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LEGISLATIVE RESEARCH COMMISSION
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IN THIS ISSUE

Administrative Regulation Review Subcommittee, Oct. Agenda.....541
Regulation Review Procedure.....543

Emergency Regulations Now In Effect:
Board of Podiatry.....544
Kentucky Athletic Commission.....545
Fish and Wildlife.....546
Corrections.....546
Transportation.....550
Education.....550
Housing, Buildings and Construction.....551
Human Resources.....553

Amended After Hearing:
Natural Resources & Environmental Protection - Water.....556
Transportation.....560
Education.....561
Human Resources.....561

Proposed Amendments:
Board of Professional Engineers and Land Surveyors.....571
Board of Nursing.....571
Board of Podiatry.....597
Fish and Wildlife Resources.....598
Corrections.....605
Justice.....607
Transportation.....611
Education.....615
State Racing Commission.....620
Harness Racing Commission.....628
Housing, Buildings and Construction.....632
Human Resources.....643

Proposed Regulations Received Through September 15:
Board of Hairdressers and Cosmetologists.....666
Board of Nursing.....667
Kentucky Athletic Commission.....669
Fish and Wildlife Resources.....670
Natural Resources & Environmental Protection - Air Quality.....670
Transportation.....678

Oct. Minutes of the Administrative Regulation Review Subcommittee...679

CUMULATIVE SUPPLEMENT

Locator Index - Effective Dates.....D2
KRS Index.....D6
Subject Index.....D10

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 tentatively scheduled on October 1 and 2, 1987. See tentative agenda on pages 541-543 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
October 1, 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 Examiners of Psychologists

201 KAR 26:171. Requirements for supervision of certified psychologists, psychological assistants, and candidates for licensure.

201 KAR 26:230. Examinations.

TOURISM CABINET
Department of Fish and Wildlife Resources

Game

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

COMMERCE CABINET
Department of Agriculture

Kentucky Grain Insurance and Grain Dealers

302 KAR 34:050 & E. Grain Dealer Licensing of Federal Warehouses. (Not Amended After Hearing)

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection

Water Resources

401 KAR 4:060. Stream Construction Criteria. (Amended After Hearing)

Division of Waste Management

Solid Waste Facilities

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

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

401 KAR 47:040 & E. Sanitary landfills.

Solid Waste Planning

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

401 KAR 49:050 & E. Establishment of fees.

JUSTICE CABINET

Juvenile Detention Facilities

500 KAR 6:010 & E. Definitions. (Not Amended After Hearing)(Deferred from September meeting)

500 KAR 6:020 & E. Administration, Organization and Management. (Not Amended After Hearing) (Deferred from September meeting)

500 KAR 6:030 & E. Personnel. (Not Amended After Hearing)(Deferred from September meeting)

500 KAR 6:040 & E. Juvenile Records. (Not Amended After Hearing)(Deferred from September meeting)

500 KAR 6:050 & E. Safety and Emergency Procedures. (Not Amended After Hearing) (Deferred from September meeting)

500 KAR 6:060 & E. Security and Control. (Not Amended After Hearing)(Deferred from September meeting)

500 KAR 6:070 & E. Food Service. (Not Amended After Hearing)(Deferred from September meeting)

500 KAR 6:080 & E. Sanitation and Hygiene. (Not Amended After Hearing)(Deferred from September meeting)

500 KAR 6:090 & E. Juvenile Rights. (Not Amended After Hearing)(Deferred from September meeting)

500 KAR 6:100 & E. Training and Staff Development. (Not Amended After Hearing)(Deferred from September meeting)

500 KAR 6:110 & E. Medical and Health Care Services. (Not Amended After Hearing)(Deferred from September meeting)

500 KAR 6:120 & E. Rules and Discipline. (Not Amended After Hearing)(Deferred from September meeting)

500 KAR 6:130 & E. Intake. (Not Amended After Hearing)(Deferred from September meeting)

500 KAR 6:140 & E. Admission Procedures. (Not Amended After Hearing)(Deferred from September meeting)

500 KAR 6:150 & E. Programs. (Not Amended After Hearing)(Deferred from September meeting)

500 KAR 6:160 & E. Communication: Mail, Visiting and Telephone. (Not Amended After Hearing)(Deferred from September meeting)

500 KAR 6:170 & E. Release Preparation and Transfer Programs. (Not Amended After Hearing)(Deferred from September meeting)

500 KAR 6:180 & E. Citizens and Volunteer Involvement. (Not Amended After Hearing)(Deferred from September meeting)

500 KAR 6:190. Physical plant.

CORRECTIONS CABINET

Office of the Secretary

501 KAR 6:040 & E. Kentucky State Penitentiary.

501 KAR 6:050. Luther Luckett Correctional Complex.

501 KAR 6:060 & E. Northpoint Training Center.

501 KAR 6:130. Western Kentucky Farm Center.

501 KAR 6:140. Bell County Forestry Camp.

TRANSPORTATION CABINET
Department of Vehicle Regulation

Division of Motor Carriers
601 KAR 1:020. Permit for hauling industrial materials; fee; bond.
601 KAR 1:115. Taxicabs. (Amended After Hearing)

Driver's License
601 KAR 12:020. Expired or suspended license; requirements for renewal.
601 KAR 12:030. Instruction permit.
601 KAR 12:040. Driving history record; fee.

Driver's Improvement
601 KAR 13:010. Medical Review Board; basis for examination, evaluation, tests.
601 KAR 13:020. Point system.
601 KAR 13:030. Alcohol driver education clinic.

Department of Highways

Construction and Materials
603 KAR 1:030. Crushed stone, bituminous materials; certificate of eligibility to bid.

Traffic
603 KAR 5:100. Permits for moving houses and buildings.

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

EDUCATION AND HUMANITIES CABINET
Department of Education
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. (Amended After Hearing)

PUBLIC PROTECTION AND REGULATION CABINET
Department of Alcoholic Beverage Control

Licensing
804 KAR 4:245. Registration of brands definitions.

State Racing Commission

Thoroughbred Racing Rules
810 KAR 1:013. Entries, subscriptions and declarations.

Harness Racing Commission

Quarter Horse, Appaloosa and Arabian Racing Rules
811 KAR 2:096 & E. Medication of horses.

Department of Housing, Buildings and Construction

Standards of Safety
815 KAR 10:020. Fire safety standards.

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) (Deferred from September meeting)
902 KAR 3:060. Licensing procedures, non-medical alcohol treatment and education center. (Repeals 902 KAR 3:010) (Amended After Hearing)
902 KAR 3:065. Organization and administration, non-medical alcohol treatment and education center. (Repeals 902 KAR 3:007 and 902 KAR 3:025) (Deferred from September meeting)
902 KAR 3:070. Personnel policies, non-medical alcohol treatment and education center. (Repeals 902 KAR 3:030) (Deferred from September meeting)
902 KAR 3:075. Quality assurance, non-medical alcohol treatment and education center. (Repeals 902 KAR 3:035) (Deferred from September meeting)
902 KAR 3:080. Client's rights, non-medical alcohol treatment and education center. (Repeals 902 KAR 3:020) (Deferred from September meeting)
902 KAR 3:085. Physical plant, non-medical alcohol treatment and education center. (Repeals 902 KAR 3:040) (Deferred from September meeting)
902 KAR 3:090. General program operation, non-medical alcohol treatment and education center. (Repeals 902 KAR 3:015 and 902 KAR 3:045) (Deferred from September meeting)
902 KAR 3:095. Detoxification.(Repeals 902 KAR 3:050) (Deferred from September meeting)
902 KAR 3:100. Residential treatment. (Amended After Hearing)
902 KAR 3:105. Residential transitional treatment. (Amended After Hearing)
902 KAR 3:110. Outpatient treatment. (Amended After Hearing)
902 KAR 3:115. Day/night intensive outpatient treatment. (Amended After Hearing)
902 KAR 3:120. Education. (Deferred from September meeting)
902 KAR 3:205. Definitions for drug abuse treatment and education (DATE) centers. (Repeals 902 KAR 3:200) (Deferred from September meeting)
902 KAR 3:210. Licensing procedures, (DATE) centers. (Amended After Hearing)
902 KAR 3:215. Organization and administration, (DATE) centers. (Deferred from September meeting)
902 KAR 3:220. Personnel policies, (DATE) centers. (Deferred from September meeting)
902 KAR 3:225. Quality assurance, (DATE) centers. (Deferred from September meeting)
902 KAR 3:230. Client's rights, (DATE) centers. (Deferred from September meeting)

902 KAR 3:235. Physical plant, (DATE) centers. (Deferred from September meeting)
902 KAR 3:240. General program operations, (DATE) centers. (Deferred from September meeting)
902 KAR 3:245. Residential rehabilitation centers. (Amended After Hearing)
902 KAR 3:250. Non-residential day care centers. (Amended After Hearing)
902 KAR 3:255. Educational information centers. (Deferred from September meeting)
902 KAR 3:260. Communication centers. (Deferred from September meeting)

Hospitalization of Mentally Ill and Mentally Retarded

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

Department for Employment Services

Employment Services

903 KAR 6:060. Confidentiality of records of the Department for Employment Services. (Deferred from September meeting)

Department for Social Insurance

Public Assistance

904 KAR 2:016 & E. Standards for need and amount; AFDC.
904 KAR 2:140. Supplementary policies for programs administered by the Department for Social Insurance.
904 KAR 2:150. Incorporation by reference of materials relating to the aid to families with dependent children program.
904 KAR 2:170. Incorporation by reference of materials relating to the child support program.

Food Stamp Program

904 KAR 3:090. Incorporation by reference of materials relating to the food stamp program.

Department for Social Services

Child Welfare

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

Department for Medicaid Services

Medicaid Services

907 KAR 1:016 & E. Psychiatric hospital 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

Comes the Kentucky State Board of Podiatry (herinafter the board) pursuant to KRS 13A.190 and makes the following statement of explanation in support of the attached emergency regulation:

1. In November of 1987 the Kentucky State Board of Podiatry will conduct its semiannual examination of applicants for licensure.

2. Board regulations currently provide for an examination fee of $200 and, re-examination fee in one subject of $25 and re-examination fee for an entire examination of $50.

3. The board deems it prudent and desirable to make the examination fee and re-examination fee identical, and in the absence of an emergency regulation this goal may not be achievable by the date of the November examinations.

MARTHA LAYNE COLLINS, Governor
JOSEPH P. LEONE, Chairman

GENERAL GOVERNMENT CABINET
Board of Podiatry

201 KAR 25:011E. Approved schools; examination application, fees.

RELATES TO: KRS 311.420
PURSUANT TO: KRS 311.410(4)
EFFECTIVE: August 24, 1987
NECESSITY AND FUNCTION: KRS 311.420 requires all persons engaging in the practice of podiatry in the state of Kentucky to be licensed by the State Board of Podiatry. KRS 311.420 provides that each applicant shall submit to an examination conducted by the board. This regulation sets out the procedures to be followed in obtaining an application, the fees to be charged and the procedures relating to the examination and issuance of a license to practice podiatry in this state.

Section 1. (1) The board recognizes the following schools or colleges of podiatry as having those standards and requirements adequate to comply with the provisions of KRS 311.420(1)(d). Those schools and colleges are as follows:

(a) California College of Podiatric Medicine, 1770 Eddy Street, San Francisco, California 94115.

(b) Dr. William M. Scholl College of Podiatric Medicine, 1001 N. Dearborn Street, Chicago, Illinois 60610.

(c) Pennsylvania College of Podiatric Medicine, Race and Eighth Streets, Philadelphia, Pennsylvania 19107.

(d) New York College of Podiatric Medicine, 53 East 124th Street, New York, New York 10035.

(e) Ohio College of Podiatric Medicine, 10515 Carnegie Avenue, Cleveland, Ohio 44106.

(2) The board will evaluate the academic standards of schools and colleges of podiatry desiring to be approved by the board following receipt by the board of applications for approval from said schools or colleges.

Section 2. All applications for examination mentioned herein shall be submitted on application forms prescribed and provided by the board, accompanied by such evidence, statements, or documents as therein required, and shall be filed with the board at its principal office within the times prescribed herein.

(1) Every applicant, eligible to take the examination pursuant to the provisions of KRS 311.420, must submit an application to the secretary of the board at least thirty (30) days prior to the date of the examination.

(2) The fee for the examination <u>or re-examination</u> shall be the sum of $200 and must be paid at the time the application for examination <u>or re-examination</u> is filed with the board. The sum shall be payable by certified check, cashier's check or postal money order.

(3) Any applicant who fails to attain a passing score as required by the board may apply to the board for re-examination by submitting another application to the secretary of the board at least thirty (30) days prior to the date of the next examination.

[(4) If the applicant has failed to attain a score of at least seventy (70) percent in one (1) or two (2) of the subjects, but shall have attained an average of seventy-five (75) percent or better on the total examination, then he may only be re-examined on the subject or subjects in which he failed to attain a score of at least seventy (70) percent.]

[(5) The fee for re-examination in one (1) or two (2) subjects shall be twenty-five (25) dollars and the fee for re-examination for the total examination shall be fifty (50) dollars.]

Section 3. The board shall not refund the examination <u>or re-examination</u> fee except where good and sufficient cause for refunding all or a portion of the fees are shown to the board within a reasonable time prior to the date of the examination <u>or re-examination</u>.

JOSEPH P. LEONE, DPM, Chairman
APPROVED BY AGENCY: August 20, 1987
FILED WITH LRC: August 24, 1987 at 10 a.m.

STATEMENT OF EMERGENCY

Comes the Kentucky State Board of Podiatry (herinafter the board) pursuant to KRS 13A.190 and makes the following statement of explanation in support of the attached emergency regulation:
1. In November of 1987 the Kentucky State Board of Podiatry will conduct its semiannual examination of applicants for licensure.
2. Board regulations currently provide that to successfully complete the written portion, the applicant must receive an average grade of not less than 75% on the entire written examination and not less than 70% on each subject.
3. The board deems it desirable that a passing or failing grade should be determined from the examination or re-examination as a whole rather than on the basis of any single subject, and in the absence of an emergency regulation this goal may not be achievable by the date of the November examinations.

MARTHA LAYNE COLLINS, Governor
JOSEPH P. LEONE, Chairman

GENERAL GOVERNMENT CABINET
State Board of Podiatry

201 KAR 25:012E. Licensing examinations.

RELATES TO: KRS 311.420
PURSUANT TO: KRS 311.410(4)
EFFECTIVE: August 24, 1987
NECESSITY AND FUNCTION: This regulation sets out the scope and subject matter of the licensing examination.

Section 1. (1) Examination to obtain licensure shall consist of two (2) parts: a written examination and a clinical examination.
(2) Examinations shall be held at such times and places as shall be determined by the board. A schedule of the dates, times, and places of the examinations shall be mailed to each applicant whose application is accepted by the board.
(3) The board in its discretion may accept certified, successful national board of podiatry examinations in lieu of the written portion of its examination.

Section 2. (1) Written examination. To successfully complete the written portion of the examination, the applicant must receive an average grade of not less than seventy-five (75) percent on the entire written examination [and not less than seventy (70) percent on each subject].
(2) This requirement must be satisfied prior to admission to the clinical portion of the Kentucky Board of Podiatry's licensure examination.
(3) Scope of examination. Examinations shall be adequate to test the knowledge, education and training of applicants in all subjects relating to the practice of podiatry, but must remain within the subjects contained in the regular curriculum of accredited schools of podiatry.

Section 3. (1) Clinical examination. The requirements of the clinical examination shall be within the discretion of the board as to subject matter but must remain within the subjects contained in the regular curriculum of accredited schools of podiatry.
(2) Scope of examination. Examinations shall be adequate to test the ability of the applicants to apply their knowledge, education, and training in a clinical setting.

JOSEPH P. LEONE, DPM, Chairman
APPROVED BY AGENCY: August 20, 1987
FILED WITH LRC: August 24, 1987 at 10 a.m.

STATEMENT OF EMERGENCY

Comes the Kentucky Athletic Commission (hereinafter the commission) pursuant to KRS 13A.190 and makes the following statement of explanation in support of the attached emergency regulation.
1. During recent months the commission has become increasingly concerned about the possibility of the spread of infectious diseases via a boxer's mouthpiece or as the result of some other physical injury during a boxing match.
2. KRS Chapter 229 vests the Kentucky Athletic Commission with authority and responsibility, inter alia, to regulate the profession of boxing and to safeguard participants in professional boxing matches. KRS 229.091(1) provides that licensees under KRS Chapter 229 are to be subject to regulations prescribed by the commission.
3. In the absence of this emergency regulation the commission would encounter undue delay in the implementation of this needed public safeguard.
4. This emergency regulation will be replaced by an ordinary administrative regulation.

MARTHA LAYNE COLLINS, Governor
FRED H. LAMPSON, Chairman

GENERAL GOVERNMENT CABINET
Kentucky Athletic Commission

201 KAR 27:018E. Referees and seconds to wear surgical gloves.

RELATES TO: KRS 229.081, 229.091(1)
PURSUANT TO: KRS 229.180
EFFECTIVE: August 27, 1987
NECESSITY AND FUNCTION: This regulation is designed to protect referees and seconds in boxing matches from infectious or communicable diseases.

Section 1. At all times while carrying out their official duties, referees and seconds at professional boxing matches or exhibitions in Kentucky shall wear surgical gloves or such other protective clothing as may be required by the commission or a representative thereof.

FRED H. LAMPSON, Chairman
APPROVED BY AGENCY: August 14, 1987
FILED WITH LRC: August 27, 1987 at 3 p.m.

STATEMENT OF EMERGENCY

Comes the Kentucky Athletic Commission (hereinafter the commission) pursuant to KRS 13A.190 and makes the following statement of

explanation in support of the attached emergency regulation.

1. During recent months the commission has become increasingly concerned about the health and safety of a number of boxers who have been repeatedly knocked out or otherwise defeated.

2. KRS Chapter 229.111 provides, inter alia, that contestants in professional boxing matches are to be examined by a physician designated by the commission and that such boxers must be in excellent health before they are permitted to participate in a professional boxing match.

3. In the absence of this emergency regulation the commission would encounter undue delay in the implementation of this needed public safeguard.

4. This emergency regulation will be replaced by an ordinary administrative regulation.

MARTHA LAYNE COLLINS, Governor
FRED H. LAMPSON, Chairman

GENERAL GOVERNMENT CABINET
Kentucky Athletic Commission

201 KAR 27:019E. Boxer repeatedly knocked out or otherwise defeated.

RELATES TO: KRS 229.111, 229.091(1)
PURSUANT TO: KRS 229.180
EFFECTIVE: August 27, 1987
NECESSITY AND FUNCTION: This regulation is designed to protect boxers from life-threatening injury as a result of being repeatedly knocked out or otherwise defeated.

Section 1. A boxer who has been repeatedly knocked out and severely beaten shall be retired and not permitted to box again if, after subjecting him to a thorough examination by a physician, the commission decides such action is necessary in order to protect the health and welfare of such boxer.

Section 2. A boxer who has suffered six (6) consecutive defeats by knockout shall not be allowed to box again until he has been investigated by the commission and examined by a physician.

FRED H. LAMPSON, Chairman
APPROVED BY AGENCY: August 14, 1987
FILED WITH LRC: August 27, 1987 at 3 p.m.

STATEMENT OF EMERGENCY

In order to stabilize the conflict between resource user groups and limit the issuance of musseling licenses, it is necessary for the attached administrative regulation to become effective immediately. The emergency regulation will be replaced by an ordinary administrative regulation.

MARTHA LAYNE COLLINS, Governor
DON R. McCORMICK, Commissioner

TOURISM CABINET
Department of Fish and Wildlife Resources

301 KAR 1:190E. Special restrictions on the sale of musseling licenses.

RELATES TO: KRS 150.025, 150.110, 150.170, 150.190
PURSUANT TO: KRS 13A.350, 150.025
EFFECTIVE: August 27, 1987
NECESSITY AND FUNCTION: It is necessary to limit the issuance of mussel licenses in order to stabilize and eventually reduce the conflicts between mussel harvesters and other resource user groups.

Section 1. Effective August 24, 1987, and until further notice by the Fish and Wildlife Resources Commission, no additional musseling licenses will be issued and only current holders of valid musseling licenses will be permitted to renew those licenses in succeeding years.

Section 2. The musseling license is nontransferable and must be renewed in person with accompanying proof of identity and residency. The license must be renewed on or before March 31, following the year in which the license expires. Failure to renew within the specified period will result in the loss of the license.

G. WENDELL COMBS, Secretary
DON R. McCORMICK, Commissioner
CHARLES E. PALMER, JR., Chairman
APPROVED BY AGENCY: August 27, 1987
FILED WITH LRC: August 27, 1987 at 3 p.m.

STATEMENT OF EMERGENCY

In order to continue to operate the Kentucky State Penitentiary in accordance with KRS Chapter 196, the Corrections Cabinet needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because the effected institutional policy must be revised immediately to allow the Kentucky State Penitentiary to bring institutional policy into immediate compliance with recently revised Corrections Cabinet policies, to allow of changes in policy due to the resolution of an imate grievance by the cabinet secretary and for administrative changes in the way the institution's special needs inmates are classified. This emergency regulation will be replaced by the ordinary administrative regulation filed with LRC on August 14, 1987 in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor
GEORGE W. WILSON, Secretary

CORRECTIONS CABINET

501 KAR 6:040E. Kentucky State Penitentiary.

RELATES TO: KRS Chapters 196, 197, 439
PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640
EFFECTIVE: August 17, 1987
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 020000-10	Overtime Policy
KSP 020000-15	Legal Assistance
KSP 020000-20	Equal Employment Opportunity Complaints
KSP 020000-23	Recruitment and Employment of Ex-Offenders
KSP 020000-24	Educational Assistance Program
KSP 020000-29	Promotional Opportunity Announcement Program
KSP 030000-01	Inventory Records and Control
KSP 030000-04	Requisition and Purchase of Supplies and Equipment
KSP 030000-05	Inmate Personal Funds
KSP 030000-06	Inmate Commissary Program
KSP 040000-01	Management Information System
KSP 040000-02	Inmate Records
KSP 040000-08	Inmate Equal Opportunity Policy
KSP 050000-14	Searches and Preservation of Evidence (Amended 8/14/87)
KSP 060000-01	Special Security Unit
KSP 060000-02	Operational Procedures for Disciplinary Segregation, Administrative Segregation, Administrative Control and Behavioral Control Units
KSP 060000-04	Protective Custody Unit
KSP 060000-11	Criteria for Disciplinary Segregation and Incentive Time Reduction Program
KSP 070000-01	Hospital Services
KSP 070000-02	Sick Call
KSP 070000-03	Health Evaluations [(Amended 7/15/87)]
KSP 070000-04	Consultations
KSP 070000-05	Emergency Medical Procedure
KSP 070000-13	Pharmacy Procedures
KSP 070000-14	Medical Records
KSP 070000-16	Psychiatric and Psychological Services
KSP 070000-17	Dental Services for Special Management Units
KSP 070000-19	Optometric Services
KSP 070000-20	Menu Preparation and Planning
KSP 070000-24	Food Service, General Sanitation, Safety, and Protection Standards and Requirements
KSP 070000-25	Food Service Inspections
KSP 070000-30	Therapeutic Diets
KSP 090000-01	Inmate Work Programs
KSP 090000-03	Correctional Industries
KSP 100000-02	Visiting Program (Amended 8/14/87)
KSP 100000-03	Disposition of Unauthorized Property
KSP 100000-04	Inmate Grooming and Dress Code
KSP 100000-05	Procedures for Providing Clothing, Linens and Other Personal Items
KSP 100000-06	Inmate Mail and Packages (Amended 8/14/87)
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 (Amended 8/14/87)
KSP 100000-14	Property Room: Clothing Storage and Inventory (Amended 8/14/87)
KSP 100000-15	Uniform Cell Standards for Fire Safety, Sanitation and Security
KSP 100000-18	Inmate Grievance Committee Hearings
KSP 100000-20	Legal Services Program
KSP 100000-21	Photocopies for NonIndigent Inmates with Special Court Deadlines
KSP 110000-03	Governor's Meritorious Good Time Award Committee
KSP 110000-04	Preparole Progress Report
KSP 110000-06	General Guidelines of the Classification Committee
KSP 110000-07	Statutory Good Time Restoration
KSP 110000-08	Award of Meritorious Good Time
KSP 110000-10	Special Needs Inmates (Amended 8/14/87)
KSP 110000-11	Classification Committee - Transfer Requests
KSP 110000-12	Classification Committee - Inmate Work Assignments
KSP 110000-13	Classification Document
KSP 110000-14	Vocational School Placement
KSP 110000-15	Transfers to Kentucky Correctional Psychiatric Center (KCPC)
KSP 110000-16	Consideration of Further Treatment Requirements for Inmates Prior to Release
KSP 110000-19	Custody/Security Guidelines
KSP 120000-04	Academic Education
KSP 120000-07	Community Center Program
KSP 120000-08	Inmate Furloughs
KSP 120000-11	Religious Services - Staffing
KSP 120000-18	Religious Services - Religious Programming (Amended 8/14/87)
KSP 120000-20	Marriage of Inmates
KSP 120000-24	Muslim Services
KSP 120000-31	Extended Furloughs
KSP 120000-32	Discharge of Inmates by Shock Probation
KSP 130000-10	Execution Plan

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: August 14, 1987
FILED WITH LRC: August 17, 1987 at 10 a.m.

STATEMENT OF EMERGENCY

In order to continue to operate the Northpoint Training Center in accordance with KRS Chapter 196, the Corrections Cabinet needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because the effected institutional policy must be

revised immediately to allow the Northpoint Training Center to implement a series of new and revised policies to prepare the institution for an upcoming national accreditation audit. This emergency regulation will be replaced by the ordinary administrative regulation filed with the Legislative Research Commission on August 14, 1987 in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor
GEORGE W. WILSON, Secretary

CORRECTIONS CABINET

501 KAR 6:060E. Northpoint Training Center.

RELATES TO: KRS Chapters 196, 197, 439
PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640
EFFECTIVE: August 17, 1987
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 03-13-01 Travel Reimbursement for Official Business and Professional Meetings [(Amended 7/15/87)]
NTC 03-14-01 Procedures for Selection, Retention, Promotion, and Lateral Transfer of Merit System Employees [(Amended 7/15/87)]
NTC 03-14-02 Procedures for Promotional Opportunities [(Amended 7/15/87)]
NTC 03-15-01 Time and Attendance; Accumulation and Use of Accrued Time [(Amended 7/15/87)]
NTC 03-15-02 Procedures for Control of Excessive Leave Use [(Amended 7/15/87)]
NTC 03-15-03 Inclement Weather and Emergency Conditions [(Amended 7/15/87)]
NTC 03-16-01 Affirmative Action and EEO [(Amended 7/15/87)]
NTC 03-17-01 Employee Grievance Procedure [(Added 7/15/87)]
NTC 03-18-01 Educational Assistance Program [(Amended 7/15/87)]
NTC 03-18-02 Educational Achievement Award [(Amended 7/15/87)]
NTC 03-19-01 Holding of Second Jobs by Employees
NTC 03-20-01 Assistance and Counseling Services for Employees and their Families (Added 8/14/87)
NTC 03-21-01 Procedures for Employee Evaluation System [(Amended 7/15/87)]
NTC 04-01-01 Training and Staff Development (Amended 8/14/87)
NTC 04-04-01 Firearms and Chemical Agents Training
NTC 06-01-01 Offender Records (Amended 8/14/87)
NTC 06-01-02 Records - Release of Information
NTC 06-01-03 Taking Offender Record Folders onto the Yard
NTC 08-05-01 The [Duties of] Fire and Safety Officer (Amended 8/14/87)
NTC 08-05-02 Fire Procedures (Amended 8/14/87)
NTC 08-05-03 Fire Prevention (Amended 8/14/87)
NTC 08-05-04 Storage of Flammables and Dangerous Chemicals and Their Use
[NTC 08-06-01 Safety Officer (Deleted 8/14/87)]
NTC 08-07-01 Safety Standards
NTC 10-01-01 Special Management Inmates (SMU) (Amended 8/14/87)
NTC 10-02-01 Security Guidelines for Special Management Inmates
NTC 10-03-01 Protective Custody
NTC 11-03-01 Food Services: General Guidelines (Amended 8/14/87)
NTC 11-04-01 Food Service: Meals
NTC 11-04-02 Menu, Nutrition and Special Diets (Amended 8/14/87)
NTC 11-05-02 Health Standards/Regulations for Food Service Employees (Amended 8/14/87)
NTC 11-06-01 Inspections and Sanitation
NTC 11-07-01 Purchasing, Storage and Farm Products (Amended 8/14/87)
NTC 12-01-01 Institutional Inspections
NTC 12-02-01 Personal Hygiene for Inmates; Clothing and Linens (Amended 8/14/87)

NTC 12-02-02 Issuance of Personal Hygiene Products (Amended 8/14/87)
NTC 13-01-01 Emergency Medical Care Plan (Amended 8/14/87)
NTC 13-01-02 Emergency and Specialized Health Services (Amended 8/14/87)
NTC 13-02-01 Administration and Authority for Health Services
NTC 13-03-01 Sick Call and Pill Call
NTC 13-04-01 Utilization of Pharmaceutical Products (Amended 8/14/87)
NTC 13-05-01 Dental Services (Amended 8/14/87)
NTC 13-06-01 Licensure and Training Standards
NTC 13-07-01 Provisions for Health Care Delivery (Amended 8/14/87)
NTC 13-08-01 Medical and Dental Records
NTC 13-09-01 Special Diets
NTC 13-11-01 Inmate Health Screening and Evaluation
NTC 13-12-01 Special Health Care Programs
NTC 13-17-01 Inmates Assigned to Health Services
NTC 13-19-01 Mental Health Care Program
NTC 13-19-03 Suicide Prevention and Intervention Program
NTC 13-20-01 Infectious Disease
NTC 13-21-01 Vision Care/Optometry Services
NTC 13-22-01 Informed Consent
NTC 13-23-01 Special Needs Inmates
NTC 14-01-01 Legal Services Program (Amended 8/14/87)
NTC 14-02-01 Inmate Grievance Procedure (Amended 8/14/87)
NTC 14-03-01 Inmate Rights and Responsibilities
NTC 14-03-02 Board of Claims
NTC 14-04-01 Inmate Search Policy
NTC 15-01-01 Restoration of Forfeited Good Time (Amended 8/14/87)
NTC 15-02-01 Due Process/Disciplinary Procedures (Amended 8/14/87)
NTC 15-02-02 Extra Duty Assignments (Amended 8/14/87)
NTC 15-02-03 Hearing Officer (Amended 8/14/87)
NTC 15-03-01 Rules for Inmates Assigned to Outside Detail (Amended 8/14/87)
NTC 15-03-02 Rules and Regulations for General Population Dormitories (Amended 8/14/87)
NTC 15-04-01 Inmate Identification
NTC 16-01-01 Mail Regulations (Amended 8/14/87)
NTC 16-02-01 Visiting (Amended 8/14/87)
NTC 16-02-03 Honor Dorm Visiting
NTC 16-03-01 Inmate Furloughs
NTC 16-05-01 Telephone Use and Control
NTC 17-01-01 Personal Property Control (Amended 8/14/87)
NTC 17-01-02 Authorized Inmate Personal Property (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 17, 1987 at 10 a.m.

STATEMENT OF EMERGENCY

Under KRS Chapter 13A, an emergency regulation is one that due to the exigencies of the situation must be placed into effect immediately. A substantial and immediate need has arisen, due to the Commonwealth's successful efforts in attracting new businesses and industries associated with the manufacture and assembly of new motor vehicles, for a type of business license known as a motor vehicle component manufacturer, for businesses located within this state centered around processes ancillary to the manufacture and assembly of new motor vehicles. Such a manufacturer is defined in the emergency regulation.

The current statutes on the licensing of motor vehicle manufacturers apply only to those who manufacture or assemble new motor vehicles. The statutes do not encompass those who manufacture or assemble components or parts that go into motor vehicles. These ancillary businesses have an immediate and critical need for a temporary motor vehicle operating authority in order to transport or operate motor vehicles on the highways of this state from the (primary) motor vehicle manufacturer's place of business in this state to the component manufacturer's place of business, also in this state, and back again.

Existing statutes do not provide for any such temporary operating authority. An ordinary administrative regulation would not suffice for the reason that existing businesses engaged in the activity described are at risk of not being able to conduct their business in a lawful manner during the period of time required for the promulgation of an ordinary administrative regulation. This emergency administrative regulation will be replaced with an ordinary administrative regulation.

MARTHA LAYNE COLLINS, Governor
JAMES O. BUTTS, Chairman

TRANSPORTATION CABINET
Motor Vehicle Commission

605 KAR 1:160E. Motor vehicle component manufacturers.

RELATES TO: KRS 186.070, 190.010 through 190.990
PURSUANT TO: KRS 190.015, 190.020, 190.030(1), 190.058(8), 190.073
EFFECTIVE: September 15, 1987
NECESSITY AND FUNCTION: KRS 190.010(1) defines a motor vehicle manufacturer as "any person ... who manufactures or assembles new motor vehicle ..." KRS 190.030 authorizes the Motor Vehicle Commission to provide by regulation for "other licensee activities and an appropriate fee therefor." A substantial industry is in place and expanding, centered around the processes ancillary to the manufacture and assembly of new motor vehicles in this Commonwealth. The function of this regulation is to provide a means whereby motor vehicle component manufacturers may qualify for a license as such and otherwise conduct necessary business functions in accordance with applicable state laws and regulations.

Section 1. "Motor vehicle component manufacturer" means any resident person, partnership, firm, association, corporation or trust, who manufactures or assembles components or constituent parts, for inclusion in the final assembly of new motor vehicles, in this state, but is not otherwise involved in the distribution or sale of motor vehicles.

Section 2. The license fee for a calendar year or any part thereof for a motor vehicle component manufacturer shall be $100.

Section 3. The following statutes and regulations shall apply to a licensee or applicant hereunder: KRS 186.070, 190.020, 190.030(4), (5), (7), (9), (11), 190.033, 190.040, 190.053, 190.057, 190.058, 190.059, 605 KAR 1:070, and 605 KAR 1:130.

Section 4. A licensee licensed hereunder shall be prohibited from otherwise engaging in the business of a motor vehicle manufacturer or dealer.

JAMES O. BUTTS, Chairman
APPROVED BY AGENCY: September 11, 1987
FILED WITH LRC: September 15, 1987 at 10 a.m.

STATEMENT OF EMERGENCY

KRS 157.360(3)(b) and 157.580(2) provide for exemptions from maximum class size requirements, but various interpretations of the two statutes exist, and the State Board of Education's current version of 702 KAR 3:190 is the subject of a lawsuit in, and has been enjoined by Franklin Circuit Court. This emergency regulation embodies a new and revised version of the subject regulation, which needs to be put in place concurrently with the beginning of the new school year. This emergency regulation will be replaced by an ordinary administrative regulation.

