-Service Stations. (1) Definitions:

(a) A "self-service station" means a location where all flammable and combustible liquids used as motor fuel are stored and dispensed from fixed approved dispensing devices into the fuel tanks of motor vehicles by persons other than the service station attendant, and may include multiple occupancy facilities available for the sale of other retail products.

(b) "Partial (split island) self-service" means a service station offering attendant service on one (1) or more pump islands and self-service on one (1) or more different pump islands. The partial self-service shall be offered at an island in close proximity to the office area of the building and in clear view of those attendants working in or about the service station office or service area.

(2) Remote control required:

(a) In all self-service stations for flammable liquids there shall be a control room in which a remote control device is located. Said device must be located within arms reach of the attendant while he is maintaining the appropriate and adequate observation and control of dispensing activities.

(b) Emergency controls for partial self-service shall be installed and connected in series at two (2) or more locations remote from dispensing devices, including remote pumping systems, and easily accessible to the attendant. Such controls shall be capable to shut off the power to all dispensing devices in the event of an emergency.

(c) Emergency controls for partial self-service station shall be installed only at locations approved by the State Fire Marshal, and controls shall not be more than 100 feet from self-service dispensers. Operating instructions shall be conspicuously posted in the dispensing area.

(3) Attendant required at self-service station. There shall be not less than one (1) attendant on duty at all times while the station is open to the public and the self-service gasoline equipment is in use.

(a) An attendant shall supervise the dispensing of Class I liquids from within the confines of the control room or stand wherein the remote control device is located.

(b) The attendant shall refuse service to any customer who is smoking or who appears for any reason to be unable or incompetent to participate in the dispensing of a Class I liquid.

(4) Attendant required at partial self-service station:

(a) There shall be not less than one (1) attendant on duty at all times while the station is open to the public and the self-service gasoline dispensing equipment is in use. The dispensing area shall at all times be in clear view of the attendant and the placing or allowing of any obstacle to come between the dispensing area and the attendant shall be prohibited.

(b) The attendant shall refuse service to any customer who is smoking or who appears for any reason to be unable or incompetent to participate in the dispensing of a Class I liquid.

(c) Dispensing devices shall not be operated until authorized and/or activated by the attendant. The attendant shall not authorize the dispensing of a Class I liquid from the self-service dispensers until he has ascertained that a Class I liquid can be safely dispensed.

(5) Communication system:

(a) For self-service stations, a two (2) way communication system of the public address type shall be provided to facilitate direct and individual communication between the control room or stand, and each pump island.

(b) For partial self-service stations, an approved two (2) way electronic voice communications system shall be provided unless unaided voice communications may be readily heard under the conditions of operation considering distance, noise levels, obstructions and enclosures.

(6) Water for spillage for self-service stations and partial self-service stations:

(a) An operable water hose shall be connected and available for washing down spillage at all times the station is open for business.

(b) In the event of Class I liquid spillage, an attendant shall forthwith wash down said spillage, unless in so doing, a greater hazard would result.

(7) Locking dispensing units for self-service stations and partial self-service stations. Each dispensing device for Class I liquids at a remote control dispensing station shall be kept locked or otherwise maintained inoperable at all times that the station is unattended.

Section 11. [12.] (1) General fire safety regulations.

(a) Ordinary conduct requirements. No person shall knowingly permit any fire to spread so as to endanger the life or property of another or use or operate any device which may be a source of ignition unless proper removal of flammable material surrounding the operation is accomplished or such other reasonable precautions are taken to ensure against the starting and spreading of unfriendly fires.

(b) Reporting hazardous conditions. Any person, upon discovering evidence of spontaneous heating or other abnormal heating of any merchandise, commodity, cargo, shipment or other material of any kind in any building, marine vessel, appliance, apparatus, tank, or open stack or pile, or any person upon discovering or being apprised of any uncontrolled hazardous gas

leak or hazardous material or combustible or flammable liquid spill, shall immediately notify the fire department and the State Fire Marshal.

(c) Maintaining a fire hazard. No person shall knowingly maintain a fire hazard.

(d) Carelessness with fire. No person shall deliberately, or through carelessness or negligence set fire to or cause the burning of any bedding, furniture, rug, curtain, drape or other combustible material, in such manner as to endanger the safety of any person or property.

(e) Notification of fire department of inoperative fire safety equipment. Persons owning, controlling, or otherwise having charge of any fixed fire extinguishing or fire warning system or standpipe system shall notify the fire department at any time such system or systems are inoperable or taken out of service. The fire department shall also be notified when service is restored.

(f) Disposal of hot and glowing materials. Hot ashes, cinders, or smoldering coals shall be placed in noncombustible receptacles, unless resting on a noncombustible floor or on the ground outside the building, shall be placed on noncombustible stands, and in every case shall be kept at least two (2) feet laterally away from any combustible material, structure, or any exterior window opening.

(g) Barricading vacant buildings. Every person owning or having charge or control of any vacant building shall remove all combustible waste and refuse therefrom and lock, barricade or otherwise secure all windows, doors, and other openings in the building to prohibit entry by unauthorized persons. Exception: This section is not intended to apply to the temporary vacation of a building.

(h) Required access for fire apparatus. All premises which the fire department may be called upon to protect in case of fire and which are not readily accessible from public roads shall be provided with suitable gates, access roads, and fire lanes so that all buildings and water supplies on the premises are at all times accessible to fire apparatus. A written document, agreeable to the local fire marshal and for the benefit of the jurisdiction, shall be required for emergency access over all fire lanes. The designation, maintenance and marking of fire lanes on private property shall be accomplished as specified by the local fire marshal. The designation, maintenance and marking of fire lanes on public ways shall be accomplished by the local jurisdiction on recommendation of the local fire marshal. It shall be unlawful for any person to park a motor vehicle on, or otherwise obstruct, any fire lane. It shall be unlawful for any person to park a motor vehicle within ten (10) feet on either side of a fire hydrant. Enforcement of designated fire lanes and fire hydrant clearance shall be the responsibility of the police force of the jurisdiction within which the lanes and hydrants are located.

(i) Smoking. Where conditions exist which make smoking a fire hazard on any premises, "No Smoking" signs shall be posted if directed by the local fire marshal. "No Smoking" signs shall be of a color, size, lettering, and location as approved by the local fire marshal. No person shall remove such "No Smoking" signs or light, or ignite or otherwise set fire to or smoke any cigar, cigarette, pipe, tobacco, or other form of smoldering substance, nor hold, possess,

throw, or deposit any lighted or smoldering substance in any place where occasion or action would constitute a fire or life hazard. Nothing in this provision shall be construed as prohibiting smoking in areas, offices, or other rooms which have been designated by the local fire marshal safe smoking areas and have been approved for such purposes. This paragraph shall not apply to organizations having an established on-premises fire prevention program setting forth regulations requiring periodic fire prevention inspections and enforcing in-plant fire prevention rules. Such programs shall be coordinated with and approved by the fire marshal.

(j) Hazardous gas in balloons. No person shall use any flammable, oxidizing, toxic, corrosive, or reactive gas to inflate balloons. Air and inert gases, such as nitrogen and helium, are not prohibited for this purpose.

(k) Interference with fire protection equipment. No person shall render any portable or fixed fire extinguishing system or device or any fire warning system inoperable or inaccessible except as may be necessary during emergencies, maintenance, drills or prescribed testing.

(l) Portable heaters. Portable heaters shall be designed and located so that they cannot be easily overturned. The State Fire Marshal or local fire marshal shall prohibit use of portable heaters in occupancies or situations in which such use or operation would present an undue danger to life or the property of others. This provision shall not apply to portable heaters used in accordance with applicable provisions of NFPA codes and standards listed in Section 4 of this regulation.

(m) Precautions outside buildings. Internal combustion engines either stationary, portable or mobile, operating within grain, hay, grass or brush covered areas, shall be equipped with an effective means for arresting the issuance of burning carbon and sparks. This provision shall not apply to engines meeting applicable provisions of NFPA codes and standards as listed in Section 4 of this regulation and engines used to power lawn care equipment.

(2) Fumigation. The fire department shall be notified of fumigation operations in accordance with the provisions of Standard for Fumigation, NFPA Pamphlet No. 57.

(3) Combustible waste and refuse:

(a) Scope. No person owning or having control of any property shall allow any combustible waste material to accumulate in any area or in any manner so as to create a hazard to life or the property of others.

(b) Disposal of combustible waste. Combustible waste or refuse shall be properly stored or disposed of at the end of each working day, before vacating a building or premises, and whenever necessary to prevent unsafe conditions.

(c) Waste disposal sites. Fire extinguishing capabilities approved by the local fire marshal or State Fire Marshal shall be provided at waste disposal sites including but not limited to, fire extinguishers, water supply and hose, and earth moving equipment. Burning debris shall not be dumped at a waste disposal site except at a remote location on the site where fire extinguishing can be accomplished before compacting, covering or other disposal activity is carried out.

(d) Transportation of combustible waste and

refuse. Vehicles or conveyances used to transport combustible waste or refuse over public thoroughfares shall have all cargo space covered and maintained sufficiently tight to ensure against ignition from external fire sources and scattering burning and combustible debris which may come in contact with ignition sources. Transporting burning waste or refuse is prohibited.

(e) Waste handling plants. All structures housing operations which are involved primarily in the handling, storage, or baling of combustible waste materials shall be equipped with an automatic fire extinguishing system installed in accordance with applicable provisions of NFPA codes and standards as listed in Section 4 of this regulation.

(4) Factors affecting egress:

(a) Means of egress shall be provided and maintained in accordance with the applicable provisions of this code and NFPA codes and standards as listed in Section 4 of this regulation.

(b) Storage on roofs and fire escape balconies. No person shall place or maintain upon any roof or fire escape balcony any materials or objects which may interfere with egress or fire department operations.

(c) Attachments to fire escapes and fire protection equipment. No person shall attach or fasten any rope, wire, cable or similar device, except approved standard equipment therefore, to any part of any fire escape, standpipe, auxiliary fire fighting equipment, appliance or other apparatus.

(d) Responsibility to prevent overcrowding. The manager and/or person in charge of the premises shall be responsible for preventing overcrowding as specified by the jurisdiction.

(e) Obstruction of aisles and passageways. No person shall block, impede, or obstruct any aisle, passageway, hallway, lobby, foyer, or stairway leading to or from any entrance or exit required by law which will prevent, delay, hinder, or interfere with the free use of such passageway by any person. Special security or security devices which affect the exiting shall be subject to the approval of the state or local fire marshal.

(f) Failure to vacate. No person shall fail to leave any premises which are overcrowded when told to do so by the management of the premises or State Fire Marshal or authorized local fire marshal.

(5) Combustible decorations. No person shall install, maintain or use vegetation, bunting, cotton batting, plastic cloth, textile, excelsior, paper or other combustible material for the purpose of decoration in any building, premises, vehicle or marine vessel to which the public is admitted or invited unless such decorative materials have been made flame resistant with an approved flame retardant materials or process. Textiles or paper adhered to walls or ceilings (not free hanging) are considered interior finishes and shall be subject to the flame spread limitations for interior finishes. This provision shall not apply to materials used in a display or other material which is limited in quantity and approved by the State Fire Marshal for such use.

(6) Disposal of rubbish. No accumulation of waste paper, grass, litter, combustible or flammable waste, or rubbish of any kind shall be permitted to remain in any court, yard, vacant

lot, or open space, unless in bales or containers awaiting collection, and located at least ten (10) feet from an overhang, a combustible wall, or window or door opening, of any building. All weeds, grass, vines, or other growth which may be fired and thereby endanger property, shall be cut down and removed (other than by burning by the owner or occupant of the property).

Section 12. [13.] Fire Chiefs' Authority Over Unsafe Property. (1) All property found by the fire chief to be especially susceptible to fire loss for want of repairs, lack of sufficient fire escapes, age, dilapidated condition or any other cause and all property, combustible or explosive matter or flammable materials likely to result in fire loss shall be deemed unsafe and a fire hazard. A vacant building with an opening at door or window shall be deemed especially susceptible to fire loss.

(2) If an unsafe condition is found in a building or structure, the fire chief shall serve on the owner, agent or person in control of the building or structure a written notice describing the property deemed unsafe and specifying the required repairs or improvements to be made to render the building or structure safe and secure. The order shall forthwith be conformed to by the owner of the property.

(3) The owner may appeal in writing to the commissioner within ten (10) days of the receipt of the order of the fire chief. The commissioner shall within twenty (20) days review the order and file his decision. Such decision shall approve, revoke or modify the order of the fire chief by agreement of the parties or the decision shall establish a formal hearing which shall result in such approval, revocation or modification. The order of the fire chief shall be stayed until the appeal is resolved.

(4) Upon refusal or neglect of the person to comply with the requirements of a proper order to abate the unsafe condition, the legal counsel of the agency or jurisdiction shall be advised of all the facts and he shall institute the appropriate action to compel the structure to be made safe and secure or be taken down and removed, pursuant to KRS 227.390.

Section 13. [14.] Administration and Enforcement. (1) Any person failing, refusing or neglecting to comply with this regulation shall be subject to the applicable civil, criminal and administrative remedies stated in KRS Chapter 227.

(2) The local fire marshal and/or the fire chief shall report all new construction subject to the Kentucky Building Code, of which they are aware, to the appropriate building official.

(3) Whenever the state or local fire marshal finds that any property within his or her jurisdiction is not safe as to fire loss or that the practices or methods of construction or operation, or processes or materials employed or used in connection therewith do not afford adequate protection from fire loss under the terms and conditions of this regulation and the codes adopted by reference herein, he or she shall order that additions, improvements, repairs or changes be made and such equipment provided or action taken as will reasonably render the property safe. Compliance with applicable current National Fire Prevention Association standards and recommended practices

shall be deemed safe practices.

CHARLES A. COTTON, Commissioner
ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: July 22, 1987

FILED WITH LRC: August 12, 1987 at 2 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on September 22, 1987 at 10 a.m., in the office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by September 17, 1987, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected: N/A

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? N/A

CABINET FOR HUMAN RESOURCES Department for Mental Health and Mental Retardation Services (Proposed Amendment)

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

RELATES TO: KRS Chapter 210

PURSUANT TO: KRS 210.010

NECESSITY AND FUNCTION: KRS 210.010 directs the Secretary of the Cabinet for Human Resources to prescribe regulations for the institutions under the control of the cabinet. The function of this regulation is to adopt policies and procedures for such institutions.

Section 1. Oakwood Policy Manual. The policies set forth in the November 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 August [July] 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 July 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 August [June] 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 August [May] 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. Eastern State Hospital Policy Manual

D-19 - Laundry & Clothing Department

page c. Reflect the name change from "Hospital Administrator" to "Director of Administrative Services."

page c. Insert revised chart.

page 4. Item 1: Reflects addition of "Clothing Committee" as a consultant to the Laundry Director in choosing clothing appropriate for hospital patients.

Item 5: Delete "by aides" from statement reading: "Clothing and linens which have stool, blood and vomit shall be rinsed (by aides) on wards before pick-up."

Item 3 - State Clothing: Second paragraph revised to reflect the need for staff to call the Laundry and Clothing Department to arrange an appointment for time patient can be brought to the Department for needed clothing.

Item 4 - Patient Leaving the Hospital: replace "the clothing clerk or ward clerk" with "person responsible for preparing patient for discharge."

Page 14 - Delete as written and replace with attached.

D9 - Physical Therapy Policies and Procedures Revisions

1. Throughout manual change service name to Activity Therapy Services.
2. Delete Activity Therapy Service Organizational Chart and renumber subsequent pages.
3. Physical Facilities Policy: Change 684 square feet to 390 square feet and from second floor to first floor in #1.
4. Patient Intake and Treatment Planning Policy - #6 change "Master Treatment Plan" to "Comprehensive Treatment Plan." #8 Change "Parapsychiatric Evaluation Team" to "Patient Evaluation Team."
5. Treatment Plan Policy - #1 change "Parapsychiatric Treatment Plan Objective - Method Worksheet Form" to "Consultant Request Form and Progress Notes." #2 change "Master Treatment Plan" to "Comprehensive Treatment Plan."

D-16 Staff Development

- P-i The Hospital Education Committee will meet annually instead of quarterly.
- P-ii Under "Skill Training," 'basic aid' training changed to 'patient aid' training.
- P-2 "Hospital Administrator" changed to "Director, Administrative Services."
- P-2A A new, updated version will be added when it becomes available.
- P-3 Care and Crisis (re aggressive patient) was added to the list of programs offered to employees.

P-6 Paragraph one changed: "It is the responsibility of SDT to process (instead of 'evaluate')...request..."