MARTHA LAYNE COLLINS, Governor
ALICE McDONALD, Superintendent

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Local Services

702 KAR 3:190E. Maximum class sizes.

RELATES TO: KRS 157.360, 157.580
PURSUANT TO: KRS 156.070, 157.360, 157.580
EFFECTIVE: September 8, 1987
NECESSITY AND FUNCTION: KRS 157.360(3)(b) prescribes that the Superintendent of Public Instruction shall enforce maximum class sizes for every academic course requirement of the State Board of Education in kindergarten and grades one (1) through eight (8), except in vocal and instrumental music, art, physical education, and special education classes and shall establish procedures for exemptions to the above; and KRS 157.580 provides for the granting of exemptions after September 15 of any particular school year. This regulation implements such functions and prescribes criteria for granting class size exemptions.

Section 1. All classes shall be within the maximum class size by September 15 of each school year.

Section 2. (1) A superintendent of a local school district who can document that power equalization funds are not available in accordance with KRS 157.580(2) may request approval from the State Board of Education for a one (1) year exemption of no more classes than enroll twenty (20) percent of the pupils in kindergarten and grades one (1) through eight (8) in each school within the district, when unusual circumstances are believed to warrant an increased class size for a specific class or classes.
(2) The request for exemption shall be filed with the Professional Staff Data forms and shall be forwarded to the Office of Local Services, Division of School Management and Audit, not later than October 1.
(3) The request for exemption shall contain detailed, specific reasons and circumstances causing the increased class size for each class for which an exemption is requested. [Unusual circumstances shall be interpreted to include, but not limited to, increases in class size after September 15, caused by student change of residence from one (1) school area to a second or from one (1) district to another.]
(4) The request for exemption shall contain an educational plan assuring that all affected students will receive a quality education.
(5) The request for exemption shall include a specific plan for reducing the class size prior to the beginning of the next school year.
(6) No exemption will be granted in the same grade in the same school for more than one (1) year Transferring of students between schools in subsequent years for the purpose of qualifying for an exemption is not approvable.
(7) Since the district, as a condition for approval of an exemption, must provide a plan to alleviate the overcrowding problem, no school which has an exemption in a grade will be granted an exemption in the next grade for the following year. Transferring of students between schools in subsequent years for the purpose of

qualifying for an exemption is not approvable.
(8) The services of an aide shall be provided for all classes for which exemptions are granted.
(9) There shall be no exemptions for a class or classes with combined grades.
(10) No classes granted an exemption under KRS 157.360(3)(b) shall enroll more than five (5) students over the maximum class size requirements.

Section 3. (1) If a local school district has power equalization funds available after meeting the requirements of KRS 157.580(1), then no exemption in class size requirements shall be granted to the district, except as hereinafter provided. Through the 1987-88 school year, and regardless of the availability or unavailability of power equalization funds, if a school's enrollment increases after September 15, an exemption for reason of space limitation only, for up to two (2) students above the maximum class size may be granted to a class in which the newly enrolled students are placed. The services of an aide shall be provided for all classes for which exemptions are granted. [If by September 15 of any school year a district has complied with maximum class size requirements, then unexpended power equalization monies may be used for purposes under subsection (3) and (4) of KRS 157.580. Maximum class size exemptions shall after September 15 be governed by KRS 157.360(3)(b).]
(2) No exemptions shall be granted for kindergarten classes and for classes with combined grades.
(3) These exemptions shall be granted only after the Department of Education has made an onsite visit and analyzed the district's total classroom space, class sizes and all alternatives and has determined that the district has no means by which to meet the maximum class size requirements with available space. Temporary exemptions shall be granted by the department pending the required onsite visit and analysis.

Section 4. (1) After September 15 of the 1987-88 school year in order to provide local school districts flexibility in programming for short-term transient students, especially in those situations where such student enrollment exceeds normal vacancies based upon historical data, no student enrolled in excess of the class size cap shall be considered in determining compliance with the class size cap until such student is enrolled for three (3) school weeks. In no instance shall the number of students so classified in any one class be in excess of five (5) students above the class size cap for the applicable grade.
(2) Once such classes exceed the applicable class size caps the services of an aide shall be provided.

Section 5. [4.] The State Board of Education, through the Superintendent of Public Instruction [The Office of Local Services], shall enforce this regulation through examination of the enrollments recorded on each Professional Staff Data form and shall [certify compliance or] deny Foundation Program units, or cause the loss of power equalization funds as provided in KRS 157.580(2), to a school district in noncompliance with this regulation.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: September 2, 1987
FILED WITH LRC: September 8, 1987 at 3 p.m.

STATEMENT OF EMERGENCY

This regulation is filed as an emergency because there are some candidates for certification as building inspector who may fail to fully complete the certification requirements within the prescribed time, and local government Kentucky Building Code inspection programs may be unnecessarily hampered. This amendment to the regulation allows the commissioner to extend the timetables for full certification where an entire class of potential building inspectors have been unable to adequately prepare themselves for the examination through no fault of their own. It is intended that all candidates for certification shall continue to be actively pursuing certification. An ordinary regulation will not suffice because the regulation at present allows no flexibility to the commissioner and the upcoming test to be given by BOCA is based upon the new version of the BOCA code not yet made available to the candidates. An ordinary regulation will replace this emergency regulation.

MARTHA LAYNE COLLINS, Governor
ROBERT M. DAVIS, Secretary
CHARLES A. COTTON, Commissioner

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings & Construction
Division of Building Codes Enforcement

815 KAR 7:070E. Requirements for certification of Kentucky Building Code inspectors.

RELATES TO: KRS 198B.040(3), 198B.050(3)(c), (6), 198B.090
PURSUANT TO: KRS 198B.050(5)
EFFECTIVE: August 28, 1987
NECESSITY AND FUNCTION: The department is required by KRS 198B.090 to create and administer a building official's certification program which is designed to ensure uniform statewide enforcement of applicable state building codes. This regulation establishes the testing, training and continuing education requirements for two (2) specifically designated professional classifications of building code inspectors: building inspector and plans and specifications inspector.

Section 1. Definitions and Categories of Inspectors. The scope of authority for each category of inspector identified is specifically limited according to the following description of responsibilities. Depending on the type and level of responsibility assumed by the jurisdiction, certification in more than one (1) category may be required.
(1) "Certified building inspector" means a person whose responsibility it is to inspect buildings as part of a permit application, to determine that the structures are free from conditions that would present a life safety, health or fire hazard to persons using such buildings, and to determine that the buildings are constructed in accordance with the Kentucky Building Code. This person must have been tested for competency in NCPCCI modules 1B and 3B and

otherwise met the requirements of the department. This person is authorized by this regulation to make on-site inspections of all buildings, including one (1) and two (2) family dwellings within his/her jurisdiction, regardless of size. This person is further authorized to review and approve plans on those buildings which are the responsibility of local governments under KRS 198B.060(2).

(2) "Certified plans and specifications inspector" means a person whose responsibility it is to determine that the plans submitted as part of a building permit application comply with the Kentucky Building Code and referenced standards, and who has been tested for competency in NCPCCI modules 1B, 1C, 3B and 3C and otherwise met the requirements of the department as set forth in this regulation. This person is further authorized to inspect all buildings within his/her jurisdiction, regardless of size to determine if those buildings are constructed in accordance with the plans and in accordance with the Kentucky Building Code.

(3) "Limited certificate" means a limited authorization issued by the department which represents the level of competency for which a person has been tested. The department will issue a document specifying on its face that the person is qualified to perform the stated activity only. This certificate shall be issued only after the person has met the training requirements stated in Section 3 of this regulation.

(4) NCPCCI means "National Certification Program for Construction Code Inspectors" and are exam modules developed by the national code enforcement organizations in collaboration with the Educational Testing Service for the purpose of providing nationally recognized evidence of competence and professionalism in construction code enforcement and shall be used to meet the module testing requirements required herein. Other required training or testing shall be provided through the department.

Section 2. Inspection Operations. (1) It is the specific intention of this regulation to ensure that all Kentucky Building Code inspection programs require plan review and on-site inspection of buildings only by persons who have been tested for competency under this regulation.

(2) Each person who has successfully completed any NCPCCI exam module as listed in this regulation shall be given a "limited certificate." This certificate shall qualify the individual only for that inspection or plan review function on which he/she has been tested. For example, persons holding a limited certificate for NCPCCI Module Building One (1) and Two (2) Family-1A are deemed qualified to inspect and review plans for single family and duplex residential buildings only. Each person must renew the certification as required by Section 5(2) of this regulation and otherwise comply with this regulation.

(3) Each local government and the department shall provide for the services of certified inspectors. In circumstances where the jurisdiction chooses to distribute the inspection or plan review functions to more than one (1) person, each person shall be certified in his/her respective area of responsibility.

(4) Certification of plumbing, elevator and electrical inspectors are not covered by this regulation.

Section 3. Training and Testing Requirements to Become Certified as a Kentucky Building Code Inspector. (1) Each candidate seeking certification shall possess the ability to read and write the English language and possess a general educational level satisfactory to perform his duties.

(2) Each candidate seeking to become certified pursuant to this regulation shall be required to be trained and/or tested on the administrative and accessibility sections of the Kentucky Building Code as determined by the board.

(3) Each candidate seeking certification shall successfully complete the NCPCCI exam module(s) which is/are applicable to the activity in which said candidate shall be engaged. Unless the candidate qualifies as actively pursuing departmental certification under Section 4 of this regulation, no person shall be responsible for any inspection or plan review activity for which he/she has not been tested and passed said test. The testing modules are as follows:

(a) Building One (1) and Two (2) Family - 1A;
(b) Building General - 1B;
(c) Fire Protection General - 3B;
(d) Building Plan Review - 1C;
(e) Fire Protection Plan Review - 3C.

(4) Continuing education. From time to time, the department shall establish continuing education programs for the purpose of keeping the inspectors updated on code requirements. Participation in these programs shall be mandatory for all inspectors in order to maintain certification.

Section 4. Deadline for Certification. (1) All persons charged with the responsibility of inspecting and reviewing buildings plans for compliance with the Kentucky Building Code shall be certified or enrolled and actively pursuing departmental certification within ninety (90) days after employment of such inspector. Such person shall register with the department, complete the necessary application forms and pay the required fees stated in Section 5 of this regulation, within said timetable.

(2) "Actively pursuing departmental certification" means that each person who is seeking certification pursuant to this regulation shall sit for examination of at least one (1) module of the NCPCCI per year. Failure of any candidate to receive a passing score on each required module within three (3) years of employment shall terminate that person's ability to qualify under this definition. Limited certificates may continue to be renewed after three (3) years.

EXCEPTION 1: Where any candidate has been employed by a local jurisdiction and his three (3) years have expired, he shall be allowed one (1), and only one (1), additional year from the date of his original employment to achieve certification, upon written petition of the jurisdiction to the commissioner and still be covered by this definition. This exception is available only to those candidates who have passed at least one (1) required NCPCCI test module within the three (3) year period. No candidate shall be allowed to use this exception more than once. The petition must be filed prior to the expiration date of the certificate holder and prior to June 30, 1988 [December 31, 1987].

EXCEPTION 2: The commissioner, in his discretion, may waive the literal requirements of this section, as applied to an entire class of candidates, whenever circumstances warrant such waiver because changes in testing procedures, standards or dates or other reasons would render such strict application unfair.

(3) Time constraints for certification as stated in subsection (2) of this section shall not apply to those persons seeking certification who are not engaged in an inspection or plan review capacity.

Section 5. Application for Training and Certification. (1) Each person seeking to become a candidate for certification pursuant to this regulation shall submit an application on a form provided by the department, together with a fee of twenty-five (25) dollars to cover the administrative costs of processing the application, establishing the training program and issuing certificates.

(2) Each certified inspector and each candidate actively pursuing certification shall be required to pay an additional annual renewal fee of the sum of twenty-five (25) dollars no later than June 30, of each year in order to maintain his/her certification.

Section 6. Suspension and Revocation of Certification. (1) Formal written complaints concerning an inspector must be submitted through the department to the Board of Housing, Buildings and Construction for review and appropriate action.

(2) If, upon investigation, the board determines that there is reason to believe that the certified inspector has willfully, negligently or recklessly violated his/her duties as set forth in this regulation, the board may take action for the revocation or suspension of his/her certificate. No such action shall be taken unless the inspector is afforded the opportunity to be heard.

CHARLES A. COTTON, Commissioner
ROBERT M. DAVIS, Secretary
APPROVED BY AGENCY: August 27, 1987
FILED WITH LRC: August 28, 1987 at 2 p.m.

STATEMENT OF EMERGENCY

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

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

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

904 KAR 3:020E. Eligibility requirements.

RELATES TO: KRS 194.050
PURSUANT TO: KRS 194.050
EFFECTIVE: September 2, 1987
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer a Food Stamp Program as prescribed by the Food Stamp Act of 1977, as amended, and 7 CFR Part 270 through 280. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth the eligibility requirements used by the cabinet in the administration of the Food Stamp Program.

Section 1. Eligibility Requirements. In accordance with regulations promulgated by the Food and Nutrition Service (FNS), of the United States Department of Agriculture, national uniform standards of eligibility for the Food Stamp Program, composed of both financial and nonfinancial criteria, shall be utilized. Financial criteria shall consist of income and resource limitations. Nonfinancial criteria shall consist of certain technical factors. Participation in the program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. The income eligibility standards are derived from the Office of Management and Budget's (OMB) nonfarm income poverty guidelines.

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

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

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

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

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

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

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

(7) Annuities; pensions; retirement; veteran's or disability benefits; worker's or unemployment compensation; strike pay; old-age, survivors, or

social security benefits; foster care payments for children or adults; gross income minus the cost of doing business derived from rental property in which a household member is not actively engaged in the management of the property at least twenty (20) hours a week.

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

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

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

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

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

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

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

(15) Earnings to individuals who are participating in on-the-job training programs under the Job Training Partnership Act. This provision does not apply to household members under nineteen (19) years of age who are under the parental control of another adult member.

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

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

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

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

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

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

(6) As defined in 7 CFR 273.9(c), educational loans on which payment is deferred, grants, scholarships, fellowships, veteran educational benefits, and the like to the extent that they are used for tuition and mandatory fees at an institution of post secondary education, including correspondence schools at that level, or a school at any level for the physically or mentally handicapped. Origination fees and insurance premiums on student loans are excludable charges. For federal education assistance programs funded under Title IV of the Higher Education Act, additional income exclusions include costs of books, travel, routine supplies, and cost for rental or purchase of equipment used for educational purposes. Portions of nonfederal (state, local, or private) deferred payment educational loans are excluded based on provisions contained in 7 CFR 273.9(c)(4).

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

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

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

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

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

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

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

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

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

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

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

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

income poverty guidelines.

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

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

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

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

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

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

(a) Medical and dental care;

(b) Hospitalization or outpatient treatment and nursing care;

(c) Medication and medical supplies;

(d) Health and hospitalization premiums; and

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

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

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

(2) $2000: for all other households.

(3) Households which are categorically eligible as defined in CFR 273.2 shall be considered as having met the food stamp resource requirement.

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

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

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

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

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

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

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

(7) Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to legal sanction if funds are not used as intended.

(8) Resources whose cash value is not accessible to the household.

(9) Resources which have been prorated as income.

(10) Indian lands held jointly with the tribe, or land that can be sold only with the approval of the Department of the Interior's Bureau of Indian Affairs; and

(11) Resources which are excluded for food stamp purposes by express provision of federal statute.

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

Section 9. Nonfinancial Criteria. Nonfinancial eligibility standards apply equally to all households and consist of:

(1) Residency. A household must live in the county in which they make application;

(2) Identity. Applicant's identity will be verified; also, where an authorized representative applies for the household, both the applicant's and the authorized representative's identities will be verified;

(3) Citizenship and alien status. Program participation shall be limited to either citizens of the United States or eligible aliens, as outlined in 7 CFR Part 273.4. Individuals whose status is questionable shall be ineligible to participate until such status has been verified;

(4) Household size. Size of household will be verified through readily available documentary evidence or through a collateral contract; and

(5) Students. Persons aged eighteen (18) to sixty (60) who are physically and mentally fit and enrolled at least half-time in an

institution of higher education are ineligible to participate unless they meet criteria specified in 7 CFR Part 273.5.

(6) Mandatory monthly reporting (MMR). Households shall be required to file monthly reports in accordance with 7 CFR 273.21 and any waivers thereto approved by FNS as a condition of eligibility, unless otherwise exempted by the appropriate federal agency.

(7) Social security number (SSN). Households applying for or participating in the Food Stamp Program must comply with SSN requirements by providing the SSN of each household member or applying for one (1) prior to certification. Failure to comply without good cause shall be determined for each household member and shall result in such individual's disqualification from participation in the Food Stamp Program until this requirement is met.

(8) Work registration. All household members, except those exempt in 7 CFR Part 273.7(b), shall be required to register for work, accept suitable employment and be subject to other work registration requirements specified in 7 CFR Part 273.7. Strikers whose households are eligible in accordance with 904 KAR 3:035, Section 5(9), shall be subject to the work registration requirements unless exempt for reasons other than employment at the time of application.

(9) Quality Control. Refusal to cooperate in completing a quality control review shall result in termination of the participating household's benefits.

Section 10. Provisions contained in this regulation shall become effective September [April] 1, 1987 unless otherwise specified.

MIKE ROBINSON, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: August 25, 1987
FILED WITH LRC: September 2, 1987 at 2 p.m.

AMENDED AFTER HEARING

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

401 KAR 4:060. Stream construction criteria.

RELATES TO: KRS 151.100, 151.110, 151.180, 151.210, 151.250, 151.260, 151.280, 151.310,
PURSUANT TO: KRS 151.125, 151.230
NECESSITY AND FUNCTION: This regulation provides minimum standards necessary to ensure the wise use of the Commonwealth's flood-prone areas while protecting the safety and welfare of the public and preventing both flood damages and increased flood levels. These aims are addressed through provisions which require that all development in the base floodplain is in a manner which precludes flood damages. In addition, there are provisions which ensure that flood levels are not unduly increased. The provisions of this regulation will be implemented through the permitting authority in KRS 151.250.

Section 1. Applicability. The provisions of this regulation apply to all construction across, along, or adjacent to a stream (i.e. the base floodplain) or in the floodway of a stream for which a construction permit is required pursuant to KRS 151.250, except for the construction of dams as defined in KRS 151.100.

Section 2. Definitions. (1) "Backwater effect" means the rise in water surface elevation caused by obstruction of a stream's flow, such as by a narrow bridge opening, buildings or fill material that limits the area through which the stream's flow must pass.

(2) "Base flood" means the flood having a one (1) percent chance of being equaled or exceeded in any given year, also called the 100-year frequency flood.

(3) "Base floodplain" means the area along, adjacent to, and including a stream, which area is inundated by the base flood on that stream.

(4) "Cabinet" means the Natural Resources and Environmental Protection Cabinet.

(5) "Conveyance" is a measure of the flow-carrying capability of a stream cross section and is equal to the flow rate at a given depth in cubic feet per second divided by the square root of the slope of the energy grade line in feet per foot.

(6) "Cross section" means a graph or plot of ground elevation across a stream valley or portion of it along a line perpendicular to the direction of stream flow.

(7) "Designated floodway" means the stream and that portion of the adjacent base floodplain specified by a local ordinance or indicated on National Flood Insurance Program maps to be kept free of obstructions to the passage of flood flows.

(8) "Energy grade line" is a representation of the total energy possessed by flowing water. The value at any point on the line can be expressed as an elevation in feet above mean sea level equal to the elevation of the water surface plus the hydraulic head. Hydraulic head is approximately equal to the quotient of the square of the average velocity over the cross section divided by twice the acceleration of gravity ($V^2/2g$).

(9) "Flood crest" means the maximum stage or elevation reached or expected to be reached by waters of a specific flood at a given location.

(10) "Flood frequency" is a statistical expression of the average time period between floods equaling or exceeding a given magnitude.

(11) "Floodproofing" means structural changes or adjustments to new or existing structures and facilities, their contents, or their sites for the purpose of reducing or eliminating flood damages by protecting against structural failure, keeping water out, or reducing the effect of water entry.

(12) "Flood warning" means the issuance and dissemination of information about an imminent or current flood.

(13) "Floodway" see "designated floodway" and

"regulatory floodway."

(14) "Lowest floor" means the lowest floor of the lowest enclosed area, including any basement. An unfinished or flood resistant enclosure usable solely for parking of vehicles, building access, or storage of mobile equipment or of property that is not flood damageable in an area other than a basement is not considered a building's lowest floor.

(15) "National Flood Insurance Program", or NFIP, is a federal program which makes available flood insurance protection to property owners in flood-prone areas. To qualify for the sale of this federally-subsidized flood insurance, this program requires a community to adopt and submit to the Federal Emergency Management Agency (FEMA) base floodplain management regulations which satisfy FEMA's minimum requirements designed to reduce or avoid future flood or flood-related damages.

(16) "100-year flood" means a flood of a magnitude having a one (1) percent chance of occurring in any given year and which, over a very long period of time, can be expected to be equalled or exceeded on the average of once every 100 years.

(17) "Permit" means a permit for construction across, along, or adjacent to a stream subject to the provisions of KRS 151.250. (Permits for the construction of dams are not included in this definition.)

(18) "Profile" means a graph or plot elevation of the water surface or channel bottom against distance along the stream.

(19) "Regulatory floodway" means the stream channel and that portion of adjacent land area that is required to pass flood flows without raising the base flood crest elevation by more than one (1) foot. In urban areas, backwater effect may be limited to less than one (1) foot.

(20) "Stream" shall mean any river, creek or channel, having well-defined banks, in which water flows for substantial periods of the year to drain a given area, or any lake or other body of water in the Commonwealth.

(21) "Substantial improvement" means any combination of repairs, reconstruction, alteration, or improvements to a structure, taking place during a five (5) year period, in which the cumulative cost equals or exceeds fifty (50) percent of the market value of the structure. The market value of the structure should be:

(a) The appraised value of the structure prior to the start of the initial repair or improvement; or

(b) In the case of damage, the value of the structure prior to the damage occuring. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions.

(22) "Urban area" for the purpose of this regulation means the following:

(a) The area within the present corporate limits plus the adjoining area that is or could be under the statutory extraterritorial zoning jurisdiction of any city, village, or town;

(b) Any group of three (3) or more seasonal or permanent residential buildings or other buildings that are served by public utilities, such as public water and sanitary facilities; or

(c) Any other area where the developments are urban in nature.

(23) "Watershed" means the total area from which surface runoff is carried away by a stream.

Section 3. General Provisions. (1) The provisions of this regulation shall constitute minimum criteria for the issuance of permits for stream construction pursuant to KRS 151.250. If the cabinet determines that additional information is pertinent or best engineering practice requires, it may apply more stringent considerations.

(2) The permittee shall provide the cabinet with written notification that construction was completed in accordance with approved plans and specifications not later than ninety (90) days after completion of construction.

(3) Any construction limits specified in the permit shall be plainly staked or otherwise marked on the site.

(4) Public notification.

(a) As part of the stream construction permit issuance procedure, the cabinet will require [process,] each applicant to provide notice to all parties who might be affected by the construction that a permit has been requested.

1. For those projects that the cabinet determines will have flooding impacts beyond the local area of the construction, the cabinet will require the applicant to [shall] publish a notice in the newspaper or newspapers having greatest circulation in the area of the proposed construction. This notice shall provide:

a. [1.] The name of the applicant;

b. [2.] The location, nature, and extent of the proposed construction; and

c. [3.] The address and telephone number of the cabinet agency responsible for issuing the permit and stating the comments and objections are to be directed to that agency. The notice shall be run for period of three (3) consecutive days or printings of the newspaper; however, for weekly newspapers the cabinet may reduce this requirement to two (2) consecutive printings upon written request of the applicant.

2. Where the cabinet determines that flood impacts will be localized, it may allow the applicant to obtain and submit affidavits from all parties who reside, own property, or have other legitimate property interests in the affected areas. This affidavit will contain a complete description of the proposed construction, a place for concerned parties to sign indicating that they have read the statement and that they understand that a permit application is being submitted to the cabinet, and the name and address of the cabinet representative to whom statements of concern or request for hearing may be addressed.

3. For construction projects that the cabinet determines will have negligible flood impacts (e.g. placement of electrical utility power poles or transmission towers where no fill is included or minor streambank restoration), the cabinet may waive the public notification requirement after receipt of a written request from the applicant to do so.

4. The cabinet will notify all persons filing comments or objections to the issuance of any permit of their right to be heard pursuant to

the provisions of KRS 151.182(2).

(b) Proof that the [this] notice was published or the original of the completed affidavit, as applicable, must be provided to the cabinet before the application will be considered complete; however, technical review of the application by the cabinet may proceed before such proof is provided. In no case shall issuance of the permit proceed until proof of notice is submitted.

(c) [(b)] The public notice required in paragraph (a)1 of this subsection [(1) of this section] shall be at least three column inches in size, but in all cases shall be large enough that all of the information required in subsection (1) is easily readable.

(d) [(c)] If the cabinet determines any of the conditions of paragraph (a) of this subsection are not met by the initial notice or affidavit, it may require that the applicant place another notice or provide another affidavit which does so. The application will not be considered complete until the applicable [these] public notification provisions of this subsection are satisfied.

Section 4. Uses of Regulatory Floodway. (1) Except as provided below, no fill, deposit, obstruction, excavation, storage of materials, or structure, either alone or in combination with existing or future similar works, which could adversely affect the efficiency or the capacity of the regulatory floodway, existing streams, or drainage facilities shall be allowed to be placed in the regulatory floodway. The determination of adverse effects shall be based on the assumption that all allowable encroachment will occur above and below the project site and [the encroachment resulting from any such proposed activity will extend for a significant reach of the stream together with fully approvable encroachment] on both [the opposite] sides of the stream and shall be made in the manner described in Section 5 of this regulation. Neither shall structures that are:

(a) Designed for human habitation;

(b) Associated with high flood damage potential;

(c) Not connected with permitted open space uses; or

(d) Structures consistent with open space uses, but that could themselves obstruct flood flows, be allowed in the regulatory floodways. Other prohibited uses of areas within regulatory floodway limits include storage of materials that are buoyant, flammable, explosive, or injurious to human, animal or plant life.

(2) The following activities will be allowed [may be allowable] for land within the regulatory floodway limits of a stream if they are not of such nature as to result in increases in flood elevations:

(a) Open space uses having no appreciable flood damage potential such as those associated with agriculture, silviculture, recreation, parking, storage yards, and certain sand and gravel operation;

(b) Certain structures accessory to permitted open space uses if the structures are designed, constructed and placed on the lot so as to offer the minimum obstruction to flood flows;

(c) Structures necessary for navigation and water-borne freight handling, for transportation or utility crossings, provided the cabinet determines that every effort has been made to reduce the impact of all such facilities on flooding and provided that such facilities considered alone or in conjunction with permissible development above and below it and on the opposite side of the stream shall under no circumstances create an [undue] increase in flood elevations in excess of that which is appropriate for determination of the floodway boundaries at that site as discussed in Section 5 of this regulation;

(d) Dredging or other removal of material from between the stream banks, provided disposal of the dredged material is outside of the regulatory floodway; and

(e) Other activities exempted by regulations 401 KAR 4:020 and 401 KAR 4:050.

Section 5. Determining Regulatory Floodway Boundaries. (1) The regulatory floodway boundaries shall include the stream channel and that portion of the adjacent land areas required to pass the base flood discharge without increasing the water surface elevation at any point more than one (1) foot [above the prefloodway condition]. Where the streamflow is supercritical, or where velocity is so high that backwater considerations are not possible or appropriate, the determination of regulatory floodway boundaries will be based on a one (1) foot maximum allowable rise in the energy grade line. When making these calculations, the cabinet will use methods which consider equal conveyance losses on opposite sides of the stream.

(2) For stream segments for which a local government has used methods comparable to those specified in this section to define floodway boundaries and has adopted these boundaries by ordinance or for which the Federal Emergency Management Agency (FEMA) has determined and mapped floodway boundaries, the cabinet will consider these designated floodway boundaries to define the regulatory floodway. If both locally-determined floodway boundaries and FEMA maps are available, the more stringent will apply for purposes of this regulation.

(3) Notwithstanding any other provisions of this regulation, in urban areas or other locations where, on a case-by-case basis, the cabinet determines that the one (1) foot increase in base flood elevation allowable in determining regulatory floodway boundaries would create an undue increase in flood damages, it may impose a more stringent limitation on the floodway determination.

(4) Base flood flow information shall be determined by one of the following methods, which are listed in descending order of preference:

(a) The base flood flow frequency curve for gaged sites on unregulated streams shall be obtained from the district office of the U.S. Geological Survey, Water Resources Division or the appropriate U.S. Army Corps of Engineers district office. These data shall be applied so as to provide the best discharge estimates for the site under consideration. Peak discharges for ungaged sites on a gaged stream may consider both the gaged site information and information from an appropriate regional estimate, where available. The transfer technique for establishing discharges at the ungaged location shall be by interpolation or extrapolation methods approved by the cabinet. For gaged

streams with regulated flows, peak discharges will be obtained from the agency responsible for the regulation.

(b) For ungaged streams one of the following will be used:

1. Where the watershed area is greater than ten (10) square miles, the source of information will be "Techniques for Estimating Magnitude, Frequency, and Duration of Flows in Kentucky," U.S. Army Corps of Engineers, 1984;

2. Where the watershed area is greater than three (3) square miles but less than 100 square miles, base flood flow may be based on the U.S. Soil Conservation Service's "National Engineering Handbook, Section 4: Hydrology," latest edition; or

3. Where drainage areas are less than ten (10) square miles, the cabinet may approve the use of other generally accepted methods.

(5) In performing the calculations for regulatory floodway boundaries, the cabinet will use the most recent version of the U.S. Army Corps of Engineers Hydrologic Engineering Center's computer program HEC-2.

(a) The applicant shall provide cross sections for determining floodway boundaries at any proposed construction site where FEMA maps are not available. All cross sections shall be referenced to mean sea level and shall have vertical error tolerances of no more than ± five-tenths (0.5) foot. Cross sections elevations shall be taken at those points which represent significant breaks in slope and at points where hydraulic characteristics of the base floodplain change. Each cross section shall extend across the entire base floodplain and shall be in the number and at the locations specified by the cabinet. Where necessary to ensure that significant flood damage will not occur, the cabinet may require additional cross sections or specific site elevations which extend beyond those needed for making routine regulatory floodway boundary calculations.

(b) Roughness values for use in regulatory floodway computations will be calibrated from existing flood information, where possible. If such information is not available, the cabinet will base these values on the U.S. Geologic Survey's "Roughness Characteristics of Natural Channels" and on the professional judgment of the cabinet's engineers. The cabinet may require the applicant to provide photographs or other information which may be helpful in making this determination.

(c) Slope values used for regulatory floodway boundary calculations will be based on flood profiles where available.

(d) Conveyance loss shall be calculated through the HEC-2 equal loss method.

Section 6. Placement of Flood-damageable Property in Floodplain. (1) In order to minimize or prevent the harmful effects of stream flooding, the cabinet will not issue permits for the placement or construction of flood-damageable property in the base floodplains of streams, unless such placement or construction conforms to the requirements of the following subsection.

(2) In issuing construction permits pursuant to KRS 151.250 for the placement of flood-damageable property within the base flood inundation area, it will be the cabinet's policy to:

(a) Require that all new construction and substantial improvements of residential structures within the base floodplain have the lowest floor (including basement) elevated to <u>at least</u> the base flood level or above <u>if the local government has a more stringent requirement</u>, unless granted an exception by the cabinet for the allowance of basements and/or storm cellars which shall be properly floodproofed;

(b) Require that all new construction and substantial improvements of nonresidential structures within the base floodplain:

1. Have the lowest floor (including basement) elevated to the base flood level or above; or

2. Together with attendant utility and sanitary facilities, be designed so that below the base flood level the structure is properly floodproofed with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(c) Require that a floor elevation or floodproofing certification be provided by the permittee after the lowest floor is completed. Upon placement of the lowest floor, or floodproofing by whatever construction means, it shall be the duty of the permit holder to submit to the Division of Water a certification of the elevation of the lowest floor or floodproofed elevation, whichever is applicable, as built, in relation to mean sea level. Said certification shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same. When floodproofing is used for a particular building, said certification shall be prepared by or under the direct supervision of a professional engineer [or architect] and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Division of Water shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being performed. Failure to submit the survey or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project; and

(d) Require that all manufactured homes (mobile homes), except in an existing manufactured home (mobile home) park or subdivision, must be elevated and properly anchored to resist flotation, collapse, or lateral movement. Placement in an existing manufactured home (mobile home) park or subdivision requires that the home be properly anchored. The expansion of an existing manufactured home (mobile home) park or subdivision constitutes new construction and placement in that newly developed area shall conform to both elevation and anchoring requirements.

Section 7. Construction Materials. To avoid secondary adverse impacts from stream construction projects, all materials used in such projects shall be stable and inert, free from pollutants and floatable objects, and shall meet all appropriate engineering standards applicable to the construction project.

Section 8. Variances and Exceptions. (1) Encroachments which cause a backwater effect of more than one (1) foot may be allowed by the

cabinet provided the applicant owns the entire affected property on both sides of the stream, the amount of backwater at the nearest upstream property line is no more than considerations in Section 5 of this regulation would allow, and the cabinet has reasonable assurances that none of the applicant's property within the area of such excessive backwater will be subdivided and sold. Reasonable assurances shall include zoning considerations that would preclude subdivision of the property or deed restrictions that create such a binding condition. All structures built in such areas shall have their lowest floor elevation at or above the altered elevation or be floodproofed to that elevation.

(2) The cabinet may allow regulatory floodway boundaries to be shifted by changing allocation of conveyance losses. In doing this, the cabinet may redesignate the regulatory floodway boundary on one (1) side of a stream to be closer to the stream channel provided that a permanent flooding easement can be provided for a compensating area on the opposite side. This easement shall include that area extending from the top of the opposite stream bank to whatever distance away from the stream that is required to compensate for the proposed streamward shift of the floodway boundary. The easement shall be made part of the deed or deeds for the affected property, shall prohibit placement of any obstruction thereon, and shall specify the Commonwealth as the owner of the easement rights. In addition, the cabinet may impose any other conditions it determines to be necessary to offset potential adverse flooding impacts. When regulatory floodway boundary changes are approved by the cabinet, the applicant(s) shall be responsible for having changes made to the appropriate FEMA boundary maps.

(3) In some cases, due to printing errors, boundary changes from subsection (2) of this section, or other circumstances, areas along streams may be incorrectly indicated as being within the designated floodway on FEMA maps. If such an error is suspected, an applicant may request the cabinet to perform an independent analysis of the situation. The applicant shall be responsible for obtaining all site-specific information for such analysis including, if necessary, the information used for the initial FEMA study. The cabinet will perform the analysis and, if the mapped information is indeed incorrect, it will assist the local community, as resources allow, in getting the maps revised. The cabinet's permit will reflect the boundaries determined by the corrected analysis.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: September 14, 1987
FILED WITH LRC: September 14, 1987 at 11 a.m.