Procedure 3 rewritten:

Procedure 3: The following guidelines for approval were deleted:

- c. Membership in the professional organization sponsoring the program.
 - d. Credit toward continuing professional education requirements.
 - h. Previous approval or refusal for attendance at educational programs.
- P-10 Procedures 6 and 7 revised so that "Office of Community Health Services Department for Human Resources" becomes "Department of Mental Health/Mental Retardation Services, Cabinet for Human Resources."
- P-11 Procedures 5 and 6 similarly revised (see policy on educational leave - above.)
- P-12 Procedures 3a and 3b reversed.
- P-15 Policy title and statement expanded to include, "Audio-Visual Materials and Equipment."
- P-16 Procedure 3: Library hours changed to 8 am. - 11 a.m. and 12 noon - 4:30 p.m. Procedures 7 and 10: References to overdue charges on loaned materials were deleted.
- P-18 "Bureau" was changed to "Departments" in the policy statement and in the fourth procedure.
- P21B Goal 2c. "was" changed to "were."

D1 Section 2 - P 12

This policy has been rewritten to more clearly spell out what needs to be done on voluntary patients as well as involuntary patients when they escape from the hospital. The major changes in the overall policy are: 1) a patient on an involuntary commitment is to be retained on AWOL status until the expiration of the commitment or return to the hospital, and 2) the Nursing Supervisor is to forward the AWOL report to the Hospital Director's office instead of Administration.

D-8 Changes in Dietary Policies and Procedures:

- 1) All references to Hospital Administrator are changed to read Director of Administrative Services.
- 2) Table of Contents revised to properly identify additions/deletions.
- 3) Meal Service Policies - heading revised to read "Provision of Meals" - Eastern State Hospital, Day Treatment, Re-Ed, IT, Gragg, Employees, Volunteers.
- 4) Created new policy: Provision of Meals - Personal Care Home - in order to identify services provided to this area.
- 5) Added a provision for dietary to supply all paper goods upon request on approved requisitions to Day Treatment and Re-Ed.
- 6) Deleted dietary staff calling ward before meal arrived in IT Services.
- 7) Added "or authorized meal payment" to cash payment for meal.
- 8) Revised Carry-out trays for Employees from "staffing" in Allen Building to "Emergency" in Allen Building.
- 9) Revised Special Diets to delete "written cancellation will follow" upon discharge

and that ward staff will phone Medical Records computer for change or discontinuance of diets.

- 10) Deleted "and assistant" twice from Quality Assurance Program, Page 31.
- 11) Page 36, title change to "Provision for Storing Nonfood Supplies."
- 12) Page 38, Title change to "Procedure for Storing Foods."
- 13) Page 52, delete 1, 2 and 4 under corrective action - "corrective action shall follow General Hospital Policy."

D20 Medical Department - Changes in Policies and Procedures:

Page 1 in regard to Q.A. Program - should read monthly instead of quarterly reports.

Page 2 should read that the physician on second coverage is responsible for coming to hospital if QD doesn't show.

Page 9, Treatment Team Reviews changed to Multi-Disciplinary Treatment Team Reviews.

Page 13-A, change hours from 8 to 24 hours.

Page 14, #5 added that physician will be notified of clinical status of patient before order is written.

Page 18, changed to state that patient committed on court order shall be seen by admitting physician within 30 minutes.

Page 18, under Admission Standards added that audiometric screening will be completed during dental assessment.

Page 20, Admission Policy on alcoholics - deleted last part "shall be admitted only on voluntary papers;" also SID deleted as this is no longer a referral source.

Page 25, Admission Note on readmission within 30 days, added "An interim note containing information on patient since he left the hospital until his return shall be written on the Progress Note to include any physical or emotional changes since discharge."

Page 27, Policy on special diets, shall specify that a reducing or weight-gaining diet will require that patient be weighed weekly or as specified by physician.

Page 28, Policy on Lab Work-up to include Hepatitis B and/or HIV on high risk patients.

Page 56, Policy changed to state that EEGs and Psychiatric Consultations are scheduled through the Chief of Staff's Office.

Page 66, on discharge orders changed to state that these are good for only 7 days.

Policy on Coroner Notification rewritten to include new guidelines.

Section 6 - Western State Hospital Policy Manual

F-16 Disaster Manual

Several additional sections have been added;

earthquake, elevator, etc.; plus pages have been numbered for easier reference. Please replace the manual you now have.

Section 10 - Kentucky Correctional Psychiatric Center Policy Manual

J1- A51 A new policy on Employee Health.

[D-3 Insert a new Pharmacy Manual with the following changes.

Page 5 #3 If the Pharmacist on-call is unavailable, another pharmacist shall be notified.

Page 6 #7 Delete
#8 Delete

Page 6 3A Added

Page 6A #14 Second Paragraph delete.

Page 6A #19 Added

Page 7 #9 Expanded

Page 9 #12 Added

Page 13 #4 Added

Page 14A 3B Change "inscribed" to "transcribed."

Page 24A #7 (3) Added

Page 24A #12 Added

Page 24A #13 Added

Page 26 #8 Change 30 days to 60 days

#10 Change 30 days to 60 days

Page 27 3(i) Added

Page 33 #10 Added

Page 39B #12 Delete former #12, add new 12.

D-9 Activity Therapy Services (formerly called Para Psychiatric Services)

Insert the attached new volume with the following changes for sections of the volume:

Work Activity Center

1. Change Table of Contents - Omit WAC-1, renumber subsequent pages.
2. WAC organizational chart revised to reflect the service's name change.
3. Quality Assurance Program - now reflects criteria of 0% and/or 100% standard of care, change in Patient Care Monitoring Review to Clinical Resource Committee, and general rewording and rearranging of paragraphs.
4. WAC Plan - service name change.
5. Time and Attendance Policy - miscellaneous rewording.
6. Employee Orientation Policy - service name change.
7. Staff Development & Training Policy - service name change.
8. Sales Orders Policy - general rewording - no real changes.
9. Budget Policy - wording in policy statement to now include patient staffing and activities, and service name change.
10. Money Policy - color of various copies submitted revised to reflect changes in receipt books used.
11. Patient Referrals Policy - service name change and Procedure #2 Master Treatment Plan revised to Comprehensive Treatment Plan.
12. Treatment Plans Policy - service name change and Procedure #2 Master Treatment Plan revised to Comprehensive Treatment Plan.
13. Program Evaluation Policy - service name

- change.
14. Interdisciplinary Collaboration Policy - service name change.
 15. Infection Control Policy - service name change.
 16. Inclement Weather for Patients Policy - rewording of Procedure #1.

Music Therapy

1. Throughout manual reflect service name change from Parapsychiatric Services to Activity Therapy Services.
2. Delete Activity Therapy Services organizational chart and Music Therapy Records policy and renumber subsequent pages.
3. Music Therapy Plan - Line 1: change "six" to "seven" and add paragraph. Paragraph 2: Delete "Intensive Treatment II". Paragraph 6: Delete, as Music Therapy is not offered on IT/2.
4. Music Therapy Q.A. Program - Paragraph 1: Delete last two lines and add new criteria for evaluative purposes in monitoring M.T. activities. Paragraph 6: Replace "Patient Care Monitoring Review" with "Clinical Resource Review." Delete last line.
5. Patient Referrals Policy - Change "Parapsychiatric Evaluation Team" to "Patient Evaluation Team" in (1.a.). #2 - add at the end of the sentence; and on the P.E.T. Referral Form. #3 - change "Parapsychiatric Evaluation Team" to "Patient Evaluation Team."
6. Treatment Plan Policy - #1 - Delete the last half of the sentence: "...using the Parapsychiatric Treatment Plan objective method worksheet form." #2 Replace: "Master Treatment Plan" with "Comprehensive Treatment Plan." #4 - Replace: "original" with "content of the." Last part of the sentence: change ... and the content of the plan shall to... and shall also be incorporated. #6 - Replace: "Parapsychiatric Evaluation Team" with "Patient Evaluation Team." Add activity schedule in last line.
7. Patient Care Monitoring Policy - Change name from "Patient Care Monitoring" to "Clinical Resource Reviews." #1 - Change "plus a representative from each discipline in Parapsychiatric Services" to "plus representatives from other discipline in Activity Therapy Services."
8. Program Evaluation Policy - #5 - at end of sentence add "and Quality Assurance Coordinator once a year."
9. Inclement Weather for Patient Policy - #1 - Delete: "All the wards" and replace with "Patients on the wards."

Chaplaincy Services

1. Change Table of Contents - Omit #C-1, C-13, C-14 and renumber subsequent pages.
2. Delete Activity Therapy Services Organizational Chart.
3. Chaplaincy Service Organizational Chart - change department name and add Students under Chief Chaplain.
4. Quality Assurance Program - change department name, change biannual WPPR evaluations to biannual performance evaluations, change Chapel areas to Chapel area, and change professional review team

- to professional peer review team.
5. Staff Pattern Policy - change department name, and Procedure #1 to read "The Chief Chaplain provides direct services and is expected to relate with all the treatment teams and areas within the hospital."
6. Death of a Patient Policy - change spelling of St. Peter Claver.
7. Delete Staff Development Leadership Policy.
8. Delete New Patient Orientation Group Policy.
9. Gragg Building Chapel Policy - change department name, and Procedure #3, add at end of procedure "and piano or electric organ."
10. Chief Chaplain Job Description - change Direct Supervisor's Job Title to Director of Activity Therapy Services.

Therapeutic Recreation

1. Change title "Hospital Administrator" to Director of Administrative Services throughout.
2. Change Parapsychiatric to Activity Therapy throughout.
3. Page 4: move #2 to page 9 and list as #7.
4. Page 5, first paragraph: add after first sentence - "The department's monitoring will be performed based on specific written criteria for the evaluation of specific aspects of care as related to the department's functions. The written criteria will be based on 0% standard and/or 100% standard of care." Also add "studies and reviews which do not meet the standard" after Action shall be taken on.
5. Page 6: add Activity Therapy Services Director to those receiving monthly reports in paragraphs 1 and 2.
6. Page 8: #1 - add "a minimum of" a bachelor degree. #4 - change He to He/she in last sentence.
7. Page 9: add "and/or Assistant Therapeutic Recreation Director" after Therapeutic Recreation Director.
8. Page 11: #3 - add "weaknesses, goals," after strengths. #5 - add "or lack of progress" after progress.
9. Page 14: #3 - add "This may include patient comments" at the end.
10. Page 18: delete existing #7. Change existing #8 to #7 and existing #9 to #8. Add to #6 "who will make arrangements to repair or replace worn or damaged equipment" after supervisor.

O.T. Policies and Procedures

1. Change service name throughout manual to Activity Therapy Services.
2. Delete Activity Therapy Services Organizational Chart and renumber subsequent pages.
3. O.T. Organizational Chart revised.
4. O.T. Plan - Under Primary objectives #7 added - to increase the number of leisure skills through individual and group tasks. Under Secondary objectives #6 deleted as now covered under primary objectives.
5. O.T. Quality Assurance Program - extensive changes were made in this section.
6. O.T. Clinic Policy - #5 changed "the mentally retarded" to "and developmentally disabled." Delete the "and" between physically and psychiatrically and put a comma there.
7. Patient Referrals Policy - #1, #2, #3 -

- changed "Parapsychiatric Evaluation Team" to "Patient Evaluation Team."
8. Treatment Plan Policy - #2 changed "Master Treatment Plan" to "Comprehensive Treatment Plan." #7 changed "Parapsychiatric Evaluation Team" to "Patient Evaluation Team."
9. Integrated Progress Notes Policy - #9 added "documented" after "weekly progress note" and deleted "during their entire hospitalization."
10. O.T. Records Policy - #1 added "statistical information" in place of "checklists and flow charts."
11. Interdisciplinary Collaboration Policy - #2 changed "Parapsychiatric Evaluation Team" to "Patient Evaluation Team."
12. Program Evaluation Policy - #1 added "and treatment planning" after "treatment programs." Current #2 and #3 are totally deleted and new paragraphs were added.
13. Administrative Regulations Policy - change title to "Personnel Guidelines" Policy. Policy statement: Change "Administrative regulations" to "Personnel regulations." #3 change "rest periods" to "breaks" in first sentence. Delete "these paid rest periods" and replace with "breaks" in second sentence.

Section 5. Central State Hospital Policy Manual

E-9 Dental Manual

The following changes and revisions were made.

Section A No. 1 Bylaws of the Governing Board - revised entire bylaws for the purpose of providing quality adult inpatient psychiatric treatment to the citizens of the Seven Counties region of the Commonwealth of Kentucky and the ultimate responsibility for this care is assumed by the Governing Board.

Section B No. 1 - Organizational Structure - revised chart to define lines of authority and responsibility.

Section B No. 2 - Smoking - revised to add Item 13, 14, & 15 under PROHIBITED AREAS under Procedure. Changes needed to be made in the SMOKING AREAS. This policy revised to reflect a health awareness for patients and staff by decreasing smoking time and areas where smoking is permitted.

Section E No. 1 - Infection Control - revised to add in Procedure No. 3 the first sentence an addition of "or designee" was added.

Also under Procedure No. 5 and addition was made to add 5 h. to read "the institution of antibiotic susceptibility/resistance trend studies as appropriate."

Section G No. 6 - Organizational Nursing Department Structure - new policy to provide information to administrative and clinical staff regarding structure and roles of accountability within the nursing department. It also indicated collaborative lines of communication the Director of Nursing has with the Clinical Director & Infection Control.

Section G No. 8 - Nursing Management Functions - new policy to assure that Central State Hospital nursing department is organized to

assure that nursing management functions are effectively fulfilled, the nursing department is directed by a qualified nurse administrator; and the purpose and function of each committee is defined.

Section I No. 3 - Death of a Patient in Hospital Ministry - revised policy to add No. 6 under the procedure.

Section HH No. 2.80 - In-house Consultation Request & Form - revised additions were made in the policy section to add Podiatry, Psychiatry, Dental & Treatment Appropriateness Review Committee (TARC). Form had some changes made also.

Section HH No. 4.10 - Discharge AMA (Against Medical Advice) - revised policy addition under Procedure Item 6 was added to state that hospital personnel have no right to confine a patient who requests discharge against medical advice, even if the patient refuses to sign the form.

Section HH No. 5.75 - Staff/Patient Relationship - revised under Procedure No. 3 to add the sentence that staff shall not borrow from or lend personal items to patients. Combined Item No. 4 in with Item No. 3.

Section HH No. 8.20 - unit Chart Assembly Order, Chart Dividers and Culling Procedures - revised policy to change "ward" to "unit" since the patient treatment areas are no longer called wards, but units. This includes many small changes in this section to reflect new procedures.

Section HH No. 8.40 & Form - revised policy to reflect that the assessment date is to be consistent with the medical plan of care and is to be available to all nursing personnel. Delete #5 from old policy. Number 6 in old policy is #5 in revised policy.

Section HH No. 10.30 - Use of Oral Contraceptives in Patient Treatment - revised - the words "parent" the "parents" were deleted from the policy statement and statement #1. The phrase "if a patient is a minor" is also deleted from the statement #1. The birth control authorization form that is attached to the policy was revised to include symptoms and risks associated with birth control pills. A section is also included to assure physician and nurse accountability in the discussion with the patient of those same symptoms and risks. The new and revised policies have been updated and corrected and no additional funding nor staffing will result from these changes.]

DENNIS D. BOYD, Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 6, 1987

FILED WITH LRC: August 14, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 22, 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 September 17, 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 ongoing 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:

(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 Social Insurance
Division of Management & Development
(Proposed Amendment)

904 KAR 2:016. Standards for need and amount; AFDC.

RELATES TO: KRS 205.200(2), 205.210(1)

PURSUANT TO: KRS 205.200(2)

NECESSITY AND FUNCTION: The Cabinet for Human Resources is required to administer the public assistance programs. KRS 205.200(2) and 205.210(1) require that the secretary establish the standards of need and amount of assistance for the Aid to Families with Dependent Children Program, hereinafter referred to as AFDC, in accordance with federal regulations and Title IV-A of the Social Security Act. This regulation sets forth the standards by which the need for

and the amount of an AFDC assistance payment is established.

Section 1. Definitions. (1) "Assistance group" is composed of one (1) or more children and may include as specified relative any person specified in 904 KAR 2:006, Section 3. The assistance group shall include the dependent child, child's eligible parent(s), and all eligible siblings living in the home with the needy child. Additionally, if the dependent child's parent is a minor living in the home with his/her eligible parent(s), the minor's parent(s) shall also be included in the assistance group if the minor's parent applied for assistance. The incapacitated natural or adoptive parent of the child(ren) who is living in the home shall be included as second parent if the technical eligibility factors are met.

(2) "Minor" means any person who is under the age of eighteen (18) or under the age of nineteen (19) in accordance with 45 CFR 233.90(b)(3). EXCEPTION: For the purpose of deeming income, a minor parent/legal guardian is considered any person under the age of eighteen (18).

(3) [(2)] "Sanctioned individual" means any person who is required to be included in the assistance group but who is excluded from the assistance group due to failure to fulfill an eligibility requirement.

(4) [(3)] "Full-time employment" means employment of thirty (30) hours per week or 130 hours per month or more.

(5) [(4)] "Part-time employment" means employment of less than thirty (30) hours per week or 130 hours per month or not employed throughout the entire month.