TRANSPORTATION CABINET
Department of Vehicle Regulation
(Amended After Hearing)

601 KAR 1:115. Taxicabs.

RELATES TO: KRS Chapter 281
PURSUANT TO: KRS 281.600
NECESSITY AND FUNCTION: This regulation provides general procedures for operation of taxicab business as it pertains to information that must be filed with the cabinet.

Section 1. Procedure; Sale or Transfer of Taxi Certificate. Upon the filing of an application for approval of a sale or transfer of a taxicab certificate or portion thereof, the cabinet shall issue notice in accordance with 601 KAR 1:070. In the event no protest is filed in accordance with 601 KAR 1:030, the commissioner may approve the sale and transfer without a hearing. This shall be construed to include the sale or transfer of the right to operate one (1) or more taxicabs [where such sale or transfer is of a number of cabs less than the total amount authorized to be operated by the original certificate, and where an additional certificate may be created thereby]. Should the applicant receive no notification from the cabinet prior to the date set for hearing, an appearance shall be made at the time and place set forth in the notice thereof prepared to proceed with the case.

Section 2. Taxicab Operations. All taxicab certificates shall [will] be issued to allow operations [operate] at a designated town or city and its suburban area, and all operations shall [must] be in [at] or originate from such designated town or city and its suburban area. The origin of the operation is the place at which the passenger is picked up by the taxicab. An operator who has secured a certificate to operate at a designated town or city and its suburban area shall [will] not be permitted to change the place of operations. Operations from any town or city or its suburban area [town] other than designated in the certificate shall constitute a cause for suspension or cancellation of the certificate.

Section 3. List of Drivers. All taxicab operators shall maintain a complete list of the taxi drivers employed by such operator. This list shall be on file at the office or cab stand of such operator, and shall [will] be available for inspection at any time. This list shall contain the name, address, age and driver or chauffeur's badge number of each driver and all changes of drivers shall be promptly noted on said list.

Section 4. Decrease in Number of Cabs Operated. Whenever any taxicab operator desires to decrease the number of cabs which he has in operation, he may do so by notifying the cabinet and surrendering the tag or tags issued to such cab or cabs by the cabinet. Should any taxicab operator, at any time during the same year, desire to replace in operation any cab so dropped, he shall [must] do so by notifying the cabinet and procuring the proper tag or tags. If the cabs which are dropped are not properly replaced in operation within three (3) years of the next renewal date of the taxicab certificate, such cabs so dropped and not replaced shall [will] constitute a forfeiture of such cabs, and an application shall [will] be necessary before the replacement of such cabs will be authorized.

Section 5. Trip Records. All taxicab operators certificated to operate one (1) or more taxicabs from a city of the first or second class within the Commonwealth or operating into such a city in intrastate commerce with a point of origin or destination outside this state, shall maintain an accurate record of the origin, destination and date of all trips made by each of its

licensed taxicabs. These records may be the daily log reports kept by the drivers. These origin and destination reports shall be kept by the operator for at least one (1) year and shall be available for inspection by the Transportation Cabinet.

Section 6. Taxicab Identification Cards. An application or renewal application for a Kentucky taxicab identification card and plate shall be made on forms prescribed and furnished by the Department of Vehicle Regulation for each vehicle to be operated as a taxicab. The applicant **shall** [must] provide at a minimum the complete vehicle identification number, year, make and seating capacity for the vehicle. In addition, the Kentucky license plate number and name of the lessor, if the vehicle is leased, shall also be provided.

Section 7. Taxicab Identification Card Renewal. Each Kentucky taxicab identification card and plate shall be renewed annually on or before December 31.

JOHN PENROD, Commissioner
C. LESLIE DAWSON, Secretary
APPROVED BY AGENCY: September 3, 1987
FILED WITH LRC: September 4, 1987 at 10 a.m.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Vocational Education
(Amended After Hearing)

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

RELATES TO: KRS 156.035, 163.030
PURSUANT TO: KRS 156.070, 163.030
NECESSITY AND FUNCTION: KRS 156.035(2) authorizes the State Board of Education to provide for the proper disbursement of state funds for the benefit of programs under its control and management; and KRS 163.030 authorizes the state board to carry out the purposes of the state's vocational education program. This regulation establishes a procedure for distribution of appropriated funds to local school districts operating area vocational education centers and local vocational education departments.

Section 1. The funds appropriated by the General Assembly to support locally operated vocational education departments and centers shall be distributed to the local districts named in the biennial budget.

Section 2. All funds shall be distributed according to the following basic formula. Funds will be allotted on a per teacher basis for each approved vocational teacher in the previous school year. For 1987-88, the local district shall receive $21,000 per teacher for one (1) to five (5) teachers, except that the amount shall vary according to the total funds available; $16,000 per teacher for six (6) to nine (9) teachers; and $10,000 per teacher for ten (10) or more teachers.

Section 3. Approved teacher count per school shall:

(1) Include all teachers in the school if the number is five (5) or less.
(2) Consist, for those schools above five (5) teachers, of those qualified, approvable teachers included in the actual vocational facility. The teachers counted shall include the following:
(a) All Industrial Education Level III, distributive education and health services teachers;
(b) Only those agriculture teachers in full-time horticulture or agricultural mechanics programs;
(c) Only those home economics teachers in full-time gainful home economics programs such as child care and commercial foods;
(d) Only business education teachers not to exceed three (3) after subtracting two (2) from the total number of business teachers in the **home high** school; and
(e) Only those special vocational teachers in developmental occupational programs.

Section 4. Districts receiving this supplemental funding must have a plan to provide supervision by a qualified vocational education administrator [as indicated in 705 KAR 3:030 Section 1(6)].

Section 5. Those state operated area vocational education centers which have become locally operated since 1980 shall have a contract of agreement equal to the amount of the funds calculated for the districts specified in Section 1 of this regulation, except that no district shall receive less than the amount received in 1986-87 for basic contract and twenty (20) percent capital outlay funds. Other districts agreeing to local control will receive the amount provided for the districts specified in Section 1 of this regulation.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: September 2, 1987
FILED WITH LRC: September 9, 1987 at 11 a.m.

CABINET FOR HUMAN RESOURCES
Department for Mental Health and
Mental Retardation Services
(Amended After Hearing)

902 KAR 3:060. Licensing procedures, nonmedical alcohol treatment and education centers.

RELATES TO: KRS 222.210 to 222.310
PURSUANT TO: KRS 194.050, 222.230
NECESSITY AND FUNCTION: KRS 194.050 and 222.230 empowers the cabinet to promulgate rules and regulations establishing standards for the licensing and approval of facilities offering alcoholism rehabilitation programs. The purpose of this regulation is to establish standards for determining what types of programs must have a nonmedical alcohol treatment and education center license to operate and the procedures for obtaining and maintaining such a license.

Section 1. Licensing and Approval Procedures. Applications for licensing, or waivers requesting exemptions from licensure standard(s) shall be obtained from and submitted to the Cabinet for Human Resources, Office of Inspector General, Division of Licensing and

Regulation. [Department for Mental Health and Mental Retardation Services, Division of Substance Abuse,] 275 East Main Street, Frankfort, Kentucky 40601.

(1) Application for licensure shall be filed by all agencies operating a nonmedical alcohol treatment and education center in the Commonwealth with the following exceptions:

(a) Group meetings organized among alcoholics, recovering alcoholics or alcohol abusers, families and others, held on a nonresidential basis and without professional staff intervention, for the purpose of discussing problems related to use of alcohol where no fee is involved.

(b) Transportation Cabinet, Alcohol Driver Education, pursuant to: KRS Chapter 189A and 601 KAR 13:050.

(c) Programs conducted in a facility established and maintained by a licensed hospital; nursing homes; and department, agency or institution of the federal government or the Commonwealth.

(d) All chemical dependency treatment services and facilities licensed under 902 KAR 20:160.

(2) The Cabinet for Human Resources, Office of Inspector General, Division of Licensing and Regulation shall conduct all licensure surveys to determine whether an agency's nonmedical alcohol treatment and education center is in compliance with the applicable licensure standards.

(3) The cabinet shall notify the applicant agency for a nonmedical alcohol treatment and education center license of any pending licensure action taken, and shall provide written reports citing observed deficiencies as they relate to the standards. A copy of this report shall be forwarded to the applicant agency. Upon receipt of this report the applicant agency must submit an acceptable plan of correction for cited deficiencies to the cabinet within ten (10) days.

(4) Licensure is not transferable. Both the license holder and the new operator shall be responsible to notify the cabinet when the agency possessing the nonmedical alcohol treatment and education center license changes ownership or control or undergoes a major change in its capacity or in the category(ies) of programs offered, with disclosure of all factors involved in the change. If it is the decision of the cabinet that a reapplication is in order the applicant shall apply within twenty (20) days of notification by the cabinet. Failure to comply with these provisions shall result in loss of license.

(5) The cabinet shall be notified in writing prior to the merger of a the agency possessing a nonmedical alcohol treatment and education center license with another agency and an immediate request for licensure be filed with the cabinet. The merged agency's nonmedical alcohol program(s) shall be surveyed within one (1) year of such notification. For the purposes of licensure, a merged agency shall be a legal entity with a single governing body, a single administration, a single staff, and, where applicable, a single set of bylaws, rules and regulations.

[(6)(a) A certificate of licensure shall be provided to the agency operating the nonmedical alcohol treatment and education center that is granted a license. The certificate shall specify all the programs provided by the agency surveyed, their location, and the year in which license is granted.]

[(b) An agency may be provided additional certificates for its nonmedical alcohol program(s) upon payment of the cost of reproduction. The certificate and all copies shall remain the property of the cabinet and shall be returned to the cabinet if the agency is issued a new certificate reflecting a change in name or programs for which it is licensed, or if the license is revoked for any cause.]

(6) [(7)] The cabinet shall publish on an annual basis a list of licensed nonmedical alcohol treatment and education centers identifying types of programs and their locations and shall make it available to the public upon request.

(7) [(8)] Licenses granted to agencies deemed responsible and suitable to carry out nonmedical alcohol treatment and education center programs shall meet applicable standards and requirements for a period not exceeding one (1) year and renewable for a like period, and subject to revocation for cause.

(8)(a) [(9)] A nonmedical alcohol treatment and education center license shall be issued by the Cabinet for Human Resources, Office of Inspector General, Division of Licensing and Regulation to an agency that meets the required program standards. Such a license shall identify the location of the facility and the year of issuance of the license and the individual facility(ies) providing alcohol detoxification, alcohol residential, alcohol residential transitional, alcohol outpatient, alcohol day/night intensive outpatient treatment or [and] alcohol education programs for which they have been approved [to provide]. Each agency licensed shall receive a certificate of licensure indicating its approved status.

(b) An agency may be provided additional certificates of licensure for its nonmedical alcohol program(s) upon payment of the cost of reproduction. The certificate and all copies shall remain the property of the cabinet and shall be returned to the cabinet if the agency is issued a new certificate of licensure reflecting a change in name or programs for which it is licensed, or if the license is revoked for any cause.

(9) [(10)] Hearing procedures involving licenses shall be conducted in accordance with KRS 222.230(6).

(10) [(11)] Applications for a permit to operate a nonmedical alcohol treatment and education center shall be accompanied by a fee of $100 and shall excepting conditional permits, be renewable annually upon expiration and reapplication when accompanied by a renewal fee of fifty (50) dollars. All licensure fees are to be forwarded to the Cabinet for Human Resources, Office of Inspector General, Division of Licensing and Regulation, 275 East Main Street, Frankfort, Kentucky 40621.

(11) [(12)] Exception. An agency possessing a nonmedical alcohol treatment and education center license shall be exempt from paying licensure fees set forth in licensing procedures standards, subsection (11) of this section, when the specific nonmedical alcohol program such as detoxification, residential treatment, residential transitional treatment, outpatient, day/night intensive outpatient treatment and education has already paid

licensure fees as a drug abuse treatment and education (DATE) center program in compliance with 902 KAR 3:210.

Section 2. 902 KAR 3:010, Licensing procedures, is repealed.

DENNIS D. BOYD, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 2, 1987
FILED WITH LRC: September 3, 1987 at 10 a.m.

CABINET FOR HUMAN RESOURCES
Department for Mental Health and
and Mental Retardation Services
(Amended After Hearing)

902 KAR 3:100. Residential treatment.

RELATES TO: KRS 222.210 to 222.310
PURSUANT TO: KRS 194.050, 222.230
NECESSITY AND FUNCTION: KRS 194.050 and 222.230 empowers the cabinet to promulgate rules and regulations establishing standards for the licensing and approval of facilities offering alcoholism rehabilitation programs. The purpose of this regulation is to establish licensure standards to assure that an agency operating a nonmedical alcohol treatment and education center residential treatment program has minimum minimum policies and procedures governing its program operation.

Section 1. Residential Treatment. In addition to the applicable requirements of the general program operation standards 902 KAR 3:090, the following specific standards shall be met if a residential treatment program is offered.

(1) Each program shall make available to its clients the following services: intake, psycho-social assessment, health status questionnaire, treatment planning, individual and group counseling, family counseling, educational services, spiritual counseling, recreational and leisure time activities, aftercare planning, referral, introduction to Alcoholics Anonymous, Al-Anon, Narcotics Anonymous and other voluntary self-help groups.

[(2) Upon admission, each client shall be assigned to a specific staff person who will have primary responsibility for developing and implementing the client's treatment plan.]

(2) [(3)] There shall be documentation in the client record of the following:

(a) A treatment plan completed within five (5) calendar days of admission.

(b) By the sixth calendar day following admission each client shall be assigned a specific staff person who will have primary responsibility for implementing the client's treatment plan.

(c) [(b)] Staff shall conduct case conferences to review client progress every two (2) weeks and the findings shall be documented in the client record.

(d) [(c)] An aftercare plan shall be developed with the client's participation to plan for post discharge activities.

(3) [(4)] When required, medical services shall be provided through referral or on-call arrangement with qualified medical organizations or physicians.

(4) [(5)] Programs shall make available or arrange for provision of at least forty (40) hours of documented, structured activities per client each week, including weekends. These structured activities shall be a combination of formal education, group and individual counseling, group discussions, self-help meetings and recreation activities. Of this forty (40) hours, ten (10) hours shall be used solely for the provision of treatment and counseling services.

(5) [(6)] There shall be written procedures describing a family treatment component.

(6) [(7)] There shall be written policies and procedures governing the use of alcohol and other drugs by clients in the residential program.

(7) [(8)] Films, audio cassettes and literature shall be available to the client.

(8) [(9)] The program shall provide an area in which clients can meet with outside community service providers and self-help groups (e.g. AA, Al-Anon, etc.) who assist in fulfilling the goals and objectives of his/her treatment plan.

(9) [(10)] If the program serves only adolescent clients the following additional standards shall be met:

(a) Documentation of attempts to obtain the active participation of the adolescent's family or family surrogate in the treatment process.

(b) The program shall assure that the client receives educational services to meet the schooling needs of the client while residing in the residential program.

(c) Provision of treatment, literature, lectures, etc., which shall be age appropriate.

(d) The program shall provide recreational activities which shall be planned to develop constructive leisure time activity skills and shall be documented in each client's treatment plan.

(e) Development of an aftercare plan which shall reflect consideration of aftercare issues unique to adolescents.

(10) [(11)] The program shall have a full-time staff of at least ten (10) persons including the unit manager per forty (40) clients. This staffing pattern may be reduced by one (1) staff for every reduction per ten (10) residents. Where multiple residential programs such as detoxification and residential treatment are provided in the same facility, the total number of beds and staff across both programs may be used to calculate the required staffing pattern.

(11) [(12)] An interim manager with similar qualifications to the resident manager shall assume responsibility in the manager's absence.

(12) [(13)] The program shall be staffed twenty-four (24) hours a day, seven (7) days a week.

DENNIS D. BOYD, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 2, 1987
FILED WITH LRC: September 3, 1987 at 10 a.m.

CABINET FOR HUMAN RESOURCES
Department for Mental Health and
and Mental Retardation Services
(Amended After Hearing)

902 KAR 3:105. Residential transitional treatment.

RELATES TO: KRS 222.210 to 222.310
PURSUANT TO: KRS 194.050, 222.230
NECESSITY AND FUNCTION: KRS 194.050 and 222.230 empowers the cabinet to promulgate rules and regulations establishing standards for the licensing and approval of facilities offering alcoholism rehabilitation programs. The purpose of this regulation is to establish licensure standards to assure that an agency operating a nonmedical alcohol treatment and education center residential transitional treatment progam has minimum policies and procedures governing its program operation.

Section 1. Residential Transitional Treatment. In addition to the applicable requirements of the general program operation standards 902 KAR 3:090, the following specific standards shall be met if a residential transitional program is offered.

(1) The provision of individual and group counseling either directly or through cooperative arrangements.

(2) The program shall maintain an individual clinical record for each client which contains:

(a) Intake information;

(b) A signed statement of client rights.

(c) A treatment plan which shall be completed within seven (7) days of admission and shall be reviewed by the house manager and the client at least monthly.

(d) A weekly summary of progress.

(e) An updated treatment plan, as appropriate.

(f) A discharge plan and date of discharge.

(3) The program shall document that all clients are either gainfully employed, actively pursuing employment, or participating in vocational educational/rehabilitation activities.

(4) There shall be written policies and procedures governing the use of alcohol and other drugs by clients.

(5) Provision shall be made for the utilization of community resources to provide the following support services as needed when they cannot be provided by the transitional service:

(a) Psychiatric supervision and consultation.

(b) Emergency medical and dental care.

(c) Social services to include interagency coordiantion, family services, referral for financial assistance, etc.

(d) Rehabilitiation services to include vocational guidance, counseling, job placement and coordination of vocational program information and activities.

(e) Dietary supervision and consultation.

(f) Recreation which shall include a program of creative activities for residents and the availability of recreational materials.

(6) Prior to the time of discharge clients shall receive assistance, if necessary, in establishing alternative living arrangements and scheduling outpatient counseling or other treatment activities. The final arrangements shall be noted in the discharge summary.

(7) Provision shall be made for an area where clients can meet with outside community service providers and self-help groups (e.g. AA, Al-Anon, etc.), who assist in fulfilling the goals and objectives of his/her treatment plan.

(8) Residential transitional programs shall include at least the following permanent staff:

(a) Unit manager who shall be responsible for the day-to-day management of the program, for implementation of program policies and procedures, include planning, coordination, and supervision of residence affairs.

(b) A relief person who can assume management responsibilities in the absence of the regular manager. This shall include vacation periods, sick leave, and normal off-duty hours.

[(c) The program shall be staffed twenty-four (24) hours a day, seven (7) days a week.]

DENNIS D. BOYD, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 2, 1987
FILED WITH LRC: September 3, 1987 at 10 a.m.

CABINET FOR HUMAN RESOURCES
Department for Mental Health and
and Mental Retardation Services
(Amended After Hearing)

902 KAR 3:110. Outpatient treatment.

RELATES TO: KRS 222.210 to 222.310
PURSUANT TO: KRS 194.050, 222.230
NECESSITY AND FUNCTION: KRS 194.050 and 222.230 empowers the cabinet to promulgate rules and regulations establishing standards for the licensing and approval of facilities offering alcoholism rehabilitation programs. The purpose of this regulation is to establish licensure standards to assure that an agency offering a nonmedical alcohol treatment and education center outpatient treatment program has minimum policies and procedures governing its operation.

Section 1. Outpatient Treatment. In addition to the applicable requirements of the general program operation standards 902 KAR 3:090, the following specific standards shall be met if an outpatient treatment program if offered.

(1) The program shall include, but not be limited to client assessment procedures, crisis intervention, individual and group therapy, family counseling, alcohol information, referral to other community resources, and followup.

[(2) Upon admission, each client shall be assigned to a specific person who will have primary responsibility for developing and implementing a client's treatment plan.]

(2) [(3)] There shall be a written, individualized treatment plan completed before [by] the fourth [third] client visit.

(3) By the fourth visit each client shall be assigned to a specific staff person who will have primary responsibility for implementing the client's treatment plan.

(4) Staff shall conduct case conferences to review client progress every six (6) months and shall update the treatment plan if needed. The findings shall be documented in the client record.

(5) Exception. Community mental health center outpatient services licensed under 902 KAR 20:091 are exempt from being licensed as a nonmedical alcohol treatment and education center outpatient program. [When the applicant

for a nonmedical alcohol treatment and education center license is a community mental health center, compliance with 902 KAR 20:091 shall suffice for meeting outpatient treatment standards set forth in this section.]

DENNIS D. BOYD, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 2, 1987
FILED WITH LRC: September 3, 1987 at 10 a.m.

CABINET FOR HUMAN RESOURCES
Department for Mental Health and and Mental Retardation Services
(Amended After Hearing)

902 KAR 3:115. Day/night intensive outpatient treatment.

RELATES TO: KRS 222.210 to 222.310
PURSUANT TO: KRS 194.050, 222.230
NECESSITY AND FUNCTION: KRS 194.050 and 222.230 empowers the cabinet to promulgate rules and regulations establishing standards for the licensing and approval of facilities offering alcoholism rehabilitation programs. The purpose of this regulation is to establish licensure standards to assure that an agency offering a nonmedical alcohol treatment and education center day/night intensive outpatient treatment program has minimum policies and procedures governing its operation.

Section 1. Day/Night Intensive Outpatient Treatment. In addition to the applicable requirements of the general program operation standards 902 KAR 3:090, the following specific standards shall be met if a day/night intensive outpatient treatment program is offered.

(1) The program shall include, but not be limited to client assessment procedures, crisis intervention, individual and group therapy, family counseling, alcohol information, referral to other community resources, and followup.

[(2) Upon admission, each client shall be assigned to a specific person who will have primary responsibility for developing and implementing a client's treatment plan.]

(2) [(3)] There shall be a written **procedures** [policy] describing the **therapeutic, rehabilitative activities and the schedule of these activities.** [typical phases of treatment, the amount of time involved and the therapeutic, rehabilitative activities included in each phase.]

(3) [(4)] There shall be written procedures describing a family treatment component.

(4) [(5)] There shall be a written individualized treatment plan completed **before the sixth client visit.** [within five (5) calendar days of admission.]

(5) By the sixth visit each client shall be assigned to a specific staff person who will have primary responsibility for implementing the client's treatment plan.

(6) Staff shall conduct case conferences to review client progress every two (2) weeks. The findings shall be documented in the case record.

(7) Educational services shall be provided for clients which give information about alcohol abuse and its effects, family involvement in the illness, coping and interpersonal relationship skills.

(8) Outpatient treatment programs serving adolescents shall meet day/night intensive outpatient treatment standards set forth in subsections (1) through (7) of this section in addition to the following:

(a) Documentation of attempts to obtain the active participation of the adolescent's family or family surrogate in the treatment process.

(b) Provision of treatment, literature, lectures, etc., which shall be age appropriate.

(c) The program shall provide recreational activities which shall be planned to develop constructive leisure time activity skills and shall be documented in each client's treatment plan.

(d) Development of an aftercare plan which shall reflect consideration of aftercare issues unique to adolescents.

(9) Day/night intensive outpatient treatment programs utilizing host families. With the addition of specific standards set forth in the paragraphs below, all rules applying to day/night intensive outpatient treatment programs under subsections (1) through (8) of this section apply to day/night intensive outpatient treatment programs utilizing host families:

(a) A host family shall already have been the recipient of the program's education and/or treatment services prior to serving as a host family.

(b) Day/night intensive outpatient treatment programs utilizing host families shall establish standards for such homes. Such standards shall be approved by the cabinet and include at a minimum the following:

1. All homes shall be inspected initially and at least annually thereafter by the sponsoring program to assure that the physical condition and facilities within the home provide a sanitary and safe environment for the client. All homes shall be reinspected if there is a lapse in time when the home was not being used as a host family.

2. The host family shall provide onsite supervision to ensure care and maintenance of the health, safety and welfare of the client.

3. Provide timely and nutritious meals.

4. The maintenance of regular communication with the sponsoring program and the program shall be notified immediately in the event of an emergency or incident.

5. In the case of an emergency the host family may use physical restraint or seclusion on a client only if absolutely necessary to protect the client from injuring himself or others, but shall not use physical restraint or seclusion as punishment for the convenience of the host family, or as a substitute for activities. When such an incident occurs the sponsoring program shall be notified as soon as possible. The incident shall be documented in the client's record describing the reasons that physical restraint or seclusion was used, the clinical interventions utilized and the final resolution to the situation. All incidences of the alleged use of physical restraint or seclusion by the host family shall be fully investigated by program staff.

6. The sponsoring program shall be informed as soon as possible if the client leaves the host family without permission of the host parents or sponsoring program staff.

(c) The program shall provide all host families a phone number where in the event of an

emergency, staff can be reached on a twenty-four (24) hour basis.

(d) A written agreement between the day/night intensive outpatient treatment program and the host family, signed by both parties, shall be executed, stating the responsibilities and liabilities of each party, including the requirements set forth in paragraph (b) of this subsection. The name, address and phone number of the host family shall be included in the agreement.

(e) The sponsoring program shall make available upon request, to designees of the Cabinet for Human Resources, records for each host family home utilized. These records shall contain at a minimum:

1. An agreement between the program director and the head of the host family, signed by both.

2. A copy of the host family home standards established by the sponsoring program.

3. Copies of the completed inspection reports signed by the sponsoring program inspector and the head of the host family.

(10) Exception. When alcohol abusers are receiving services within the type of program described in 902 KAR 20:091, Section 4, subsection (4)(a), compliance with said regulation shall suffice for meeting day/night intensive outpatient treatment standards set forth in this section.

DENNIS D. BOYD, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 2, 1987
FILED WITH LRC: September 3, 1987 at 10 a.m.

CABINET FOR HUMAN RESOURCES
Department for Mental Health and Mental Retardation Services
(Amended After Hearing)

902 KAR 3:210. Licensing procedures, (DATE) centers.

RELATES TO: KRS 210.610 to 210.680, 210.990(3)
PURSUANT TO: KRS 194.050, 210.620
NECESSITY AND FUNCTION: KRS 194.050 and 210.620 empowers the cabinet to establish guidelines and provide for the systematic evaluation of the effectiveness of drug abuse treatment and education (DATE) centers. The purpose of this regulation is to establish standards for determining what types of programs must have a drug abuse treatment and education (DATE) center license to operate and the procedures for obtaining and maintaining such a license.

Section 1. Licensing and Approval Procedures. Applications for licensing, or waivers requesting exemptions from licensure standard(s) shall be obtained from and submitted to the Cabinet for Human Resources, **Office of Inspector General, Division of Licensing and Regulation,** [Department for Mental Health and Mental Retardation Services, Division of Substance Abuse,] 275 East Main Street, Frankfort, Kentucky 40601.

(1) Application for licensure shall be filed by all agencies operating a drug abuse treatment and education (DATE) center in the Commonwealth with the following exceptions:

(a) Group meetings organized among drug abusers, recovering addicts or drug abusers, families and others, held on a nonresidential basis and without professional staff intervention, for the purpose of discussing problems related to use of drugs where no fee is involved.

(b) Transportation Cabinet, Alcohol Driver Education, pursuant to: KRS Chapter 189A and 601 KAR 13:050.

(c) Programs conducted in a facility established and maintained by a licensed hospital; nursing homes; and department, agency or institution of the federal government or the Commonwealth.

(d) All chemical dependency treatment services and facilities licensed under 902 KAR 20:160.

(2) The Cabinet for Human Resources, Office of Inspector General, Division of Licensing and Regulation shall conduct all licensure surveys to determine whether an agency's drug abuse treatment and education (DATE) center is in compliance with the applicable licensure standards.

(3) The cabinet shall notify the applicant agency for a drug abuse treatment and education (DATE) center license of any pending licensure action taken, and shall provide written reports citing observed deficiencies as they relate to the standards. A copy of this report shall be forwarded to the applicant agency. Upon receipt of this report the applicant agency must submit an acceptable plan of correction for cited deficiencies to the cabinet within ten (10) days.

(4) Licensure is not transferable. Both the license holder and the new operator shall be responsible to notify the cabinet when the agency possessing the drug abuse treatment and education (DATE) center license changes ownership or control or undergoes a major change in its capacity or in the category(ies) of programs offered, with disclosure of all factors involved in the change. If it is the decision of the cabinet that a reapplication is in order the applicant shall apply within twenty (20) days of notification by the cabinet. Failure to comply with these provisions shall result in loss of license.

(5) The cabinet shall be notified in writing prior to the merger of the agency possessing a drug abuse treatment and education (DATE) center license with another agency and an immediate request for licensure be filed with the cabinet. The merged agency's drug abuse treatment and education (DATE) center shall be surveyed within one (1) year of such notification. For the purposes of licensure, a merged agency shall be a legal entity with a single governing body, a single administration, a single staff, and, where applicable, a single set of bylaws, rules and regulations.

[(6)(a) A certificate of licensure shall be provided to the agency operating the drug abuse treatment and education (DATE) center. The certificate shall specify all the programs provided by the agency surveyed, their location, and the year in which the license is granted.]

[(b) An agency may be provided additional certificates for its drug abuse treatment and education (DATE) center upon payment of the cost of reproduction. The certificate and all copies shall remain the property of the cabinet and shall be returned to the cabinet if the agency is issued a new certificate reflecting a change in name or programs for which it is licensed, or if the license is revoked for any cause.]

(6) [(7)] The cabinet shall publish on an

annual basis a list of licensed drug abuse treatment and education (DATE) centers identifying types of programs and their locations and shall make it available to the public upon request.

(7) [(8)] Licenses granted to agencies deemed responsible and suitable to carry out drug abuse treatment and education (DATE) center programs shall meet applicable standards and requirements for a period not exceeding one (1) year and renewable for a like period, and subject to revocation for cause.

(8)(a) [(9)] A drug abuse treatment and education (DATE) center license shall be issued by the Cabinet for Human Resources, Office of Inspector General, Division of Licensing and Regulation to an agency that meets the required program standards. Such a license shall identify the location of the facility and the year of issuance of the license and the type of drug abuse treatment and education (DATE) center licensed such as: residential rehabilitation center, nonresidential day care center, educational information center or [and] communication center for which they have been approved [to provide]. Each agency licensed shall receive a certificate of licensure indicating its approved status.

(b) An agency may be provided additional certificates of licensure for its drug abuse treatment and education (DATE) center programs upon payment of the cost of reproduction. The certificate and all copies shall remain the property of the cabinet and shall be returned to the cabinet if the agency is issued a new certificate of licensure reflecting a change in name or programs for which it is licensed, or if the license is revoked for any cause.

(9) [(10)] Hearing procedures involving licenses shall be conducted in accordance with KRS 222.230(6).

(10) [(11)] Licensure fees per drug abuse treatment and education (DATE) center shall be paid in accordance with KRS 210.620, Section 4. This statute requires that applications for a permit to operate a drug abuse treatment and education (DATE) center shall be accompanied by a fee of $100 and shall, excepting conditional permits, be renewable upon expiration and reapplication when accompanied by a renewal fee of fifty (50) dollars. All licensure fees are to be forwarded to the Cabinet for Human Resources, Office of Inspector General, Division of Licensing and Regulation, 275 East Main Street, Frankfort, Kentucky 40621.

DENNIS D. BOYD, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 2, 1987
FILED WITH LRC: September 3, 1987 at 10 a.m.

CABINET FOR HUMAN RESOURCES
Department for Mental Health and and Mental Retardation Services
(Amended After Hearing)

902 KAR 3:245. Residential rehabilitation centers.

RELATES TO: KRS 210.610 to 210.680, 210.990(3)
PURSUANT TO: KRS 194.050, 210.620
NECESSITY AND FUNCTION: KRS 194.050 and 210.620 empowers the cabinet to establish guidelines and provide for the systematic evaluation of the effectiveness of drug abuse treatment and education (DATE) centers. The purpose of this regulation is to establish licensure standards to assure that an agency operating a residential rehabilitation center has minimum policies and procedures governing the program operations of one (1) or more of the following twenty-four (24) hour programs: detoxification, residential and residential transitional.

Section 1. Detoxification. In addition to the applicable requirements of general program operation standards, 902 KAR 3:240, the following specific standards shall be met if a detoxification program is offered:

(1) Each client admitted to the social setting detoxification treatment program shall be assessed within twenty-four (24) hours of admission to determine whether there is a life-threatening emergency, distinguished between intoxification and withdrawal, estimate the severity of whichever is present, and determine insofar as possible, whether there are any other major problems (e.g., medical, psychiatric, etc.) that need immediate attention.

(2) When required, medical services shall be provided through referral or on-call arrangement with qualified medical organizations or physicians.

(3) A client record shall be kept on each client receiving detoxification services. Each record shall contain at a minimum the following pieces of information. Any reasons for the absence of such information shall be documented in the clinical record.

(a) Intake information completed within seventy-two (72) hours of admission and shall contain the presenting problem; alcohol/drug use and problem history; history of previous treatment; and history of medical problems including delirium tremens, seizures, heart disease, and liver disease.

(b) Signed statement of client rights.

(c) An individualized detoxification services plan prepared and maintained on a current basis for each client. A treatment protocol may be used in lieu of an individualized service plan. Individual case exceptions to the treatment protocol shall be documented in the clinical record.

(d) A discharge summary that identifies referral arrangements for the client after he/she leaves the program.

(4) The pulse and blood pressure of each client shall be monitored and recorded at least three (3) times daily for at least the first seventy-two (72) hours after admission.

(5) Educational and counseling activities shall be conducted on a daily basis by a drug counselor to motivate clients to continue in treatment beyond the detoxification services. Clients shall be involved in these activities as soon as warranted by his/her recovery process.

(6) Detoxification programs shall refer clients to an appropriate treatment resource upon completion of the detoxification process.

(7) The program shall be responsible for the referral of clients for services not provided by the agency. Such services may include housing, food, vocational rehabilitation, treatment or legal services.

(8) The total number of staff members shall include no less than five (5) staff and one (1) unit manager, at least two (2) of whom shall be

on duty during hours of peak admission. To permit program flexibility, no specific staff/client ratio shall be required, however, the program shall provide assurance that staff is sufficient and appropriate to meet the needs of clients in the program.

(9) The program shall be staffed twenty-four (24) hours a day, seven (7) days a week.

(10) Training required.

(a) Each staff member shall have training in drug emergency procedures and shall receive a minimum of twelve (12) hours of first aid training techniques, including cardiopulmonary resuscitation, prior to working alone on the unit.

(b) Training in taking vital signs (blood pressure, pulse, respiration and temperature).

(c) Training in the recognition of drug abuse, assessment of the degree of intoxication and the physical and mental complications of these conditions.

(d) Training in the knowledge of local community referral sources.

(e) Within one (1) year of employment every staff member shall have received thirty (30) clock hours of training in alcohol or drug abuse.

(f) All training attended by the employee shall be documented in the employee's personnel file.

Section 2. Residential Treatment. In addition to the applicable requirements of the general program operation standards, 902 KAR 3:240, the following specific standards shall be met if a residential treatment program is offered:

(1) Each program shall make available to its clients the following services: intake, psycho-social assessment, health status questionnaire, treatment planning, individual and group counseling, family counseling, educational services, spiritual counseling, recreational and leisure time activities, aftercare planning, referral, introduction to Narcotics Anonymous, Alcoholics Anonymous, Al-Anon and other voluntary self-help groups.

[(2) Upon admission, each client shall be assigned to a specific staff person who will have primary responsibility for developing and implementing the client's treatment plan.]

(2) [(3)] There shall be documentation in the client record of the following:

(a) A treatment plan completed within five (5) calendar days of admission.

(b) By the sixth calendar day following admission each client shall be assigned a specific staff person who will have primary responsibility for implementing the client's treatment plan.

(c) [(b)] Staff shall conduct case conferences to review client progress every two (2) weeks and the findings shall be documented in the client record.

(d) [(c)] An aftercare plan shall be developed with the client's participation to plan for post discharge activities.

(3) [(4)] When required, medical services shall be provided through referral or on-call arrangement with qualified medical organizations or physicians.

(4) [(5)] Programs shall make available or arrange for provision of at least forty (40) hours of documented, structured activities per client each week, including weekends. These structured activities shall be a combination of formal education, group and individual counseling, group discussions, self-help meetings and recreation activities. Of this forty (40) hours, ten (10) hours shall be used solely for the provision of treatment and counseling services.

(5) [(6)] There shall be written procedures describing a family treatment component.

(6) [(7)] There shall be written policies and procedures governing the use of alcohol and other drugs by clients in the residential program.

(7) [(8)] Films, audio cassettes and literature shall be available to the client.

(8) [(9)] The program shall provide an area in which clients can meet with outside community service providers and self-help groups (e.g., Narcotics Anonymous, AA, etc.) who assist in fulfilling the goals and objectives of his/her treatment plan.

(9) [(10)] If the program serves only adolescent clients the following additional standards shall be met:

(a) Documentation of attempts to obtain the active participation of the adolescent's family or family surrogate in the treatment process.

(b) The program shall assure that the client receives educational services to meet the schooling needs of the client while residing in the residential program.

(c) Provision of treatment, literature, lectures, etc., which shall be age appropriate.

(d) The program shall provide recreational activities which shall be planned to develop constructive leisure time activity skills and shall be documented in each client's treatment plan.

(e) Development of an aftercare plan which shall reflect consideration of aftercare issues unique to adolescents.

(10) [(11)] The program shall have a full-time staff of at least ten (10) persons including the unit manager per forty (40) clients. This staffing pattern may be reduced by one (1) staff for every reduction per ten (10) residents. **Where multiple residential programs such as detoxification and residential treatment are provided in the same facility, the total number of beds and staff across both programs may be used to calculate the required staffing pattern.**

(11) [(12)] An interim manager with similar qualifications to the resident manager shall assume responsibility in the manager's absence.

(12) [(13)] The program shall be staffed twenty-four (24) hours a day, seven (7) days a week.

Section 3. Residential Transitional Treatment. In addition to the applicable requirements of the general program operation standards, 902 KAR 3:240, the following specific standards shall be met if a residential transitional program is offered:

(1) The provision of individual and group counseling either directly or through cooperative arrangements.

(2) The program shall maintain an individual clinical record for each client which contains:

(a) Intake information.

(b) A signed statement of client rights.

(c) A treatment plan which shall be completed within seven (7) days of admission and shall be reviewed by the house manager and the client at

least monthly.
(d) A weekly summary of progress.
(e) An updated treatment plan, as appropriate.
(f) A discharge plan and date of discharge.
(3) The program shall document that all clients are either gainfully employed, actively pursuing employment, or participating in vocational educational/rehabilitation activities.
(4) There shall be written policies and procedures governing the use of alcohol and other drugs by clients.
(5) Provision shall be made for the utilization of community resources to provide the following support services as needed when they cannot be provided by the transitional service:
(a) Psychiatric supervision and consultation.
(b) Emergency medical and dental care.
(c) Social services to include interagency coordination, family services, referral for financial assistance, etc.
(d) Rehabilitation services to include vocational guidance, counseling, job placement and coordination of vocational program information and activities.
(e) Dietary supervision and consultation.
(f) Recreation which shall include a program of creative activities and the availability of recreational materials.
(6) Prior to the time of discharge clients shall receive assistance, if necessary, in establishing alternative living arrangements and scheduling outpatient counseling or other treatment activities. The final arrangements shall be noted in the discharge summary.
(7) Provision shall be made for an area where clients can meet with outside community service providers and self-help groups (e.g., Narcotics Anonymous, AA, etc.), who assist in fulfilling the goals and objectives of his/her treatment plan.
(8) Residential transitional programs shall include at least the following permanent staff:
(a) Unit manager who shall be responsible for the day-to-day management of the program, for implementation of program policies and procedures, including planning, coordination, and supervision of residence affairs.
(b) A relief person who can assume management responsibilities in the absence of the regular manager. This shall include vacation periods, sick leave, and normal off-duty hours.
[(c) The program shall be staffed twenty-four (24) hours a day, seven (7) days a week.]

DENNIS D. BOYD, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 2, 1987
FILED WITH LRC: September 3, 1987 at 10 a.m.

CABINET FOR HUMAN RESOURCES
Department for Mental Health and and Mental Retardation Services
(Amended After Hearing)

902 KAR 3:250. Nonresidential day care centers.

RELATES TO: KRS 210.610 to 210.680, 210.990(3)
PURSUANT TO: KRS 194.050, 210.620
NECESSITY AND FUNCTION: KRS 194.050 and 210.620 empowers the cabinet to establish guidelines and provide for the systematic evaluation of the effectiveness of drug abuse treatment and education (DATE) centers. the purpose of this regulation is to establish licensure standards to assure that an agency offering a nonresidential day care center has minimum policies and procedures governing the operations of outpatient programs.

Section 1. Outpatient Treatment. In addition to the applicable requirements of the general program operation standards, 902 KAR 3:240, the following specific standards shall be met if an outpatient treatment program is offered:
(1) The program shall include, but not be limited to client assessment procedures, crisis intervention, individual and group therapy, family counseling, drug information, referral to other community resources, and followup.
[(2)] Upon admission, each client shall be assigned to a specific staff person who will have primary responsibility for developing and implementing the client's treatment plan.
(2) [(3)] There shall be a written, individualized treatment plan completed before [by] the fourth [third] client visit.
(3) By the fourth visit each client shall be assigned to a specific staff person who will have primary responsibility for implementing the client's treatment plan.
(4) Staff shall conduct case conferences to review client progress every six (6) months and shall update the treatment plan if needed. The findings shall be documented in the client record.
(5) When such a program includes the provision of methadone, the program must also comply with federal regulation 21 CFR 291.505.
(6) Exception. Community mental health center outpatient services licensed under 902 KAR 20:091 are exempt from being licensed as a drug abuse treatment and education (DATE) center program. [When the applicant for a drug abuse treatment and education (DATE) center license is a community mental health center, compliance with 902 KAR 20:091 shall suffice for meeting outpatient treatment standards set forth in this section.]

Section 2. Day/night Intensive Outpatient Treatment Program. In addition to the applicable requirements of the general program operation standards, 902 KAR 3:240, the following specific standards shall be met if a day/night intensive outpatient treatment program is offered:
(1) The program shall include, but not be limited to client assessment procedures, crisis intervention, individual and group therapy, family counseling, drug information, referral to other community sources, and followup.
[(2) Upon admission, each client shall be assigned to a specific staff person who will have primary responsibility for developing and implementing the client's treatment plan.]
(2) [(3)] There shall be a written procedures [policy] describing the therapeutic, rehabilitative activities and the schedule of these activities. [typical phases of treatment, the amount of time involved and the therapeutic, rehabilitative activities included in each phase.]
(3) [(4)] There shall be written procedures describing a family treatment component.
(4) [(5)] There shall be a written individualized treatment plan completed before

the sixth client visit. [within five (5) calendar days of admission.]

(5) By the sixth visit each client shall be assigned to a specific staff person who will have primary responsibility for implementing the client's treatment plan.

(6) Staff shall conduct case conferences to review client progress every two (2) weeks. The findings shall be documented in the case record.

(7) Educational services shall be provided for clients which give information about drug abuse and its effects, family involvement in the illness, coping and interpersonal relationship skills.

(8) Outpatient treatment programs serving adolescents shall meet day-night intensive outpatient treatment standards set forth in subsections (1) to (7) of this section in addition to the following:

(a) Documentation of attempts to obtain the active participation of the adolescent's family or family surrogate in the treatment process.

(b) Provision of treatment, literature, lectures, etc., which shall be age appropriate.

(c) The program shall provide recreational activities which shall be planned to develop constructive leisure time activity skills and shall be documented in each client's treatment plan.

(d) Development of an aftercare plan which shall reflect consideration of aftercare issues unique to adolescents.

(9) Day/night intensive outpatient treatment programs utilizing host families. With the addition of specific standards set forth in this section, all rules applying to day/night intensive outpatient treatment programs under subsections (1) to (8) of this section apply to day/night intensive outpatient treatment programs utilizing host families:

(a) A host family shall already have been the recipient of the program's education and/or treatment services prior to serving as a host family.

(b) Day/night intensive outpatient treatment programs utilizing host families shall establish standards for such homes. Such standards shall be approved by the cabinet and include at a minimum the following:

1. All homes shall be inspected initially and at least annually thereafter by the sponsoring program to assure that the physical condition and facilities within the home provide a sanitary and safe environment for the client. All homes shall be reinspected if there is a lapse in time when the home was not being used as a host family.

2. The host family shall provide onsite supervision to ensure care and maintenance of the health, safety and welfare of the client.

3. Provide timely and nutritious meals.

4. The maintenance of regular communication with the sponsoring program and the program shall be notified immediately in the event of an emergency or incident.

5. In the case of an emergency the host family may use physical restraint or seclusion on a client only if absolutely necessary to protect the client from injuring himself or others, but shall not use physical restraint or seclusion as punishment for the convenience of the host family, or as a substitute for activities. When such an incident occurs the sponsoring program shall be notified as soon as possible. The incident shall be documented in the client's record describing the reasons that physical restraint or seclusion was used, the clinical interventions utilized and the final resolution to the situation. All incidences of the alleged use of physical restraint or seclusion by the host family shall be fully investigated by program staff.

6. The sponsoring program shall be informed as soon as possible if the client leaves the host family without permission of the host parents or sponsoring program staff.

(c) The program shall provide all host families a phone number where in the event of an emergency, staff can be reached on a twenty-four (24) hour basis.

(d) A written agreement between the day/night intensive outpatient treatment program and the host family, signed by both parties, shall be executed, stating the responsibilities and liabilities of each party, including the requirements set forth in paragraph (b) of this subsection. The name, address and phone number of the host family shall be included in the agreement.

(e) The sponsoring program shall make available upon request, to designees of the Cabinet for Human Resources, records for each host family home utilized. These records shall contain at a minimum:

1. An agreement between the program director and the head of the host family, signed by both.

2. A copy of the host family home standards established by the sponsoring program.

3. Copies of the completed inspection reports signed by the sponsoring program inspector and the head of the host family.

(10) Exception. When drug abusers are receiving services within the type of program described in 902 KAR 20:091, Section 4(4)(a), compliance with said regulation shall suffice for meeting day/night intensive outpatient treatment standards set forth in this section.

DENNIS D. BOYD, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 2, 1987
FILED WITH LRC: September 3, 1987 at 10 a.m.

PROPOSED AMENDMENTS

GENERAL GOVERNMENT CABINET
Board of Registration for Professional Engineers and Land Surveyors
(Proposed Amendment)

201 KAR 18:050. Branches of professional engineering.

RELATES TO: KRS 322.020, 322.110
PURSUANT TO: KRS 322.010(4), 322.290(2)(a)
NECESSITY AND FUNCTION: Under KRS Chapter 322, the board considers the field of sanitary engineering has developed to the extent that it warrants specific recognition as a registerable branch of engineering in the Commonwealth. This regulation sets forth branches of engineering for which licenses will be issued.

Section 1. Branches of Professional Engineering. The board at the present time recognizes for the purpose of testing [licensing] the following branches of engineering: agricultural, chemical, civil, electrical, industrial, mechanical, metallurgical, mining, petroleum, structural, and sanitary. An applicant for license as "Professional Engineer," in order to be accepted and licensed, should qualify in one (1) or more of the above classifications. The board reserves the right to increase or decrease the number of branches in which it tests applicants [licenses are granted].

LARRY S. PERKINS, Executive Director
APPROVED BY AGENCY: July 29, 1987
FILED WITH LRC: September 4, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on Friday, October 23, 1987 at 1:30 p.m. at the Kentucky Engineering Center, Millville Road, Frankfort, Kentucky 40601. Those interested in attending this hearing should contact: Larry S. Perkins, Executive Director, Kentucky Engineering Center, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry S. Perkins
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year:
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: N/A
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs: N/A
(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: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments:
TIERING: Was tiering applied? No. N/A

GENERAL GOVERNMENT CABINET
Board of Nursing
(Proposed Amendment)

201 KAR 20:070. Licensure by examination.

RELATES TO: KRS 314.041(1), 314.051(1)
PURSUANT TO: KRS Chapter 314
NECESSITY AND FUNCTION: To assure that applicants for licensure by examination meet minimum standards set forth by the board as necessary for safe practice. To provide some security in the examination process.

Section 1. Eligibility for Licensure by Examination. To be eligible for licensure by examination, applicants shall:
(1) Hold a high school diploma or equivalent.
(2) Have completed a state approved program of practical nursing for licensed practical nurse licensure or a state approved program of registered nursing for registered nurse licensure.
(3) Submit an official transcript of nursing program.
(4) Submit at least sixty (60) days prior to the date of the examination:
(a) A properly executed application for licensure or, if applicable, an application for readministration of the examination;
(b) Current administration of examination fee;
(c) Current application for licensure fee; and
(d) Two (2) photographs (two (2) x three (3) inches) taken within the past six (6) months with the photographs signed and dated by the applicant on the front under the facial features and by the nurse administrator of U.S. nursing program (if graduated therefrom) on the back of the photographs. Snapshots are not acceptable.
(5) Submit official copy(ies) of court record(s) of any misdemeanor and/or felony conviction(s) with a letter of explanation.
(6) Notify the board in writing as soon as any new address is established after submitting the application.
(7) Submit a copy of a marriage certificate or court order to change name after the original application is filed.
(8) Abide by and cooperate with security procedures established by the board, when taking the examination.
(9) Achieve a minimum passing score of 350 on the national council licensure examination or its equivalent as report for licensed practical nurse or 1600 for registered nurse licensure.
(10) Pay all necessary fees to show evidence of meeting requirements for licensure as stated in this section and, if applicable, Sections 2 and 4 of this regulation.
(11) An application for licensure is valid for

a period of one (1) year from date filed with the board or for a period of one (1) year from date last examination was written in Kentucky not to exceed two (2) years since the filing date of the original application for licensure in Kentucky.

Section 2. Graduates of Foreign Nursing Schools. (1) To be eligible for application for licensure by examination, graduates of foreign nursing schools shall submit evidence of the following:

(a) Certificate showing successful completion of commission on graduates of foreign nursing schools examinations (registered nurse applicants only).

(b) Verification of licensure as a nurse in another country with a statement from the licensing authority that the license is in good standing and has not been revoked, suspended, probated, or otherwise disciplined in that country.

(c) Legal permanent or temporary residency in the United States according to the laws and regulations of the U.S. Department of Justice, Immigration and Naturalization Services and the U.S. Department of Labor.

(2) Applicants for licensure by examination shall meet requirements as stated in Section 1 of this regulation.

[(3) Citizens of the United States who are graduates of foreign nursing schools shall show evidence of citizenship, thereby meeting requirements pertaining to citizenship privileges and shall meet all other requirements of this section and as stated in Section 1 of this regulation.]

[(4) The applicant shall have a satisfactory comprehension of the English language written and spoken which shall be established by a written examination by commission on graduates of foreign nursing schools.]

(3) [(5)] Credentials in a foreign language shall be translated at the applicant's expense by an official translation agency or approved college or university.

Section 3. Licensing Examination Standards. (1) The applicant shall pass the national council licensure examination or an examination acceptable to the board.

(2) An applicant who has taken any examination other than the state board test pool examination or national council licensure examination subsequent to 1953 shall provide evidence to the board that such examination met the following standards of equivalency:

(a) Accepted psychometric procedures are used in the development of the examination;

[(b) Norms for each administration of the examination are derived from at least 10,000 candidates who are recent graduates of a nursing program and who are writing the examination for the first time;]

(b) [(c)] The examination is available in the English language;

(c) [(d)] The examination test plan blueprint is available for board review and identifies, to the satisfaction of the board, test content and content weightings;

(d) [(e)] Test items are available for board review and demonstrate to the satisfaction of the board the testing of competency necessary for safe practice;

(e) [(f)] At least one (1) of the reliability estimations for the examination is 0.80 or higher;

(f) [(g)] The examination is revised after each administration to insure currency and security of content;

(g) [(h)] The examination is given under strict security measures;

[(i) Acceptable passing scores shall be no more than one and one-half (1 1/2) standard deviations below the mean of the norm group.]

Section 4. Rewriting the Examination. Examination candidates who fail to achieve a passing score may rewrite the examination after submission of retake application, after meeting the requirements as stated in Section 1 and, if applicable, Section 2 of this regulation and submission of current administration of examination fee.

Section 5. Release of Examination Scores. The board shall not release examination scores to any individual or agency without written authorization from the applicant or licensee except as follows:

(1) The candidate;

(2) Other state boards of nursing for out-of-state graduates;

(3) Other state boards of nursing when requested for licensure;

(4) National council of state boards of nursing inc. [data center].

SHARON M. WEISENBECK, Executive Director

APPROVED BY AGENCY: June 4, 1985

FILED WITH LRC: September 15, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 27, 1987 at 1 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by October 22, 1987: Sharon M. Weisenbeck, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck

(1) Type and number of entities affected: The changes proposed for this regulation are editorial rather than substantive in nature and delete information which is no longer applicable..

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

1. First year: No change

2. Continuing costs or savings: No change

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

(b) Reporting and paperwork requirements: No change

(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 known

(b) Reporting and paperwork requirements: No change

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

(4) Assessment of alternative methods; reasons

why alternatives were rejected: This amendment is proposed to clarify regulatory language.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None known
(a) Necessity of proposed regulation if in conflict: Not applicable
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable
(6) Any additional information or comments: None
TIERING: Was tiering applied? Not appicable.

GENERAL GOVERNMENT CABINET
Board of Nursing
(Proposed Amendment)

201 KAR 20:090. Temporary work permit.

RELATES TO: KRS 314.101(3)
PURSUANT TO: KRS Chapter 314
NECESSITY AND FUNCTION: To protect and safeguard the health and safety of the citizens of Kentucky and to provide a means for applicants to be employed while application for a license is being processed.

Section 1. An applicant for a license by endorsement or examination to practice nursing in Kentucky may be issued a temporary work permit to practice until the license is issued or denied.

Section 2. Eligibility for Temporary Work Permit. (1) A graduate of a board approved program of nursing in the United States or its territories who meets requirements as stated in 201 KAR 20:070 and is approved to write the first licensing examination scheduled by the board following graduation may be issued a temporary work permit upon payment of administration of examination and licensure application fees.
(2) A graduate of a school of nursing outside the United States who meets requirements as stated in 201 KAR 20:070 or 201 KAR 20:110 as applicable and is approved and has passed the commission on graduates of foreign nursing schools examination may be issued a temporary work permit upon payment of the administration of examination fee, if applicable, and licensure application fee.
(3) An applicant for a license by endorsement who meets requirements as stated in 201 KAR 20:110 and holds a current active license in another state may be issued a temporary work permit upon proper completion of the application and payment of the licensure application fee.

Section 3. Limitations of Temporary Work Permit. (1) The new graduate, while holding a temporary work permit, shall practice only in nursing situations where continuous, direct, onsite supervision is provided by a registered nurse, physician or dentist.
(2) The temporary work permit issued to an applicant who fails the national council licensure examination or its equivalent shall be null and void upon notification to applicant of examination results.
(3) An applicant who has failed the national council licensure examination or its equivalent shall not be issued a temporary work permit.
(4) The temporary work permit is nonrenewable and shall be valid only for the length of time required to process applications for endorsement or to conduct and determine the results of licensure examinations.
(5) An individual who does not hold a current temporary work permit pending issuance of a current active license or who has received notification of failing the National Council Licensure Examination or its equivalent is prohibited from functioning in the capacity of a nurse.
(6) An individual who is employed or practices as a nurse in this state without a current temporary work permit prior to issuance of a current active license shall be considered to be practicing as a nurse without a license and in violation of KRS 314.031 and subject to the penalties in KRS Chapter 314.

SHARON M. WEISENBECK, Executive Director
APPROVED BY AGENCY: June 4, 1985
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 27, 1987 at 1 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by October 22, 1987: Sharon M. Weisenbeck, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: Not applicable
(4) Assessment of alternative methods; reasons why alternatives were rejected: Any alternative which would permit nursing practice without a license or temporary work permit would violate KRS 314.031 and was accordingly rejected.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not 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

GENERAL GOVERNMENT CABINET
Board of Nursing
(Proposed Amendment)

201 KAR 20:095. Inactive nurse licensure status.

RELATES TO: KRS 314.041(7), 314.051(7)
PURSUANT TO: KRS Chapter 314
NECESSITY AND FUNCTION: To provide for administration of requirements for obtaining and maintaining inactive licensure status, and to establish requirements for changing licensure status from inactive to active.

Section 1. An individual may apply for inactive status in Kentucky by meeting the following requirements:
(1) Complete application.
(2) Pay current fee for inactive status.
(3) Hold or have held Kentucky nurse licensure.
(4) Submit copy of an official name change document (court order, marriage certificate, divorce decree), if applicable.

Section 2. An individual who has been granted inactive status shall receive a license with such inactive status designated on the face of the license.

Section 3. An individual holding inactive licensure status for less than five (5) years who wishes to apply for active licensure may do so by meeting the following requirements:
(1) Complete an active status application.
(2) Pay current renewal fee for an active license.
(3) Meet continuing education requirements as specified in 201 KAR 20:230, Renewal of licenses, Sections 3 and 4 as appropriate.

Section 4. An individual holding an active nurse license issued by another jurisdiction and who has held Kentucky inactive licensure status for less than five (5) years must complete an active status application, pay current renewal fee for an active license, and show evidence of one (1) of the following before an active license will be issued:
(1) Active practice in another state of at least one (1) year within the preceding five (5) years;
(2) Completion of a board approved refresher course in nursing within the previous two (2) years preceding the date of application for active Kentucky licensure status;
(3) Completion of continuing education requirements as specified in 201 KAR 20:230, Renewal of licenses, Sections 3 and 4 as appropriate.

Section 5. If an individual has held inactive licensure status in Kentucky for five (5) or more years, he/she must complete an active status application, pay current renewal fee for an active license, and show evidence of one (1) of the following requirements before an active license will be issued.
(1) Active practice in another state of at least one (1) year within the preceding five (5) years;
(2) Completion of a board approved refresher course in nursing within the previous two (2) years preceding the date of application for active Kentucky licensure status at the option of the board;
(3) Completion of fifteen (15) contact hours of continuing education within the twenty-four (24) months preceding the date of application for active licensure status, in addition to the continuing education requirement as specified in 201 KAR 20:230, Renewal of licenses.

Section 6. For individuals who change licensure status from inactive to active during the last ten (10) months of a biennial contact hour earning period, contact hour earning which meets or exceeds the contact hour requirement for the upcoming licensure renewal may be accepted as evidence of earning for both current and upcoming licensure periods.

Section 7. An individual who has been granted inactive status in Kentucky is prohibited from being employed in this state as a registered nurse or licensed practical nurse or from functioning in the capacity of a nurse while maintaining the inactive status. An individual who is employed or who practices as a nurse in this state while on inactive status shall be considered to be practicing without a license and in violation of KRS 314.031 and subject to the penalties in KRS Chapter 314.

Section 8. The board may require retaking of the licensure examination and achievement of a passing score by a nurse or applicant for licensure who previously has successfully taken the examination, but whose license has been on Kentucky inactive status for more than five (5) years, and the nurse or applicant for licensure has not held a current active license in another jurisdiction and practiced as a nurse for a period of time as required in this regulation.

SHARON M. WEISENBECK, Executive Director
APPROVED BY AGENCY: June 4, 1985
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 27, 1987 at 1 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by October 22, 1987: Sharon M. Weisenbeck, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: Individuals who have not actively practiced for at least 5 years may be required to complete a refresher course prior to the recommencement of practice.
2. Continuing costs or savings: Same as above
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: Completion of a refresher course may be necessary to insure public safety where licensees have not actively practiced for a prolonged period of time.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not applicable
(a) Necessity of proposed regulation if in conflict: 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

GENERAL GOVERNMENT CABINET
Board of Nursing
(Proposed Amendment)

201 KAR 20:110. Licensure by endorsement.

RELATES TO: KRS 314.041(4), 314.051(5)
PURSUANT TO: KRS Chapter 314
NECESSITY AND FUNCTION: To assure that licensed nurses applying for licensure in Kentucky have met equivalent standards required of graduates of Kentucky programs of nursing. To provide some security in the endorsement process.

Section 1. Eligibility for Licensure by Endorsement. (1) To be eligible for licensure by endorsement, applicants shall:
(a) Hold a high school diploma or equivalent.
(b) Have completed a state approved program of practical nursing for licensed practical nurse licensure or a state approved program of registered nursing for registered nurse licensure equivalent to Kentucky requirements.
(c) Have taken a licensure examination acceptable to the board and shall have achieved a passing score equivalent to Kentucky requirements as stated in 201 KAR 20:070 or as determined by <u>the</u> board [policy] for applicants licensed prior to 1953.
(d) Have and submit a copy of a current active license to practice nursing in another state.
(e) Accurately complete and submit application form and necessary information for licensure in Kentucky.
(f) Submit a recent (within past six (6) months) two (2) x three (3) inches photograph which shall be signed and dated on the front under the facial features. Snapshots are not acceptable.
(g) Submit the current fee for a licensure application.
(h) Have submitted by the licensing authority verification of licensure as a nurse in the United States jurisdiction of original licensure including a statement that the license is in good standing and has not been revoked, suspended, limited, probated or otherwise disciplined by the licensing authority <u>and is not subject to any pending disciplinary action</u>.
(i) Report any disciplinary action(s) taken or pending on licenses by other U.S. jurisdictions.
(j) Submit official copy(ies) of court record(s) of any misdemeanor and/or felony conviction(s) with a letter of explanation.
(2) An application is valid for a period of one (1) year from date of submission to board. The applicant shall:
(a) Submit a copy of a marriage certificate or court order to change name after the original application is filed.
(b) Notify the board in writing as soon as any new address is established after submitting the application.
(3) After one (1) year from date of receipt of application, the applicant shall:
(a) Submit new application.
(b) Submit current licensure application fee.
(c) Meet requirements as stated in this section.

Section 2. Graduates of Foreign Nursing Schools. (1) All graduates of foreign nursing schools shall:
(a) Meet the requirements of Section 1 of this regulation.
(b) Submit official transcript of nursing program.
(2) Graduates of foreign nursing schools who are not citizens of the United States shall submit evidence of legal permanent or temporary residency in the United States according to the laws and regulations of the U.S. Department of Justice, Immigration and Naturalization Services and the U.S. Department of Labor.
(3) Credentials in a foreign language shall be translated at the applicant's expense by an official translation agency or approved college or university.

Section 3. Graduates of Canadian Nursing Schools. (1) All graduates of Canadian nursing schools shall meet requirements in Sections 1 and 2 of this regulation.
(2) Applicants who took the Canadian nurses association test service examination shall:
(a) Submit evidence that the examination was taken in English.
(b) Achieve a standard score of 350 on the five (5) part examination given prior to August, 1980, or 400 on the comprehensive examination given after August, 1980.

Section 4. Nursing Practice Requirements. (1) The applicant who has been actively licensed and engaged in nursing practice for at least one (1) year during the preceding five (5) years shall submit evidence from employer(s) to verify such active practice.
(2) The applicant who has not been actively licensed and engaged in nursing practice for at least one (1) year during the preceding five (5) years shall complete the continuing education requirements for relicensure for the current licensure period and in addition shall complete one (1) of the following prior to being licensed by the board:
(a) Fifteen (15) contact hours in continuing education in nursing within the twenty-four (24) months preceding the date of application for active Kentucky licensure status.
(b) A board approved refresher course in nursing within the twenty-four (24) months preceding the date of application for active Kentucky licensure status.

Section 5. The board may require retaking of the licensure examination and achievement of a passing score by an applicant for licensure who

previously has successfully taken the licensure examination but who has not held a current active license issued by another jurisdiction and practiced as a nurse for a period of time as required in this regulation.

SHARON M. WEISENBECK, Executive Director
APPROVED BY AGENCY: June 4, 1985
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 27, 1987 at 1 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by October 22, 1987: Sharon M. Weisenbeck, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: Licensure by endorsement may be somewhat delayed for those individuals who have professional disciplinary action pending in other jurisdictions, since Kentucky will not endorse said individuals until such actions are cleared.
2. Continuing costs or savings: Same as above
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: Not applicable
(4) Assessment of alternative methods; reasons why alternatives were rejected: Granting Kentucky licensure to individuals who have disciplinary action pending against them in other jurisdictions poses an unreasonable risk of harm to the public. While the individuals' interest in obtaining Kentucky licensure at the earliest possible date is substantial, it must be subservient to the need to insure that only competent nurses are licensed in Kentucky by endorsement.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: None
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None
(6) Any additional information or comments: None
TIERING: Was tiering applied? Yes

GENERAL GOVERNMENT CABINET
Board of Nursing
(Proposed Amendment)

201 KAR 20:115. Limited licensure.

RELATES TO: KRS 61.874(2), 314.011(13), 314.041(9), 314.051(9), 314.091, 314.101(3)
PURSUANT TO: KRS Chapter 314
NECESSITY AND FUNCTION: To implement limited licensure as provided in KRS Chapter 314 to safeguard the public health and safety.

Section 1. The board may issue a limited temporary work permit or limited license which restricts the scope of nursing practice of an applicant/licensee and/or places conditions upon a permit or license to practice nursing.

Section 2. Definitions. (1) "Restriction" means a limitation on the scope of licensed nursing practice as defined in KRS 314.011(5) or (9).
(2) "Condition" means a requirement which the applicant/licensee must meet to practice nursing.
(3) "Handicap" means a physical, mental, or cognitive impairment which is considered sufficient to impair an applicant's/licensee's ability to safely perform the full scope of nursing practice as defined in KRS 314.011(5) or (9).

Section 3. A limited temporary work permit or limited license may be issued to:
(1) A qualified applicant/licensee who has a handicap; or
(2) A qualified applicant/licensee who holds a license with restrictions or conditions in another jurisdiction as the result of a handicap and who meets the requirements for licensure by endorsement; or
(3) An applicant/licensee who has been subjected to disciplinary action by the board pursuant to KRS 314.091; or
(4) An applicant/licensee who holds a license with restrictions or conditions in another jurisdiction as a result of disciplinary action and has had action by the board pursuant to KRS 314.091.
(5) A qualified applicant for licensure by examination whose handicap requires special provisions to be made in order for the applicant to complete the examination.

Section 4. The restrictions or conditions imposed by the board on a limited temporary work permit or limited license may include:
(1) Prohibiting the performance of specific nursing acts as defined in KRS 314.011(5) and (9), such as: access to, responsibility for, or the administration of controlled substances; administration of any medication; supervisory functions; or any act which the licensee or applicant cannot safely perform.
(2) Requiring the applicant/licensee have continuous, direct, onsite supervision by a registered nurse, licensed physician, or dentist.
(3) Specifying the applicant's/licensee's setting(s) of practice.
(4) Specifying the types of patients to whom the applicant/licensee may give nursing care.
(5) Requiring the applicant/licensee to notify the board in writing of any change in name, address, [or] employment <u>or health</u> status.
(6) Requiring the applicant/licensee to have

his employer submit to the board written reports of performance and/or compliance with the requirements set by the board.

(7) Requiring the applicant/licensee to submit to the board evidence of physical and/or mental health evaluations, counseling, therapy and/or drug screens.

(8) Meeting with representatives of the board.

(9) Issuing the license or temporary work permit for a specified period of time.

Section 5. The board shall determine if an applicant or licensee has a handicap which is considered sufficient to impair the individual's ability to safely perform the full scope of nursing practice when it is reported that the applicant or licensee has a handicap or when a complaint is filed against the applicant or licensee pursuant to 201 KAR 20:161.

Section 6. Limited Licensure for an Individual with a Handicap. (1) Prior to the issuance of a limited temporary work permit or limited license to an individual with a handicap, the individual shall submit and the board shall consider statements from a qualified person(s) who has personal knowledge of the applicant or licensee, to determine whether an impairment restricts the capabilities of the individual to practice the full scope of nursing. The board may also seek and consider statements from other qualified persons.

(a) Such qualified persons may include, but are not limited to a physician, psychiatrist, psychologist, nurse, physical therapist, rehabilitation counselor, employer, potential employer, co-workers, or any other person with personal knowledge of the applicant or licensee.

(b) Such statements may include, but are not limited to reports from qualified persons which describe the functional abilities and impairments of the individual, and which contain a health history, report of symptoms, signs, physical findings, and prognosis relating to the impairment, and a proposed job description when applicable. The applicant or licensee shall have the right to examine any reports or materials in the possession of the board regarding an alleged handicap and have copies of such materials furnished to him for cost. The applicant or licensee may submit reports or rebuttals to reports for evaluation by the board.

(2) If an individual has a handicap which is expected to improve, or is progressive in impairment, then the board shall determine at what periodic intervals the need for the restrictions or conditions of the license will be reviewed.

(3) Prior to the issuance of a limited temporary work permit or limited license to an individual with a handicap, the applicant or licensee shall have the right to a hearing at which the procedural rules of 201 KAR 20:162 apply to determine whether an alleged handicap warrants the issuance of a limited temporary work permit or license and the appropriate conditions, if any, to be imposed.

(4) The applicant/licensee may enter into an agreement with the board for limited licensure status. The agreed order will contain conditions or requirements to be met by the applicant/licensee which ensure protection of the public.

Section 7. The board shall determine and define in writing the specific restrictions and/or conditions of a limited temporary work permit or limited license as cited in Section 4 of this regulation.

Section 8. The permit or license form shall bear a notation that the permit/license is limited.