(6) [(5)] "Full-time school attendance" means a workload of at least:

(a) The number of hours required by the individual program for participation [Twenty-five (25) clock hours per week] in a General Educational Development (GED) program; or

(b) Twelve (12) semester hours or more in a college or university; or six (6) semester hours or more during the summer term; or the equivalent in a college or university if other than a semester system is used; or

(c) The number of hours required by the individual high school/vocational school to fulfill their definition of full time; or

(d) Eight (8) clock hours per month in a literacy program.

(7) [(6)] "Part-time school attendance" means a workload of anything less than "full-time school attendance."

(8) [(7)] "Gross income limitation standard" means 185 percent of the sum of the assistance standard, as set forth in Section 8 of this regulation, and any educational allowance as set forth in Section 9 of this regulation.

(9) [(8)] "Prospective budgeting" means computing the amount of assistance based on income and circumstances which will exist in the month(s) for which payment is made.

(10) [(9)] "Recoupment" means recovery of overpayments of assistance payments.

(11) [(10)] "Retrospective budgeting" means computing amount of assistance based on actual income and circumstances which existed in the second month prior to the payment month.

(12) [(11)] "Lump sum income" means income that is not earned, does not occur on a regular basis, and does not represent accumulated

monthly income received in a single sum.

Section 2. Resource Limitations. Real and personal property owned in whole or in part by an applicant or recipient including sanctioned individual(s) and his/her parent(s), even if the parent(s) is not an applicant or recipient, if the applicant/recipient is a dependent child living in the home of said parent, shall be considered. The amount that can be reserved by each assistance group shall not be in excess of \$1,000 equity value excluding those items specifically listed in subsection (1) as follows:

(1) Excluded resources. The following resources shall be excluded from consideration:

- (a) One (1) owner-occupied home;
- (b) Home furnishings, including all appliances;
- (c) Clothing;
- (d) One (1) motor vehicle, not to exceed \$1,500 equity value;
- (e) Farm machinery, livestock or other inventory, and tools and equipment other than farm, used in a self-employment enterprise;
- (f) Items valued at less than fifty (50) dollars each;
- (g) One (1) burial plot/space per family member;

(h) Funeral agreements not to exceed maximum equity of \$1,500 per family member;

(i) Real property which the assistance group is making a good faith effort to sell. This exemption shall not exceed a period of nine (9) months and is contingent upon the assistance group agreeing to repay AFDC benefits received beginning with the first month of the exemption. Any amount of AFDC paid during that period that would not have been paid if the disposal of property had occurred at the beginning of the period is considered an overpayment. The amount of the repayment shall not exceed the net proceeds of the sale. If the property has not been sold within the nine (9) months, or if eligibility stops for any other reason, the entire amount of assistance paid during the nine (9) month period shall be treated as an overpayment;

(j) Other items/benefits mandated by federal regulations.

(2) Disposition of resources. An applicant/recipient must not have transferred or otherwise divested himself/herself of property without fair compensation in order to qualify for assistance. If the transfer was made expressly for the purpose of qualifying for assistance and if the uncompensated equity value of the transferred property, when added to total resources, exceeds the resource limitation, the household's application shall be denied, or assistance discontinued. The time period of ineligibility shall be based on the resulting amount of excess resources and begins with the month of transfer. If the amount of excess transferred resources does not exceed \$500, the period of ineligibility shall be one (1) month; the period of ineligibility shall be increased one (1) month for every \$500 increment up to a maximum of twenty-four (24) months.

Section 3. Income Limitations. In determining eligibility for AFDC the following will apply:

(1) Gross income test. The total gross non-AFDC income of the assistance group, as well as income of parent(s), sanctioned individuals and/or amount deemed available from the parent(s)/legal guardian(s) of a minor

parent/legal guardian living in the home with such assistance group, and/or amount deemed available from a stepparent(s) living in the home, and/or amount deemed available from an alien's sponsor and sponsor's spouse if living with the sponsor, shall not exceed the gross income limitation standard. Disregards specified in Section 4, subsection (1), shall apply. If total gross income exceeds the gross income limitation standard, the assistance group is ineligible.

(2) Applicant eligibility test. If the gross income is below the gross income limitation standard and the assistance group has not received assistance during the four (4) months prior to the month of application, the applicant eligibility test shall be applied. The total gross income after application of exclusions/disregards set forth in Section 4, subsections (1) and (2), shall be compared to the assistance standard set forth in Section 8. If income exceeds this standard, the assistance group is ineligible. For assistance groups who meet the gross income test but who have received assistance any time during the four (4) months prior to the application month, the applicant eligibility test shall not apply.

(3) Benefit calculation. If the assistance group meets the criteria set forth in subsections (1) and (2) of this section, benefits shall be determined by applying disregards in Section 4, subsections (1), (2), and (3). If the assistance group's income, after application of appropriate disregards, exceeds the assistance standard, the assistance group is ineligible. Amount of assistance for the initial two (2) months of eligibility shall be determined prospectively in accordance with 45 CFR 233.34 and for subsequent months retrospectively, in accordance with 45 CFR 233.35.

(4) A period of ineligibility shall be established in accordance with 45 CFR 233.20(a)(3)(ii)(F), for applicants/recipients whose income in the month of application or during any month for which assistance is paid exceeds the limits as set forth in subsections (2) or (3) of this section due to receipt of lump sum income. The ineligibility period shall be recalculated if any of the following circumstances occur:

(a) The standard of need increases and the amount of grant the assistance group would have received also changes.

(b) The income received has become unavailable to the assistance group for reasons beyond their control.

(c) The assistance group incurs and pays medical expenses in accordance with 42 CFR 435.831(C).

Section 4. Excluded/Disregarded Income. All gross non-AFDC income received or anticipated to be received by the assistance group, natural parent(s) and/or parent(s)/legal guardian(s) of a minor parent/legal guardian living in the home with such assistance group and/or stepparent(s) living in the home, shall be considered with the applicable exclusions/disregards as set forth below:

(1) Gross income test. All incomes listed below shall be excluded/disregarded:

(a) Disregards applicable to stepparent income and/or income of the parent(s)/legal guardian(s) of a minor parent/legal guardian living in the

home with the assistance unit, as set forth in Section 5 of this regulation;

(b) Disregards applicable to alien sponsor's income, as set forth in Section 6 of this regulation;

(c) Disregards applicable to self-employment income, as set forth in 45 CFR 233.20(a)(6)(v)(B) and 45 CFR 233.20(a)(11)(i)(b)(1)(i);

(d) Work Incentive Program (WIN) incentive payments;

(e) Earnings received by a dependent child from participation in the Summer Youth Program under the Job Training Partnership Act (JTPA) for a period not to exceed six (6) months within a given year;

(f) Unearned income received by a dependent child from participation in a JTPA program;

(g) Reimbursement for training-related expenses made by a manpower agency to applicants or recipients in institutional and work experience training programs under the WIN program;

(h) Value of the monthly allotment of food stamp coupons or value of United States Department of Agriculture (USDA) donated foods;

(i) Non-emergency medical transportation payments;

(j) Principal of loans;

(k) Educational grants, loans, scholarships, including payments for actual educational costs made under the GI Bill, obtained and used under conditions that preclude their use for current living costs and all education grants and loans to any undergraduate made or insured under any program administered by the United States Commissioner of Education;

(l) Highway relocation assistance;

(m) Urban renewal assistance;

(n) Federal disaster assistance and state disaster grants;

(o) Home produce utilized for household consumption;

(p) Housing subsidies received from federal, state or local governments;

(q) Receipts distributed to members of certain Indian tribes which are referred to in Section 5 of Public Law 94-114 that became effective October 17, 1975;

(r) Funds distributed per capita to or held in trust for members of any Indian tribe under Public Law 92-254, Public Law 93-134 or Public Law 94-540;

(s) Benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended;

(t) Payments for supporting services or reimbursement of out-of-pocket expenses made to individual volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other programs under Titles II and III, pursuant to Section 418 of Public Law 93-113;

(u) Payments to volunteers under Title I of Public Law 93-113 pursuant to Section 404(g) of Public Law 93-113 except when the value of such payments when adjusted to reflect the number of hours volunteers are serving is the same as or greater than the minimum wage under state or federal law, whichever is greater;

(v) The value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended, and the special food service program

for children under the National School Lunch Act, as amended;

(w) Payments from the Cabinet for Human Resources, Department for Social Services, for child foster care, adult foster care, or subsidized adoption;

(x) Payments made under the Low Income Home Energy Assistance Act (LIHEAP) and other energy assistance payments which are permitted to be excluded pursuant to 45 CFR 233.53 (c)(5)(i);

(y) The first fifty (50) dollars of child support payments collected in a month which represents the current month's support obligation and is returned to the assistance group;

(z) For a period not to exceed six (6) months within a given year, earnings of a dependent child in full-time school attendance; and

(aa) The first thirty (30) dollars of small non-recurring gifts received per calendar quarter for each individual included in the assistance group.

(2) Applicant eligibility test. The exclusions/disregards set forth in subsection (1) of this section and those listed below shall be applied:

(a) Earnings received from participation in the Job Corps Program under JTPA by an AFDC child;

(b) Earnings of a dependent child in full-time school attendance for a period not to exceed six (6) months within a given year;

(c) Standard work expense deduction of seventy-five (75) dollars for full-time and part-time employment; and

(d) Child care, for a child(ren) or incapacitated adult living in the home and receiving AFDC, is allowed as a work expense is allowed not to exceed \$160 per month per individual for full-time employment or \$110 per month per individual for part-time employment.

(3) Benefit calculation. After eligibility is established, exclude/disregard all incomes listed in subsections (1) and (2), as well as:

(a) Child support payments assigned and actually forwarded or paid to the department; and

(b) First thirty (30) dollars and one-third (1/3) of the remainder of each individual's earned income not already disregarded, if that individual's needs are considered in determining the benefit amount. The one-third (1/3) portion of this disregard shall not be applied to an individual after the fourth consecutive month it has been applied to his/her earned income. The thirty (30) dollar portion of this disregard shall be applied concurrently with the one-third (1/3) disregard, however, it shall be extended for an additional eight (8) months following the four (4) months referenced in the preceding sentence. These disregards shall be applied in accordance with 45 CFR 233.20(a)(11)(i)(D) and 45 CFR 233.20(a)(11)(ii)(B) and shall not be available to the individual until he/she has not been a recipient for twelve (12) consecutive months; and

(c) Earnings of a child in full-time school attendance or earnings of a child in part-time school attendance, if not working full-time.

(4) Exceptions. Disregards from earnings in subsection (2)(c) and (d) and subsection (3)(b) shall not apply for any month in which the individual:

(a) Reduces, terminates, or refuses to accept employment within the period of thirty (30) days preceding such month, unless good cause exists

as follows:

1. The individual is unable to engage in such employment or training for mental or physical reasons; or

2. The individual has no way to get to and from the work site or the site is so far removed from the home that commuting time would exceed three (3) hours per day; or

3. Working conditions at such job or training would be a risk to the individual's health or safety; or

4. A bona fide offer of employment at a minimum wage customary for such work in the community was not made.

(b) Fails to make a timely report of earnings unless good cause exists as follows:

1. The assistance group moved and reported the move timely, however, the move resulted in a delay in receiving or failure to receive the mandatory monthly report form; or

2. An immediate family member living in the home was institutionalized or died during the filing period; or

3. The specified relative was out of town during the entire filing period; or

4. The assistance group has been directly affected by a natural disaster (i.e., fire, flood, storm, earthquake).

(c) Requests assistance be terminated for the primary purpose of evading the four (4) month limitation on the deduction in subsection (3)(b) of this section.

(5) Sanction exception. The earned income of sanctioned individuals shall be counted without providing the exclusion/disregards in either subsections (2) and (3) of this section.

Section 5. Income and Resources. Income and resources of a stepparent living in the home with a dependent child and/or parent(s)/legal guardian(s) living in the home with a minor parent/legal guardian but whose needs are not included in the grant are considered as follows:

(1) Income. The gross income is considered available to the assistance group, subject to the following exclusions/disregards:

(a) The first seventy-five (75) dollars of the gross earned income for full-time employment and/or the first seventy-four (74) dollars of the gross earned income for part-time employment;

(b) An amount equal to the AFDC assistance standard for the appropriate family size, for the support of the stepparent or parent(s)/legal guardian(s) of a minor parent/legal guardian and any other individuals living in the home but whose needs are not taken into consideration in the AFDC eligibility determination and are or could be claimed by the stepparent or parent(s)/legal guardian(s) of a minor parent/legal guardian as dependents for purposes of determining his/her federal personal income tax liability;

(c) Any amount actually paid by the stepparent or parent(s)/legal guardian(s) of a minor parent/legal guardian to individuals not living in the home who are or could be claimed by him/her as dependents for purposes of determining his/her personal income tax liability;

(d) Payments by the stepparent and/or parent(s)/legal guardian(s) of a minor parent/legal guardian for alimony or child support with respect to individuals not living in the household; and

(e) Income of a stepparent and/or

parent(s)/legal guardian(s) of a minor parent/legal guardian receiving Supplemental Security Income (SSI) under Title XVI.

(2) Sanction exception. The needs of any sanctioned individual are not eligible for the exclusion(s) listed in this section.

(3) Resources. Resources which belong solely to the stepparent and/or parent(s)/legal guardian(s) of a minor parent/legal guardian are not considered in determining eligibility of the parent or the assistance group.

Section 6. Alien Income and Resources. The gross non-AFDC income and resources of an alien's sponsor and sponsor's spouse (if living with the sponsor) hereinafter referred to as sponsor shall be deemed available to the alien(s), subject to disregards as set forth below, for a period of three (3) years following entry into the United States. If an individual is sponsoring two (2) or more aliens, the income and resources shall be prorated among the sponsored aliens. A sponsored alien is ineligible for any month in which adequate information on the sponsor/sponsor's spouse is not provided. If an alien is sponsored by an agency or organization, which has executed an affidavit of support, that alien is ineligible for benefits for a period of three (3) years from date of entry into the United States, unless it is determined that the sponsoring agency or organization is no longer in existence or does not have the financial ability to meet the alien's needs. The provisions of this section shall not apply to those aliens identified in 45 CFR 233.51(e).

(1) Income. The gross income of the sponsor is considered available to the assistance group subject to the following disregards:

(a) Twenty (20) percent of the total monthly gross earned income, not to exceed \$175;

(b) An amount equal to the AFDC assistance standard for the appropriate family size of the sponsor and other persons living in the household who are or could be claimed by the sponsor as dependents in determining his/her federal personal income tax liability, and whose needs are not considered in making a determination of eligibility for AFDC;

(c) Amounts paid by the sponsor to non-household members who are or could be claimed as dependents in determining his/her federal personal tax liability;

(d) Actual payments of alimony or child support paid to non-household members; and

(e) Income of a sponsor receiving SSI or AFDC.

(2) Resources. Resources deemed available to the alien(s) shall be the total amount of the resources of the sponsor and sponsor's spouse determined as if he/she were an AFDC applicant in this state, less \$1,500.

Section 7. Earned Income Tax Credit (EITC). In the case of an applicant or recipient of AFDC, EITC payments shall be considered as earned income when received.

Section 8. Assistance Standard. The AFDC assistance standard, including amounts for food, clothing, shelter, utilities and non-medical transportation from which countable income is deducted in determining eligibility for and the amount of the AFDC assistance payment, is as follows:

Number of Eligible Persons	Monthly Standard
1 Child	\$140
2 Persons	\$170
3 Persons	\$197
4 Persons	\$246
5 Persons	\$288
6 Persons	\$325
7 or more Persons	\$362

Section 9. Educational Allowance. An educational allowance shall be included in the assistance standard each month at the request of the caretaker relative, if the criteria in subsection (1) of this section are met and verified for said month(s) and funds are available. Households receiving the educational allowance shall be subject to time frames, procedures, and penalties established for households required to report monthly.

(1) Technical requirements. The following requirements must be met during any month for which an education allowance is paid.

(a) The caretaker relative must be included in the assistance grant;

(b) The caretaker relative must be enrolled full time, as defined in Section 1, in a literacy program, high school (including primary and secondary), vocational school, or a General Educational Development (GED) program for which no wage or child care allowance is received. If attending college, the caretaker relative must be enrolled either full or part-time, as defined in Section 1;

(c) A cost must have been incurred for the care of a child(ren) who is/are under the age of thirteen (13) or a child(ren) who is/are under the age of eighteen (18), if a physician determines said child is unable to attend school due to a physical or mental disability, and is/are included in the assistance grant; and

(d) The payment for child care is made to a provider who is not a household member.

(2) Educational allowance payment standards. The amount of monthly educational allowance payment shall be based on the number of eligible children for whom care is being provided and whether or not enrollment is full or part-time. The payment standards are as follows:

	<u>One (1) Child</u>		<u>Two (2) or More Children</u>	
	<u>Full-time</u>	<u>Part-time</u>	<u>Full-time</u>	<u>Part-time</u>
<u>Literacy</u>	\$20	=	\$25	=
<u>GED</u>	\$94	=	\$117	=
<u>High School</u>				
<u>Vocational School, or College/University</u>	\$174	\$103	\$218	\$129
[Number of Children]	Full-time Enrollment		Part-time Enrollment	
1	\$120		\$70	
2 or more	\$150		\$90]	

(3) Limitations. The number of months an educational allowance payment is made shall be limited according to the type of program in which the student enrolls and shall not be provided beyond completion of one (1) program at each level.