Section 9. The applicant/licensee, if employed in nursing, shall be responsible for informing current or potential employers of the restrictions and/or conditions of the temporary work permit or license. [If the applicant/licensee is employed in nursing at the time the limited temporary work permit or limited license is issued initially, the board shall notify the individual's employer of the restrictions and/or conditions of the license.]

Section 10. The board shall monitor whether the licensee, holding a limited temporary work permit or limited license, is in compliance with requirements set by the board.

Section 11. If the applicant/licensee fails to comply with any restriction and/or condition of the limited temporary work permit or limited license the applicant/licensee shall be subject to disciplinary action pursuant to KRS 314.091.

Section 12. The board may grant full privileges of licensure based upon evidence that the nurse is capable of safely practicing the full scope of nursing practice and has complied with the restrictions and/or conditions of the limited license as set forth by the board.

SHARON M. WEISENBECK, Executive Director

APPROVED BY AGENCY: March 4, 1986

FILED WITH LRC: September 15, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 27, 1987 at 1 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by October 22, 1987: Sharon M. Weisenbeck, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck

(1) Type and number of entities affected:

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

1. First year: None

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: 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: Not applicable

(3) Assessment of anticipated effect on state and local revenues: Not applicable

(4) Assessment of alternative methods; reasons

why alternatives were rejected: Virtually all limited license cased are resolved by agreement between the board and the affected licensee. The purpose of the revision is to insure that persons reviewing the regulation will be made aware that agreements as well as hearings are available at the option of the licensee.

(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: 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: Not applicable

TIERING: Was tiering applied? Yes

GENERAL GOVERNMENT CABINET
Board of Nursing
(Proposed Amendment)

201 KAR 20:161. Investigation and disposition of complaints.

RELATES TO: KRS 314.011(13), 314.031, 314.071(4), 314.091, 314.991(3)

PURSUANT TO: KRS Chapter 314

NECESSITY AND FUNCTION: To protect and safeguard the health and safety of the citizens of Kentucky and to provide for procedures in the receipt and disposition of complaints.

Section 1. Receipt of Complaints. (1) The board shall receive and process each complaint made against any licensee, applicant or unlicensed individual if the complaint alleges acts which may be in violation of the provisions of KRS Chapter 314.

(2) Complaints are received by the executive director or staff member(s) designated by the board to investigate complaints.

(3) All complaints shall be in writing and shall be dated and fully identify the complainant by name and address. The executive director or president of the board may file a complaint based upon information received by oral, telephone or written communications if the facts of the complaint are determined to be accurate and indicate acts which may be in violation of the provisions of KRS Chapter 314.

(4) A certified copy of a court record for a misdemeanor or felony conviction shall be considered a valid complaint.

(5) The person(s) responsible for receiving complaints shall make an investigation to verify facts in complaints and to collect additional information. If it is determined the facts are true and of sufficient gravity to warrant further action, the staff may request an informal conference with the individual against whom the complaint has been made.

(6) The person(s) responsible for receiving complaints shall evaluate information received to determine if an apparent violation of the provisions of KRS Chapter 314 has been committed, consult with legal counsel as indicated, and shall make recommendations for disposition of complaint.

(7) All preliminary information will be treated as confidential during the investigation and shall not be disclosed to board members or to the public. If a board member has participated in the investigation or has substantial knowledge of facts prior to a hearing on the complaint that could influence an impartial decision by the member, that member shall not participate in the adjudication of the complaint.

Section 2. Disposition of Complaints. (1) Administrative hearing.

(a) The board may schedule a formal administrative hearing to determine whether disciplinary action will be taken on the grounds set out in KRS 314.091.

(b) At least thirty (30) days prior to an administrative hearing, the individual shall be sent a letter of the specific charges by certified mail and shall be advised of legal rights in accordance with KRS 314.091. Service of process shall be deemed complete upon mailing a copy of the letter of charges by certified mail to the last known address of the licensee or applicant, whether or not said letter is subsequently claimed by addressee.

(c) All subpoenas shall be issued by the executive director or designee on behalf of the board. The person requesting the subpoenas shall bear the cost of serving the subpoenas, paying witness fees and expenses. The board shall bear the cost of witnesses subpoenaed in the board's behalf.

(2) Agreed order.

(a) The board may enter into an agreement with an applicant/licensee for voluntary surrender, suspension, probation, reinstatement or limitation of license, public or private reprimand, and/or to impose a civil penalty. The terms of the agreement may include other conditions or requirements to be met by applicant/licensee.

(b) The agreed order may contain terms which ensure protection of public health and safety, or which serve to educate or rehabilitate the applicant/licensee.

(c) The agreed order when approved by the board will terminate the investigation of a specific complaint.

(3) Consent decree.

(a) In accordance with KRS 314.991 and in lieu of formal disciplinary action, the board may authorize the executive director or designee to issue a consent decree to impose a civil penalty of not more than $1000 [$500] against a nurse or an applicant for licensure as a nurse or for registration as an advanced registered nurse practitioner who has:

1. Practiced as a nurse in the Commonwealth of Kentucky without a temporary work permit or a current, active license issued by the board not longer than six (6) months prior to filing an application for licensure.

2. Practiced as an advanced registered nurse practitioner in the Commonwealth of Kentucky without current, active registration issued by the board not longer than six (6) months prior to filing an application for registration.

(b) A notarized statement submitted by an employer or other person verifying that the applicant or nurse has engaged in the practice of nursing as defined in KRS 314.011(5), (7) and (9), without the required temporary work permit, license or registration may constitute grounds for imposing a civil penalty and issuing a consent decree.

(c) The use of a consent decree shall be restricted to only those applicants or nurses

who have violated KRS 314.031(1) or 314.042(5) and who have not violated any other provision of KRS Chapter 314 or any other laws of the Commonwealth of Kentucky or of the United States.

(d) The license or registration may be issued by board staff after the applicant or nurse meets all requirements for licensure or registration and after payment of the civil penalty by applicant or nurse.

(e) Upon ratification by the board of the consent decree the investigation of the specific complaint will be terminated.

(f) If consent decree is not ratified by the board, formal disciplinary action may be commenced.

Section 3. The executive director or person(s) responsible for receiving complaints shall notify the complainant and the person against whom the complaint was made of the final disposition of the case.

SHARON M. WEISENBECK, Executive Director

APPROVED BY AGENCY: June 4, 1985

FILED WITH LRC: September 15, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 27, 1987 at 1 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by October 22, 1987: Sharon M. Weisenbeck, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck

(1) Type and number of entities affected: The changes proposed for this regulation clarifies board procedures in the notification for administrative hearings and amends the regulation to be consistent with the statute.

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

1. First year: No change

2. Continuing costs or savings: No change

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

(b) Reporting and paperwork requirements: No change

(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 known

(b) Reporting and paperwork requirements: No change

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: This amendment is proposed to clarify and correct regulatory language.

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

(a) Necessity of proposed regulation if in conflict: Not applicable

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Tiering was not applicable.

GENERAL GOVERNMENT CABINET
Board of Nursing
(Proposed Amendment)

201 KAR 20:162. Procedures for disciplinary hearings.

RELATES TO: KRS 314.011, 314.031, 314.071(4), 314.091, 314.161, 314.991

PURSUANT TO: KRS Chapter 314

NECESSITY AND FUNCTION: To provide for the orderly conduct of hearings and to protect the due process rights of nurses and applicants.

Section 1. Purpose and Rule of Construction. The purpose of this regulation is to enable the board to conduct an orderly and reasonably expeditious search for the truth while ensuring that due process is afforded to the licensee or applicant. Accordingly, this regulation shall be liberally construed so as to aid that process.

Section 2. Composition of the Hearing Panel. (1) Disciplinary actions will be heard by a hearing panel consisting of two (2) members of the board and an assistant attorney general who will serve as the hearing officer.

(2) A hearing officer and one (1) member of the board may conduct a hearing for consideration of reinstatement of a revoked or suspended license and/or consideration of removal of a license from probationary status.

(3) A board member who has participated in the investigation of a disciplinary action or who has discussed the merits of an action with the agency staff or who has personal knowledge of the facts giving rise to a disciplinary action will not sit on a panel hearing that particular action.

(4) Staff members of the board, legal counsel for the board and a court stenographer will also be present for the hearing.

Section 3. Rights of the Licensee or Applicant. The licensee or applicant shall have the right to be present and to be heard by the hearing panel, to be represented by legal counsel, to present evidence, to cross examine witnesses presented by the board, and to make both opening and closing statements. The licensee or applicant shall also have the right to have subpoenaes issued in accordance with 201 KAR 20:161.

Section 4. Prehearing Disclosure of Evidence. (1) By the board. The licensee or applicant shall have the right to inspect the investigative file relating to a disciplinary action either in person or by legal counsel. The names, addresses and phone numbers of witnesses expected to be called by the board will be made available. Copies of documentary evidence may be obtained upon the payment of a reasonable charge therefore, except documents protected from disclosure by state or federal law. Nothing in this section shall be construed as giving the licensee or applicant the right to examine or copy the personal notes, observations, or conclusions of the board's investigators nor

shall it be construed as allowing access to the work product of legal counsel for the board. Further, appointment for the examination of an investigative file must be made upon reasonable notice, during regular office hours, and at a time acceptable to the staff members involved in the investigation. The licensee or applicant shall also be permitted to examine any items of tangible evidence in the possession of the board.

(2) By the licensee or applicant. At least ten (10) days prior to the scheduled hearing date the licensee or applicant shall furnish to the investigator or legal counsel for the board copies of any documents which the licensee or applicant intends to introduce at the hearing, and a list of the names, addresses, and home and work telephone numbers of any witnesses to be presented to the hearing panel by the licensee or applicant. The licensee or applicant shall also produce for inspection any items of tangible evidence within its possession or control which it intends to introduce at the hearing.

(3) At least ten (10) days prior to the scheduled hearing date the licensee or applicant shall also file with the board a sworn (under oath) written response to the specific allegations contained in the notice of charges. Allegations not properly answered will be deemed admitted. The panel may for good cause permit the late filing of an answer.

(4) Sanctions for failure to comply with prehearing disclosure. Should a party fail to comply with this section the panel hearing the disciplinary action may refuse to allow into evidence such items or testimony as have not been disclosed, may continue the action to allow the opposing party a fair opportunity to meet the new evidence, or may make such other order as it deems appropriate. Sanctions will be applied by the hearing officer but may be overridden by the unanimous vote of the board member(s) of the panel.

(5) Continuing duty to disclose. After disclosure has been completed each party shall remain under an obligation to disclose any new or additional items of evidence or witnesses which may come to its attention. Such additional disclosure shall take place as soon as practicable. Failure to disclose may result in the exclusion of the new evidence or testimony from the hearing.

Section 5. Order of Proceeding. (1) The hearing officer will call the meeting to order and will identify the parties to the action and the persons present and will read the letter of notice and charges. The hearing officer will ask the parties to state for the record any objections or motions. The hearing officer will rule upon any objections or motions, subject to be overridden by the unanimous vote of the board members of the panel. Opening statements will then be made, with the attorney for the board proceeding first. Either side may waive its opening statement, but opening statements may not be reserved.

(2) The taking of proof will commence with the calling of witnesses on behalf of the board. Such witnesses will be examined first by the attorney for the board, then by the licensee or applicant or that person's attorney, and finally by members of the hearing panel. Rebuttal examination of witnesses will proceed in the same order. Documents or other items may be introduced into evidence as appropriate.

(3) Upon conclusion of the case for the board the licensee or applicant will call its witnesses. Such witnesses will be examined first by the licensee or applicant or that person's attorney, then by the attorney for the board, and finally by the members of the hearing panel. Rebuttal examination of those witnesses will proceed in the same order. Again, documents or other evidence may be introduced as appropriate.

(4) At the conclusion of the proof the parties will be afforded the opportunity to make a closing statement, with the attorney for the board always proceeding last. The hearing officer may impose reasonable limitations upon the time allowed for opening and closing statements.

(5) The hearing officer will also be responsible for enforcing the general rules of conduct and decorum and expediting the hearing by keeping the testimony and exhibits relevant to the case.

Section 6. Rules of Evidence. (1) The hearing panel shall not be bound by the technical rules of evidence. The hearing panel may receive any evidence which it considers to be reliable, including testimony which would be hearsay if presented in a court of law. Documentary evidence may be admitted in the form of copies or excerpts, and need be authenticated only to the extent that the panel is satisfied of its genuineness and accuracy. Tangible items may be received into evidence without the necessity of establishing a technical legal chain of custody so long as the board is satisfied that the item is what it is represented to be and that it is in substantially the same condition as it was at the time of the events under consideration.

(2) The panel retains the discretion to exclude any evidence which it considers to be unreliable, incompetent, irrelevant, immaterial or unduly repetitious. Rulings on objections to evidence will be made by the hearing officer but may be overridden by the unanimous vote of the board member(s) of the panel.

Section 7. Recommendation by the Hearing Panel. (1) Upon the conclusion of the hearing the panel will retire into closed session for purpose of deliberations. Each board member of the panel will have one (1) vote. In case of a tie vote, the tie will be broken by the hearing officer.

(2) At the conclusion of the panel's deliberations it will propose an order based upon the evidence presented. The hearing officer shall draft a proposed decision including findings of fact and conclusions of law consistent with the panel's deliberations as well as a recommended order to be submitted to the full board. A copy of the proposed decision will be sent to the licensee or applicant by certified mail and to all members of the board as well as the attorney for the board.

Section 8. Written Arguments or Exceptions to a Proposed Decision. The licensee or applicant will have twenty (20) days from the date the proposed decision is mailed to file with the board written arguments or exceptions to any portion of the proposed decision. The twenty (20) day period may be extended at the discretion of the board president in unusual circumstances. The attorney for the board shall

have ten (10) days from the expiration of the period allowed to the licensee or applicant to file responses on behalf of the board.

Section 9. Decision by the Board. The board, at the next scheduled regular meeting or as soon thereafter as may be arranged, will review the proposed decision and consider the evidence presented, and, after consideration of any written arguments or exceptions which have been presented, will make a final determination as follows:

(1) Adopt the proposed decision as submitted, or

(2) Modify the proposed decision as deemed necessary, or

(3) Remand the case to the hearing panel for further evidence. The hearing panel will then schedule another hearing to obtain additional evidence. The board will then consider the findings of fact and recommendations from the original hearing and any additional hearing as well as additional written arguments or exceptions as the parties have presented and shall render its final decision in the case.

Section 10. Record to be Maintained. A transcript of the testimony taken during the hearing shall be kept by the board. A copy of that transcript will be available to the licensee or applicant from the court stenographer or, if the stenographer is unable to furnish a copy, from the board upon request and payment of the appropriate fee. A copy of the transcript of the hearing will be available to all board members. Any documents or exhibits introduced into evidence will be kept with the transcript or as ordered by the hearing officer.

Section 11. Continuances; Proceedings in Absentia. It is the policy of the board not to postpone cases which have been scheduled for hearings absent good cause. A request by a licensee or applicant for a continuance may be considered if communicated to the staff reasonably in advance of the scheduled hearing date and based upon good cause. The decision whether to grant a continuance will be made by the staff of the board. However, the burden is upon the licensee or applicant to be present at a scheduled hearing. Failure to appear at a scheduled hearing for which a continuance has not been granted in advance will be deemed a waiver of the right to appear and the hearing will be held as scheduled.

Section 12. Hearing Fee. If the order of the board is adverse to a licensee or applicant, or if the hearing is scheduled at the request of a licensee or applicant, a hearing fee in an amount equal to the cost of stenographic services may be assessed against the licensee or applicant. The board in its discretion may waive all or part of the fee.

Section 13. Copy to be Provided to Licensee or Applicant. A copy of this regulation will be provided to the licensee or applicant prior to the hearing.

SHARON M. WEISENBECK, Executive Director
APPROVED BY AGENCY: August 13, 1985
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 27, 1987 at 1 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by October 22, 1987: Sharon M. Weisenbeck, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck

(1) Type and number of entities affected: The amendments add information which clarifies the hearing procedure and the assessment of hearing fees by the administrative agency.

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

1. First year: No change
2. Continuing costs or savings: No change
3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No change

(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 known

(b) Reporting and paperwork requirements: No change

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: This amendment is proposed to clarify regulatory language.

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

(a) Necessity of proposed regulation if in conflict: Not applicable

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Tiering was not applicable.

GENERAL GOVERNMENT CABINET
Board of Nursing
(Proposed Amendment)

201 KAR 20:205. Standards for continuing education offerings.

RELATES TO: KRS 314.011(11), 314.021, 314.031(1), 314.073, 314.131
PURSUANT TO: KRS Chapter 314
NECESSITY AND FUNCTION: In order to implement a statewide system of mandatory continuing education for relicensure of nurses, it is necessary for the board to set standards for continuing education offerings.

Section 1. An Approved Offering. An approved offering shall comply with the board's administrative and offering standards. The applicant for approval of an offering shall submit evidence of:

(1) Instructor(s) qualifications. The instructor(s) shall have academic preparation

equal to, or greater than, that of the target audience, and shall have expertise in the subject matter, and experience in presenting content to adult learners.

(2) Assessment of learning needs. The justification for approved continuing education shall reflect planning in response to a current, systematic assessment of the learning needs of nurses.

(3) Behavioral objectives. The content, learning activities, teaching methodology, space provided, time allotted, and evaluation shall be based on, and congruent with, the identified behavioral objectives which shall clearly identify the particular skills, attitudes, and knowledge which the learner can expect to acquire as an outcome of participating in the learning activity.

(4) Content of continuing education. The content shall be designed to present current theoretical knowledge to enhance and expand nursing skills, and to promote the development, or change in attitudes necessary to make competent judgments and decisions in nursing. The target audience for the offering shall be clearly identified.

(5) Principles of adult education. An educational offering shall be based on principles of adult education which shall include, but are not limited to: content meaningful to the target audience, provision for learner participation and utilization of a variety of formats and teaching techniques.

(6) Records and reports. The provider shall have a system for maintenance and retrieval of the records of offering(s) and participant attendance.

(a) The system shall provide for the maintenance and retrieval of reports and records for a minimum of three (3) years.

(b) Records shall be maintained in a confidential manner.

(c) The nurse shall have access to personal record(s) and be provided with a certificate of attendance[, individual nurse participant record] or transcript upon successful completion of the offering.

(7) Evaluation of continuing education. The method of evaluation shall be identified during the planning phase.

Section 2. Applications for approval of an offering shall be submitted in accordance with requirements at least ninety (90) days prior to the scheduled date of presentation.

(1) The offering approval period awarded shall be set forth in the approval notification letter sent to the provider by the board.

(2) An approved offering may be presented as many times as desired during the approval period as long as the board's standards are maintained.

(3) The provider shall notify the board of any change in the administration of the educational unit or planned offering which occurs after approval is granted; failure to do so is grounds for revocation of approval.

SHARON M. WEISENBECK, Executive Director
APPROVED BY AGENCY: June 4, 1985
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 27, 1987 at 1 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by October 22, 1987: Sharon M. Weisenbeck, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck

(1) Type and number of entities affected: The changes proposed for this regulation are editorial rather than substantive in nature. The amendments delete information which is no longer applicable.

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

1. First year: No change
2. Continuing costs or savings: No change
3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No change

(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 known

(b) Reporting and paperwork requirements: No change

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: This amendment is proposed to clarify regulatory language.

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

(a) Necessity of proposed regulation if in conflict: Not applicable

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Tiering was not applicable.

GENERAL GOVERNMENT CABINET
Board of Nursing
(Proposed Amendment)

201 KAR 20:210. Standards for a program of continuing education.

RELATES TO: KRS 314.011(11), 314.073
PURSUANT TO: KRS 314.021, 314.131(1)
NECESSITY AND FUNCTION: It is necessary for the board to develop standards for approval of programs of continuing education for nurses.

Section 1. Program Standards. A program shall comply with the board's administrative program, and offering standards as defined by the board's criteria for approval. Applications for approval shall be submitted in accordance with the board's requirements, and shall provide evidence of:

(1) Facilities and resources. Facilities and resources shall meet the board's administrative standards and criteria.

(2) Nurse administrator. The nurse administrator of the provider's educational unit

shall meet the board's educational requirements as set forth in 201 KAR 20:220, Provider approval, Section 1(3)(b), and shall have documented evidence of ability to develop and implement a planned continuing education curriculum.

(3) Curriculum. The planned curriculum identifies each offering and/or session of an offering with the topics listed, and a brief description [the level and scope] of the content planned for each target audience. For each offering and/or session of an offering, the justification for the continuing education activity, the number of contact hours planned, and the proposed faculty and dates shall be identified.

(4) The provider shall immediately notify the board of any change in the administration of the educational unit, and of any substantial change in the planned curriculum. Major changes shall subject the program to another review process.

Section 2. The board shall annually review, revise, and/or adopt guidelines, not inconsistent with the nursing law and regulations, to facilitate the administration of the continuing education requirement for relicensure of nurses.

SHARON M. WEISENBECK, Executive Director
APPROVED BY AGENCY: January 7, 1985
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 27, 1987 at 1 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by October 22, 1987: Sharon M. Weisenbeck, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck
(1) Type and number of entities affected: The changes proposed for this regulation are editorial rather than substantive in nature. The amendment clarifies meaning and deletes ambiguous language.
(a) Direct and indirect costs or savings to those affected:
1. First year: No change
2. Continuing costs or savings: No change
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change
(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 known
(b) Reporting and paperwork requirements: No change
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: This amendment is proposed to clarify regulatory language.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None known
(a) Necessity of proposed regulation if in conflict: Not applicable
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable
(6) Any additional information or comments: None
TIERING: Was tiering applied? Tiering was not applicable.

GENERAL GOVERNMENT CABINET
Board of Nursing
(Proposed Amendment)

201 KAR 20:215. Contact hours.

RELATES TO: KRS 314.011(11), 314.021, 314.073, 314.131(1)
PURSUANT TO: KRS Chapter 314
NECESSITY AND FUNCTION: For administration of the continuing education requirement, it is necessary for the board to develop standards for awarding contact hour(s).

Section 1. To earn contact hour approval, the nurse shall successfully complete the requirements specified by the provider, or as prescribed by the board for an approved continuing education activity. To satisfy the continuing education requirement for an active Kentucky license, contact hours shall be earned in an approved continuing education activity(ies).
[(1) An approved offering shall consist of at least one (1) contact hour.]
(1) [(a)] An offering may be presented in one (1) session (one (1) contact hour), or a series of sessions[, each of which shall provide at least one (1) contact hour].
(a) [(b)] Fractional parts of a contact hour may [shall not] be approved for an offering which exceeds the minimum of one (1) contact hour in any given session.
(b) Each five (5) minutes shall equal one-tenth (0.1) contact hour.
(2) Academic credit in nursing may satisfy the continuing education requirement. Academic credit may be converted to contact hours as follows:
(a) One (1) semester academic credit hour equals fifteen (15) contact hours.
(b) One (1) quarter academic credit hour equals twelve (12) contact hours.
(3) Self-study earning via programming approved by national nursing organizations recognized by the board may satisfy the continuing education requirement.
(4) Contact hours awarded by another organization may be recognized by the board as equivalent, or comparable provided the organization's standards and criteria for continuing education and the approval mechanism have been reviewed and approved by the board.

Section 2. The following types of courses will not satisfy the continuing education requirements for licensure:
(1) Courses in nursing which were a part of the nurse's prelicensure preparation. (This does not preclude approval of nursing electives or other courses in nursing science beyond the basic nursing program.)
(2) Courses in other auxiliary training

programs.
(3) Inservice education as defined in 201 KAR 20:200, Section 1(6).

SHARON M. WEISENBECK, Executive Director
APPROVED BY AGENCY: June 4, 1985
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 27, 1987 at 1 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by October 22, 1987: Sharon M. Weisenbeck, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck
(1) Type and number of entities affected: The changes proposed for this regulation permit recognition of earning of fractional parts of continuing education contact hours by all Kentucky nurse licensees. The amendments delete information which is no longer applicable.
(a) Direct and indirect costs or savings to those affected:
1. First year: No change
2. Continuing costs or savings: No change
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change
(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 known
(b) Reporting and paperwork requirements: No change
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: This amendment is proposed to provide for application of partial contact hour earning not previously permitted.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None known
(a) Necessity of proposed regulation if in conflict: Not applicable
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable
(6) Any additional information or comments: None
TIERING: Was tiering applied? Tiering was not applicable.

GENERAL GOVERNMENT CABINET
Board of Nursing
(Proposed Amendment)

201 KAR 20:220. Provider approval.

RELATES TO: KRS 314.011(11), 314.073
PURSUANT TO: KRS 314.021, 314.031(1), 314.131(1)
NECESSITY AND FUNCTION: Only those contact hours earned in approved programs/offerings conducted by approved providers shall satisfy the requirements for relicensure.

Section 1. To administer the continuing education requirement, the board adopts the following standards: Administrative standards. An approved provider shall comply with the following administrative standards:
(1) Educational unit. There shall be within the provider's organizational structure an identifiable educational unit with designated personnel and resources for conducting an organized schedule of continuing education for nurses and for reporting and recording of contact hours according to the requirements of the board's standards and criteria.
(2) Philosophy and objectives. The unit's philosophy and objectives for continuing education shall be consistent with those of the provider organization.
(3) Nurse administrator of continuing education. A nurse, holding a current, active [Kentucky] nurse license, with experience in adult and continuing education shall be administratively responsible for the <u>actual planning, development, implementation, and evaluation of the</u> provider's educational unit for continuing education for nurses. The educational qualifications of the nurse administrator shall be as follows:
(a) For the licensed practical nursing groups' educational units, the nurse administrator of continuing education shall hold a diploma, or its equivalent, from an approved school of practical nursing.
(b) Other providers' educational units shall have a nurse administrator who holds a baccalaureate or higher degree in nursing or a nurse consultant who meets the nurse administrator qualifications. As of January 1, 1985, newly appointed nurse administrators of program approved providerships shall hold a baccalaureate or higher degree in nursing.
(4) Policies and procedures. Written policies and procedures of the provider shall facilitate the efficient operation of the planned continuing education activities and shall clearly define the provider's accountability, financial support, and administrative control necessary to maintain the board's standards and criteria for continuing education and to achieve the objectives of the planned program/offering(s).
(5) Educational facilities and resources. The provider shall have accessible and available, or arrange for, educational facilities, human resources, necessary instructional aids, and equipment for the planners, faculty/instructor(s), and/or learners consistent with the educational content, format, teaching methodology, and behavioral objectives of each continuing education offering.
(6) Continuing education planners/committee. A committee composed of nurses holding current, active nurse licenses and qualified by education and expertise in the subject matter, and experience in planning adult and continuing education shall be used in planning and evaluating board approved program/offerings; other advisors or consultants may be used as appropriate.

Section 2. Initial Provider Approval. The potential provider shall request an application

for approval [consideration] as a provider and the board shall assign the potential provider a permanent, nontransferable number. The provider number shall be used to identify all communications, offering announcements, records, and reports.

(1) Applications for approval [consideration] as a provider may be submitted at any time during the year.

[(2) Application for provider approval should be submitted no later than September 1.]

(2) [(3)] If the potential provider meets the board's standards and criteria, approval shall be granted. An approved provider shall apply for approval of program/offering(s) in accordance with board requirements.

(3) [(4)] The providership approval period awarded shall be set forth in the approval notification letter sent to the provider by the board. Retroactive approval shall not be granted.

Section 3. Continued Approval of a Provider. Applications for continued approval as a provider shall be submitted prior to the end of the current approval period.

(1) Continued approval of the provider shall be based on the past approval period [year's] performance and compliance with board standards.

(2) The provider's past approval period [year] performance may be evaluated by participant evaluations, provider evaluation, onsite visits, and/or an audit of the provider's reports and records.

(3) Providership approval awarded by another organization may be recognized by the board as equivalent or comparable, provided the organization's standards and criteria for continuing education and the approval mechanism have been reviewed and approved by the board.

(a) The board shall assign a permanent nontransferable number to providers approved through this mechanism.

(b) Provider approval granted through this mechanism shall be subject to board action identified in Section 4 of this regulation.

Section 4. The board may deny, revoke, suspend, or probate approval of any provider, continuing education activity, or other approved entity for just cause.

Section 5. Appeal. If a provider is dissatisfied with a board decision concerning approval and wishes a review of the decision, the following procedure shall be followed:

(1) Written requests for the review must be filed with the board within thirty (30) days after the date of notification of the board action which the provider contests.

(2) The board, or its designee, shall conduct a review in which the provider may appear in person and present reasons why the board's decision should be set aside or modified.

SHARON M. WEISENBECK, Executive Director

APPROVED BY AGENCY: January 7, 1985

FILED WITH LRC: September 15, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 27, 1987 at 1 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by October 22, 1987: Sharon M. Weisenbeck, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck

(1) Type and number of entities affected: All 160 board approved providers of mandatory continuing education are affected by this amendment which clarifies administrative responsibility and comparability of approval conferred by another organization.

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

1. First year: No change
2. Continuing costs or savings: No change
3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Paperwork requirements are reduced and the application process expedited.

(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 known

(b) Reporting and paperwork requirements: No change

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The alternative, to maintain the current system, was determined to be no longer valid.

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

(a) Necessity of proposed regulation if in conflict: Not applicable

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Tiering was not applicable.

GENERAL GOVERNMENT CABINET
Board of Nursing
(Proposed Amendment)

201 KAR 20:225. Reinstatement of license.

RELATES TO: KRS 314.071, 314.073

PURSUANT TO: KRS 314.021, 314.031(1), 314.131(1)

NECESSITY AND FUNCTION: To provide for procedures for reinstatement of a license that has lapsed or has been subject to disciplinary action.

Section 1. Lapsed License. A lapsed license may occur for any of the following reasons:

(1) Failure to apply for license renewal for any reason.

(2) Failure to meet the continuing education requirement as prescribed by law and regulations.

(3) Failure to submit adequate data to enable the board to complete processing an application.

(4) Failure to submit current fee.

Section 2. Requirements for Licensure

Reinstatement. (1) If a licensee fails to renew an active license as prescribed by law and regulation, the license shall lapse on the last day of the licensure period.

(2) The board may issue an active license by reinstatement if the applicant:

(a) Submits a completed application form;

(b) Submits the current application fee; and

(c) Meets the continuing education requirements for the current licensure period and completes additional contact hours dependent upon time period of lapsed license as follows:

1. One (1) year: no additional contact hours.

2. Two (2) years: five (5) additional contact hours.

3. Three (3) years: ten (10) additional contact hours.

4. Four (4) or more years: fifteen (15) additional contact hours or a board approved refresher course.

Section 3. Reinstatement Requirements for Individuals Holding an Active Nurse License Issued by Another Jurisdiction. (1) The applicant who has been actively licensed and engaged in nursing practice in another state for at least one (1) year during the preceding five (5) years shall submit evidence from employer(s) to verify such active practice.

(2) The applicant who has not been actively licensed and engaged in nursing practice in another state for at least one (1) year during the preceding five (5) years shall complete the continuing education requirements for relicensure for the current licensure period and in addition shall complete one (1) of the following <u>at the option of the board,</u> prior to being licensed by the board:

(a) Fifteen (15) contact hours of continuing education in nursing within the twenty-four (24) months preceding the date of application for active Kentucky licensure status.

(b) A board approved refresher course in nursing within the twenty-four (24) months preceding the date of application for active Kentucky licensure status.

Section 4. For individuals who reinstate Kentucky nursing licensure during the last ten (10) months of a biennial contact hour earning period, contact hour earning which meets or exceeds the contact hour requirement for the upcoming licensure renewal may be accepted as evidence of earning for both current and upcoming licensure periods.

Section 5. The board may reinstate a license to either active or inactive status as requested by the individual reinstatement applicant.

Section 6. Reinstatement of a License Subject to Disciplinary Action. (1) If a license has been denied, suspended or revoked by the board in a disciplinary action, the individual may petition the board after two (2) years, unless otherwise specified in a decision or agreed order entered by the board.

(2) The individual shall submit evidence in writing, verified by oath that:

(a) The requirements of a decision or agreed order have been met.

(b) The basis for the disciplinary action has been removed and that issuance of a license would no longer be a threat to public safety and health.

(3) In addition, the applicant shall comply with the requirements prescribed in Section 2 of this regulation for reinstatement of an active license.

Section 7. The board may require retaking of the licensure examination and achievement of a passing score by a nurse or applicant for licensure who previously has successfully taken the examination but whose license has been subjected to disciplinary action, or who has not held a current active license issued by another jurisdiction and practiced as a nurse for a period of time as required in this regulation for reinstatement of license.

Section 8. A copy of an official name change document (court order, marriage certificate, divorce decree) shall be submitted by the applicant when making application, if applicable.

SHARON M. WEISENBECK, Executive Director

APPROVED BY AGENCY: June 4, 1985

FILED WITH LRC: September 15, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 27, 1987 at 1 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by October 22, 1987: Sharon M. Weisenbeck, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck

(1) Type and number of entities affected:

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

1. First year: Reinstatement of licensure for former licensees who have not actively practiced for at least five years may be delayed while they complete a required refresher course.

2. Continuing costs or savings: Same as above.

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: Not applicable.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Completion of a refresher course may be necessary to insure public safety where former licensees have not practiced for a prolonged period of time.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not applicable

(a) Necessity of proposed regulation if in conflict: 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.

GENERAL GOVERNMENT CABINET
Board of Nursing
(Proposed Amendment)

201 KAR 20:230. Renewal of licenses.

RELATES TO: KRS 314.041, 314.051, 314.071, 314.073
PURSUANT TO: KRS Chapter 314
NECESSITY AND FUNCTION: To assure that applicants for renewal of licenses meet minimum standards set forth by the board as necessary for safe practice. To provide consistency in procedures.

Section 1. Eligibility for Renewal of Licenses. To be eligible for renewal of licenses, applicants shall:
(1) Hold a valid and current license issued by the board;
(2) Submit completed application form to board office to be received or postmarked no later than the last day of the licensure period;
(3) Submit current fee;
(4) Have met continuing education contact hour requirements, if applicable;
(5) Submit official copy(ies) of court records of any misdemeanor and/or felony conviction(s) with a letter of explanation;
(6) Report any disciplinary action(s) taken or pending on license(s) in other U.S. jurisdictions;
[(7) Have no disciplinary action pending by the board for violation(s) of KRS Chapter 314;]
(7) [(8)] Have paid all monies due to the board; and
(8) [(9)] Submit copy of an official name change document (court order, marriage certificate, divorce decree), if applicable.

Section 2. Applicants for current inactive licenses and those who are renewing for the first time an original Kentucky license issued by examination or endorsement are exempt from meeting continuing education contact hour requirements.