(a) Literacy:	Type of Program	Maximum
	<u>Literacy</u>	<u>24 months</u>

(b) [(a)] High school level.

1. A student may change programs within this level, however, the cumulative number of months payment is made shall not exceed the maximum for the program in which the student last enrolls as follows:

Type of Program	Maximums
General Educational Development (GED)	<u>16 months</u> [12 months]
High School (includes primary and secondary)	<u>27 months</u> [24 months]

2. A student wishing to continue his/her education past the high school level may be eligible for additional payments not to exceed the maximums for the post-high school level.

(c) [(b)] Post-high school level. A student may change programs within this level, however, the cumulative number of months payment is made shall not exceed the maximum for the program in which the student last enrolls as follows:

Type of Program	Maximums
Vocational School	24 months
College/University	50 months

Section 10. Recoupment. The following provisions are effective for all overpayments discovered on or after April 1, 1982, regardless of when the overpayment occurred.

(1) Necessary action will be taken promptly to correct and recoup any overpayments.

(2) Overpayments, including assistance paid pending hearing decisions, shall be recovered:

(a) The overpaid assistance unit;

(b) Any assistance unit of which a member of the overpaid assistance unit has subsequently become a member; or

(c) Any individual member of the overpaid assistance unit whether or not currently a recipient.

(3) Overpayments shall be recovered through:

(a) Repayment by the individual to the cabinet; and/or

(b) Reduction of future AFDC benefits, which shall result in the assistance group retaining, for the payment month, family income and liquid resources of not less than ninety (90) percent of the amount of assistance paid to a like size family with no income in accordance with Section 8; and/or

(c) Civil action in the court of appropriate jurisdiction.

(4) Overpayments may be waived for inactive non-fraud cases involving less than thirty-five (35) dollars in overpayment.

(5) In cases which have both an overpayment and an underpayment, the cabinet shall offset one against the other in correcting the payment to current recipients.

(6) Neither reduction in future benefits nor civil action shall be taken except after notice and an opportunity for a fair hearing is given and the administrative and judicial remedies have been exhausted or abandoned in accordance with Title 904, Chapter 2.

[Section 11. Provisions contained in this

regulation shall become effective December 16, 1986.]

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

APPROVED BY AGENCY: August 3, 1987

FILED WITH LRC: August 11, 1987 at 2 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 22, 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 September 17 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: James E. Randall

(1) Type and number of entities affected: a) Approximately 760 AFDC recipients participating in literacy programs and not receiving an educational allowance. b) Approximately 1600 AFDC recipients currently receiving an educational allowance.

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

1. First year: Approximately 760 literacy program participants will receive \$20 or \$25 per month for a maximum of 24 months. An average of 1480 recipients monthly will have their educational allowance raised. Maximum allowable months will increase 4 months for GED students and 3 months for high school students.

2. Continuing costs or savings: Similar to savings for first year.

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

(b) Reporting and paperwork requirements: Insignificant.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: Direct costs.

1. First year: a) \$182,400 total cost for literacy (\$50,000 from state funds). b) \$408,000 (\$114,000 from state funds) for the increase. c) Total increase - \$590,400 (\$164,000 state).

2. Continuing costs or savings: Similar to costs for the first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Additional forms for the 760 literacy participants (1 form per person per quarter).

(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: N/A
TIERING: Was tiering applied? No.

CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management & Development (Proposed Amendment)

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

RELATES TO: KRS 194.030(6), Chapter 205

PURSUANT TO: KRS 194.050

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

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

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

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

(1) Department for Social Insurance Manual of Forms, effective August [May] 1, 1987. The Manual of Forms provides forms with instructions for completion, usage, distribution and files maintenance for use of the department's field staff in implementing programs under the authority of the department, including: aid to families with dependent children; refugee assistance; home energy assistance; state supplementary payments; medical assistance; and the food stamp program.

(2) Department for Social Insurance Income and Eligibility Verification System (IEVS) Manual, effective August [February] 1, 1987. The IEVS manual provides operating instructions, procedural detail, and technical clarification for use by the department's field staff in implementing this federally mandated social security account number (SSAN) matching system.

(3) Department for Social Insurance Field Services Operation Manual, effective August [May] 1, 1987. The operation manual provides instructions, procedural detail, and technical clarification for use by the department's field

staff in implementing the Kentucky Automated Management and Eligibility System (KAMES). The programs included are aid to families with dependent children (AFDC), food stamps, and medical assistance eligibility.

(4) Federal regulations at 45 CFR Parts 16, 74, and 95, effective May 1, 1987. Part 16, Procedures of the Departmental Grant Appeals Board, provides requirements and procedures applicable to resolution of certain disputes arising under several assistance programs funded by the United States Department of Health and Human Services. Part 74, Administration of Grants, establishes uniform requirements for the administration of grants provided under the authority of the United States Department of Health and Human Services, and principles for determining costs applicable to activities assisted by Department of Health and Human Services grants. Part 95, General Administration - Grant Programs (Public Assistance and Medical Assistance), establishes requirements of the United States Department of Health and Human Services for various administrative matters relating to grant programs, including time limits for states to file claims, cost allocation plans, and conditions for federal financial participation for automatic data processing equipment and services.

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

MIKE ROBINSON, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 7, 1987

FILED WITH LRC: August 14, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 22, 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 September 17, 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: James E. Randall

(1) Type and number of entities affected: Complete analysis done when primary program regulations were amended.

(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: 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: None

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Not applicable.

CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management & Development (Proposed Amendment)

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

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

PURSUANT TO: KRS 194.050

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

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

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

(1) Federal regulations at 45 CFR Parts 200-299, which set forth the federal requirements and guidelines for the administration of the Aid to Families with Dependent Children Program, effective May 1, 1987; and

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

83-22, 83-23, 83-25, 83-27, 84-2, 84-3, 84-5, 84-6, 84-7, 84-8, 84-9, 84-13, 84-16, 84-25, 85-10, 85-27, 86-1, 86-13, 86-14, [and] FSA-AT-86-23, 87-4, and 87-7, effective August [May] 1, 1987.

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

MIKE ROBINSON, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 7, 1987

FILED WITH LRC: August 14, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 22, 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 September 17, 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: James E. Randall

(1) Type and number of entities affected: None
(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: 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: Policy and program changes are addressed in major program area regulations.

TIERING: Was tiering applied? No. Not applicable.

CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management & Development (Proposed Amendment)

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

RELATES TO: KRS 205.795

PURSUANT TO: KRS 194.050

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

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

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

(1) Federal child support regulations at 45 CFR Parts 300-399, which set forth the requirements and guidelines for the administration of the Child Support Program, effective May 1, 1987;

(2) Federal Office of Child Support Enforcement Action Transmittals, which provide federal program instructions for the implementation of the child support enforcement program in accordance with federal laws and regulations, as follows: OCSE-AT-75-5, 75-6, 76-1, 76-2, 76-5, 76-7, 76-8, 76-9, 76-14, 76-21, 76-22, 76-23, 77-3, 77-14, 78-2, 78-5, 78-6, 78-8, 78-16, 78-18, 79-2, 79-3, 79-6, 79-7, 79-8, 80-5, 80-9, 80-11, 80-17, 81-7, 81-12, 81-26, 82-17, 83-15, 83-18, 84-05, and 86-04, effective May 1, 1986;

(3) Department for Social Insurance Child Support Manual of Procedures, which provides operational instructions and procedural detail for the implementation of the child support enforcement program, effective August [May] 1, 1987;

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

(5) Department for Social Insurance Child Support Action Memorandums, which provide program clarifications, instructions, and procedural detail for the implementation of the child support enforcement program, as follows: DCSE-AM-82-07, 82-36, 83-16, 83-21, 83-30, 83-31, 83-38, 83-39, 84-10, 84-16, 84-18, 84-19, 84-36, 85-19, 85-30, 85-36, 85-42, 86-12, 86-14, 86-15, [and] 86-25, and 87-10, effective August [May] 1, 1987; and

(6) Department for Social Insurance Child Support Manual of Forms, which provides forms with instructions for completion, distribution, and files maintenance for use in implementing the child support enforcement program, effective

August [May] 1, 1987.

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

MIKE ROBINSON, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 7, 1987

FILED WITH LRC: August 14, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 22, 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 September 17, 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: James E. Randall

(1) Type and number of entities affected: All recipients of IV-D services.

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: Minimal

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Not applicable to the Child Support program.

CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management & Development (Proposed Amendment)

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

RELATES TO: KRS 194.030(6)

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer a Food Stamp Program as prescribed by the Food

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

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

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

(1) Federal food stamp regulations at 7 CFR Parts 250, 251 and 271-282, which set forth the federal requirements and guidelines for the administration of the Food Stamp Program and federal food stamp general notices published through the Federal Register, effective August [May] 1, 1987;

(2) Department for Social Insurance KAMES-FS Implementation Handbook, which provides operating instructions, procedural detail and technical clarification for use by the department's field staff in implementing the KAMES-FS system. Effective July 1, 1987, this handbook was obsolete and the contents were relocated in other departmental manuals [, effective May 1, 1987]; and

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

1985.

(4) Federal Food and Nutrition Service South East Regional Office (SERO) regulations supplement which sets forth federal policy clearances of federal regulations specified in subsection (1) of this section, effective August [May] 1, 1987.

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

MIKE ROBINSON, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: August 7, 1987

FILED WITH LRC: August 14, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 22, 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 September 17, 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: James E. Randall

(1) Type and number of entities affected:

(a) Direct and indirect costs or savings to those affected: Not significant.

1. First year: Unknown

2. Continuing costs or savings: Unknown

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Minimal

2. Continuing costs or savings: Unknown

3. Additional factors increasing or decreasing costs: Insignificant

(b) Reporting and paperwork requirements: Insignificant

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Changes are in compliance with federal regulations.

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Federal requirements mandate uniform statewide implementation/application of policies.

CABINET FOR HUMAN RESOURCES Department for Social Services Division of Family Services (Proposed Amendment)

905 KAR 1:091. Standards for facilities and agencies.

RELATES TO: KRS 199.011, 199.640, 199.650, 199.660, 199.670

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: This regulation is necessary to carry out the provisions of KRS 199.640. It serves to provide minimum standards for the operation of all child caring facilities and child placing agencies.

Section 1. Definitions. The following definitions shall apply to all regulations and standards for child caring and child placing facilities and agencies.

(1) "Secretary" means the Secretary for Human Resources.

(2) "Cabinet" means the Cabinet for Human Resources.

(3) "Child" means any person who has not reached his 18th birthday.

(4) "Preschool child" means a child under six (6) years of age.

(5) "Child caring facility" means any institution or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption, or marriage to the person maintaining the facility.

(6) "Child placing agency" means any agency other than a state agency which supervises the placement of children in foster family homes or child caring facilities, or which places children for adoption.

(7) "Institution" means a child caring facility providing care and/or maintenance for nine (9) or more children.

(8) "Group home" means a homelike facility for not more than eight (8) foster children, not adjacent to or part of an institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources.

(9) "Executive director" means the agency and/or facility administrator who may be entitled, "administrator," "manager," "superintendent," and the like.

(10) "Infant" shall mean a child under two (2) years of age.

(11) "Emergency shelter" is a group home, private residence or similar home-like facility which provides temporary or emergency care of children and adequate staff and service consistent with the needs of each child.

(12) "Advisory committee" means a group, association or committee who counsels or recommends regarding the institution's or agency's services and programs.

(13) "Board of directors" means that group which is by law or charter delegated with the responsibility for governing and overall supervision of the agency or facility.

(14) "Adoption" means the legal process by which a child becomes the child of a person or persons other than his or her biological parents.

(15) "Foster care" means substitute family care for a child under supervision of the

cabinet or a licensed child placing agency when his or her own family cannot care for the child.

(16) "Social services" means a planned program of assistance including individual and group counseling to help an individual move toward a mutual adjustment of the individual and his or her social environment.

(17) "Juvenile delinquent" means a child who has been adjudicated by the juvenile session of a county court, or a district court after January 1, 1978, as a result of a delinquency action.

Section 2. Administration. (1) Every child caring facility or child placing agency shall provide the following information when applying for a license, and annually thereafter as a part of the annual required inspection:

(a) The name, address, and telephone number of the agency or facility.

(b) The geographic area to be served.

(c) The maximum number of children for whom care will be provided.

(d) A copy of the articles of incorporation for all private agencies or copy of statute authorizing creation of any public agency.

(e) A copy of the constitution and bylaws.

(f) A statement of the purposes, objectives, scope of services to be provided, and intake policy specifying kinds of children to be accepted for care.

(g) A list of officers, board members, and advisory board members if any, including addresses and professions.

(h) A financial statement for previous fiscal year plus budget for coming year.

(i) A list of all staff including positions or title, qualifications and salary scale.

(j) Architect or engineer's drawings of any building to be constructed or substantially remodeled.

(k) The service or services the facility or agency plans to provide for licensing purposes.

(2) Every facility or agency shall comply with all applicable federal and state regulations in regard to program operations.

(3) The number for which the child caring facility is licensed shall be based on available space, adequacy of program, staff, and equipment. At no time shall the number of children served, including those children other than those served by the agency, exceed the number for which the facility is licensed, except for emergency situations not to exceed one (1) week.

(4) Each license shall specify the type(s) of care and service which the agency or facility is authorized to provide based upon the application and inspection. The types of care and service include group home child care, institutional child care, child placing and child treatment.

(5) Facilities and agencies shall provide only the type(s) of care and service(s) for which they are licensed.

(6) License shall be issued for a specific physical location and for operation by a designated executive director and/or sponsoring organization.

(7) Licenses are not transferable.

(8) If any circumstances covered by the license, as enumerated above change, such change shall be reported promptly to the cabinet.

(9) Every facility or agency shall post its license in a conspicuous place.

(10) Every organization serving children shall

have a board of directors consisting of a minimum of seven (7) members, the majority of whom must be residents of Kentucky and shall reflect a broad cross-section of the area served.

(11) The board of directors shall meet at least quarterly in every calendar year. Minutes of these meetings shall be taken and kept in written form.

(12) At least one board of directors' meeting shall be held at each facility or agency in every calendar year.

(13) The facility or agency shall be required to maintain the following records relating to financial affairs:

(a) An annual budget which shall reflect anticipated needs and goals as well as resources for meeting these needs and goals.

(b) An annual audit by an independent accounting firm or certified public accountant.

(14) Financial reports shall be submitted to the board, or governing body, at least quarterly.

(15) All fiscal policies shall be written and shall be in conformance with a standard and acceptable system of internal fiscal controls.

(16) All staff and board members having responsibility for funds of the agency shall be bonded in an amount equal to the gross funds handled in a three (3) month period.

(17) There shall be a written policy for cash disbursements. This shall include what amounts of money may be expended in cash, who shall authorize such payments, and what reporting is necessary to account for such expenditures.

(18) All facilities or agencies shall be required to keep work sheets or time schedules for all employees.

(19) Each facility or agency shall maintain written policies on purchase and receiving procedures. This shall include a listing of persons authorized to purchase and those authorized to sign for deliveries.

(20) Each facility or agency shall have a written policy for inventory control and methods of conducting inventory. Primarily, this shall cover how items are accounted for within the agency or facility.

(21) All facilities or agencies shall have the means of meeting financial responsibility for liability. This shall cover all children, visitors, and employees of the agency or facility.

(22) All facilities or agencies shall have an employee who shall be designated executive director.

(23) The executive director of a child caring facility or child placing agency shall be a full-time employee and have at least an undergraduate degree in social work, or a related field, and three (3) years experience in a social agency serving children. Three (3) years of administrative experience in institutions serving children may be substituted for the three (3) years in a social agency serving children. The executive director shall be of good moral character attested to by three (3) written references at the time of employment.

(24) The duties of the executive director shall be determined by the board of directors and shall include, but shall not be limited to the following responsibilities:

(a) Select, employ staff, and terminate staff;

(b) Plan and coordinate all phases of the program and services within the framework of functions and policies established by the board of directors;

(c) Provide professional help to the board of directors in carrying out the responsibilities, interpreting to them the needs of the children, making recommendations when a change of policy seems desirable and assisting them in periodic evaluation of the facility's or agency's service;

(d) Supervise the preparation of an annual budget for board consideration;

(e) Keep the board informed of financial needs;

(f) Operate within the established budget;

(g) Attend board meetings;

(h) Provide orientation for all new employees and continuing training for all staff; and

(i) Delegate appropriate duties to other staff.

Section 3. Staff. (1) Staff members, including paid employees or volunteers, shall be at least eighteen (18) years of age unless under direct supervision of other staff.

(2) Retirement shall be mandatory at age sixty-five (65) unless that provision is waived by the board upon evidence of satisfactory performance of the assigned duties. Such waiver shall be for a specified period and allowed to continue beyond such period only after subsequent action by the board.