Section 3. Continuing Education Contact Hours Required for Renewal of Current Active Registered Nurse Licenses. (1) Continuing education contact hours earned by licensure renewal applicants according to board requirements shall meet requirements for renewal of 1986 and 1988 registered nurse licenses as applicable to the following:
(a) Beginning in 1984, applicants shall earn thirty (30) contact hours of continuing education during the period of June 1 through May 31 of the second succeeding year for renewal of registered nurse licenses expiring on October 31 of a current licensure period.
(b) Beginning in 1986, applicants shall earn thirty (30) contact hours of continuing education during the period of June 1 through October 31 of the second succeeding year for renewal of registered nurse licenses expiring on October 31 of a current licensure period.
(2) Beginning in 1988 and thereafter, applicants shall earn thirty (30) contact hours of continuing education during the period of November 1 through October 31 of the second succeeding year for renewal of registered nurse licenses expiring on October 31 of a current licensure period.

Section 4. Continuing Education Contact Hours Required for Renewal of Current Active Licensed Practical Nurse Licenses. (1) Continuing education contact hours earned by licensure renewal applicants according to board requirements shall meet requirements for renewal of 1985 and 1987 licensed practical nurse licenses as applicable to the following:
(a) Thirty (30) contact hours of continuing education earned during the period of April 30, 1982 through May 31, 1985 for renewal of licensed practical nurse licenses expiring on October 31, 1985.
(b) Beginning in 1985, applicants shall earn thirty (30) contact hours of continuing education during the period of June 1 through October 31 of the second succeeding year for renewal of licensed practical nurse licenses expiring on October 31 of a current licensure period.
(2) Beginning in 1987 and thereafter, applicants shall earn thirty (30) contact hours of continuing education during the period of November 1 through October 31 of the second succeeding year for renewal of licensed practical nurse licenses expiring on October 31 of a current licensure period.

Section 5. Licensure Period. (1) The licensure period for current active and inactive registered nurse licenses shall be for a biennial period of November 1 through October 31 of even years.
(2) The licensure period for current active and inactive licensed practical nurse licenses shall be for a biennial period of November 1 through October 31 of uneven years.

Section 6. Valid and current licenses issued by the board may be renewed on either an active or inactive status.

SHARON M. WEISENBECK, Executive Director
APPROVED BY AGENCY: June 4, 1985
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 27, 1987 at 1 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by October 22, 1987: Sharon M. Weisenbeck, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: Current Kentucky licensees will not be denied renewal because they have a disciplinary action pending in Kentucky. The license will be renewed and the disciplinary action processed in due course.
2. Continuing costs or savings: Same as above.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative

body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: Not applicable
(4) Assessment of alternative methods; reasons why alternatives were rejected: Denying renewal of licensure for current licensees with unadjudicated disciplinary action pending in Kentucky is probably unconstitutional since it amounts to the imposition of sanctions without trial. The board has not enforced the deleted section of the regulation for some time, and wishes to conform the regulation with present practice.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not applicable.
(a) Necessity of proposed regulation if in conflict: 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.

GENERAL GOVERNMENT CABINET
Board of Nursing
(Proposed Amendment)

201 KAR 20:240. Fees for applications and for services.

RELATES TO: KRS 314.041(5), 314.042(3), (6), 314.051(3), 314.071(1), (2), 314.073(4), (6), 314.131(1), 314.161
PURSUANT TO: KRS 61.874(2), Chapter 314
NECESSITY AND FUNCTION: To establish fees to carry out the provisions of KRS Chapter 314.

Section 1. Fees for Licensure and Registration Applications. (1) The board shall collect fees for applications for licensure or for registration, and for renewal or reinstatement thereof.
(2) The fees shall not exceed the amounts indicated for the following applications:
(a) Licensure as a registered nurse - seventy (70) dollars.
(b) Licensure as a licensed practical nurse - seventy (70) dollars.
(c) Biennial renewal of active license - fifty (50) dollars.
(d) Biennial renewal of inactive license - thirty-five (35) dollars.
(e) Reinstatement of [lapsed] license - seventy (70) dollars.
(f) Active to inactive license status - thirty-five (35) dollars.
(g) Inactive to active license status - fifty (50) dollars.
(h) Endorsement verification of Kentucky licensure or registration - twenty (20) dollars.
(i) Duplicate license or registration card or letter - twenty (20) [ten (10)] dollars.
(j) Registration as an advanced registered nurse practitioner - seventy (70) dollars.
(k) Biennial renewal of registration as an advanced registered nurse practitioner - fifty (50) [forty-five (45)] dollars.
(l) Reinstatement of registration as an advanced registered nurse practitioner - seventy (70) dollars.
(3) An application shall not be evaluated unless current fee is submitted.

Section 2. Fees for Applications for Continuing Education Approvals. (1) The board shall collect fees for applications for approval of providers of continuing education and for renewal or reinstatement thereof not to exceed the following amounts:
(a) Initial provider approval - $100.
(b) Reinstatement of provider approval - $100.
(c) Annual [One (1) year] renewal of approval - forty-five (45) [twenty-five (25)] dollars.
[(d) Two (2) year renewal of approval - fifty (50) dollars.]
[(e) Four (4) year renewal of approval - $100.]
(2) The board shall collect fees for applications for approval of programs and offerings of continuing education for those approved providers who do not hold programming approval granted by an organization whose standards are deemed comparable to or exceed the approval standards of the board as stated in 201 KAR 20:205, 201 KAR 20:210 and Section 1(4) of 201 KAR 20:215. The application fees shall not exceed the following amounts:
(a) Annual program approval - $300.
(b) Annual offering approval - fifty (50) dollars.
(3) An application for an individual offering approval shall not exceed fifty (50) dollars.

Section 3. Fees for Services. (1) The board shall collect fees for the following services not to exceed the amounts indicated:
(a) Administration of examination for registered nurse licensure - sixty (60) dollars.
(b) Administration of examination for practical nurse licensure - thirty-five (35) dollars.
(c) Verification of licensure or registration letter - five (5) dollars.
(d) Copy [Copies] of examination score(s) or [and] transcript(s) - ten (10) [five (5)] dollars.
[(e) Verification of individual licensee continuing education earning report - five (5) dollars.]
(e) [(f)] Nursing certificate (optional) - thirty (30) dollars.
(2) The fee for copies of statutes, regulations, and duplicated or printed materials shall be one (1) dollar minimum or shall not exceed twenty-five (25) cents per page.
(3) An applicant for licensure who writes or rewrites the licensure examination shall pay the current examination fee as required by the national council of state boards of nursing in addition to the board application for licensure and administration of examination fees.
(4) A nurse who is licensed in another state, United States territory or country and who submits an application for licensure in Kentucky as a registered nurse or a licensed practical nurse, but who is required to write or rewrite the licensure examination, shall pay the current examination fee as required by the national council of state boards of nursing in addition to the board application for licensure and administration of examination fees.

(5) Applicants rewriting the licensure examination shall:
(a) Submit fee for administration of examination prior to each time examination is taken.
(b) Submit new application and current fees if more than one (1) year has passed since date last examination was written or more than two (2) years have passed since the filing date of the original application.
(6) Graduates of foreign schools of nursing shall assume responsibility for costs incurred to submit credentials translated into English, commission on graduates of foreign nursing schools certificates, immigration documents and other documents needed to verify meeting licensure requirements.

Section 4. With the exception as stated in Section 3(5)(b) of this regulation, an application, which is not completed within one (1) year from the date the application form is filed with the board office, shall lapse and the fee shall be forfeited.

Section 5. An applicant who meets all requirements for approval, licensure or registration will be issued the appropriate approval, license or registration without additional fee.

Section 6. Refunds. (1) Current administration of examination fee on file for an examination candidate unable to be present for the administration of an examination due to unusual circumstances such as weather conditions, accidents, illness, family circumstances, will be refunded upon submission of written request by candidate.
(2) Overpayment of five (5) dollars or more of current fee will be refunded upon submission of written request by payee [payer].

Section 7. A partial application fee may be held on record for one (1) year and may be applied toward the fee to meet the requirements for licensure or registration.

Section 8. Fees properly collected by the board are nonrefundable with the exceptions as stated in Section 6 of this regulation.

SHARON M. WEISENBECK, Executive Director
APPROVED BY AGENCY: June 4, 1985
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 27, 1987 at 1 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by October 22, 1987: Sharon M. Weisenbeck, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: Advanced registered nurse practitioner registrations will increase by $2.50 per year. Continuing education provider approvals will increase by $20 per year. The fee for furnishing duplicate transcripts or exam scores will increase by $5 per occurrence. The fee for furnishing a duplicate licensure document will increase by $10 per occurrence.
2. Continuing costs or savings: Same as above.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: Minor enhancement of revenues (total of less than $10,000 per year).
(4) Assessment of alternative methods; reasons why alternatives were rejected: Approval of advanced registered nurse practitioner and continuing education provider credentials have become more complex, requiring greater staff resources than previously. The current fees assessed for furnishing duplicate transcripts, exam scores, and licenses do not adequately compensate for the disruption occasioned to the data processing system in order to retrieve the requested information.
(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: 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.

GENERAL GOVERNMENT CABINET
Board of Nursing
(Proposed Amendment)

201 KAR 20:270. Programs of nursing surveys.

RELATES TO: KRS 314.111(2), (3), 314.131(1)
PURSUANT TO: KRS Chapter 314
NECESSITY AND FUNCTION: It is necessary that surveys be made by a board representative to evaluate compliance with board standards by agencies offering or planning to offer programs of nursing.

Section 1. Surveys of Programs of Nursing. (1) Programs of nursing granted full approval status by the board will be surveyed at least every eight (8) years.
(2) Surveys of programs of nursing holding full approval status may be rescheduled based upon any of the following:
(a) Length of time since previous survey by a board representative.
(b) [Major] Curriculum change.
(c) [Major curriculum] Change in use of clinical facilities.
(d) Student attrition rate.
(e) Licensure examination pass-rate.
(f) As deemed necessary by the board to determine compliance with regulations and requirements.

(3) The scheduling of surveys during the period of initial approval shall be based on board required reports and on evaluations submitted by the nursing administrator, type of program of nursing planned, and as required by regulation.

(4) The scheduling of surveys of governing institutions planning to establish a program of nursing shall be based upon the preliminary report information submitted and date of receipt of proposal for the new program as required by the board and by regulation.

(5) Approved programs of nursing with a licensure examination pass-rate less than eighty-five (85) percent shall be surveyed by the board as required by regulation and as deemed necessary by the board.

(6) Programs of nursing desiring to establish nursing extension programs shall be surveyed according to 201 KAR 20:290, Standards for prelicensure registered nurse and practical nurse extension programs.

SHARON M. WEISENBECK, Executive Director
APPROVED BY AGENCY: June 4, 1985
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 27, 1987 at 1 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by October 22, 1987: Sharon M. Weisenbeck, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck
(1) Type and number of entities affected: The changes proposed for this regulation are editorial rather than substantive in nature. The amendments clarify required information.
(a) Direct and indirect costs or savings to those affected:
1. First year: No change
2. Continuing costs or savings: No change
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change
(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 known
(b) Reporting and paperwork requirements: No change
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: This amendment is proposed to clarify regulatory language.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None known
(a) Necessity of proposed regulation if in conflict: Not applicable
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable
(6) Any additional information or comments: None
TIERING: Was tiering applied? Tiering was not applicable.

GENERAL GOVERNMENT CABINET
Board of Nursing
(Proposed Amendment)

201 KAR 20:290. Standards for prelicensure registered nurse and practical nurse extension programs.

RELATES TO: KRS 314.011(5), (9), 314.111(1), (2), (3)
PURSUANT TO: KRS Chapter 314
NECESSITY AND FUNCTION: It is necessary to establish standards for the development and approval of nursing extension programs which prepare graduates for admission to the licensure examination and to facilitate endorsement of licensure status to other states.

Section 1. Establishment of a Nursing Extension Program. (1) The governing institution shall submit to the board a completed application form which is supplied by the board.
(2) A proposal to establish a nursing extension program shall not be considered until evidence of the following is presented:
(a) A minimum of three (3) consecutive licensure examination pass rates of eighty-five (85) percent immediately prior to submission of the application form.
(b) Conference with a representative of the board.
(c) Consent of approving board or body of the governing institution.
(d) Participation by nurse administrator of the program of nursing in planning the extension program.
(3) The proposal for an extension program should address the following:
(a) Statement of need for graduates.
1. Documentation of need for nurses in the areas to be served by the governing institution.
2. Documentation of an adequate pool of qualified applicants interested in the extension program.
(b) Designated responsibilities of cooperating parties, if applicable.
1. Philosophy, purpose, and objectives of the governing institution, approved program of nursing, and the proposed extension program.
2. Administrative and academic policies of the governing institution, approved program of nursing, and the proposed extension program.
3. Organizational plan and administrative policies for implementation of the extension program.
4. Adequacy of arrangements made to provide services.
(c) Name of degree or diploma granting-institution accredited by the southern association of colleges and schools or appropriate accrediting body.
(d) Name and qualifications of the nurse administrator.
(e) Plan for employment of qualified faculty. Faculty shall be employed sufficiently in advance of opening date to provide for program planning and development and for orientation to facilities.
(f) Identified curriculum and conceptual or organizing framework to be used, and any planned

revisions.
(g) Evidence of availability of clinical facilities accredited by the joint commission on accreditation of hospitals or other appropriate approval bodies.
1. Documentation of planning for utilization of accredited facilities.
2. Documentation from clinical facilities agreeing to accommodate students.
3. Availability and provision of services to meet curricular objectives within clinical facilities to be utilized.
4. Cooperative planning for use of clinical facilities with other programs of nursing.
(h) Evidence of availability of adequate finances to support the extension program.
1. Sufficient financial resources as identified in an approved budget for the extension program.
2. Source(s) of funding identified.
3. Stability of source(s) of funding to maintain operation of the extension program.
4. Stipulations for use of special finances, if applicable.
(i) Evidence of availability of adequate classrooms, laboratories, conference rooms, and library resources appropriate for the needs of the extension program.
1. Sufficient space and equipment allocated for use of faculty and students.
2. Allocated space is conducive to the teaching and learning process.
3. Library and learning resources which support achievement of meeting curricular objectives.
(j) Plan for evaluation of the total extension program including:
1. Student achievement.
2. Review of program objectives.
3. Input from faculty, students, administrators, and clinical facility employees.
4. Percentage pass-rate of graduates on the licensure examination.
5. Identification and analysis of student attrition rate.
6. Effects of the extension program on the governing institution and the program of nursing.

Section 2. Proposal Review Process. (1) A completed program proposal shall be submitted to the board by the governing institution no less than eight (8) months prior to the anticipated opening date for the nursing extension program.
(2) A representative of the board shall survey the extension program and submit a written report to the board.
(3) Developmental approval shall be dependent upon the appointment of qualified faculty and acceptance of the program proposal which includes provision for evaluation of the program.
(4) The governing institution shall be notified in writing of action taken by the board on the proposal and survey report.
(5) No students shall be admitted to the program of nursing until developmental approval has been granted by the board.
(6) Approval to establish an extension program may be withdrawn if program requirements are not met and if a student class is not enrolled within eighteen (18) months after the board granted developmental approval. The governing institution shall be notified in writing of the withdrawal of developmental approval.

Section 3. Approved Nursing Extension Program. (1) Required reports shall be submitted to the board in accordance with Section 3 of 201 KAR 20:360, Evaluation of prelicensure registered nurse and practical nurse programs.
(2) The retention of the approval designation of an extension program is contingent upon meeting standards as set forth by the board.

SHARON M. WEISENBECK, Executive Director
APPROVED BY AGENCY: June 4, 1985
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 27, 1987 at 1 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by October 22, 1987: Sharon M. Weisenbeck, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck
(1) Type and number of entities affected: The changes proposed for this regulation are editorial rather than substantive in nature. The amendments clarify information which is required.
(a) Direct and indirect costs or savings to those affected:
1. First year: No change
2. Continuing costs or savings: No change
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change
(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 known
(b) Reporting and paperwork requirements: No change
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: This amendment is proposed to clarify regulatory language.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None known
(a) Necessity of proposed regulation if in conflict: Not applicable
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable
(6) Any additional information or comments: None
TIERING: Was tiering applied? Tiering was not applicable.

GENERAL GOVERNMENT CABINET
Board of Nursing
(Proposed Amendment)

201 KAR 20:310. Faculty for prelicensure registered nurse and practical nurse programs.

RELATES TO: KRS 314.011(5), 314.111(1)
PURSUANT TO: KRS Chapter 314
NECESSITY AND FUNCTION: It is necessary to

establish standards for faculty of programs of nursing which prepare graduates for licensure as registered nurses or practical nurses.

Section 1. Faculty for Prelicensure Registered Nurse Programs. (1) Number and composition. The faculty shall include but not be limited to a nurse administrator and faculty in the major areas of clinical nursing practice.

(a) The faculty shall be adequate in number and composition to plan and to implement the curriculum of the program in relation to its stated purpose, philosophy, objectives, and number and size of student classes admitted annually, and any additional extension, experimental or continuing education programs.

(b) The faculty shall be adequate in number to provide for the supervision of students in the clinical practice experience as stated in Section 1(3) of 201 KAR 20:260.

(2) Nurse administrator qualifications:

(a) A minimum of a masters or higher degree in nursing if appointed after September 1, 1980.

(b) A minimum of five (5) years of nursing experience within the immediate past ten (10) years and experience in administration.

(c) Current license to practice as a registered nurse in the Commonwealth of Kentucky.

(3) Nurse faculty qualifications:

(a) After September 1, 1985, at least three-fourths (3/4) of the nurse faculty members including full-time equivalents in all educational programs whose faculty prepares students for licensure as registered nurses shall have a minimum of a masters degree in nursing. A program of nursing may include as part of the three-fourths (3/4) of nursing faculty with masters degrees, those nurse faculty members employed prior to September 1, 1980 who have a baccalaureate degree in nursing and a masters degree in a related field.

(b) After January 1, 1990, new nurse faculty appointees shall hold a masters or higher degree in nursing.

(c) Current license to practice as a registered nurse in the Commonwealth of Kentucky.

(d) Experience in the clinical or functional area of responsibility or both with a minimum of two (2) years nursing experience within the immediate past five (5) years.

(e) Experience in the application of principles in teaching and learning.

Section 2. Faculty for Prelicensure Practical Nurse Programs. (1) Number and composition. The faculty shall include but not be limited to a nurse administrator and faculty in the major areas of clinical nursing practice.

(a) The faculty shall be adequate in number and composition to plan and to implement the curriculum in relation to its stated purpose, philosophy, objectives, and number and size of student classes admitted annually.

(b) All nurse faculty members shall be appointed by and be responsible to the governing institution of the programs of nursing.

(c) There shall be a minimum of two (2) full-time nurse faculty members employed. The faculty shall be adequate in number to provide for the supervision of students in the clinical practice experience as stated in Section 1(3) of 201 KAR 20:260.

(2) Nurse administrator qualifications:

(a) A bachelor of science degree in nursing if appointed after July 1, 1980.

(b) A minimum of five (5) years of nursing experience within the past ten (10) years with experience in administration.

(c) Current licensure to practice as a registered nurse in the Commonwealth of Kentucky.

(3) Nurse faculty qualifications:

(a) New faculty employed after September 1, 1985 shall have earned a minimum of a baccalaureate degree by January 1, 1990.

(b) After January 1, 1990, new faculty appointees shall have a minimum of a baccalaureate degree in nursing.

(c) Current licensure to practice as a registered nurse in the Commonwealth of Kentucky.

(d) Qualifications in the clinical or functional are of responsibility, or both.

(e) A minimum of three (3) years of nursing experience as a licensed nurse.

(f) A minimum of one (1) year of registered nursing practice experience during the three (3) years that immediately precede the date of appointment.

(g) Experience in the application of principles in teaching and learning.

Section 3. Evaluation of Registered Nurse and Practical Nurse Faculty. (1) Evaluation of faculty records. The nurse administrator[s] shall submit to the board the qualifications of faculty members upon appointment.

(a) Official college transcripts or copies verified by the nurse administrator or designee shall be available to the board upon request.

(b) A complete and official record of qualifications and workload for each faculty member shall be on file and available to the board upon request.

(2) Reevaluation of faculty records. The board shall review annually the qualifications of the faculty employed in the program of nursing. If standards are not met, the governing institution shall be notified that a new student class may not be enrolled until standards are met. Further, the program of nursing may be subject to conditional approval status in accordance with Section 2(2) of 201 KAR 20:280.

SHARON M. WEISENBECK, Executive Director
APPROVED BY AGENCY: June 4, 1985
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 27, 1987 at 1 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by October 22, 1987: Sharon M. Weisenbeck, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck

(1) Type and number of entities affected: The proposed change for this regulation is a grammatical correction.

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

1. First year: No change
2. Continuing costs or savings: No change
3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No change

(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 known
(b) Reporting and paperwork requirements: No change
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: This amendment is proposed to correct regulatory language.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None known
(a) Necessity of proposed regulation if in conflict: Not applicable
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable
(6) Any additional information or comments: None
TIERING: Was tiering applied? Tiering was not applicable.

GENERAL GOVERNMENT CABINET
Board of Nursing
(Proposed Amendment)

201 KAR 20:320. Standards for curriculum of prelicensure registered nurse programs.

RELATES TO: KRS 314.011(5), 314.111(1), 314.131(1)
PURSUANT TO: KRS Chapter 314
NECESSITY AND FUNCTION: To assure that an educational program will meet standards and provide the necessary education for licensure as a registered nurse. Such standards shall reflect the philosophy, purpose, objectives, and conceptual or organizing framework of the program of nursing which shall be consistent with the law governing the practice of nursing.

Section 1. Curriculum Leading to Eligibility for Licensure as a Registered Nurse. (1) Types of programs of nursing. Two (2) types of programs prepare graduates for eligibility to be admitted to the licensure examination for registered nurses.
(a) "Associate degree program" means a program of nursing organized and administered by a community college, a four (4) year college or university which awards the graduate an associate degree in nursing upon meeting the requirements of the governing institution.
(b) "Baccalaureate degree program" means a program of nursing organized and administered by a senior college or university which awards the graduate a baccalaureate degree in nursing upon meeting the requirements of the governing institution.
(2) Length. A registered nurse program shall be a minimum of two (2) academic years.
(3) Philosophy and objectives.
(a) The philosophy and objectives of the program of nursing shall be clearly defined in writing by the nursing faculty and be consistent with those of the governing institution.
(b) The program objectives shall describe the expected competencies of the graduate.
(4) Approval.
(a) No curriculum plan shall be implemented unless approved by the board.
(b) Curriculum plan shall include supporting evidence that students will be able to acquire the nursing skills essential for safe practice upon graduation.
(5) Organization of the curriculum.
(a) There shall be a written plan, including supporting rationale, and organizing framework, which describes the organization and development of the curriculum.
(b) The curriculum design shall reflect the philosophy and objectives of the program.
(c) There shall be a rationale for the credit allocated to course and clinical practice experience.
(d) Credits allocated to course and clinical practice experience shall be identified.
(e) A copy of each course outline, including objectives, planned instruction, learning activities, and method of evaluation shall be on file in the program office.
(6) Curriculum components.
(a) The curriculum shall include:
1. Areas of biological, physical and psycho-social sciences.
2. Areas of nursing science and practice.
(b) The curriculum shall include theory and selected clinical practice experiences designed to enable students to provide nursing care to individuals throughout the life cycle.
(c) Clinical practice settings shall be appropriate for the type of nursing program and the program objectives.
(d) Clinical practice experience shall be supervised by board approved nursing faculty.
(7) Curriculum change. Any [major] change in curriculum shall be submitted to the board for approval before implementation.

SHARON M. WEISENBECK, Executive Director
APPROVED BY AGENCY: June 4, 1985
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 27, 1987 at 1 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by October 22, 1987: Sharon M. Weisenbeck, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck
(1) Type and number of entities affected: The changes proposed for this regulation are editorial rather than substantive in nature. The amendments delete information which is no longer applicable and clarified information which is required.
(a) Direct and indirect costs or savings to those affected:
1. First year: No change
2. Continuing costs or savings: No change
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change
(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 known
(b) Reporting and paperwork requirements: No change
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: This amendment is proposed to clarify regulatory language.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None known
(a) Necessity of proposed regulation if in conflict: Not applicable
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable
(6) Any additional information or comments: None
TIERING: Was tiering applied? Tiering was not applicable.

GENERAL GOVERNMENT CABINET
Board of Nursing
(Proposed Amendment)

201 KAR 20:330. Standards for curriculum of prelicensure practical nurse programs.

RELATES TO: KRS 314.011(9), 314.111(1), 314.131(1)
PURSUANT TO: KRS Chapter 314
NECESSITY AND FUNCTION: To assure that an educational program will meet standards and provide the necessary education for licensure as a practical nurse. Such standards shall reflect the philosophy, purpose, objectives, and conceptual or organizing framework of the program of nursing which shall be consistent with the law governing the practice of nursing.

Section 1. Curriculum Leading to Eligibility for Licensure as a Practical Nurse. (1) One type of program prepares graduates for eligibility to be admitted to the licensure examination for practical nurses.
(2) "Practical nursing program" means a program of nursing organized and administered by a vocational, technical and adult education system or an independent school at a postsecondary level, which awards the graduate a diploma in practical nursing upon meeting requirements of the program.
(3) Approval.
(a) No curriculum plan shall be implemented unless approved by the board.
(b) A curriculum plan shall include supporting evidence that students will be able to acquire basic nursing skills essential for safe practice upon graduation.
(4) Length. The program of nursing shall be a maximum of one (1) year and a minimum of nine (9) months.
(5) The philosophy and objectives of the program of nursing shall be clearly defined in writing by the nursing faculty and be consistent with those of the governing institution.
(6) The program of nursing objectives shall describe the expected competencies of the graduate.
(7) There shall be a written plan describing the organizational framework and development of the curriculum.
(8) The curriculum shall reflect the philosophy and objectives of the program.
(9) The curriculum plan shall show the placement of courses according to term and level, and the relationship of course content to the clinical practice experience.
(10) A copy of each course outline, including objectives, planned instruction, learning activities, and methods of evaluation shall be on file in the program office.
(11) The amount of time allotted to class content and clinical practice shall be identified.
(12) The curriculum shall include:
(a) Subject matter from the biological and social sciences: human body structure and function, growth and development, and normal nutrition.
(b) Area of personal and vocational relationships.
(c) Area of nursing content.
1. Curriculum shall address content with selected clinical practice experience in meeting basic nursing needs throughout the life cycle.
2. Clinical practice settings shall be appropriate for the practical nurse program and the program objectives.
3. Written plans for clinical practice experience shall be submitted to the board for approval before implementation.
(13) Curriculum change. Any [major] change in the curriculum shall be submitted to the board for approval before implementation.

SHARON M. WEISENBECK, Executive Director
APPROVED BY AGENCY: June 4, 1985
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 27, 1987 at 1 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by October 22, 1987: Sharon M. Weisenbeck, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck
(1) Type and number of entities affected: The changes proposed for this regulation are editorial rather than substantive in nature. The amendments delete information which is no longer applicable.
(a) Direct and indirect costs or savings to those affected:
1. First year: No change
2. Continuing costs or savings: No change
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change
(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 known
(b) Reporting and paperwork requirements: No change
(3) Assessment of anticipated effect on state and local revenues: None

(4) Assessment of alternative methods; reasons why alternatives were rejected: This amendment is proposed to clarify regulatory language.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None known
(a) Necessity of proposed regulation if in conflict: Not applicable
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable
(6) Any additional information or comments: None
TIERING: Was tiering applied? Tiering was not applicable.

GENERAL GOVERNMENT CABINET
Board of Nursing
(Proposed Amendment)

201 KAR 20:360. Evaluation of prelicensure registered nurse and practical nurse programs.

RELATES TO: KRS 314.111(1), (2), (3), 314.131(1)
PURSUANT TO: KRS Chapter 314
NECESSITY AND FUNCTION: Evaluative standards need to be established to assure that the programs of nursing provide the necessary instruction and services to prepare graduates for licensure eligibility as registered nurses or as practical nurses.

Section 1. Evaluation for Full Approval: Registered Nurse and Practical Nurse Programs. (1) Retaining full approval. A program of nursing that prepares graduates for licensure shall meet standards in order to retain full approval.
(2) If the program fails to submit to the board the annual list of faculty by the date specified by the board, the nurse administrator of the program shall appear before the board at a scheduled hearing to show cause that approval of the program of nursing be continued.
(3) If the nurse faculty do not meet the minimum qualifications as set forth in 201 KAR 20:310, faculty for prelicensure registered nurse and practical nurse programs, the nurse administrator of the program shall appear before the board at a scheduled hearing to show cause that approval of the program of nursing be continued.
(4) If for one (1) fiscal year the graduates of a program of nursing achieve a pass-rate less than eighty-five (85) percent on the licensure examination:
(a) A letter of concern shall be issued.
(b) The nurse administrator shall be requested to submit an analysis of the cause(s) of the high failure rate on the licensure examination and plans to correct the deficiencies for the future.
(5) If for two (2) consecutive fiscal years the graduates of a program of nursing achieve a pass-rate less than eighty-five (85) percent on the licensure examination:
(a) A letter of warning shall be issued.
(b) The nurse administrator shall appear before the board and give a report of the implementation of the plans submitted to the board the previous year and to present any further analysis and plans to correct the deficiencies as defined.
(c) The program of nursing shall be surveyed by a representative of the board.
(6) If for three (3) consecutive fiscal years the graduates of a program of nursing achieve a pass-rate less than eighty-five (85) percent on the licensure examination, the nurse administrator and the head of the governing institution or designee shall appear before the board to show cause that approval of the program be continued.
(7) Evaluation. The faculty shall perform systematic and periodic evaluation of the total program including:
(a) Organization and administration of the program of nursing.
(b) Curriculum.
(c) Resources, facilities, and services.
(d) Teaching and learning methods.
(e) Faculty.
(f) Students.
(g) Graduates.
(h) Licensure examination pass-rates.

Section 2. Board Evaluation. (1) The nurse administrator shall inform the board of any [major] changes in the governing institution or program of nursing.
(2) A yearly progress report and evaluation shall be made by the nurse administrator to the board during the period of initial approval of a program of nursing.

Section 3. Reports to the Board. (1) Annual.
(a) A report is required from each program of nursing on forms supplied by the board.
(b) A faculty summary shall be submitted on forms supplied by the board.
(2) Faculty.
(a) Faculty appointments shall be reported on forms supplied by the board.
(b) The nurse administrator shall report a change in faculty composition within thirty (30) days of such change.
(3) The board shall require such additional reports from programs of nursing as may be deemed necessary to determine continued eligibility for approval.

SHARON M. WEISENBECK, Executive Director
APPROVED BY AGENCY: June 4, 1985
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 27, 1987 at 1 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by October 22, 1987: Sharon M. Weisenbeck, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck
(1) Type and number of entities affected: The changes proposed for this regulation are editorial rather than substantive in nature. The amendments delete information which is no longer applicable.
(a) Direct and indirect costs or savings to those affected:
1. First year: No change
2. Continuing costs or savings: No change
3. Additional factors increasing or decreasing

costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No change
(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 known
(b) Reporting and paperwork requirements: No change
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: This amendment is proposed to clarify regulatory language.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None known
(a) Necessity of proposed regulation if in conflict: Not applicable
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable
(6) Any additional information or comments: None
TIERING: Was tiering applied? Tiering was not applicable.

GENERAL GOVERNMENT CABINET
Board of Nursing
(Proposed Amendment)

201 KAR 20:370. Applications for licensure and registration.

RELATES TO: KRS 314.041, 314.051, 314.071
PURSUANT TO: KRS Chapter 314
NECESSITY AND FUNCTION: To assure that applicants for licensure or registration meet minimum requirements as set forth by the board. To provide consistency in procedures.

Section 1. To be eligible for licensure by examination, endorsement, renewal, reinstatement, or change of status, or for advanced registered nurse practitioner registration, renewal or reinstatement applicants shall:
(1) Submit completed application [form] to board office <u>on original form supplied by the board</u>;
(2) Submit current application and/or examination fees, as applicable;
(3) Submit official copy(ies) of court records of any misdemeanor and/or felony conviction(s) with a letter of explanation;
(4) Report any disciplinary action(s) taken or pending on nurse licensure applications or license(s) in other U.S. jurisdictions;
(5) Have no disciplinary action pending by the board for violation(s) of KRS Chapter 314;
(6) Have paid all monies due to the board;
(7) Submit copy of an official name change document (court order, marriage certificate, divorce decree), if applicable;
(8) Submit a detailed letter describing any handicap as stated in 201 KAR 20:115;
(9) Submit additional information as requested by the board; and
(10) Meet additional requirements for:
(a) Licensure by examination as stated in 201 KAR 20:070.
(b) Licensure by endorsement as stated in 201 KAR 20:110.
(c) Licensure by reinstatement as stated in 201 KAR 20:225.
(d) Licensure by renewal as stated in 201 KAR 20:230.
(e) Inactive licensure status as stated in 201 KAR 20:095.
(f) Advanced registered nurse practitioner registration, renewal or reinstatement as stated in 201 KAR 20:056.

Section 2. A completed application form and all information needed to determine that an applicant meets requirements for licensure/registration must be postmarked or received by the board no later than the last day for renewal of license/registration or at least sixty (60) days prior to date of the national council licensure examination.

Section 3. With the exception of licensure by examination applications as stated in 201 KAR 20:240, Section 3(5)(b), an application which is not completed within one (1) year from the date the application form is filed with the board office shall lapse and the fee shall be forfeited.

SHARON M. WEISENBECK, Executive Director
APPROVED BY AGENCY: June 4, 1985
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 27, 1987 at 1 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by October 22, 1987: Sharon M. Weisenbeck, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: Licensees must use the forms provided by the board for licensure applications.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: Not applicable
(4) Assessment of alternative methods; reasons why alternatives were rejected: Difficulty has been experienced in processing poor quality copies and attempting to store applications which are not uniform in size or paper quality.
(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: 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.

GENERAL GOVERNMENT CABINET
Board of Podiatry
(Proposed Amendment)

201 KAR 25:011. Approved schools; examination application, fees.

RELATES TO: KRS 311.420
PURSUANT TO: KRS 311.410(4)
NECESSITY AND FUNCTION: KRS 311.420 requires all persons engaging in the practice of podiatry in the state of Kentucky to be licensed by the State Board of Podiatry. KRS 311.420 provides that each applicant shall submit to an examination conducted by the board. This regulation sets out the procedures to be followed in obtaining an application, the fees to be charged and the procedures relating to the examination and issuance of a license to practice podiatry in this state.

Section 1. (1) The board recognizes the following schools or colleges of podiatry as having those standards and requirements adequate to comply with the provisions of KRS 311.420(1)(d). Those schools and colleges are as follows:
(a) California College of Podiatric Medicine, 1770 Eddy Street, San Francisco, California 94115.
(b) Dr. William M. Scholl College of Podiatric Medicine, 1001 N. Dearborn Street, Chicago, Illinois 60610.
(c) Pennsylvania College of Podiatric Medicine, Race and Eighth Streets, Philadelphia, Pennsylvania 19107.
(d) New York College of Podiatric Medicine, 53 East 124th Street, New York, New York 10035.
(e) Ohio College of Podiatric Medicine, 10515 Carnegie Avenue, Cleveland, Ohio 44106.
(2) The board will evaluate the academic standards of schools and colleges of podiatry desiring to be approved by the board following receipt by the board of applications for approval from said schools or colleges.