(3) There shall be a sufficient number of staff to perform effectively the tasks required of the facility or agency.

(4) Each member of the staff shall be selected on the basis of both written and oral information. Such information obtained by oral means shall be written into that employee's record for future reference. Criteria to be used for selection are:

(a) Education, training, and experience required to perform the particular job.

(b) Age as it affects physical energy and the capacity to learn.

(c) Willingness to work with others and to share responsibility.

(d) Mental and physical ability to provide good care, maintain responsible supervision and stimulate normal development.

(5) Staff shall have current practical knowledge of first aid.

(6) Volunteers who perform similar functions as paid staff shall meet the same requirements and qualifications.

(7) There shall be a certification of freedom from communicable diseases for each employee and volunteer prior to employment and annually thereafter.

(8) The facility or agency shall have a staff development program for the administrative, professional, volunteer, and support personnel.

(9) A personnel record shall be maintained on each employee which shall contain the name of the employee, date, and place of birth, education, training, social security number, health record, position(s) and name of previous employers, date of current employment, a signed withholding tax form, present home address, an annual written job evaluation made by the immediate supervisor, and if terminated the date and reason for termination.

(10) The facility or agency shall maintain such written information as job descriptions, qualifications for each position, salary ranges, the basis upon which increments are given, work schedules, policy regarding vacations, sick leave, and educational leave, method of hiring, promotion, resignation, suspension, leave of absence, termination, grievance procedures, and lines of authority, and shall make these

available to all employees.

(11) The facility or agency shall see that any employee under indictment or legally charged with felonious conduct which may effect their relationship with children shall be immediately removed from any contact with children within the facility or agency until such time the person is cleared of the charge.

Section 4. Interstate Placements. (1) Prior to accepting a child from another state, or prior to placing a child outside Kentucky, the institution shall comply with all applicable provisions of KRS 199.341 to 199.370 (Interstate Compact on Placement of Children) and KRS 208.600 (Interstate Compact on Juveniles).

(2) When a child committed to the Cabinet for Human Resources makes a brief visit out of state, not accompanied by facility or agency personnel, the agency shall notify the worker in the Department for Social Services who has case responsibility.

(3) In the event of an emergency placement of a child in a licensed child caring agency or institution compliance with KRS 199.341 to 199.370 and 208.600 shall be the responsibility of the placing agency. However, if the receiving agency is aware of non-compliance by the placing agency, then compliance shall become the responsibility of the receiving agency.

Section 5. Health and Safety. (1) Each child admitted to a facility or agency shall have a thorough and complete examination under supervision of a licensed physician at the time of admission or within forty-eight (48) hours thereafter. The examining physician shall report in writing his observations and findings including:

(a) The developmental history of the child, his illnesses, operations, and immunizations.

(b) The child's limitations precluding taking part in group activities, or a schedule of permitted activities when these must be limited.

(c) Visual and auditory tests.

(d) Recommendations and orders for future care, treatment, and examinations.

(e) Freedom from communicable disease (including T.B. and VDRL test) for children twelve (12) years and above shall be administered unless contraindicated by the physician.

(2) When an agency admits a child in need of emergency shelter care, the following shall apply:

(a) Each child on admission shall have a medical screening, including communicable disease screening, using a form approved by a physician and administered by staff persons trained in its use. [The child shall be seen by a nurse for communicable disease screening prior to admission.]

(b) No child known to have, or suspected of having, a communicable disease shall be placed with other children unless there has been consultation with a physician who has determined that this can be done without hazard to the other children. [Within forty-eight (48) hours after an admission of a child in need of emergency shelter care, all of this section shall apply.]

(c) All children remaining in the facility longer than three (3) working days shall have a physical examination made by, or under the supervision of, and countersigned by, a licensed

physician within five (5) days of admission, unless the child within the previous thirty (30) days has had an examination, and the report of the examination is made available; and, provided that the child during this period of time has been continuously under the care or supervision of the Department for Social Services or a licensed child caring or child placing agency.

(3) Each child cared for by the facility or agency shall be immunized in accordance with the requirements of KRS 214.034 or any other statute or regulation pertaining to immunizations within thirty (30) days of admission or placement.

(4) In the event a child dies in any facility or agency or any home operated or supervised by an agency or facility, the facility or agency shall notify immediately the county coroner. A verbal report of such death shall be made immediately to the office of the Commissioner, Department for Social Services. A written comprehensive report outlining the circumstances shall be forwarded to the office of the Commissioner, Department for Social Services on the next working day following the verbal report.

(5) Existing buildings shall be brought into and maintained in compliance with 815 KAR 10:015.

(6) Plans and specifications for new construction or substantial alteration shall be approved prior to construction by health and fire safety officials having jurisdiction.

(7) Every facility or agency shall maintain a current written emergency fire plan and diagrams, including evacuation routes and procedures and locations of fire extinguishers, which shall be conspicuously posted and reviewed by all personnel and children at least quarterly.

(8) Emergency plans shall consider suitable shelters in case of severe storm warnings, flash flooding and tornados.

(9) Dairying and food processing shall be subject to the following regulations:

(a) Dairy operations, food processing and slaughter houses shall be subject to state and federal health laws and regulations.

(b) Donated home processed foods shall be prohibited.

Section 6. Promotional Use of Children. (1) Exploitation of children for promotional purposes is prohibited.

(2) Children shall not be used in any manner in which they or their family could suffer discomfort or embarrassment.

(3) Children shall not be used personally for fund raising purposes for the agency or facility.

(4) In the event pictures, slides, recordings, or other private and personal effects of children are utilized in fund raising or promotional efforts of facilities or agencies, written parental permission shall be obtained.

Section 7. Intake. (1) Every facility or agency shall provide an intake service.

(2) A clearly defined statement of intake policies and procedures and the age and type of client accepted for admission shall be maintained in writing.

(3) At intake, the clients' need for service shall be determined and the findings recorded in an individual record for each applicant.

(4) Policies, purposes, services, and programs of the facility or agency shall be interpreted to the applicant.

(5) The following factual and identifying information shall be obtained at intake by the

agency or facility regarding each child:

(a) Documented verification of the child's birth and legal custody;

(b) A family history;

(c) Developmental history from birth to present;

(d) A medical history;

(e) Immunization record; and

(f) Report of school progress from last school attended by the child.

(6) Appropriate written consents shall be obtained from parents or guardians as these relate to the individual case.

(7) The record shall contain a written evaluation of the child's situation at intake including future plans and goals based upon known facts.

(8) All information concerning children, their parents, relatives, or guardian shall be kept in strict confidence by the staff, except for sharing information with individuals who are personally or professionally responsible for the well-being of the child. The child's record shall include data pertinent to the service plan.

(9) Subsections (4), (5), and (6) of this section shall not apply in cases of emergency shelter care.

Section 8. Case Records. (1) Every facility or agency shall maintain individual case records on each child.

(a) All records and reports regarding clients shall be current and complete.

(b) All information obtained at intake regarding a client shall be written in the case record.

(c) All identifying data shall be placed on an intake form. Changes in a client's identifying data shall be made as is appropriate.

(d) Written communications with appropriate courts and community social service workers shall be maintained in the case record in accordance with laws, policies and procedures developed by the facility, agency, or the cabinet.

(e) Any correspondence concerning a child or his case shall be filed in the case record.

(f) Every agency or facility shall have written authorization to care for the child which shall be included in the child's record.

(g) The date of acceptance of the child and/or family for services shall be kept in the child's record.

(2) Every facility or agency shall safeguard case records from fire and other hazards.

(3) Any report required by the cabinet or any information necessary to compile reports by the cabinet shall be kept and the information made available to the cabinet upon request.

(4) Each agency or facility shall be responsible for the following practices in disposing of closed records:

(a) Each agency or facility licensed under KRS 199.640 shall keep a record containing:

1. The names, ages, present and former residences of all children received; the names, residence and occupation so far as is known of the parents; the dates of the reception, placing for adoption or foster care together with the names, occupation and residence of the person(s) with whom the child is placed; the date and cause of termination of its custody of each child; and brief history of each child until he shall have reached the age of eighteen (18) years or shall have been adopted or discharged

according to the law.

2. This information shall be kept indefinitely and in the event the facility or agency closes, the director shall contact the office of the Commissioner, Department for Social Services, for disposition of such records.

(b) Any materials of a personal nature found in the child's records which can help the child recall his background and heritage shall follow the child where such information is not a part of adoptive records which have been sealed.

Section 9. Aftercare. (1) Every facility or agency shall provide aftercare services to the child and/or family.

(2) Discharge of the child from any facility or agency shall be done on a planned basis whether the child returns home, is placed with another facility or agency or in any other living arrangement.

(3) The facility or agency shall be responsible for preparing the child for the transition to a placement, and be of assistance to both the child and family in the readjustment process.

(4) The facility or agency services shall be made available to the child and/or family for as long as a need is indicated. When the placement proves satisfactory, discharge shall be affected.

(5) When further services are needed, appropriate referral(s) shall be made.

(6) All referrals shall be annotated in the case records of the child along with aftercare contacts with the child and family.

(7) This section shall not apply in cases of emergency shelter care.

ANNA GRACE DAY, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: July 29, 1987

FILED WITH LRC: August 6, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on September 22, 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 office by September 17, 1987: Ryan Halloran, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Eugenia Jump

(1) Type and number of entities affected: 64 licensed private child caring agencies.

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

1. First year: N/A

2. Continuing costs or savings: N/A

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

(b) Reporting and paperwork requirements: N/A

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

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

(b) Reporting and paperwork requirements: N/A

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons

why alternatives were rejected: Nurses are not available in rural areas at night to examine the children before admission.

(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: Will permit private child caring agencies to provide emergency shelter to the courts under the juvenile code.

TIERING: Was tiering applied? No. All agencies will comply with the same regulation.

CABINET FOR HUMAN RESOURCES Department for Medicaid Services (Proposed Amendment)

907 KAR 1:016. Psychiatric hospital services.

RELATES TO: KRS 205.520

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to services in institutions for mental diseases for which payment shall be made by the Medical Assistance Program in behalf of both the categorically needy and the medically needy.

Section 1. Provision of Service. Inpatient services provided in an institution accredited by the appropriate state agency as a psychiatric hospital which meets the requirements specified in Section 1861(f) of the Social Security Act [by the Joint Commission on Accreditation of Hospitals] shall be made available to recipients of medical assistance age sixty-five (65) or over or under age twenty-one (21) as limited by Section 1905(a)(14) and 1905(a)(16) of the Social Security Act.

Section 2. Durational Limitation. Durational limitation on payment in respect to the aged recipient is subject to the utilization review mechanism of the hospital. Notwithstanding a continuing need for psychiatric care, payment for services cannot be continued past the 22nd birthday for patients admitted prior to the 21st birthday.

Section 3. Condition of Eligibility for Participation. An appropriately accredited psychiatric hospital desiring to participate in the Medicaid program shall be required as a condition of eligibility to participate in the Medicare program when such hospital serves patients eligible for payments under the Medicare program.

Section 4. The amendments to this regulation as shown herein shall be effective for accreditations provided to the Medicaid program

on or after July 1, 1987. Coverage for services under such accreditations may not extend retroactively for a period in excess of twelve (12) months.

R. HUGHES WALKER, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: July 15, 1987

FILED WITH LRC: July 17, 1987 at 2 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 22, 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 September 17, 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: Any psychiatric hospital wishing to participate in the Medicaid program.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs: 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: While this regulation does not specify standards, it shows that the mandated minimum standards are continued in Section 1861(f) of the Social Security 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: Not applicable.

PROPOSED REGULATIONS RECEIVED AS OF AUGUST 15

GENERAL GOVERNMENT CABINET Board of Examiners of Psychologists

201 KAR 26:171. Requirements for supervision of certified psychologists, psychological assistants, and candidates for licensure.

RELATES TO: KRS 319.050, 319.058, 319.064

PURSUANT TO: KRS 319.032

NECESSITY AND FUNCTION: KRS 319.032 requires regulations governing the supervision of certified psychologists, psychological assistants, and candidates for licensure. This regulation defines the requirements for such supervision.

Section 1. Certified Psychologists. (1) Approval of supervision. With the exception of those certified psychologists granted autonomous functioning pursuant to KRS 319.062, no certified psychologist may perform functions within the practice of psychology unless supervised by a licensed psychologist under conditions and arrangements approved by the board. The certified psychologist and the proposed supervisor must apply to the board, in writing, for approval of the supervision.

(2) Direct supervision. One (1) hour of individual face-to-face supervision on a weekly basis is required for the first two (2) years

following certification. Thereafter, the supervisory arrangement may be modified upon petition to and approval by the board.

(3) Reports of supervision. The supervisor must submit a written report on an annual basis for the first five (5) years following certification which describes the functioning of the certified psychologist. Thereafter, the supervisor may request approval by the board to submit reports once every two (2) years. The reports should include a description of functions, frequency of supervision, strengths, weaknesses, and any other information which may be relevant to an adequate assessment of the functioning of the certified psychologist.

(4) Responsibilities of the supervisor. The licensed psychologist may not supervise a total of more than six (6) applicants for licensure, certified psychologists, or psychological assistants at one (1) time. The supervisor must provide reports of supervision to the board in a timely manner. The supervisor is required to inform the board of any change in the ability to supervise or the ability of the certified psychologist to function.

(5) Responsibilities of the certified psychologist. The certified psychologist is responsible for keeping the supervisor adequately informed at all times and for seeking supervision as needed in addition to regularly

scheduled supervisory sessions. The certified psychologist is responsible for checking to see that reports of supervision have been sent to the board in a timely manner.

Section 2. Psychological Assistants. (1) Approval of supervision. No psychological assistant may perform functions within the practice of psychology unless supervised by a licensed psychologist under conditions and arrangements approved by the board. The psychological assistant and the proposed supervisor must apply to the board, in writing, for approval of the supervision.

(2) Direct supervision. One (1) hour of individual face-to-face supervision on a weekly basis is required.

(3) Reports of supervision. The supervisor must submit a written report on an annual basis which describes the functioning of the psychological assistant. The reports should include a description of functions, frequency of supervision, strengths, weaknesses, and any other information which may be relevant to an adequate assessment of the functioning of the psychological assistant.

(4) Responsibilities of the supervisor. The licensed psychologist may not supervise a total of more than six (6) applicants for licensure, certified psychologists, or psychological assistants at one (1) time. The supervisor must provide reports of supervision to the board in a timely manner. The supervisor is required to inform the board of any change in the ability to supervise or the ability of the psychological assistant to function.

(5) Responsibilities of the psychological assistant. The psychological assistant is responsible for keeping the supervisor adequately informed at all times and for seeking supervision as needed in addition to regularly scheduled supervisory sessions. The psychological assistant is responsible for checking to see that reports of supervision have been sent to the board in a timely manner.

Section 3. Candidates for Licensure. (1) Approval of supervision. No candidate for licensure may practice psychology unless supervised by a licensed psychologist under conditions and arrangements approved by the board. An applicant for licensure whose application and supervision have been approved by the board, may apply to the board for permission to practice psychology under the supervision of a licensed psychologist until the results of the next regularly scheduled examination for licensure are known.

(2) Direct supervision. One (1) hour of individual face-to-face supervision on a weekly basis is required until the candidate passes all examinations for the granting of licensure.

(3) Reports of supervision. The supervisor must submit a minimum of one (1) written report describing the skills of the candidate. The board may request additional reports if needed to assess the candidate's functioning. The reports should include a description of the function, frequency of supervision, strengths, weaknesses, and any other information which may be relevant to an adequate assessment of the practice of the candidate. This report must be submitted prior to the date of the next regularly scheduled examination for licensure.

(4) Responsibilities of the supervisor. The

licensed psychologist may not supervise a total of more than six (6) applicants for licensure, certified psychologists, or psychological assistants at one (1) time. The supervisor must provide reports of supervision to the board in a timely manner. The supervisor is required to inform the board of any change in the ability to supervise or the ability of the candidate for licensure to function.

(5) Responsibilities of the candidate for licensure. The candidate for licensure is responsible for keeping the supervisor adequately informed at all times and for seeking supervision as needed in addition to regularly scheduled supervisory sessions. The candidate for licensure is responsible for checking to see that reports of supervision have been sent to the board in a timely manner.

(6) Termination of supervisory relationship of candidates for licensure. Following successful completion of the licensure requirements, the supervisory relationship will no longer be required.

STEPHEN T. DeMERS, Chairman

APPROVED BY AGENCY: August 14, 1987

FILED WITH LRC: August 14, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 23, 1987 at 9:30 a.m., Eastern Time, at the Board of Examiners of Psychology, Berry Hill Annex, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by September 18, 1987 of their desire to appear and testify at the hearing: Mr. David L. Nicholas, Director, Occupations and Professions, Berry Hill Annex, Frankfort, Kentucky 40602.

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

**GENERAL GOVERNMENT CABINET
Board of Examiners of Psychologists**

201 KAR 26:230. Examinations.

RELATES TO: KRS 319.050, 319.058, 319.064
PURSUANT TO: KRS 319.032

NECESSITY AND FUNCTION: KRS 319.032 requires regulations governing the examination of applicants for licensure and certification. This regulation outlines requirements concerning examinations.

Section 1. General Requirements. (1) The board will publish pertinent instructions and establish the examination schedule which will include: the place, the time, and the final date by which the board must have received the applicant's materials.

(2) An applicant for examination must submit a complete application and pay the required fee to the board in a timely manner. Once the application has been approved by the board, an applicant will be scheduled to take the examination at the next regularly scheduled date.

(3) If an applicant fails to appear for the scheduled examination and presents a valid reason in writing for missing the examination, such as illness or death in the immediate family, the examination may be deferred until the next scheduled date without forfeiture of the examination fee.

(4) If an applicant fails to appear for or to complete the examination without a valid reason, the applicant will forfeit all fees paid.

(5) If an applicant fails to appear for a second scheduled examination without presenting a valid reason in writing such as illness or death in the immediate family, the application will be terminated on the date of the examination, and the applicant will be denied licensure/certification on the basis of failure of the examination by default. The applicant may not practice psychology or use the title "psychologist."

Section 2. Examination for Licensure. (1) An applicant for licensure who has been approved to sit for the examination and whose supervisory arrangement has been approved by the board will be considered to be functioning under a temporary license until the results of the next regularly scheduled examination are known.

(2) If an applicant for licensure fails the examination, the board may, upon the development of a remediation plan acceptable to the board, reissue the temporary license to function under supervision until the results of the next examination are known. Under no circumstances can a temporary license be renewed by the board more than two (2) times.

(3) If an applicant for licensure fails to appear for the scheduled examination and presents a valid reason in writing for missing the examination, such as illness or death in the immediate family, the examination may be deferred until the next scheduled date without forfeiture of the examination fee and with the approved application still constituting a temporary license to function under supervision.

(4) If an applicant for licensure fails to appear for or to complete the examination without a valid reason, the applicant will forfeit all fees paid. Moreover, the approved application will no longer constitute a

temporary license and the applicant for licensure may not practice psychology, or use the title "psychologist."

(5) An applicant for licensure shall submit to an examination composed of the Examination for Professional Practice in Psychology developed by the Professional Examination Service and owned by the American Association of State Psychology Boards. The applicant must obtain a score equal to or greater than one (1) standard deviation below the national mean score for all doctoral candidates.

(6) An applicant for licensure shall submit to a structured oral examination administered by three (3) licensed psychologists at least one (1) of whom is a member of the board and one (1) of whom is licensed in the candidate's specialty area. This examination will cover ethical principles, professional practice in the candidate's specialty area and Kentucky Mental Health Law. Each examiner will independently rate the applicant's performance. The applicant must demonstrate an acceptable level of knowledge of each of the three (3) areas in order to pass the examination. A majority of the examiners must rate the applicant as having passed in order for the applicant to have passed. If the oral examination is failed, the applicant may reapply with a remediation plan. Upon completion of the remediation plan approved by the board, the applicant will be examined by a second team composed in the same manner as the first team.

Section 3. Examination for Certification as a Certified Psychologist. (1) An applicant for certification as a certified psychologist shall submit to an examination composed of the Examination for Professional Practice in Psychology developed by the Professional Examination Service and owned by the American Association of State Psychology Boards. The applicant must obtain a score equal to or greater than one (1) standard deviation below the national mean score for all nondoctoral candidates.

(6) An applicant for certification as a certified psychologist shall submit to a structured oral examination administered by three (3) psychologists at least one (1) of whom is a member of the board and two (2) of whom are certified psychologists or certified psychological assistants. At least one (1) examiner must be certified in the candidate's specialty area. This examination will cover ethical principles, professional practice in the candidate's specialty area, and Kentucky Mental Health Law. Each examiner will independently rate the applicant's performance. The applicant must demonstrate an acceptable level of knowledge of each of the three (3) areas in order to pass the examination. A majority of the examiners must rate the applicant as having passed in order for the applicant to have passed. If the oral examination is failed, the applicant may reapply with a remediation plan. Upon completion of the remediation plan approved by the board, the applicant will be examined by a second team composed in the same manner as the first team.

Section 4. Examination for Certification as a Psychological Assistant. An applicant for certification as a psychological assistant shall submit to an examination composed of the

Examination for Professional Practice in Psychology developed by the Professional Examination Service and owned by the American Association of State Psychology Boards. The applicant must obtain a score equal to or greater than one (1) standard deviation below the national mean score for all nondoctoral candidates.

STEPHEN T. DeMERS, Chairman

APPROVED BY AGENCY: August 14, 1987

FILED WITH LRC: August 14, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 23, 1987 at 9:30 a.m., Eastern Time, at the Board of Examiners of Psychology, Berry Hill Annex, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by September 18, 1987 of their desire to appear and testify at the hearing: Mr. David L. Nicholas, Director, Occupations and Professions, Berry Hill Annex, Frankfort, Kentucky 40602.

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

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division of Waste Management

401 KAR 47:010. General provisions for solid waste.

RELATES TO: KRS 109.011 through 109.280, 224.005, 224.830 through 224.860, 224.868, 224.886, 224.887, 224.888, 224.994, 224.995

PURSUANT TO: KRS 13A.210, 224.033, 224.886, 224.887

NECESSITY AND FUNCTION: KRS 224.033, 224.886 and 224.887 require the cabinet to promulgate

regulations for waste planning and management activities; this chapter establishes standards for solid waste sites or facilities. This regulation specifies general provisions applicable to solid waste planning and management.

Section 1. Definitions. Unless otherwise specifically defined in KRS Chapters 109 or 224 or otherwise clearly indicated by their context, terms in 401 KAR Chapters 47 and 49 shall have the meanings given in this section. Additional definitions for terms relating to solid waste may be found in 401 KAR 30:010, 47:070 and 49:010.

(1) "Airspace" means that space below or above the original contour of the surface of a landfill to be used for the disposal of solid waste.

(2) "Area(s) of solid waste generation" means the geographic limits of the political subdivisions which exercise jurisdiction over solid waste and from which solid waste is collected, including the original point of generation and any interim points (i.e., transfer stations) at which the solid waste is repacked or reloaded onto vehicles or other methods of transport.

(3) "Average daily capacity" means the total volume in tons of solid waste received in thirty (30) days divided by thirty (30).

(4) "Residential solid waste" means the wastes generated by the normal activities of households, including but not limited to, food wastes, rubbish, ashes, bulky wastes and all types of solid wastes generated by stores, offices, restaurants, warehouses and other nonmanufacturing activities excluding those wastes which are regulated as hazardous wastes and excluding industrial wastes.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: August 12, 1987

FILED WITH LRC: August 14, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on September 24, 1987, at 1 p.m. EST in the Capital Plaza Tower. Any person interested in attending this hearing shall submit by September 19, 1987, a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on September 19, 1987, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on September 24, 1987.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: This regulation affects all persons, counties, or cities that manage solid waste. There are approximately 77 landfills which accept solid waste. The number of solid waste haulers and collectors is unknown, but is estimated to be several hundred.

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

1. First year: This regulation has no economic effect. It is for informational purposes only.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs (note any effects upon competition): None
 (b) Reporting and paperwork requirements: None
 (2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable. This regulation defines terms essential in interpreting Chapters 47 and 49 of the waste management regulations.

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

(a) Necessity of proposed regulation if in conflict: 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? Yes. The definitions are tiered by identifying waste management entities. These definitions are used in Chapters 47 and 49 of the waste management regulations to tier the regulatory requirements according to the type of solid waste site or facility.

LOCAL MANDATE IMPACT STATEMENT

Regulation No.: 401 KAR 47:010

SUBJECT/TITLE: General provisions for solid waste.

SPONSOR:

NOTE SUMMARY

LOCAL GOVERNMENT MANDATE: No

TYPE OF MANDATE:

LEVEL(S) OF IMPACT:

BUDGET UNIT(S) IMPACT:

FISCAL SUMMARY: Revenues - \$0; Expenditures - \$0; Net Effect - \$0.

MEASURE'S PURPOSE:

PROVISION/MECHANICS:

FISCAL EXPLANATION:

PREPARER: M. K. Harker

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This proposed regulation defines terms for 401 KAR Chapters 47 and 49. This regulation establishes no requirements but is for informational purposes only.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. This regulation establishes no requirements or responsibilities.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: There are no requirements or responsibilities

imposed by this regulation.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET Department for Environmental Protection Division of Waste Management

401 KAR 49:050. Establishment of fees.

RELATES TO: KRS 109.011 through 109.280, 224.835, 224.842, 224.887, 224.888

PURSUANT TO: KRS 13A.210, 109.041(8), 224.033, 224.887

NECESSITY AND FUNCTION: KRS 109.041(8) authorizes counties to charge a reasonable fee to haulers for the handling of their waste at a solid waste management facility approved by the cabinet. This regulation establishes more detailed procedures and mechanisms to implement this authority.

Section 1. Applicability. If a county or waste management district has been approved as a solid waste management area and has had its solid waste management plan amended and approved accordingly, it may charge a reasonable fee to solid waste haulers for the handling of their waste at any solid waste management facility which has been approved by the cabinet.

Section 2. The fee charged pursuant to Section 1 of this regulation may be based on one (1) or a combination of the following:

(1) The distance between the farthest source of any waste in a vehicle and the waste management facility. Using this factor, a fixed amount per mile would be adopted. Distance may be measured in actual miles traveled or as straight-line distance between the facility and the source.

(2) The zone from which the solid waste is transported. Concentric zones are created with radii of multiples of fifty (50) miles from the solid waste management facility. A fee is established which escalates as the distance from the solid waste management facility increases. For example, for vehicles from the first zone a fee of X per vehicle or unit of other means of transport might be assessed. For vehicles or units of other means of transport from the next zone, a fee of two (2) X per vehicle might be assessed; and from the next zone, five (5) X per vehicle or unit of other means of transport might be assessed.

(3) A fixed or variable fee per vehicle or unit of other means of transport considering size, weight, volume, means of transport or other similar considerations.

(4) A fixed or variable fee per the number of vehicles or units of other means of transport per a unit of time as determined by the county or district. For example, a county or district could set a fixed fee per vehicle for a hauler who has one (1) - two (2) vehicles per unit of time and a higher fixed fee per vehicle for a hauler who has three (3) to five (5) vehicles per unit of time.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: August 12, 1987

FILED WITH LRC: August 14, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on September 24, 1987, at 1 p.m. EST in the Capital

Plaza Tower. Any person interested in attending this hearing shall submit by September 19, 1987, a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on September 19, 1987, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on September 24, 1987.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: All haulers of solid waste may be affected by this regulation. Those counties or waste management districts which elect to charge a fee to haulers will be affected.

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

1. First year: This regulation establishes mechanisms for counties or solid waste management districts to charge fees to solid waste haulers. The fees, if any, charged to the haulers will depend upon the system established by the county or waste management district.

2. Continuing costs or savings: These fees will be collected on a continuing basis as established by the county or district.

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

(b) Reporting and paperwork requirements: The haulers must maintain records sufficient to calculate any fees. The county or waste management district may have increased paperwork if they establish a fee system. The amount of increased paperwork will be determined by the type of system.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: The division will not incur any direct or indirect costs since this fee will be established by counties or districts and applied to haulers.

1. First year: See (2)(a) above.

2. Continuing costs or savings: See (2)(a) above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state revenues from promulgation of this regulation. There will be no effect on local revenues from promulgation of this regulation; however, local revenues will be increased if a fee system is established.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The alternatives were no regulation or a regulation with more stringent requirements. Alternative: KRS 109.011(11) states that it is the intent of the General Assembly that waste management districts shall comply with the standards set by regulations promulgated by the cabinet. The cabinet could have chosen not to promulgate this regulation to establish procedures and mechanisms for establishment of fees; however, the cabinet recognized a need by some counties or districts to establish fees. A regulation with more stringent requirements would have limited the type of fee system which could be

established. Counties and districts have unique solid waste management systems. This regulation allows counties and districts to establish fees which are appropriate to the unique system in each locality.

(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? Yes. The regulation applies to counties or waste management districts.

LOCAL MANDATE IMPACT STATEMENT

Regulation No.: 401 KAR 49:050

SUBJECT/TITLE: Establishment of fees.

SPONSOR:

NOTE SUMMARY

LOCAL GOVERNMENT MANDATE: No

TYPE OF MANDATE:

LEVEL(S) OF IMPACT:

BUDGET UNIT(S) IMPACT:

FISCAL SUMMARY: Revenues - \$0; Expenditures - \$0; Net Effect - \$0.

MEASURE'S PURPOSE:

PROVISION/MECHANICS:

FISCAL EXPLANATION:

PREPARER: M. K. Harker

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This proposed regulation is not contained in the federal mandate but is proposed in response to KRS 109.041(8) which authorizes counties to charge reasonable fees to haulers.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. These provisions provide mechanisms to implement KRS 109.041(8) allowing counties or districts to charge fees to haulers.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: No additional requirements or responsibilities are imposed.

JUSTICE CABINET

500 KAR 6:190. Physical plant.

RELATES TO: KRS 15A.210

PURSUANT TO: KRS 15A.160, 15A.210

NECESSITY AND FUNCTION: KRS 15A.210 mandates that the Justice Cabinet issue administrative regulations governing juvenile detention centers.

Section 1. The facility shall conform to all applicable zoning ordinances or, through legal means, is attempting to comply with or change such laws, codes or zoning ordinances.

(2) The facility shall conform to all

applicable state building codes.

(3) If the facility is on the grounds of any other type of corrections facility, it shall be a separate, self-contained unit.

(4) When the population exceeds the rated capacity, the chief district judge, the district judge with jurisdiction for the juvenile matters, and the county judge executive shall be notified.

(5) The facility shall be utilized so that juveniles can be grouped in accordance with a classification plan.

(6) When seriously ill, mentally disordered, injured or nonambulatory juveniles are held in the facility, there shall be at least one (1) single-occupancy cell or room for them that provides for continuing staff observation.

(7) The facility shall have exits that are properly positioned, clear, and distinctly and permanently marked in order to ensure the timely evacuation of juveniles and staff in the event of fire or other emergency. All housing areas, and places of assembly for fifty (50) or more persons, shall have two (2) exits.

(8) The facility perimeter shall be secured in such a way that juveniles remain within the perimeter and that access by the general public is denied without proper authorization.

(9) The facility shall be operated with day rooms of no more than twenty-five (25) juveniles each. This section applies to facilities in operation before July 1, 1987.

(10) All new facilities opened on or after July 1, 1987 shall have living units of no more than twelve (12) juveniles.

(11) All housing areas shall provide for, at a minimum:

(a) Lighting as determined by the tasks to be performed;

(b) One (1) toilet and one (1) wash basin for every five (5) juveniles;

(c) Showers accessible to juveniles;

(d) A heating and ventilation and acoustical system to ensure healthful and comfortable living and working conditions for juveniles and staff; and

(e) Access to a drinking fountain.

(12) If the facility houses male and female juveniles, space is provided for co-correctional activities.

(13) Space shall be provided for the secure storage of chemical agents, restraining devices and related security equipment, and the equipment shall be located in an area that is readily accessible to authorized persons only.

(14) Water for showers shall be temperature-controlled.

(15) Single sleeping rooms shall have at least seventy (70) square feet of floor space and juveniles shall be provided activities and services outside their rooms at least twelve (12) hours a day.

(16) All sleeping rooms in detention facilities shall have, at a minimum:

(a) Access to the following approved penal sanitation facilities:

1. Toilet above floor level which is available for use without staff assistance twenty-four (24) hours a day;

2. Wash basin and drinking water;

3. Hot and cold running water;

(b) An approved penal bed at above floor level and storage space; and

(c) Natural light. Facilities existing and operating on July 1, 1987 shall be exempt from

the requirement that each sleeping room have natural light.

(17) At least thirty-five (35) square feet of floor space per juvenile shall be provided in the day room on each living unit.

(18) Male and female juveniles shall not occupy the same sleeping room.

(19) Ventilation shall be available in the event of a power failure.

(20) The total indoor activity area outside the sleeping area shall provide space of at least 100 square feet per juvenile.

(21) There shall be at least fifteen (15) square feet of floor space per person for those occupying the dining room or dining area.

(22) When the facility provides food service, the kitchen shall have at least 200 square feet of floor space.

(23) School classrooms shall be designed in conformity with local or state educational requirements except that all juvenile detention facilities shall be exempt from the requirement to have operable windows for rescue and ventilation.

(24) There shall be a visiting area that allows for privacy during visits.

(25) There shall be a well-drained outdoor recreation area for all new and renovated facilities. All existing facilities shall comply with this regulation by January 1, 1990.

(26) Space shall be available for religious services.

(27) The facility shall have a central medical room with medical examination facilities.

(28) When there is a confinement room separate from the living unit, it shall be equipped with plumbing and security furniture.

(29) There shall be interview space available in or near the living unit.

(30) The office in each housing unit shall have a telephone and enable supervision of the general living area; it shall be used for communications, staff conferences and storage of unit records.

(31) There shall be secure storage space provided for storage of juveniles' property and personal belongings.