Section 2. All applications for examination mentioned herein shall be submitted on application forms prescribed and provided by the board, accompanied by such evidence, statements, or documents as therein required, and shall be filed with the board at its principal office within the times prescribed herein.
(1) Every applicant, eligible to take the examination pursuant to the provisions of KRS 311.420, must submit an application to the secretary of the board at least thirty (30) days prior to the date of the examination.
(2) The fee for the examination <u>or re-examination</u> shall be the sum of $200 and must be paid at the time the application for examination <u>or re-examination</u> is filed with the board. The sum shall be payable by certified check, cashier's check or postal money order.
(3) Any applicant who fails to attain a passing score as required by the board may apply to the board for re-examination by submitting another application to the secretary of the board at least thirty (30) days prior to the date of the next examination.
[(4) If the applicant has failed to attain a score of at least seventy (70) percent in one (1) or two (2) of the subjects, but shall have attained an average of seventy-five (75) percent or better on the total examination, then he may only be re-examined on the subject or subjects in which he failed to attain a score of at least seventy (70) percent.]
[(5) The fee for re-examination in one (1) or two (2) subjects shall be twenty-five (25) dollars and the fee for re-examination for the total examination shall be fifty (50) dollars.]

Section 3. The board shall not refund the examination <u>or re-examination</u> fee except where good and sufficient cause for refunding all or a portion of the fees are shown to the board within a reasonable time prior to the date of the examination <u>or re-examination</u>.

JOSEPH P. LEONE, DPM, Chairman
APPROVED BY AGENCY: August 20, 1987
FILED WITH LRC: August 24, 1987 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on October 22, 1987 at the hour of 10 a.m. Frankfort time in Room 11, State Capitol, Frankfort, Kentucky 40601. Any person interested in commenting on this regulation at that hearing should contact: Dr. Chester A. Nava, 110 Hubbard Lane, Louisville, Kentucky 40205 in writing, by October 17, 1987.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Dr. Chester Nava
(1) Type and number of entities affected: Less than 5 per year.
(a) Direct and indirect costs or savings to those affected: An increase of approximately $150-175 per reapplicant.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Minimal
(2) Effects on the promulgating administrative body: 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: Minimal
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? N/A

GENERAL GOVERNMENT CABINET
State Board of Podiatry
(Proposed Amendment)

201 KAR 25:012. Licensing examinations.

RELATES TO: KRS 311.420
PURSUANT TO: KRS 311.410(4)
NECESSITY AND FUNCTION: This regulation sets out the scope and subject matter of the licensing examination.

Section 1. (1) Examination to obtain licensure shall consist of two (2) parts: a written examination and a clinical examination.
(2) Examinations shall be held at such times and places as shall be determined by the board. A schedule of the dates, times, and places of the examinations shall be mailed to each applicant whose application is accepted by the board.
(3) The board in its discretion may accept certified, successful national board of podiatry examinations in lieu of the written portion of its examination.

Section 2. (1) Written examination. To successfully complete the written portion of the examination, the applicant must receive an average grade of not less than seventy-five (75) percent on the entire written examination [and not less than seventy (70) percent on each subject].
(2) This requirement must be satisfied prior to admission to the clinical portion of the Kentucky Board of Podiatry's licensure examination.
(3) Scope of examination. Examinations shall be adequate to test the knowledge, education and training of applicants in all subjects relating to the practice of podiatry, but must remain within the subjects contained in the regular curriculum of accredited schools of podiatry.

Section 3. (1) Clinical examination. The requirements of the clinical examination shall be within the discretion of the board as to subject matter but must remain within the subjects contained in the regular curriculum of accredited schools of podiatry.
(2) Scope of examination. Examinations shall be adequate to test the ability of the applicants to apply their knowledge, education, and training in a clinical setting.

JOSEPH P. LEONE, DPM, Chairman
APPROVED BY AGENCY: August 20, 1987
FILED WITH LRC: August 24, 1987 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on October 22, 1987 at the hour of 10 a.m. Frankfort time in Room 11, State Capitol, Frankfort, Kentucky 40601. Any person interested in commenting on this regulation at that hearing should contact: Dr. Chester A. Nava, 110 Hubbard Lane, Louisville, Kentucky 40205 in writing, by October 17, 1987.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Dr. Chester Nava
(1) Type and number of entities affected: Less than 20 per year.
(a) Direct and indirect costs or savings to those affected: An increase of approximately $150-175 per reapplicant.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Minimal
(2) Effects on the promulgating administrative body: 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: Minimal
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No significant effect.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? N/A

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

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

RELATES TO: KRS 150.010, 150.015, 150.025, 150.170, 150.175, 150.235, 150.240, 150.305, 150.330, 150.340, 150.360, 150.600, 150.603, 150.630
PURSUANT TO: KRS 13A.350, 150.025
NECESSITY AND FUNCTION: This regulation pertains to the seasons and limits for the taking of specified migratory birds, to the associated permitting and harvest reporting requirements, and to restrictions in the use of blinds and pits. It is necessary for the continued protection and conservation of the migratory birds listed herein, and to insure a permanent and continued supply of the wildlife resource for the purpose of furnishing sport and recreation for present and future residents of the state. The framework of this regulation falls within the seasons and bag limits prescribed by the U.S. Fish and Wildlife Service. The function of this regulation is to provide for the prudent taking of migratory birds within reasonable limits based upon an adequate supply. This amendment is necessary to change season dates and hunting rules [, bag limits, and define terms].

Section 1. Seasons for Gun and Archery. (1) Sora rails, Virginia rails, common moorhens, and purple gallinules: November 16 through January 16.
(2) Ducks, coots and mergansers: November 26 [27] through November 29 [30] and December 12 [14] through January 16 [18].
(3) [(2)] Geese.
(a) Eastern Zone: November 8 [12] through January 16 [20], east of a boundary beginning at

the Kentucky-Tennessee border at Fulton, Kentucky, extending north along the Purchase Parkway to I-24, East on I-24 to U.S. 641, north on U.S. 641 to U.S. 60, northeast on U.S. 60 to U.S. 41 and then north on U.S. 41 to the Kentucky-Indiana border.

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

1. Canada Goose Season: December 12 through January 30, unless harvest quotas are met as described below.

a. Ballard Reporting Area. [December 13 through January 31, or until such time as 9,500 Canada geese are harvested, whichever occurs first.] This reporting area lies [is defined as the area] within the following boundary: starting at the northwest city limits [of the town] of Wickliffe in Ballard County to the middle of the Mississippi River, and thence north along the Mississippi to the low water mark of the Ohio River along the Illinois shore to the Ballard-McCracken County line; thence along the county line south to state road 358; thence south along state road 358 to its junction with U.S. Highway 60 at LaCenter; thence following U.S. 60 southwest to the northeast city limits of Wickliffe. Should it be determined that the quota of 10,400 [9,500] Canada geese will be filled prior to January 30 [31], the goose hunting season will close in the Ballard Reporting Area. Notice will be given a minimum of twenty-four (24) hours in advance of the time and date of closing.

b. Counties associated with the Ballard Reporting Area. [December 13 through January 31, or seven (7) days after the closure of the Ballard Reporting Area, whichever occurs first.] The counties associated with the Ballard Reporting Area, [include] those portions of Ballard (excluding Ballard Reporting Area), McCracken, Graves, Carlisle, Hickman, Fulton and Marshall counties in the Western Zone, will remain open for seven (7) days after the closure of the Ballard Reporting Area or until January 30, whichever occurs first.

c. Henderson-Union Reporting Area. [December 13 through January 31, or until such time as 3,000 Canada geese are harvested, whichever occurs first.] This reporting area includes those portions of Henderson and Union Counties within the Western Zone. Should it be determined that the quota of 3,300 [3,000] Canada geese will be filled prior to January 30 [31], the goose hunting season will close in the Henderson-Union Reporting Area. Notice will be given a minimum of twenty-four (24) hours in advance of the time and date of closing.

d. Counties associated with the Henderson-Union Reporting Area. [December 13 through January 31, or seven (7) days after the closure of the Henderson-Union Reporting Area, whichever occurs first.] The counties associated with the Henderson-Union Reporting Area, [include] those portions of Lyon, Crittenden and Livingston counties in the Western Zone will remain open for seven (7) days after the closure of the Henderson-Union Reporting Area or until January 30, whichever occurs first.

2. Season for goose species other than Canada geese (snow and [(including] blue[)] geese, white-fronted geese, and brant): November 26 [27] through January 17 [20], or whenever the Canada goose season closes, whichever occurs first.

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

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

100 points: mallard hen and black duck.

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

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

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

The season on canvasbacks is closed.

The daily bag limit is reached when the point value of the last bird taken, added to the sum of the point values of the other birds already taken during that day, reaches or exceeds 100 points. The possession limit is the maximum number of birds that legally could have been taken in two (2) days.

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

(3) Geese.

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

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

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

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

Section 3. Shooting Hours. One-half (1/2) hour before sunrise to sunset for all species listed in this regulation except as specified in Section 7 of this regulation, and from [that shooting hours in the Ballard Reporting Area will be] one-half (1/2) hour before sunrise to 2 p.m. for waterfowl (defined as ducks, geese, [coots] and mergansers) and coots during the Canada goose season in the Ballard Reporting Area.

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

Section 5. Falconry Season. November 1 through January 16 [18]. All legal species listed in this regulation may be taken by falconry.

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

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

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

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

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

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

(4) Designated recreation areas and access points are closed to [waterfowl] hunting of all species listed in this regulation.

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

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

(a) Species and seasons.

1. The season for ducks, coots and mergansers is December 12 [18] through January 16 [18].

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

2. [3.] No hunting is permitted on Sundays.

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

(b) General rules. There will be a ten (10) shell limit per hunter when hunting geese. [Shooting ducks is permitted in goose hunting areas.] Any hunter under the age of eighteen (18) years must be accompanied by an adult. Any person whose transportation to and from blinds and pits is furnished by the department must have his gun encased.

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

(2) Swan Lake Wildlife Management Area located in Ballard County. The Upper Blenderman Tract, located to the north of Holloway Landing Road and marked by signs, is open to hunting of all legal species listed in this regulation. [Peal Wildlife Management Area located in Ballard County. That portion of the Peal Wildlife Area as designated by signs is closed to the public from October 15 through March 15. No person, except agents of the department and the U.S. Fish and Wildlife Service, shall enter upon this portion of the Peal Wildlife Area during the closed period. Waterfowl hunting will be permitted in the area to the east of the gravel road running from the north boundary to the south boundary of Peal Wildlife Management Area. This open area includes Fish and Buck Lakes. Waterfowl hunting is also permitted on the Mitchell Tract.]

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

(a) Closed areas. Smith Bay, Energy Lake, and Long Creek Pond as indicated by signs are closed to hunting. The eastern two-thirds (2/3) of Duncan Bay on Kentucky Lake is closed to all activity November 1 through March 15, as indicated by signs and buoys. [Duncan Bay is closed to all activity.] The Environmental Education Center is closed to [waterfowl] hunting of all species listed in this regulation.

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

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

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

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

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

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

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

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

(d) When the Ohio River reaches a level that requires boat access to the units, hunting will

be allowed from boats spaced 200 yards apart, without regard to the registered blinds or pits.

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

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

(7) Hunting of all species listed in this regulation is not permitted on the following areas:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) Permittees will be selected by drawing at Barkley Lake, Barren Lake, Green River Lake, and Taylorsville Lake Wildlife Management Areas, and the Grassy Pond-Powell's Lake and Jenny Hole-Hyland Creek units of the Sloughs Wildlife Management Area. Applicants for blind or pit permits must present a current Kentucky hunting license to the registration clerk at the time of the drawing. Sites which become available by forfeiture may be assigned to another applicant according to the following procedure: five (5) additional names will be drawn at each area (or the number of remaining names if less than five (5) are present) and any forfeited blinds will be assigned to those people in the order they were drawn.

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

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

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

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

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

(13) Taylorsville Lake Wildlife Management Area, located in Anderson and Spencer Counties. That portion of east of Van Buren Boat Ramp as marked by buoys and signs is closed to all hunting, fishing, boating, and trespassing during the period from November 24 through March 1.

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

(1) Commercial waterfowl hunting areas.

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

(b) A commercial waterfowl hunting permit issued by the department must be obtained by any person operating a commercial waterfowl hunting area. An annual fee will be charged for each commercial waterfowl hunting permit. These permits will expire at the end of waterfowl hunting season as stated on the permit. [Persons operating more than one (1) commercial waterfowl hunting area must obtain a permit for each individual area.]

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

(2) Noncommercial waterfowl hunting areas.

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

(b) Any person controlling the waterfowl hunting rights and privileges on a noncommercial waterfowl hunting area must obtain a free migratory goose hunting area permit which will expire at the end of waterfowl hunting season as stated on the permit.

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

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

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

(4) Obtaining permits and harvest reporting forms.

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

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

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

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

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

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

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

(2) Migratory goose hunting area permit holders.

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

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

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

(3) Hunter requirements.

(a) Persons hunting waterfowl on commercial or noncommercial waterfowl hunting areas in the Ballard or Henderson-Union Reporting Areas must:

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

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

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

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

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

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

Section 10. General Rules Concerning Waterfowl Hunting in the Ballard Reporting Area. (1) It is unlawful to hunt waterfowl or coots except from a blind or a pit, unless waterfowl or coot hunting is conducted in flooded, standing timber. For the purposes of this section, a blind or pit is defined as any form of concealing enclosure from which one may shoot game or observe wildlife including an anchored, stationary, or drifting boat from which waterfowl or coots are hunted.

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

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

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

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

Section 11. [Kentucky] Waterfowl Stamp Requirements. Individuals hunting waterfowl 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 transferable.]

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

APPROVED BY AGENCY: September 14, 1987

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

PUBLIC HEARING SCHEDULED: A public hearing will be held on October 23, 1987 at 3 p.m. in the Commission Room of the Department of Fish and Wildlife Resources central offices at Frankfort, Kentucky. Those interested in attending this hearing shall contact: Mr. Lauren E. Schaaf, Director, Wildlife Division, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick

(1) Type and number of entities affected: Approximately 14,000 persons will participate in the 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 duck stamp. Approximately 25 commercial waterfowl hunting area operators will be required to purchase a permit. Indirect costs are determined by the individual hunter, depending upon his level of participation.

1. First year: Persons participating in the hunting proposed for authorization by this regulation would be required to possess a valid hunting license ($8.50 for residents) unless exempted by statute, a $10.00 migratory bird hunting and conservation stamp, and a $5.25 state duck stamp. Commercial waterfowl hunting operators will be required to purchase a $40.00 permit each.

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

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

(b) Reporting and paperwork requirements: Approximately 7,500 waterfowl hunters within the Ballard and Henderson-Union reporting areas will be required to register prior to hunting waterfowl and to report their harvest on forms provided by the department.

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

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

1. First year: The estimated cost associated with establishing and carrying out the provisions of this regulation is $275,000.

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

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: A biweekly monitoring of harvest registration forms will involve tabulation of forms submitted in the Ballard and Henderson-Union reporting areas. Permits will be issued to approximately 500 individuals and landowners.

(3) Assessment of anticipated effect on state and local revenues: Approximately 14,000 waterfowl hunters may be expected to expend money for equipment, transportation, food and lodging. The average annual expenditure for these items is $110 per migratory bird hunter according to the National Hunting and Fishing Survey. State and local revenues can be expected to be positively affected due to necessary expenditures for the required licenses and taxes levied upon items purchased by hunters.

(4) Assessment of alternative methods; reasons

why alternatives were rejected: The U.S. Fish and Wildlife Service requires that any harvest of migratory birds occur through a regulated hunting season that is held within a specific timeframe. Therefore, the only available alternative to regulated hunting is closure of the season. This alternative was rejected as contrary to the conservation ethic which is based upon the wise use of renewable resources and the fact that the involved species populations are at levels which can sustain a regulated harvest by Kentucky sportsmen. The regulated hunting alternative selected is that which will provide the most recreational opportunity to Kentucky waterfowl hunters while affording necessary protection to the waterfowl resource.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

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

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

301 KAR 4:050. Swan Lake Wildlife Management Area restrictions.

RELATES TO: KRS 150.010, 150.015, 150.025, 150.300, 150.600, 219.370

PURSUANT TO: KRS 13A.350, 150.025

NECESSITY AND FUNCTION: This regulation is necessary to prescribe appropriate use restrictions for the Swan Lake Wildlife Management Area. Its function is to minimize [prevent] disturbance of wintering migratory waterfowl and to provide for the protection and maintenance of the property and its associated wildlife. The amendment is necessary to allow migratory bird hunting on a portion of this area.

Section 1. Access. The Swan Lake Wildlife Management Area, except such portions as are designated wildlife observation areas or opened in other regulations, is closed to all public access, including by boat during periods of high water, from October 15 through March 15. Only authorized Department or U.S. Fish and Wildlife Service employees on official business shall enter the premises during this period.

Section 2. Hunting Restrictions. (1) Wild turkey. Turkey hunting is prohibited.

(2) Frogs. Firearms may not be used for hunting frogs.

(3) Waterfowl hunting is prohibited on the body of water known as Swan Lake.

Section 3. Dog Training. Dog training is prohibited.

Section 4. Camping Restrictions. (1) Location. Camping is restricted to designated areas.

(2) Length of time. No one shall camp on this management area for more than fourteen (14) consecutive days.

(3) Pets. All pets in the camping area must be leashed.

(4) Only primitive camping is permitted. Recreational vehicle camping is prohibited.

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

APPROVED BY AGENCY: September 14, 1987

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

PUBLIC HEARING SCHEDULED: A public hearing will be held on October 23, 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: Mr. Lauren E. 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: This regulation will affect an unknown number of waterfowl and dove hunters and other outdoor recreationists who will utilize the Swan Lake Wildlife Management Area.

(a) Direct and indirect costs or savings to those affected: There are no direct or indirect costs or savings imposed by this regulation.

1. First year: Same as above.

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

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

(b) Reporting and paperwork requirements: None

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

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

1. First year: $5,000

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

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: A strongly positive effect upon state and local revenues may be anticipated as tourism and hunting opportunity are increased by the protection this regulation will provide toward enhancing waterfowl population growth in the area. The presence of large waterfowl concentrations will also cause adjacent land values to increase as the potential for commercial exploitation is realized.

(4) Assessment of alternative methods; reasons why alternatives were rejected: This regulation is necessary to provide protection to the property and its associated wildlife populations during the period in which planning is being developed. Once waterfowl movements and public use are better understood, alternative approaches may be taken. This regulation is an interim measure while alternative approaches are being considered. Alternatives have been

rejected until better information is available..

(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.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:030. Kentucky State Reformatory.

RELATES TO: KRS Chapters 196, 197, 439

PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on September [July] 15, 1987 and hereinafter should be referred to as Kentucky State Reformatory Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

KSR 01-00-09	Public Information and News Media Relations
KSR 01-00-10	Entry Authorization for All Cameras and Tape Recorders Brought into the Institution
KSR 01-00-14	Extraordinary Occurrence Report (Amended 9/15/87)
KSR 01-00-15	Cooperation and Coordination with Oldham County Court
KSR 01-00-19	Personal Service Contract Personnel
KSR 01-00-20	Consent Decree Notification to Inmates
KSR 02-00-01	Inmate Canteen
KSR 02-00-03	Screening Disbursements from Inmate Personal Accounts
KSR 02-00-11	Inmate Personal Accounts
KSR 02-00-12	Institutional Funds and Issuance of Checks
KSR 03-00-01	Shift Assignment/Reassignment
KSR 03-00-02	Employee Dress and Personal Appearance
KSR 03-00-05	Intra-Agency Promotional Opportunity Announcements
KSR 03-00-06	Employee Time and Attendance
KSR 03-00-07	Travel Expense Reimbursement
KSR 03-00-08	Employee Tuition Assistance Reimbursement
KSR 03-00-10	Workers' Compensation
KSR 03-00-14	Prohibited Employee Conduct, Disciplinary Actions, and Appeal Process
KSR 03-00-15	Affirmative Action Program [(Amended 7/15/87)]
KSR 03-00-16	Confidentiality of Personnel Records
KSR 03-00-19	Establishment of Personnel Records and Employee Right to Challenge Information Contained Therein
KSR 03-00-20	Personnel Selection, Retention and Promotion
KSR 03-00-21	Equal Employment Opportunities for Institutional Job Assignments and Job Classification Promotions
KSR 03-00-24	Inclement Weather and Employee Work Attendance
KSR 03-00-25	Medical Examination Requirements for New Employees
KSR 04-00-02	Staff Training and Development
KSR 05-00-02	Research Activities
KSR 05-00-03	Management Information Systems
KSR 06-00-01	Inmate Master File
KSR 06-00-02	Records Audit
KSR 06-00-03	Kentucky Open Records Law
KSR 07-00-02	Institutional Tower Room Regulations
KSR 07-00-03	Guidelines for Contractors (Deleted 9/15/87)
KSR 07-00-04	Handling of PCB Articles and Containers
KSR 07-00-05	Proper Removal of Transformers
KSR 08-00-07	Inmate Family Emergency - Life Threatening Illness or Death in Inmate's Immediate Family
KSR 08-00-08	Death of an Inmate/Notification of Inmate Family in Case of Serious Injury, Critical Medical Emergency, Major Surgery
KSR 08-00-09	Emergency Preparedness Training
KSR 09-00-04	Horizontal Gates/Box 1 Entry and Exit Procedure
KSR 09-00-05	Gate I Entrance and Exit Procedure
KSR 09-00-09	Search Policy (Added 9/15/87)
KSR 09-00-14	Use of Force
KSR 09-00-21	Crime Scene Camera
KSR 09-00-22	Collection, Preservation, and Identification of Physical Evidence
KSR 09-00-23	Drug Abuse Testing
KSR 09-00-25	Inmate Motor Vehicle Operator's License
KSR 09-00-26	Contraband Outside Institutional Perimeter
KSR 09-00-27	Construction Crew Entry/Exit (Added 9/15/87)
KSR 10-00-02	Special Management Inmates Operations, Rules and Regulations for Unit D
KSR 10-00-03	Special Needs Unit
KRS 10-00-04	Unit D Admission/Release Ticket
KSR 11-00-01	Meal Planning for the General Population
KSR 11-00-02	Special Diets
KSR 11-00-03	Food Service Inspections
KSR 11-00-04	Dining Room Dress Code for Inmates
KSR 11-00-06	Health Standards/Regulations for Food Service Employees
KSR 11-00-07	Early Chow Line Passes for Medically Designated Inmates
KSR 12-00-01	Inmate Summer Dress Regulations
KSR 12-00-02	Sanitation and General Living Conditions
KSR 12-00-03	State Items Issued to Inmates
KSR 12-00-07	Regulations for Inmate Barbershop
KSR 13-00-01	Identification of Mentally Retarded Inmates
KSR 13-00-02	Hospital Operations, Rules and Regulations [(Amended 7/15/87)]

KSR 13-00-03	Medication for Inmates Leaving Institution Grounds
KSR 13-00-04	Dental Care for Inmates
KSR 13-00-05	Medical and Dental Sick Call
KSR 13-00-07	Referral of Inmates Considered to Have Severe Emotional Disturbances
KSR 13-00-08	Institutional Laboratory Procedures
KSR 13-00-09	Institutional Pharmacy Procedures
KSR 13-00-10	Requirements for Medical Personnel
KSR 13-00-11	Preliminary Health Evaluation and Establishment of Inmate Medical Record
KSR 13-00-12	Vision Care/Optometry Services
KSR 13-00-14	Periodic Health Examinations for Inmates
KSR 13-00-15	Medical Alert System
KSR 13-00-16	Suicide Prevention and Intervention Program
KSR 14-00-01	Inmate Rights
KSR 14-00-02	A/C Center and Unit D Inmate Access to Legal Aide Services
KSR 14-00-04	Inmate Grievance Procedure
KSR 14-00-05	Inmate Marriages
KSR 14-00-06	Inmate Legal Aides
KSR 15-00-01	Operational Procedures and Rules and Regulations for Unit A, B, and C (Amended 9/15/87)
KSR 15-00-02	Regulations Prohibiting Immate Control or Authority Over Other Inmate(s)
KSR 15-00-03	Governor's Meritorious Good Time Award
KSR 15-00-04	Restoration of Forfeited Good Time
KSR 15-00-05	Differential Status for SU (QUIT) Inmates
KSR 15-00-06	Inmate I.D. Cards
KSR 15-00-07	Inmate Rules and Discipline - Adjustment Committee Procedures [(Amended 7/15/87)]
KSR 15-00-08	Firehouse Living Area
KSR 16-00-01	Visiting Regulations (Amended 9/15/87)
KSR 16-00-02	Inmate Correspondence and Mailroom Operations
KSR 16-00-03	Inmate Access to Telephones
KSR 17-00-01	Housing Unit Assignment
KSR 17-00-03	Notifying Inmates' Families of Admission and Procedures for Mail and Visiting
KSR 17-00-04	Assessment/Classification Center Operations, Rules and Regulations
KSR 17-00-05	Dormitory 10 Operations
KSR 17-00-06	Identification Department Admission and Discharge Procedures
KSR 17-00-07	Inmate Personal Property (Amended 9/15/87)
KSR 18-00-01	Special Management Inmates - Unit D Classification
KSR 18-00-04	Returns from Other Institutions
KSR 18-00-05	Transfer of Residents to Kentucky Correctional Psychiatric Center
KSR 18-00-06	Classification
KSR 18-00-07	Special Notice Form
KSR 19-00-01	Inmate Work Incentives
KSR 19-00-02	On-the-job Training Program
KSR 19-00-03	Safety Inspections of Inmate Work Assignment Locations
KSR 20-00-01	Vocational School Referral and Release Process
KSR 20-00-03	Academic School Programs
KSR 20-00-04	Criteria for Participation in Jefferson Community College Program
KSR 20-00-08	Integration of Vocational and Academic Education Programs
KSR 21-00-01	Legal Aide Office and Law Library Services and Supervision
KSR 21-00-02	Inmate Library Services
KSR 21-00-03	Library Services for Unit D
KSR 22-00-03	Inmate Organizations
KSR 22-00-07	Inmate News Magazine
KSR 23-00-02	Chaplain's Responsibility and Inmate Access to Religious Representatives
KSR 23-00-03	Religious Programming
KSR 25-00-01	Discharge of Residents to Hospital or Nursing Home
KSR 25-00-02	Violations of Law or Code of Conduct by Inmates on Parole Furlough
KSR 25-00-03	Preparole Progress Report

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: September 15, 1987
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 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 Jones
(1) Type and number of entities affected: 535 employees of the Kentucky State Reformatory, 1447 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1.
3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

JUSTICE CABINET
Department of State Police
(Proposed Amendment)

502 KAR 20:020. Examiners.

RELATES TO: KRS 329.030
PURSUANT TO: KRS 15A.160, 329.030
NECESSITY AND FUNCTION: KRS 15A.160 and 329.030(6) provide that the Secretary of the Justice Cabinet may establish such rules and regulations for detection of deception examiners during their period of licensure to insure the examiner maintains adequate professional standards. This regulation establishes the requirements for detection of deception examiners.

Section 1. Advertising, soliciting and discrimination are prohibited as follows:
(1) An examiner shall not advertise in any manner which would tend to deceive or defraud the public.
(2) An examiner shall not publish directly or indirectly or circulate any fraudulent, false, or misleading statements as to the skill or method of practice of any person or examiner.
(3) An examiner shall not claim superiority over other examiners as to his skill or method of practice.
(4) An examiner shall not divide fees, or agree to split or divide the fees received for detection of deception services with any person for bringing or referring a client.
(5) An examiner shall not attempt to solicit business as a result of information or statements obtained from an examinee relating to his past employment or employer.
(6) An examiner shall not refuse to render detection of deception services to or for any person solely on account of the race, color, creed, sex, or national origin of such person.

Section 2. (1) The examiner shall inform the prospective examinee that taking the detection of deception examination is a voluntary act and the examiner must obtain the written consent of the examinee to undergo such examination.
(2) The examiner shall not conduct an examination on any person whom he believes, through observation or any other credible evidence, to be physically or psychologically unfit for such an examination at that time.
(3) The examiner shall, immediately upon request of the examinee, terminate an examination in progress.
(4) The examiner shall not render a verbal or written opinion based on chart analysis, until the examinee has had a reasonable opportunity to explain any reactions to pertinent questions.
(5) The examiner shall not interrogate or conduct an examination of an examinee's sexual behavior, or ask any questions that can be construed as being sexually oriented or personally embarrassing to the examinee, regardless of marital status, unless the topic is a specific issue or unless it refers to the basic matter pertinent to the examination.
(6) The examiner shall not conduct an examination when he has reason to believe the examination is intended to circumvent or defy the law.
(7) The examiner shall not knowingly issue, or permit an employee to issue, a polygraph examination report which is misleading, biased or falsified in any way. Each report shall be a factual, impartial and objective account of the pertinent information developed during the examination and the examiner's professional conclusion, based on analysis of the polygraph charts.
(8) The examiner shall not conduct a polygraph examination without first reviewing the issues to be covered during the examination and the general content of the questions to be asked during the examination with the examinee.
(9) The examiner shall not render a conclusive verbal or written decision, based on chart analysis, as to the truthfulness or deception of the examinee without having administered two (2) or more polygraph charts covering the same relevant issue, unless after the examinee has submitted to one (1) test he refuses to submit to additional tests. The fact of the examinee's refusal shall be noted in the verbal and/or written report of the examination. This shall not preclude the examiner from terminating an examination in progress at his own discretion when, in his opinion, the examinee has become physically or psychologically unfit, or has become uncooperative to the point that it would be useless to continue the examination.
(10) All questions and answers asked during a polygraph examination shall be marked on the polygraph charts at the appropriate place on the chart where the question was asked and the answer given. If a question sheet with numbered questions is used, the number of the asked question along with the answer given shall be noted and the question sheet shall be attached to the polygraph chart and made a part of the examinee's file. Each polygraph chart should be identified as to the person being examined, the examiner, time and date of the examination and the chart number.
(11) The examiner shall not, unless professionally qualified to do so, include in any written report any statement purporting to be a medical, legal, or psychiatric opinion or which would infringe upon areas under the cognizance of professionals in those fields. This shall not preclude the examiner from describing the appearance or behavior of the examinee, if this is pertinent to the examination, as long as the examiner refrains from offering any diagnosis which he is professionally unqualified to make.
(12) The examiner shall not offer testimony concerning the charts or conclusions presented by another examiner unless he is thoroughly familiar with the techniques and procedures used by the other examiner. This shall not prohibit an examiner from testifying concerning his independent examination of the same examinee.
(13) It shall be the duty of every examiner to report to the cabinet any action or misconduct on the part of another examiner which would be in violation of the provisions of KRS Chapter 329 or the regulations promulgated thereof.

Section 3. (1) The examiner shall maintain on file for at least two (2) years all records, papers, polygraph charts, consent to examination forms, notes, question lists or sheets and reports of polygraph examinations conducted by him.
(2) An examiner who leaves the employment of another examiner, agency, firm, or company shall be allowed access, after showing reasonable cause, to the files of examinations conducted by

him during the two (2) year period prior to the date of his request. However, without the approval of the employing examiner, agency, firm or company, the examiner may not remove any of the material contained in the file or make notes of any of the information contained therein.

(3) The cabinet shall, at any time there is just cause, inspect the records, reports, polygraph charts and all paperwork connected with the examination to determine if an examiner is conducting examinations in accordance with the provisions of KRS Chapter 329 and regulations promulgated by the cabinet.

Section 4. Continuing Education Requirements. (1) In order to insure that each examiner maintains an acceptable level of knowledge concerning recent developments in the polygraph profession, each examiner is required to furnish proof of attendance of at least twelve (12) hours of instruction in subject matter relating directly to the polygraph profession during the licensing year. Acceptable subject matter may include, but shall not be limited to, the following:

(a) Polygraph history;
(b) Polygraph therory;
(c) Polygraph instrumentation and maintenance;
(d) Polygraph examination techinques;
(e) Polygraph chart interpretation;
(f) Polygraph case observation and practice;
(g) Question formulation;
(h) Interrogation techniques;
(i) Physiological aspects of polygraphy;
(j) Psychological aspects of polygraphy; and
(k) Legal aspects of polygraphy.

(2) Seminars, conferences, courses and classes sponsored by national, regional, state and local polygraph associations and those sponsored by individuals nationally recognized as experts in the profession may be accepted by the secretary as meeting the requirements of this section.

(3) At the time each examiner submits a request to renew his license for the following year, a copy of the diploma, certificate, or other documentation confirming instruction and attendance shall be submitted.

NORMA C. MILLER, Secretary
APPROVED BY AGENCY: August 28, 1987
FILED WITH LRC: September 4, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled on Thursday, October 22, 1987, at 10 a.m. in the Conference Room, Commonwealth Credit Union Building, 3rd Floor, 417 High Street, Frankfort, Kentucky. Anyone interested in attending this hearing shall notify, in writing at least five (5) days before the hearing, the following individual: Cathy Cravens Snell, Justice Cabinet, 3rd Floor, 417 High Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sgt. Gary M. Godby
(1) Type and number of entities affected: Polygraph Examiners Licensed in Kentucky.
(a) Direct and indirect costs or savings to those affected: Cost of seminar attendance. Most examiners presently attend seminars voluntarily.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition): For examiners, who are residents of Kentucky, the seminars are available within Kentucky.
(b) Reporting and paperwork requirements: The examiner must furnish proof of attendance with license application renewal.
(2) Effects on the promulgating administrative body: Minimal. No new appropriations or employees will be needed.
(a) Direct and indirect costs or savings: Present employees will perform this job.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Minimal. The employee will be required to review the proof of attendance.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Other state regulations and statutes were reviewed.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. All examiners are required to comply with this regulation.

JUSTICE CABINET
Department of Criminal Justice Training
(Proposed Amendment)

503 KAR 5:090. Participation: requirements; application; withdrawal.

RELATES TO: KRS 15.440
PURSUANT TO: KRS 15.450(1)
NECESSITY AND FUNCTION: KRS 15.440 prescribes requirements to be met by a local unit of government in order to be eligible to receive salary supplement funds from the Law Enforcement Foundation Program Fund. This regulation expands on the statutory requirements for eligibility and establishes the procedure to be followed by a local unit in applying for admission to, or withdrawing from, the fund.