(32) There shall be storage rooms for clothing, bedding and facility supplies.

(33) Closets for storage of cleaning supplies and equipment shall be located in each principal area and shall be well ventilated.

(34) Separate and adequate space shall be provided for mechanical equipment.

(35) There shall be a written plan for preventive maintenance of the physical plant with provisions for emergency repairs or replacement of equipment. This plan shall be reviewed annually and updated if needed.

(36) There shall be documentation by an independent, qualified source that the interior finishing material in juvenile living areas, exit areas and places of public assembly are in accordance with recognized national fire safety codes.

(37) The facility shall adopt and enforce written policy and procedure which provide that a new detention facility shall be built or the existing facility expanded only after a needs evaluation study has been prepared by the agency in conjunction with the juvenile court and the Justice Cabinet.

(38) Prior to plans development for newly planned facilities, a written program philosophy shall be developed for the facility, which

includes, but is not limited to:

- (a) Statement of general goals and purposes of the facility;
- (b) Description of the facility, including statutory authority and services to be provided;
- (c) Analysis of projected work load, staffing, programs and operating and capital budgets;
- (d) Assessment of the impact of the facility on overall operation of the parent agency;
- (e) Justification for the facility;
- (f) Analysis of alternative means for achieving the same goals;
- (g) Description of space requirements;
- (h) Outline of budget and time restrictions; and
- (i) Study of alternate ways of satisfying space requirements, including leasing renovation and new construction.

(39) Each living unit shall be designed so that individual rooms, day rooms and program staff offices are in close proximity to juveniles for purposes of communication and interaction.

(40) Handicapped juveniles shall be housed in a manner that provides for their safety and security. Cells or housing units used by them shall be designed for their use, and provide the maximum possible integration with the general population. Appropriate institution programs and activities shall be accessible to handicapped juveniles confined in the facility.

(41) All parts of the facility that are accessible to the public shall be accessible to and usable by handicapped staff and visitors.

(42) There shall be a day room for each housing unit or detention room cluster. The room shall have a minimum of thirty-five (35) square feet of floor space per juvenile and shall be separate and distinct from the sleeping area, which is immediately adjacent and accessible.

NORMA C. MILLER, Secretary

APPROVED BY AGENCY: July 31, 1987

FILED WITH LRC: August 13, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled on September 23, 1987 at 10 a.m. EDT in Room 110, Capitol Annex, Frankfort, Kentucky. Anyone interested in attending this hearing shall notify, in writing at least five days before the hearing, the following individual: Cathy Cravens Snell, Justice Cabinet, 3rd Floor, Commonwealth Credit Union Building, 417 High Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy Cravens Snell or Coleman Gilbert

(1) Type and number of entities affected: Three
(a) Direct and indirect costs or savings to those affected:

1. First year: Three facilities will be affected: Jefferson County, Fayette County, and Floyd County. There will be no physical plant costs associated with Jefferson and Fayette Counties. First year costs for Floyd County are estimated at approximately \$50,000. This covers installation of plumbing, fixtures, the creation of a room for a seriously ill, mentally disordered, injured or nonambulatory child, and minor renovations.

2. Continuing costs or savings: Proper design and construction of the physical plant will save costs associated with staffing patterns in the

future.

3. Additional factors increasing or decreasing costs (note any effects upon competition): The utilization of accepted security equipment will realize a reduction in maintenance costs and repairs.

(b) Reporting and paperwork requirements: Plans are required to be filed with the Justice Cabinet.

(2) Effects on the promulgating administrative body: The Justice Cabinet will be required to inspect plans and physical plants.

(a) Direct and indirect costs or savings: The Justice Cabinet will have to obtain the services of an inspector either through hiring a new employee, or negotiating a personal service contract or through interaccounting with another state agency.

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 is contingent on the acceptance of the statewide plan.

(4) Assessment of alternative methods; reasons why alternatives were rejected: This is a new program enacted by the Juvenile Code. Regulations are mandated.

(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: This regulation was drafted by a subcommittee on Juvenile Detention of the Kentucky Crime Commission.

TIERING: Was tiering applied? No. All are treated equally.

CORRECTIONS CABINET

501 KAR 6:140. Bell Count Forestry Camp.

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. This regulation is in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on August 14, 1987 and hereinafter should be referred to as Bell County Forestry Camp 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.

BCFC 01-02-01 Organization and Assignment of Responsibility

BCFC 01-04-02 Extraordinary Occurrence Procedure

BCFC 01-05-01 Procedures Office: Duties and Responsibilities
 BCFC 01-08-01 Public Information and Inmate Access to News Media
 BCFC 01-09-01 Staff Participation in Professional Organization and Conferences; Provision for Leave and Reimbursement for Expenses
 BCFC 01-11-01 Institutional Duty Officer's Responsibilities
 BCFC 02-01-02 Fiscal Management: Accounting Procedures
 BCFC 02-01-03 Fiscal Management: Agency Funds
 BCFC 02-01-04 Fiscal Management: Insurance
 BCFC 02-01-05 Fiscal Management: Budget
 BCFC 02-01-06 Fiscal Management: Audit
 BCFC 02-02-01 Inmate Accounts
 BCFC 02-02-02 Inmate Control of Personal Funds
 BCFC 02-02-03 Storage and Disposition of Inmate Monies Received on Weekends, Holidays, and Between 4 p.m. and 8 a.m. Weekdays
 BCFC 02-03-01 Purchase Orders
 BCFC 02-04-01 Processing of Invoices
 BCFC 02-05-01 BCFC Materials Receiving Procedure
 BCFC 02-06-01 Property Inventory
 BCFC 04-01-01 Employee Training and Development
 BCFC 14-01-01 Inmate Rights and Responsibilities
 BCFC 14-02-01 Legal Services Program
 BCFC 14-03-01 Inmate Grievance Procedure
 BCFC 14-04-01 Inmate Participation in Authorized Research

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: August 14, 1987

FILED WITH LRC: August 14, 1987 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for September 22, 1987 at 9 a.m. 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: 23 employees of the Bell County Forestry Camp, 104 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.

PUBLIC PROTECTION & REGULATION CABINET Department of Alcoholic Beverage Control

804 KAR 4:245. Registration of brands definitions.

RELATES TO: KRS 244.440

PURSUANT TO: KRS 241.060

NECESSITY AND FUNCTION: KRS 244.440(1) requires every resident and nonresident distiller, rectifier, blender or vintner, and nonresident wholesaler offering distilled spirits and wine products for sale in Kentucky to register with the Alcoholic Beverage Control Department, the names of the wholesalers to whom distributing rights have been granted. KRS 244.440(2) prohibits a distiller, rectifier, blender or vintner from offering for sale, and prohibits wholesalers from purchasing any brands of alcohol beverages which have not been registered with the department. KRS 224.440 additionally limits such registration to one who "owns or has an exclusive interest in any particular brands." Because of the increasing prevalence of counterfeit, unauthorized trademarked goods and adulterated goods entering the marketplace and to avoid possible confusion, it is necessary to define the terms "owns or has an exclusive interest in any particular brands" as used in the statute.

Section 1. For the purpose of enforcing KRS 244.440, a resident or nonresident distiller, rectifier, blender or vintner and nonresident wholesaler who "owns or has an exclusive interest in any particular brands" shall be defined as the primary American source of supply.

Section 2. For the purpose of Section 1 of this regulation, the term "primary American source of supply" means the manufacturer, distiller, rectifier, blender, vintner, or owner of spirituous or vinous beverages at the time such beverages become a marketable product, or bottler, or the exclusive agent of any such person, who, if the product cannot be secured directly from the manufacturer by an American wholesaler is the source closest to the manufacturer in the channel of commerce from whom the product can be secured by an American wholesaler or who, if the product can be secured from the manufacturer by an American wholesaler, is the manufacturer.

Section 3. Any registration of brands by a resident or nonresident distiller, rectifier, blender, vintner or nonresident wholesaler who does not own or have an exclusive interest in the brands registered as defined in Sections 1 and 2 of this regulation shall be void.

EDWARD A. FARRIS, Commissioner

ROBERT DAVIS, Secretary

APPROVED BY AGENCY: July 24, 1987

FILED WITH LRC: July 24, 1987 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on the above proposed regulation will be held on Thursday, September 24, 1987 at 10 a.m., EDT, in the hearing room of the Department of Alcoholic Beverage Control, 123 Walnut, Frankfort, Kentucky. Unless requests for a public hearing are received, in writing, five working days before the hearing date, the public hearing will be cancelled. Those who may be interested in attending, please contact: Joyce Ware White, Secretary to the Board, Alcoholic Beverage Control Board, 123 Walnut, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Edward A. Farris

(1) Type and number of entities affected: N/A

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: N/A

TIERING: Was tiering applied? N/A

PUBLIC PROTECTION & REGULATION CABINET

Kentucky Harness Racing Commission

Quarter Horse, Appaloosa, & Arabian Commission

811 KAR 2:096. Medication of horses.

RELATES TO: KRS 230.410 to 230.447

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: To regulate conditions under which quarter horse, appaloosa and Arabian racing shall be conducted in Kentucky. The function of this regulation relates to the use of medication on the horses and requirements and controls thereof.

Section 1. Use of Medication. Full use of modern therapeutic measures and medication calculated to improve or protect the health of a horse may be administered to a horse in training, under the direction of a licensed veterinarian. In the interest of protecting the racing public, health of the horse, safety of the participants in a race, nurturing formful

racing, and improvement of the breed of quarter horse, appaloosa, and Arabian.

(1) No horse while participating in a race shall carry in its body any medication, or drug, or substance, or metabolic derivative thereof, which is a narcotic, or which could serve as a local anesthetic, or tranquilizer, of which could stimulate or depress the circulatory, respiratory, or central nervous system of a horse, thereby effecting its speed.

(2) Also prohibited are any drugs which might mask or screen the presence of the aforementioned prohibited drugs, or prevent or delay testing procedures.

(3) Proof of detection by the commission chemist of a medication, or drug, or substance, or metabolic derivative thereof, prohibited by subsection (1) of this section, in a saliva, urine, or blood specimen duly taken under the supervision of the commission veterinarian from a horse promptly after running a race, shall be prima facie evidence that such horse was administered and carried such prohibited medication, drug, or substance, in its body while running in such race in violation of this rule.

Section 2. When Administration Prohibited. No person other than a licensed veterinarian shall administer or cause to be administered, or participate, or attempt to participate, in any way in the administration to a horse registered for racing of any medication, drug, or substance on the day of a race for which such horse is entered and prior to such race.

Section 3. Responsibility for Prohibited Administration. (1) Any person found to have administered a medication, drug, or substance which caused or could have caused a violation of Section 1 or 2 of this regulation, or caused, or participated, or attempted to participate in any way in such administration, shall be subject to disciplinary action.

(2) The licensed trainer of a horse found to have been administered a medication, drug, or substance in violation of Section 1 or 2 of this regulation shall bear the burden of proof showing freedom from negligence in the exercise of a high degree of care in safeguarding such horse from tampering; and, failing to prove such freedom from negligence (or reliance on the professional ability of a licensed veterinarian) shall be subject to disciplinary action.

(3) The assistant trainer, groom, stable watchman, or any other person having the immediate care and custody of a horse found to have been administered a medication, drug, or substance in violation of Section 1 or 2 of this regulation, if found negligent in guarding or protecting such horse from tampering shall be subject to disciplinary action.

Section 4. Record of Administrations. Daily reports of any treatment of any horse registered for racing with any medication, drug, or substance shall be submitted by the licensed veterinarian administering or prescribing such treatment, to the commission veterinarian. Detection of any unreported medication, drug, or substance by the commission chemist in a pre-race or post-race test may be grounds for disciplinary action.

(1) Such daily reports shall accurately

reflect the identity of the horse treated, diagnosis, time of treatment, type and dosage of medication, drug, or substance, and method of administration.

(2) Such daily reports shall remain confidential except that the commission veterinarian may compile general data therefrom to assist the commission in formulating policies or rules, and the stewards may review same in investigating a possible violation of these rules.

Section 5. Commission Veterinarian List. As a guide to owners, trainers, and veterinarians, the commission veterinarian may from time to time publish a list of medications shown by brand and generic names, specifically prohibited for racing. Such list shall not be considered exclusive and medications shown thereon shall be considered only as among those, along with others not so listed, prohibited by general classification under Section 1 of this regulation.

Section 6. Detention Area. Each licensed association shall provide and maintain on association grounds a fenced enclosure sufficient in size and facilities to accommodate stabling of horses temporarily detained for the taking of sample specimens for chemical testing, and such detention area shall be under the supervision and control of the commission veterinarian.

Section 7. Horses to be Tested. The stewards may at any time order the taking of a blood, urine, or saliva specimen from any horse entered to be tested. Any owner or trainer may at any time request that a specimen be taken from a horse he owns or trains by the commission veterinarian and tested by the commission chemist, provided the costs of such testing are borne by the owner or trainer requesting such test. In the absence of any such order or request, the commission chemist shall test same, all horses which: finish first in any race; finish first or second in any quinella or exacta race; finish first or second or third in any stakes; and any horse whose performance in a race, in the opinion of the stewards, may have been altered by a prohibited substance.

Section 8. Procedure for Taking Specimens. (1) All horses from which specimens are to be drawn are to be taken to the detention area at the prescribed time and remain there until released by the commission veterinarian. No person other than the owner, trainer, groom or hotwalker, of a horse to be tested, and no lead pony, shall be admitted to the detention area without permission of the commission veterinarian.

(2) Stable equipment other than necessary for washing and cooling out a horse are prohibited in the detention area; buckets and water will be furnished by the commission veterinarian. If a body brace is to be used, it shall be supplied by the responsible trainer and administered only with the permission and in the presence of the commission veterinarian. A licensed veterinarian may attend a horse in the detention area only in the presence of the commission veterinarian.

(3) During the taking of specimens from a horse, the owner, or responsible trainer (who, in the case of a claimed horse shall be the persons whose names such horse raced), or a

stable representative designated by such owner or trainer, shall be present and witness the taking of such specimen and so signify in writing.

(4) All containers previously used for specimens shall be thoroughly cleaned in the commission chemist laboratory and shall be sealed with the laboratory stamp which shall not be broken except in the presence of the witness as provided by subsection (3) of this section. Only distilled water, with or without acetic acid, shall be used to moisten gauze used in collection of saliva. Instruments and utensils used in the taking of samples shall be sterilized after each use.

(5) Samples taken from a horse by the commission veterinarian or his assistant shall be placed in a container and sealed together with a double identification tag. One (1) portion of such tag bearing a printed identification number shall remain with the sealed container; the other portion of such tag bearing the same printed identification number shall be detached in the presence of the witness as provided by subsection (3) of this section, the commission veterinarian shall thereon identify the horse from which such specimen was taken, as well as the race and day, verified by such witness, and such detached portions of identification tags shall be placed in a sealed envelope by the commission veterinarian for delivery only to the stewards. The commission veterinarian shall take every precaution to ensure that the commission chemist and no member of the laboratory staff shall know the identity of the horse from which a specimen was taken prior to the completion of all testing thereon.

(a) If after a horse remains a reasonable time in the detention area and a specimen may not be taken from such horse, the commission veterinarian may permit such horse to be returned to its barn and usual surroundings for the taking of a specimen under the supervision of the commission veterinarian.

(b) With the consent of the trainer or attendant the commission veterinarian may administer to the horse a diuretic to facilitate urination. Quantity, identity and time of administration shall be noted on both portions of the specimen identification tag by the commission veterinarian.

(c) The commission veterinarian shall be responsible for safeguarding all specimens while in his possession and shall cause such specimens to be delivered only to the commission chemist as soon as possible after sealing, but in such order or in such manner as not to reveal the identity of any horse from which each sample was taken.

Section 9. Procedure for Testing. (1) The commission chemist shall be responsible for safeguarding and testing each specimen delivered to his laboratory by the commission veterinarian. Each specimen shall be divided into portions so that one (1) portion shall be used for initial testing for unknown substances, and another portion used for confirmation tests. If a sufficient quantity of the specimen is available, a third portion shall be preserved for further testing as the commission may direct.

(2) The commission chemist shall conduct individual tests on each specimen capable of screening same for prohibited substances, and such other tests as to detect and identify any

suspected prohibited substance or metabolic derivative thereof with specificity. Pooling of specimens shall be permitted only with the knowledge and approval of the commission veterinarian.

(3) Upon the finding of a test negative for prohibited substances, the remaining portions of such specimen may be discarded. Upon the finding of tests suspicious or positive for prohibited substances, such tests shall be reconfirmed, and the remaining portion, if available, of such specimen preserved and protected until such time as the stewards rule it may be discarded.

(4) The commission chemist shall submit to the state steward a written report as to each specimen tested, indicating thereon by specimen tag identification number, whether such a specimen was tested negative or positive for prohibited substances. Such report shall be submitted within twenty-four (24) hours after the conclusion of the last race of the preceding day, dark days excluded. The commission chemist shall report test findings to no person other than the state steward or his designated representative.

(a) In the event the commission chemist should find a specimen suspicious for a prohibited medication, he may request additional time for test analysis and confirmation.

(b) The racing association shall not make distribution of any purse until given clearance of chemical tests by the stewards.

(5) The commission chemist will make a further report to the state steward on any substance his tests showed, which are not normal in a horse. These reports shall be confidential and are not evidence for disciplinary action. They can be used as a warning to the trainer or veterinarian, by the stewards, by the commission veterinarian to improve his surveillance and by the Equine Research Program at the University of Kentucky. The residue of specimen material from such test will be preserved by the commission chemist until released by the racing commission.

(6) In reporting to the stewards a finding of a test positive for a prohibited substance, the commission chemist shall present documentary or demonstrative evidence acceptable in the scientific community and admissible in court in support of such professional opinion as to such positive finding.

CARL B. LARSEN, Executive Director

ROBERT DAVIS, Secretary

APPROVED BY AGENCY: July 20, 1987

FILED WITH LRC: July 24, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on September 22, 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: None

(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: 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 August 4-5, 1987 Meeting

The August meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, August 4, 1987 at 2 p.m. and on Wednesday, August 5, 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. On motion of Representative Meyer, seconded by Senator McCuiston, the minutes of the July 1-2, 1987 meeting were approved.

Present were:

Members: Representative Mark D. O'Brien, Chairman; Senators Pat McCuiston and Bill Quinlan; Representatives Jim Bruce, Ronny Layman and Joe Meyer.

Guests: Dave Nicholas, Gary E. Siemens, Patricia Todd Thomas, Nileen Verbeten, Board of

Examiners of Social Work; Greg Holmes, KY Athletic Commission; Nathan Goldman, Board of Occupational Therapy; Tom Edwards, Thomas A. Young, Department of Fish & Wildlife Resources; Wanda Delaplane, Chris Kring, Buddy Sims, Tom Troth, Department of Agriculture; Michael Bradley, Connie V. Malone, Corrections Cabinet; Charles Briggs, Bill Debord, Brenda C. Goldey, J. C. Hawkins, Sandra G. Pullen, Richard Sutherland, John Trager, R. A. Walsburger, Transportation Cabinet; Rex Hunt, Guy B. Schoolfield, Labor Cabinet; Rick Jones, Department of Financial Institutions; Patrick Watts, Department of Insurance; Jayne M. Arnold, Barbara Coleman, Don Dixon, Ked Fitzpatrick, Louise Greeman, Rae Anne Hilton, N. Clifton Howard, Greg Lawther, David Nichols, Richard T.

Owen, Bill Robinson, Larry Taylor, R. Hughes Walker, Cabinet for Human Resources; David Garnett, Motor Vehicle Commission; Bob Bender, Susan Croy, Department of Parks; Bill Shouse, Board of Nursing; Nancy Cox, KY Association of Health Care Facilities; Ted Bradshaw, KY Bankers Association; Nancy Lipinski, Sarah Smith Nicholson, KY Hospital Association; Bill Doll, KY Medical Association.

LRC Staff: Susan Wunderlich, Joe Hood, Gregory Karambellas, Donna Valencia, and Carla Arnold.

The Subcommittee determined that the following regulations, as amended, complied with KRS Chapter 13A:

Commerce Cabinet: Department of Agriculture: Ginseng

302 KAR 45:010 (Ginseng, general provisions.) This regulation was substantively amended in order that the regulation comply with federal government requirements and to require that information be relayed to the Department in a timely manner.

Corrections Cabinet: Office of the Secretary

These regulations were technically amended to comply with objections raised by the subcommittee.

501 KAR 6:020 (Corrections policies and procedures.)

501 KAR 6:030 (Kentucky State Reformatory.)

501 KAR 6:040 (Kentucky State Penitentiary.)

501 KAR 6:060 (Northpoint Training Center.)

501 KAR 6:080 (Corrections Cabinet manuals.)

501 KAR 6:120 (Blackburn Corrections Complex.)

501 KAR 6:130 (Western Kentucky Farm Center.)

Public Protection and Regulation Cabinet: Department of Insurance: Trade Practices and Frauds

806 KAR 12:110 (Merged gender mortality tables for life insurance.) This regulation was technically amended to delete Section 5(2), referring to the department's intent that the regulation be permanent.

Health Maintenance Organizations

806 KAR 38:060 (Cancellation of enrollees' coverage.) This regulation was technically amended to: (1) delete Section 4(2), referring to the department's intent that the regulation be permanent; (2) amend Section 1(1) to clarify that if an enrollee voluntarily terminates coverage, the enrollee may be disenrolled; and (3) amend Sections 1(g) and 2(1)(f) and (g) to eliminate the implication that health maintenance organizations must offer medicare supplement coverage.

806 KAR 38:080 (Health maintenance organizations' reserve funds.) This regulation was technically amended to delete Section 3(2), referring to the department's intent that the regulation be permanent.

Department of Financial Institutions: Credit Unions

808 KAR 3:050 (Conduct.) This regulation was amended to state that credit unions may determine proper investments by using the current issues of Standard and Poore's Corporation Security Owners Stock Guide, Standard and Poore's Corporation Bond Guide, or Moody's Bond Record at the date of acquisition of stocks or corporate bonds.

Cabinet for Human Resources: Department for Health Services: Emergency Medical Technicians

902 KAR 13:010 (Definitions relating to emergency medical technicians.) This regulation was amended to add the definition of "Emergency medical technician-first responder instructor."

902 KAR 13:030 (Fees.) This regulation was amended to add a fee for EMT-first responder recertification.

902 KAR 13:090 (Disciplinary actions.) This regulation was amended to add the term "EMT-first responder instructor" to the necessity and function section.

The Subcommittee determined that the following regulations complied with KRS Chapter 13A:

General Government Cabinet: Board of Examiners of Social Work

201 KAR 23:040 (Suspension, revocation, refusal to renew license.)

201 KAR 23:060 (Licensed and certified social workers.)

201 KAR 23:070 (Specialty certification.)

Kentucky Athletic Commission

201 KAR 27:017 (Promoters to tender compensation for officials prior to commencement of match or exhibition.)

Board of Occupational Therapy

201 KAR 28:050 (Special licensure requirements.)

201 KAR 28:060 (Regular licensure requirements/temporary permits of L.O.T.R.s and L.O.T.A.s.)

201 KAR 28:110 (Fees.)

Tourism Cabinet: Department of Fish and Wildlife Resources: Game

301 KAR 2:050 (Land Between the Lakes hunting rules.)

301 KAR 2:110 (Raccoon and opossum; training and shake-out seasons.)

301 KAR 2:240 (Special bobcat harvest season.)

Hunting and Fishing

301 KAR 3:030 (Year-round season for some birds and animals.)

Transportation Cabinet: Administration

600 KAR 1:070 (Motor pool procedure.)

Department of Vehicle Regulation: Motor Vehicle Tax

601 KAR 9:125 (Dealer plates.)

Department of Highways: Traffic

603 KAR 5:061 (Intrastate toll bridges and toll ferries.)

603 KAR 5:110 (Permits for moving mobile homes.)

603 KAR 5:230 (Bridge weight limits on the extended weight coal haul road system.)

Labor Cabinet: Occupational Safety and Health

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

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

Public Protection & Regulation Cabinet: Department of Insurance: Kinds of Insurance; Limits of Risk; Reinsurance

806 KAR 5:050 (Motor vehicle warranties.)

Agents, Consultants, Solicitors and Adjusters

806 KAR 9:200 (Volume of insurance agent exchange of business.)

806 KAR 9:210 (Time limit for replacement of evidence of licensee financial responsibility.)

Cabinet for Human Resources: Department for Health Services: Sanitation

902 KAR 10:120 (Kentucky public swimming and bathing facilities regulation.)

Hospitalization of Mentally Ill and Mentally Retarded

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

Emergency Medical Technicians

902 KAR 13:050 (Training, examination and certification.)

902 KAR 13:080 (Authorized procedures.)

902 KAR 13:110 (EMT-first responder training, examination and certification.)

Certificate of Need and Licensure

902 KAR 20:132 (Certificate of need expenditure minimums.)

Department for Employment Services: Unemployment Insurance

903 KAR 5:270 (Maximum weekly benefit rates.)

Department for Medicaid Services: Medicaid Services

907 KAR 1:140 (Alternative home and community based services for the mentally retarded.)

907 KAR 1:150 (Payments for alternative home and community based services for the mentally retarded.)

907 KAR 1:250 (Incorporation by reference of materials relating to the Medical Assistance Program.)

The Subcommittee deferred the following regulations at the agencies' request:

Corrections Cabinet: Office of the Secretary

501 KAR 8:010 (Hearings, procedures, disposition.)

Transportation Cabinet: Department of Highways: Pre-Construction

603 KAR 2:015 (Prequalification for construction; certificate of eligibility.)

The Subcommittee had no objections to emergency regulations which had been filed.

The Subcommittee adjourned at 10:50 a.m. until September 8, 1987.

CUMULATIVE SUPPLEMENT

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ADMINISTRATIVE REGISTER - C2

LOCATOR INDEX -- EFFECTIVE DATES

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

VOLUME 13

Regulation	13 Ky.R. Page No.	Effective Date	Regulation	13 Ky.R. Page No.	Effective Date
201 KAR 8:006	1859		902 KAR 13:010		
201 KAR 8:390	1860		Amended	2121	8-5-87
201 KAR 27:017	2169	8-5-87	902 KAR 13:030		
302 KAR 45:010			Amended	2122	8-5-87
Amended	1713 (See "Volume 14")		902 KAR 13:050		
806 KAR 12:110			Amended	2123	8-5-87
Amended	2107	8-5-87	902 KAR 13:080		
806 KAR 38:060			Amended	2125	8-5-87
Amended	2109	8-5-87	902 KAR 13:090		
806 KAR 38:080			Amended	2126	8-5-87
Amended	2111	8-5-87			

VOLUME 14

Emergency Regulation	14 Ky.R. Page No.	Effective Date	Emergency Regulation	14 Ky.R. Page No.	Effective Date
201 KAR 27:017E			905 KAR 1:210E	146	7-6-87
Replaced		8-5-87	907 KAR 1:016E	431	7-17-87
301 KAR 2:044E	407	8-7-87	907 KAR 1:031E	150	7-1-87
302 KAR 34:050E	121	7-2-87	907 KAR 1:036E	152	7-1-87
401 KAR 47:010E	408	8-14-87	907 KAR 1:037E	158	7-1-87
401 KAR 47:020E	408	8-14-87	907 KAR 1:042E	159	7-1-87
401 KAR 47:040E	411	8-14-87	907 KAR 1:045E	160	7-8-87
401 KAR 49:030E	416	8-14-87	907 KAR 1:140E	17	6-8-87
401 KAR 49:050E	419	8-14-87	Replaced	81	8-5-87
405 KAR 7:070E	4	6-15-87	907 KAR 1:150E	19	6-8-87
500 KAR 6:010E	122	7-1-87	Replaced	83	8-5-87
500 KAR 6:020E	124	7-1-87	907 KAR 1:250E	20	6-8-87
500 KAR 6:030E	126	7-1-87	Replaced	85	8-5-87
500 KAR 6:040E	127	7-1-87			
500 KAR 6:050E	128	7-1-87			
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500 KAR 6:140E	138	7-1-87			
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500 KAR 6:160E	139	7-1-87			
500 KAR 6:170E	140	7-1-87			
500 KAR 6:180E	140	7-1-87			
501 KAR 6:020E	10	6-15-87			
Replaced	45	8-5-87			
501 KAR 6:030E	12	5-19-87			
501 KAR 6:040E	13	6-15-87			
Replaced	48	8-5-87			
501 KAR 6:060E	15	6-15-87			
Replaced	50	8-5-87			
501 KAR 6:080E	16	6-15-87			
Replaced	52	8-5-87			
811 KAR 2:096E	420	7-24-87			
902 KAR 10:120E					
Replaced	214	8-5-87			
903 KAR 5:270E	17	6-15-87			
Replaced	80	8-5-87			
904 KAR 2:016E	422	8-13-87			
905 KAR 1:091E	427	8-7-87			
905 KAR 1:200E	141	7-6-87			

ADMINISTRATIVE REGISTER - C3

Regulation	14 Ky.R. Page No.	Effective Date	Regulation	14 Ky.R. Page No.	Effective Date
301 KAR 2:110			501 KAR 6:050		
Amended	35	8-5-87	Amended	480	
301 KAR 2:240	87	8-5-87	501 KAR 6:060		
301 KAR 3:030			Amended	50	8-5-87
Amended	36	8-5-87	Amended	239	
302 KAR 16:040			Amended	481	
Amended	234		501 KAR 6:080		
302 KAR 34:050	315		Amended	52	8-5-87
302 KAR 45:010			501 KAR 6:120		
Amended	431	8-5-87	Amended	52	8-5-87
401 KAR 4:060	316		501 KAR 6:130		
401 KAR 47:010	529		Amended	54	8-5-87
401 KAR 47:020			Amended	241	
Amended	464		Amended	483	
401 KAR 47:040			501 KAR 6:140	533	
Amended	468		501 KAR 8:010	88	
401 KAR 49:030			503 KAR 1:100		
Amended	475		Amended	242	
401 KAR 49:050	530		600 KAR 1:070		
401 KAR 63:041	320		Amended	55	8-5-87
405 KAR 7:070			600 KAR 2:010		
Amended	37		Amended	243	
Amended	432		600 KAR 2:020		
405 KAR 16:060			Amended	244	
Amended	22		600 KAR 2:030		
405 KAR 18:060			Amended	245	
Amended	24		601 KAR 1:020		
405 KAR 18:190			Amended	484	
Amended	27		601 KAR 1:115		
500 KAR 4:030			Amended	246	
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500 KAR 4:040			Amended	248	
Amended	163	7-2-87	601 KAR 9:010		
500 KAR 4:050			Amended	249	
Amended	163	7-2-87	601 KAR 9:012		
500 KAR 4:060			Amended	250	
Amended	164	7-2-87	601 KAR 9:013		
500 KAR 4:070			Amended	251	
Amended	165	7-2-87	601 KAR 9:015		
500 KAR 6:010	328		Amended	252	
500 KAR 6:020	330		601 KAR 9:040		
500 KAR 6:030	332		Amended	252	
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500 KAR 6:050	334		Amended	254	
500 KAR 6:060	336		601 KAR 9:060		
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500 KAR 6:080	338		601 KAR 9:074		
500 KAR 6:090	339		Amended	256	
500 KAR 6:100	340		601 KAR 9:080		
500 KAR 6:110	342		Amended	260	
500 KAR 6:120	344		601 KAR 9:085		
500 KAR 6:130	346		Amended	261	
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500 KAR 6:150	347		601 KAR 12:020		
500 KAR 6:160	348		Amended	485	
500 KAR 6:170	349		601 KAR 12:030		
500 KAR 6:180	349		Amended	486	
500 KAR 6:190	531		601 KAR 12:040		
501 KAR 6:020			Amended	486	
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Amended	235		Amended	487	
501 KAR 6:030			601 KAR 13:020		
Amended	47	8-5-87	Amended	489	
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501 KAR 6:040			Amended	491	
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602 KAR 50:030			902 KAR 3:110	368	
Amended	267		902 KAR 3:115	369	
602 KAR 50:050			902 KAR 3:120	371	
Amended	268		902 KAR 3:205	372	
602 KAR 50:120			902 KAR 3:210	373	
Amended	269		902 KAR 3:215	375	
603 KAR 1:030			902 KAR 3:220	376	
Amended	492		902 KAR 3:225	377	
603 KAR 2:015			902 KAR 3:230	379	
Amended	171		902 KAR 3:235	380	
603 KAR 5:025			902 KAR 3:240	381	
Amended	271		902 KAR 3:245	382	
603 KAR 5:061			902 KAR 3:250	385	
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603 KAR 5:066			902 KAR 3:260	388	
Amended	272		902 KAR 10:120		
603 KAR 5:075			Amended	214	8-5-87
Amended	274		902 KAR 12:080		
603 KAR 5:100			Amended	72	8-5-87
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603 KAR 5:110			Amended	507	
Amended	57	8-5-87	902 KAR 13:110		
603 KAR 5:230			Amended	229	8-5-87
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603 KAR 8:010			Amended	79	8-5-87
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705 KAR 5:060			Amended	166	7-2-87
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705 KAR 5:100	352		Amended	299	
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706 KAR 1:010			Amended	80	8-5-87
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806 KAR 9:200			Amended	520	
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806 KAR 9:210			Amended	521	
Amended	213	8-5-87	905 KAR 1:200	389	
808 KAR 3:050			905 KAR 1:210	394	
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810 KAR 1:013			Amended	525	
Amended	493		907 KAR 1:031		
811 KAR 2:096	535		Amended	301	
815 KAR 7:010			907 KAR 1:036		
Amended	281		Amended	303	
815 KAR 7:020			907 KAR 1:037		
Amended	289		Amended	310	
815 KAR 10:020			907 KAR 1:042		
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902 KAR 3:055	354		907 KAR 1:045		
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