Section 1. Requirements for Participation in the Fund. Eligibility to participate in the fund is limited to local units of government meeting the following requirements:
(1) Number of police officers employed. KRS 15.440(1) requires the local unit to employ one (1) or more police officers.
(2) Minimum salary of police officers. KRS 15.440(2) requires the local unit to pay every police officer a minimum annual salary of $4,350.
(3) Minimum education requirement.
(a) KRS 15.440(3) requires the local unit to require, as a minimum educational standard for the employment of police officers, a high school degree, or its equivalent as determined by the council. However, a police officer employed prior to July 1, 1972, does not have to meet this requirement - he is "grandfathered" into the fund.
(b) A copy of the high school diploma or of its equivalent (e.g., a general education

diploma) shall be sent to the fund administrator, by the local unit, or the officer shall be deemed ineligible to receive a salary supplement.

(c) If a police officer who is "grandfathered" into the fund without having to meet the educational requirement of KRS 15.440(3) has his police service terminated (due to resignation, dismissal, etc.); he must meet the educational requirement in order to become eligible to be reemployed as a police officer by a local unit which is participating in the fund.

(4) Basic training requirement.

(a) KRS 15.440(4) requires the local unit to require all police officers employed on or after July 1, 1972, to successfully complete a basic training course of at least 400 hours duration, within one (1) year of the date of employment, at a school certified or recognized by the council.

(b) A local unit that elects to participate in the fund shall require all police officers employed as of the date of the initial participation to meet the basic training requirement (or obtain credit for meeting it) within one (1) year of the date of initial participation. All officers employed thereafter shall meet the basic training requirement (or obtain credit for meeting it) within one (1) year of the date of employment. The local unit shall not be considered to be in violation of this paragraph if an officer's failure to meet the basic training requirement (or obtain credit for meeting it) within one (1) year is due to circumstances beyond his control, such as injury, illness, or personal tragedy; in this situation, the officer shall be required to meet the basic training requirement (or obtain credit for meeting it) within a reasonable time (not to exceed one (1) year from the termination of the extenuating circumstances), as determined by the fund administrator or his designee, or the local unit shall be in violation of this paragraph.

(c) A police officer who is employed before July 1, 1972, does not have to meet the basic training requirement (or obtain credit for meeting it) - he is "grandfathered" into the fund under KRS 15.440(4).

(d) Obtaining credit for basic training; valuation examination. A police officer who, as of his date of employment, has already successfully completed a law enforcement basic training course may, for the purpose of obtaining credit for some or all of the basic training requirement, apply to the fund administrator to take a basic training evaluation examination. (Forms and information are available from the Kentucky Law Enforcement Foundation Program Fund, 107 Stratton Building, Eastern Kentucky University, Richmond, Kentucky 40475.) Upon receipt of an evaluation examination request, the fund administrator or his designee shall verify that the officer has successfully completed a basic training course. The officer and his local unit shall be responsible for providing such proof as is needed for verification. Upon verification, the fund administrator or his designee shall notify the officer that he is eligible to take a basic training evaluation examination. The fund administrator or his designee shall administer and evaluate the examination. The examination shall test the officer in the areas required for successful completion of a council-approved basic training course. The fund administrator or his designee shall then decide what training, if any, the officer must successfully complete in order to meet the basic training requirement. An officer who passes less than fifty (50) percent of the examination areas shall obtain no basic training credit at all and shall be required to take and successfully complete a basic training course. An officer who passes at least fifty (50) percent of the examination areas shall obtain basic training credit for the areas which he passes. If the officer fails a graded area the officer shall take and successfully complete that portion of a basic training course that corresponds to the failed area. If the graded training area that is failed is physical training and/or M.A.R.C. (the mechanics of arrest, restraint, and control) the repeating of the training in that area is optional with the officer's agency head, but in any event the officer must pass an examination on that failed area consisting of a test and retest within one (1) year of employment. The fund administrator or his designee shall notify the officer of his decision. If an officer is given credit for all or a part of a previously attended basic training course of less than 400 hours, the officer shall be required to make up the difference in hours by completing subject areas of a current basic training course, as determined by the fund administrator or his designee, that equal the hours deficient. The officer shall be responsible for arranging any required basic training at a council-approved school.

(e) If a police officer who is qualified to participate in the fund has his police service terminated [(]due to resignation <u>or</u>[,] dismissal[, etc.),] and he remains separated from employment as a police officer for more than two (2) years; he must, if reemployed as a police officer, meet the basic training requirement (or obtain credit for meeting it) before he shall be eligible to participate in the fund again. This rule shall also be applicable to officers who are members of an agency which participates in the fund but which agency withdraws from or becomes ineligible to participate in the fund and later applies for reparticipation in the fund if the period of nonparticipation exceeds two (2) years <u>unless the officer maintains a current status in inservice training</u>. [If an officer of an agency which withdraws from the fund maintains his/her inservice training on a current basis that officer shall be immediately eligible to reparticipate in the fund if his/her agency elects to reparticipate in the fund or if said officer transfers to and becomes employed by another agency that is a participant in the fund.]

(5) Inservice training requirement.

(a) KRS 15.440(5) requires the local unit to require all police officers, whether originally employed before or after July 1, 1972, to successfully complete each calendar year an inservice training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least forty (40) hours duration at a school certified or recognized by the council.

(b) A local unit that elects to participate in the fund shall require all police officers employed as of the date of initial participation, and all officers employed thereafter, to successfully complete the

inservice training requirement each calendar year. The local unit shall not be considered to be in violation of this paragraph if an officer's failure to meet the inservice training requirement in a calendar year is due to circumstances beyond his control, such as injury, illness, or personal tragedy; in this situation, the officer shall be required to meet the inservice training requirement within a reasonable time (not to exceed one (1) year from the termination of the extenuating circumstances), as determined by the fund administrator or his designee, or the local unit shall be in violation of this paragraph. If an officer, under circumstances that are not extenuating, fails to successfully complete forty (40) hours of inservice training in a calendar year; the fund administrator or his designee shall notify the local unit that the officer must make up the inservice training for the year of delinquency within a reasonable time, as determined by the fund administrator or his designee, or else the local unit, if it continues to employ the officer full time, shall be in violation of this paragraph and shall lose its eligibility to participate in the fund. If an officer, under circumstances that are not extenuating, fails to successfully complete forty (40) hours of inservice training in a calendar year, he shall receive no salary supplement until he makes up the inservice training for the year of delinquency.

(c) The local unit shall provide at least five (5) days leave with pay, not chargeable against the officer's annual leave allotment, for each police officer attending inservice training.

(d) A police officer who meets the basic training requirement (or obtains credit for meeting it) shall be considered to have fulfilled the inservice training requirement for the calendar year in which the basic training is successfully completed (or the credit is obtained).

(e) If a police officer who is qualified to participate in the fund has his police service terminated (due to resignation, dismissal, etc.) before he meets his inservice training requirement for the calendar year, he shall still be eligible to participate in the fund for that part of the calendar year during which he was employed as a police officer.

(f) If a police officer who is qualified to participate in the fund has his police service terminated [(]due to resignation or [,] dismissal[, etc.),] but is reemployed as a police officer, he shall regain eligibility to participate in the fund as soon as he meets the inservice training requirement for the year in which reemployed unless [. If] the reemploying is not within two (2) years, in which event he must meet the basic training requirement (or obtain credit for meeting it); see subsection (4)(e) of this section. This rule shall also be applicable to officers who are members of an agency which participates in the fund but which agency withdraws from or becomes ineligible to participate in the fund and later applies for reparticipation in the fund unless the officer has maintained a current status in inservice training in which event such officer shall regain eligibility to reparticipate in the fund upon his employing agency regaining eligibility to participate or upon a transfer of employment to a participating agency. A transfer of employment from one agency to another with no more than a thirty (30) day separation between employment dates shall not be considered a termination of police service and if such an officer was eligible to and was participating in the fund, i.e., had met current training standards, or would have been eligible to participate in the fund (met prescribed training standards) had his employing agency been a participating agency the officer remains or becomes eligible to participate in the fund upon such transfer. [if the period of nonparticipation exceeds two (2) years.]

(g) A police officer may not, for fund eligibility purposes, take the same inservice training course that he has successfully completed in a previous year for fund eligibility purposes unless at least three (3) years have passed since the earlier course was completed.

(6) Compliance with the law.

(a) KRS 15.440(6) requires the local unit to comply with all provisions of the law applicable to local police, including transmission of criminal information and statistics to the state as required by KRS 17.150.

(b) KRS 15.440(7) requires the local unit to comply with all reasonable rules and regulations, appropriate to the size and location of the local police department, issued by the cabinet to facilitate the administration of the fund.

(c) KRS 15.440(8) provides that a local unit's eligibility to participate in the fund shall continue only if the local police department actually begins and continues to comply with the requirements of KRS 15.440.

(7) Local ordinance requirement. To be eligible to participate in the fund, a local unit shall enact an ordinance or resolution requiring the local unit and police department to comply with KRS 15.410 to 15.510 and with these regulations. A certified copy of this local ordinance or resolution shall be submitted by the local unit to the fund administrator along with the application for participation in the fund.

Section 2. Application. A local unit desiring to apply for admission to the fund shall submit an application form to the fund administrator. (This form is available from the Kentucky Law Enforcement Foundation Program Fund, 107 Stratton Building, Eastern Kentucky University, Richmond, Kentucky 40475.)

Section 3. Withdrawal. To withdraw from the fund, a local unit shall send a written notice of withdrawal to the Fund administrator. The fund administrator or his designee shall acknowledge in writing the receipt of the withdrawal notice; the withdrawal shall be effective as of the date the withdrawal notice is received by the fund administrator. Upon withdrawal, a local unit shall be obligated to return all salary supplement funds received from the fund for which its police officers have not yet become qualified.

NORMA C. MILLER, Secretary

APPROVED BY AGENCY: September 3, 1987

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

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled on October 26, 1987, at 10 a.m. in the Stratton Building, Eastern Kentucky University, Richmond, Kentucky.

Anyone interested in attending this hearing shall notify, in writing at least five (5) days before the hearing, the following individual: A. Jack May, Department of Criminal Justice Training, Kit Carson Drive, Richmond, Kentucky 40475.

REGULATORY IMPACT ANALYSIS

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

TRANSPORTATION CABINET
Personnel Management
(Proposed Amendment)

600 KAR 1:050. Employee conduct and working hours.

RELATES TO: KRS Chapter 18A, 174.080
PURSUANT TO: KRS 13A.100, 13A.130, 174.080
NECESSITY AND FUNCTION: KRS 174.080 allows the Secretary of the Transportation Cabinet to promulgate administrative regulations. KRS 13A.130 and 13A.100 prohibit internal policy concerning disciplinary procedures within the jurisdiction of the Transportation Cabinet. This regulation is necessary to set out specific examples of conduct considered by the Transportation Cabinet as warranting the disciplinary measures provided in KRS Chapter 18A.

Section 1. General. (1) Except as otherwise provided in this regulation, the tenure of an employee with status shall be based on good behavior and satisfactory performance of his duties. If an employee becomes involved in delinquency, misconduct or incompetency, such employee shall be disciplined in accordance with the procedures established by this regulation.
(2) Employees of the Transportation Cabinet are to conduct themselves in such a manner that the work of the Transportation Cabinet is efficiently and effectively accomplished. Employees shall be courteous and prompt in their dealings with both their fellow employees and members of the public with whom they come in contact. Employees shall refrain from any activity which could cause embarrassment to or reflect adversely on the Commonwealth.

Section 2. Illegal and Prohibited Conduct on the Job. While on the job employees are prohibited from engaging in any conduct which involves, or could be construed as involving, the violation of the criminal or penal laws of the Commonwealth. Specific acts, which may or may not be included in the above prohibition, which shall be prohibited include, but are not limited to, the following:
(1) Appearing on the job manifestly under the influence of alcohol, or a controlled substance, or other intoxicating substances, not therapeutically administered, to the degree that the employee may endanger himself or other persons or property, or unreasonably annoy persons in his vicinity. This includes drinking of intoxicating beverages on the job or the taking of a controlled substance not therapeutically administered, or working while under the influence of an intoxicating substance not therapeutically administered.
(2) Engaging in immoral acts, or immoral conduct while on the job.
(3) Striking or assaulting a fellow employee or member of the public while on the job.
(4) Misappropriation of state funds or property.
(5) Driving of motor vehicles in a reckless or irresponsible manner while on the job.
(6) <u>While recognizing that citizens generally have the right under Kentucky law to carry nonconcealed firearms, the Transportation Cabinet prohibits the carrying of concealed or nonconcealed firearms during working hours, including authorized break periods, at the employee's work station or in the course of carrying out work assignments unless expressly authorized in the performance of an employee's official duties. Any employee who is required to carry a firearm during working hours will be so authorized by the appropriate commissioner upon request by the employee's director, office head, or chief district engineer. An employee who determines that his duties warrant authorization to carry a firearm shall make a written request to his immediate supervisor for submission to his director, office head, or chief district engineer and final consideration and decision by the appropriate commissioner.</u> [Request for authorization to carry firearms on state properties in an official capacity must be made to the Executive Director, Office of Personnel Management.]

Section 3. Work Hours and Timekeeping Procedure. (1) The number of hours full-time employees in the Transportation Cabinet central office in Frankfort are required to work shall be uniform for all positions. The normal work hours shall be from 8 a.m. to 4:30 p.m., prevailing time, Monday through Friday, unless flextime has been approved in accordance with the provisions of this section.
(2) The work hours for the district office personnel shall be from 8 a.m. to 4:30 p.m.,

prevailing time, unless flextime has been approved in accordance with the provisions of this section. The Chief District Engineer of each Transportation Cabinet District office shall establish the work hours for all other district employees giving consideration to the requirements of their employment service.

(3) All employees of the Transportation Cabinet must sign a Daily Standard Time Roster provided in each work location. Employees assigned to field duty will maintain a daily time log using a time report form while away from their duty station. The completed time report will be turned in to the timekeeper when the employee returns to this duty station.

(4) Employees shall regularly and strictly observe the working hours required of them by the Transportation Cabinet. Habitual tardiness or absence from work stations shall constitute grounds for suspension or dismissal.

(5) With the approval of the appropriate commissioner or office head, a division, district, or office may utilize flextime in accordance with the following procedures:

(a) If a division, district, or office is authorized to use flextime, every employee in the division, district, or office may be allowed to use flextime.

(b) Flextime hours must be staggered at the discretion of the office head, division director or chief district engineer to insure coverage of all sections during the normal prevailing work hours - 8 a.m. to 4:30 p.m.

(c) Employees must begin and end work on the hour or half hour.

(d) Employees may not be scheduled to begin work later than 9 a.m. or end work earlier than 3 p.m.

(e) Lunch hours may be one-half (1/2) hour, one (1) hour, or one and one-half (1 1/2) hours in length.

(f) Salaried employees must be scheduled to work seven and one-half (7 1/2) hours/day. Hourly employees must be scheduled to work eight (8) hours/day.

(g) The earliest scheduled time to begin work is 7 a.m. The latest scheduled time to end work is 5:30 p.m.

(h) A supervisor may be required during all hours. This will be left to the discretion of the office head, division director, or chief district engineer.

(i) Duration of flextime schedule. An employee may only change his/her working hours every three (3) months. Approval of the office head, division director, or chief district engineer is necessary.

(j) Once an employee's flextime hours have been set, the employee cannot change the hours for three (3) months. The office head, division director, or chief district engineer may stop flextime when necessary or if abuse of flextime occurs.

(k) Division directors and above cannot participate in flextime hours.

Section 4. Outside Employment. Employees shall not engage in any outside employment which would interfere with the performance of the employee's official duties and/or result in, or could reasonably be construed by others as involving a conflict of interest between the private interests of the employee and his official duties and responsibilities. Prior to engaging in any form of outside employment, an employee must obtain the approval of his immediate supervisor. The immediate supervisor shall not approve any request which would:

(1) Interfere with the efficient performance of the employee's official duties; or

(2) Bring discredit upon, or cause criticism of state government or the cabinet; or

(3) Reasonably result in, or reasonably be construed by others as involving, a conflict of interest, between the private interest of the employee and his official duties and responsibilities.

Section 5. Conflict of Interest. (1) General. Because of the nature of the trust placed in them by the citizens of the state, Transportation Cabinet employees must exercise special care to insure that their personal conduct is above reproach. Employees shall avoid conduct which could reasonably result in, or could reasonably be construed as involving, a conflict of interest of the employee and his official duties and responsibilities.

(2) Financial activities, compensation and gratuities. No employee shall solicit, accept, or agree to accept, directly or indirectly, anything of economic value as a gift, gratuity, or favor from any person, corporation, public agency, or group, which might reasonably be interpreted by others as being of such nature that it could affect the impartial performance of his duties. Although under the foregoing criteria, the acceptance of any gift, gratuity, or favor directly or indirectly affecting an employee's official responsibility would be clearly adverse to the public interest, this need not preclude the exchange of usual social courtesies which are entirely free from any improper or embarrassing implications. An employee may not:

(a) Have financial interests that conflict or may reasonably be construed by others to conflict with his responsibilities and duties as a cabinet employee; or

(b) Engage in, directly or indirectly, financial transactions as a result of, or primarily relying upon, information obtained through his employment. Aside from these restrictions, an employee is free to engage in lawful financial transactions to the same extent as any other citizen.

(3) Real estate activities. The Transportation Cabinet must necessarily buy real estate to use as right-of-way for highways. Therefore, it is important that employees of the Kentucky Transportation Cabinet be extremely careful that their personal real estate transactions neither constitute a conflict of interest nor give the appearance to the public of constituting a conflict of interest. An employee in doubt as to whether a contemplated real estate transaction of personal service in the real estate field constitutes a conflict of interest, should ask the Director, Division of Right-of-way, for an interpretation. No employee of the Kentucky Transportation Cabinet shall:

(a) Purchase, attempt to purchase, or offer to purchase any real property or any improvements which are to be removed from any real property, if said property is located on the route or in close proximity to any highway project, during a period beginning with the first preliminary formulation of plans for the project and ending with the advertisement for construction of said project. This restriction does not apply to the

purchase of improvements to real estate or real estate through publicly advertised auction or publicly advertised sealed bidding.

(b) Act as agent for, or offer to act as agent for, the sale of any property in close proximity to any highway project after the first preliminary plans for the project are formulated and prior to the advertising for construction of said highway project.

(c) Make any appraisal, either for compensation or gratuity, of any property in the path of any highway construction project or in close proximity thereto for any person, firm, or corporation, other than for the Transportation Cabinet.

(d) Make any appraisal or provide any service for any person, firm, or corporation that provides service to, sells products to, or in any other manner does business with the Kentucky Transportation Cabinet if such appraisal or service, or the compensation resulting therefrom, could reasonably be construed as constituting a conflict of interest.

(e) Make any appraisal for, provide any service to or accept any compensation from any realtor, broker, appraiser, attorney, or other person, firm, or corporation providing personal services to the Kentucky Transportation Cabinet in the field of appraising, negotiation, or examining titles. This restriction shall also apply to those persons, firms and corporations who have in their recent past provided or may reasonably be expected in the future to provide such services to the Kentucky Transportation Cabinet.

(f) No supervisor may authorize any employee to make appraisals or engage in any other outside activity for profit unless that employee is performing his normal cabinet duties in a thoroughly satisfactory manner and in all instances recognizes and practices a "Transportation Cabinet comes first" policy.

(4) Inconsistent, incompatible, or in-conflict activities. Transportation Cabinet personnel officers and employees shall not engage in any activity or enterprise which is inconsistent, incompatible, or in conflict with their assigned duties and responsibilities or with their duties, functions, and responsibilities of the cabinet office, division, district, or unit for which they are working. An activity or enterprise is deemed incompatible, inconsistent, or in conflict which involves:

(a) The use of state time, facilities, equipment, and supplies for private gain or advantage.

(b) The receipt or acceptance of money or any other type of consideration from anyone other than the state for the performance of an act which would be required or would be expected to be rendered during the regular course and hours of employment or a fulfillment of duties and responsibilities as a cabinet employee.

(c) The performance of an act, other than in the capacity as a cabinet employee, which may later be directly or indirectly subject to the control, inspection, review, audit, or enforcement by the employee or the cabinet unit to which he may be working.

(d) The soliciting or accepting of personal loans or money or property from any person, other than a bank or other financial institution, who does business with or performs services for the cabinet or any division thereof. This policy includes contractual and contractual business and services relationships.

(e) The providing of confidential information to any person or persons to whom the issuance of such information has not been authorized by the cabinet.

(f) The providing of names of Transportation Cabinet personnel for a mailing list from office records unless specific authorization is received from the Office of Personnel Management.

Section 6. Disciplinary Action. Violation of any of the provisions of this regulation shall constitute grounds for suspension or dismissal from the Transportation Cabinet.

C. LESLIE DAWSON, Secretary
BETTY HAWKINS, Executive Director
APPROVED BY AGENCY: September 8, 1987
FILED WITH LRC: September 15, 1987 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this administrative regulation on October 27, 1987 at 10 a.m. in the fourth floor hearing room of the State Office Building. The State Office Building is located at the corner of High and Clinton Streets in Frankfort, Kentucky. Anyone who intends to attend this meeting must in writing by October 22, 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: 6,500 Transportation Cabinet employees.
(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: Request to carry a firearm must be in writing.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Review of written request to carry firearm.
(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 some employees have carried firearms to work and guidance to both employees and managers was needed.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Right of citizens to carry firearms.
(a) Necessity of proposed regulation if in conflict: Firearms need to be restricted in the workplace.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Yes, firearms not totally disallowed, rather permission must be granted.
(6) Any additional information or comments:
TIERING: Was tiering applied? Yes

TRANSPORTATION CABINET
Department of Vehicle Regulation
(Proposed Amendment)

601 KAR 9:125. Dealer plates.

RELATES TO: KRS Chapter 186
PURSUANT TO: KRS 186.070
NECESSITY AND FUNCTION: To outline the administrative adjudication procedure before the Transportation Cabinet concerning the cancellation of a dealer's license plate for misuse of the plate by a registered holder.

Section 1. Defintions. For the purposes of this regulation unless the context requires otherwise:
(1) Registered holder means the dealer, manufacturer, bona fide salesman or employee to whom a dealer's plate is issued pursuant to KRS 186.070.
(2) Misuse of a dealer plate means use of a dealer plate in a manner unauthorized by KRS 186.070.
(3) Commissioner means the Commissioner of the Department of Vehicle Regulation or his designee.

Section 2. Complaints and Investigations. (1) A complaint may be made by any person concerning the alleged abuse of a dealer's plate. Such complaint may be made by the filing of written charges with the Transportation Cabinet, Department of Vehicle Regulation, Office of the Commissioner. In those circumstances where the original complaint is not in writing, it shall be reduced to writing by the Department of Vehicle Regulation. The written complaint shall state clearly and concisely the facts which constitute the basis of the complaint.
(2) Investigation. Upon receipt of the complaint the department shall cause an investigation to be made into the allegations contained in the complaint. Upon the completion of the investigation, the person or persons making the investigation shall submit a full written report to the commissioner [with a copy being sent to the Motor Vehicle Commission, as the licensing agent of the dealer,] containing a succint statement of the facts disclosed by the investigation.

Section 3. Results of the Investigation. (1) Upon the receipt of the investigative report, if it is determined by the commissioner that the facts produced by the investigation constitute cause for a charge of misuse of a dealer's plate the commissioner shall cause a notice to be issued setting the matter for formal hearing.
(2) If after receiving the investigative report, it is determined by the commissioner that the facts produced from the investigation do not constitute a misuse of a dealer plate the complaint shall be dismissed and no further action taken.

Section 4. Notice and Hearing. (1) After a determination that a hearing is required under Section 3(1) of this regulation the commissioner shall cause a notice to be issued notifying the registered plate holder of the date and time of the hearing.
(2) The notice shall state the time and place where the hearing will be held, describe the matter to be heard, state the name of the registered holder of the dealer plate against whom the allegations are being made, the legal authority and jurisdiction under which the hearing is to be held, and a short, plain statement of the complaint or charges which are being preferred, and the remedy which is being sought.
(3) The department shall give a minimum of thirty (30) days written notice of each hearing concerning dealer plate misuse. A copy of the notice shall be mailed to the registered holder of the plate.
(4) The registered holder shall upon written request be given a copy of the complaint.
(5) All hearings held by the department shall be conducted in accordance with 601 KAR 1:030, Section 6.

Section 5. Actions to be Taken Upon Conclusion of the Hearing. (1) Upon the conclusion of the hearing, the hearing examiner shall make a report and recommended order which shall contain findings of fact and conclusions of law. The report and recommended order shall contain a recommendation of action to be taken by the commissioner.
(2) After due consideration, the commissioner shall issue a final order. Such final order may adopt in part, adopt in whole, or reject the report and recommended order of the hearing examiner. The commissioner shall by final order either dismiss the complaint, [or] cancel the plate or plates of the registered holder, or suspend the plate or plates of the registered holder for a fixed period of time. Such final order when signed by the commissioner shall be the final order of the department. A copy of the final order of the department shall be submitted to the Motor Vehicle Commission as the licensing agent of the dealer.

C. LESLIE DAWSON, Secretary
JOHN K. PENROD, Commissioner
APPROVED BY AGENCY: August 20, 1987
FILED WITH LRC: August 28, 1987 at noon
PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this administrative regulation on October 27, 1987 at 9 a.m., local prevailing time, in the Fourth Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who attends this hearing must in writing by October 22, 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 motor vehicle dealers in Kentucky.
(a) Direct and indirect costs or savings to those affected: The amendment causes no costs or savings.
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 different report must be submitted to the Motor Vehicle Commission than previously required.
(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: A copy of the final order must now be submitted to the Motor Vehicle Commission.
(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 it appeared more appropriate to give the final order to the commission rather than a copy of the initial report.
(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 dealers accused of misuse of dealer plates should have similar hearing opportunities.

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

702 KAR 3:190. Maximum class sizes.

RELATES TO: KRS 157.360, 157.580
PURSUANT TO: KRS 156.070, 157.360, 157.580
NECESSITY AND FUNCTION: KRS 157.360(3)(b) prescribes that the Superintendent of Public Instruction shall enforce maximum class sizes for every academic course requirement of the State Board of Education in kindergarten and grades one (1) through eight (8), except in vocal and instrumental music, art, physical education, and special education classes and shall establish procedures for exemptions to the above; and KRS 157.580 provides for the granting of exemptions after September 15 of any particular school year. This regulation implements such functions and prescribes criteria for granting class size exemptions.

Section 1. All classes shall be within the maximum class size by September 15 of each school year.

Section 2. (1) A superintendent of a local school district who can document that power equalization funds are not available in accordance with KRS 157.580(2) may request approval from the State Board of Education for a one (1) year exemption of no more classes than enroll twenty (20) percent of the pupils in kindergarten and grades one (1) through eight (8) in each school within the district, when unusual circumstances are believed to warrant an increased class size for a specific class or classes.
(2) The request for exemption shall be filed with the Professional Staff Data forms and shall be forwarded to the Office of Local Services, Division of School Management and Audit, not later than October 1.
(3) The request for exemption shall contain detailed, specific reasons and circumstances causing the increased class size for each class for which an exemption is requested. [Unusual circumstances shall be interpreted to include, but not limited to, increases in class size after September 15, caused by student change of residence from one (1) school area to a second or from one (1) district to another.]
(4) The request for exemption shall contain an educational plan assuring that all affected students will receive a quality education.
(5) The request for exemption shall include a specific plan for reducing the class size prior to the beginning of the next school year.
(6) No exemption will be granted in the same grade in the same school for more than one (1) year Transferring of students between schools in subsequent years for the purpose of qualifying for an exemption is not approvable.
(7) Since the district, as a condition for approval of an exemption, must provide a plan to alleviate the overcrowding problem, no school which has an exemption in a grade will be granted an exemption in the next grade for the following year. Transferring of students between schools in subsequent years for the purpose of qualifying for an exemption is not approvable.
(8) The services of an aide shall be provided for all classes for which exemptions are granted.
(9) There shall be no exemptions for a class or classes with combined grades.
(10) No classes granted an exemption under KRS 157.360(3)(b) shall enroll more than five (5) students over the maximum class size requirements.

Section 3. (1) If a local school district has power equalization funds available after meeting the requirements of KRS 157.580(1), then no exemption in class size requirements shall be granted to the district, except as hereinafter provided. Through the 1987-88 school year, and regardless of the availability or unavailability of power equalization funds, if a school's enrollment increases after September 15, an exemption for reason of space limitation only, for up to two (2) students above the maximum class size may be granted to a class in which the newly enrolled students are placed. The services of an aide shall be provided for all classes for which exemptions are granted. [If by September 15 of any school year a district has complied with maximum class size requirements, then unexpended power equalization monies may be used for purposes under subsection (3) and (4) of KRS 157.580. Maximum class size exemptions shall after September 15 be governed by KRS 157.360(3)(b).]
(2) No exemptions shall be granted for kindergarten classes and for classes with combined grades.
(3) These exemptions shall be granted only after the Department of Education has made an onsite visit and analyzed the district's total classroom space, class sizes and all alternatives and has determined that the district has no means by which to meet the maximum class size requirements with available space. Temporary exemptions shall be granted by the department pending the required onsite visit and analysis.

Section 4. (1) After September 15 of the 1987-88 school year in order to provide local school districts flexibility in programming for short-term transient students, especially in

those situations where such student enrollment exceeds normal vacancies based upon historical data, no student enrolled in excess of the class size cap shall be considered in determining compliance with the class size cap until such student is enrolled for three (3) school weeks. In no instance shall the number of students so classified in any one class be in excess of five (5) students above the class size cap for the applicable grade.

(2) Once such classes exceed the applicable class size caps the services of an aide shall be provided.

Section 5. [4.] The State Board of Education, through the Superintendent of Public Instruction [The Office of Local Services], shall enforce this regulation through examination of the enrollments recorded on each Professional Staff Data form and shall [certify compliance or] deny Foundation Program units, or cause the loss of power equalization funds as provided in KRS 157.580(2), to a school district in noncompliance with this regulation.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: September 2, 1987
FILED WITH LRC: September 8, 1987 at 3 p.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, October 23, 1987 at 10 a.m. Eastern Daylight Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 18, 1987. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Arnold Guess
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Does not alter existing load.
(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:
(b) Reporting and paperwork requirements: Does not alter existing load.
(3) Assessment of anticipated effect on state and local revenues: Will not increase either.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods would not have met revised state requirements.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None in conflict.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Yes

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

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

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

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

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

Section 3. Any proposal for the development by the Council on Teacher Education and certification of a program of preparation-certification for a new position shall be evaluated in writing by the office of the

Superintendent of Public Instruction on the basis of the following criteria:

(1) There are compelling reasons for establishing a preparation-certification program. Alternate procedures for insuring professional competence for the position are either not feasible or are not appropriate. The likelihood of unsatisfactory practices represents too high a risk for noncertification alternatives.

(2) A distinctive and specific body of knowledge exists for the new position which is not likely to be attained without a specific preparation-certification plan. The body of knowledge is sufficiently extensive for a program of preparation - twelve (12) semester hours of credit or more - rather than something that can be earned in miscellaneous noncredit experiences.

(3) There are pupils having unique characteristics which require the teacher to have specialized knowledge and skills or there is a need for special services for which unique professional preparation is required.

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

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

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: September 2, 1987

FILED WITH LRC: September 9, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, October 23, 1987 at 10 a.m. Eastern Daylight Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 18, 1987. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Dr. Akeel Zaheer

(1) Type and number of entities affected: Institutions of higher education offering certification programs and individuals enrolled in the programs.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Required changes will have to be incorporated into approved programs.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. All institutions offering certification programs must comply with requirements to maintain uniform standards for certification.

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

704 KAR 20:280. Endorsement for teachers of gifted education.

RELATES TO: 161.020, 161.025, 161.030

PURSUANT TO: KRS 156.070, 161.030

NECESSITY AND FUNCTION: KRS 161.020, 160.025 and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education. This regulation establishes a preparation-certification program for teachers for gifted education.

Section 1. (1) [Effective January 1, 1984,] A certificate endorsement as teacher for gifted education shall be issued in accordance with the pertinent Kentucky statutes and the State Board of Education regulations to an applicant who:

(a) Holds a certificate valid for classroom teaching at the elementary school level, the middle grade level, or the high school level; [who]

(b) Has completed at least one (1) [three (3)] year[s] of successful teaching experience for individuals certified since January 1, 1985, this requirement will be satisfied by successful completion of the beginning teacher internship; and [who]

(c) Has completed the appropriate program of preparation for the certificate endorsement established herein at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel, as adopted by 704 KAR 20:005, TEC 54.0.

(2) The endorsement as teacher for gifted education shall be valid for [the same] grades K-12; however, assignment to a full-time self-contained gifted education class shall be restricted to the level of the base certificate. The endorsement [levels as the base certificate and] shall have the same duration as the base certificate.

(3) The teacher for gifted education is defined as a teacher who works directly with

identified gifted pupils, in addition to the regularly assigned classroom teacher(s), or for at least one-half (1/2) of the regular school day in a classroom made up only of properly identified gifted students.

(4) [Beginning with the 1984-85 school term,] All persons employed as teachers for gifted education shall hold an appropriate certificate endorsement for gifted education, except that all teachers having certificates initially issued for a duration period beginning prior to July 1, 1984, or proper renewals thereof, shall remain eligible thereafter for assignment as teachers for gifted education, for the grade levels of the base certificate, provided any such assignment was valid under the original certificate at the time it was issued.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: September 2, 1987
FILED WITH LRC: September 9, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, October 23, 1987 at 10 a.m. Eastern Daylight Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 18, 1987. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Dr. Akeel Zaheer
(1) Type and number of entities affected: Approximately 250 individuals currently certified and all persons seeking gifted endorsement in future.
(a) Direct and indirect costs or savings to those affected: None
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: No effect on state and local revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. All individuals applying/receiving certification must meet requirements/standards uniformly.

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

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

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

Section 1. Pursuant to the authority vested in the Kentucky State Board of Education by KRS 163.140, the revised Kentucky State Plan for Vocational Rehabilitation Services for the period October 1, 1985 through September 30, 1988, as amended on September 2 [June 30], 1987, is presented herewith for filing with the Legislative Research Commission, and incorporated by reference. A copy of said plan can be obtained from the Office of Vocational Rehabilitation, Department of Education.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: September 2, 1987
FILED WITH LRC: September 9, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, October 23, 1987 at 10 a.m. Eastern Daylight Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 18, 1987. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Joan Barker
(1) Type and number of entities affected: Office of Vocational Rehabilitation subgrant programs, MH/MR service delivery areas, rehabilitation facilities.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements:
(2) Effects on the promulgating administrative body: Office of Vocational Rehabilitation only.
(a) Direct and indirect costs or savings:
1. First year: $16,500 costs to administer program.

2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Reporting is required to the federal rehabilitation services administration.
(3) Assessment of anticipated effect on state and local revenues: No effect anticipated at the present time.
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods are available. The state could chose not to submit a plan and thereby forfeit the grant funds available under these regulations.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments:
TIERING: Was tiering applied? No. This is a statewide program that will apply equally to all persons who meet eligibility requirements.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The federal mandate is given in section 634 of PL 99-506, the rehabilitation amendments of 1986. This mandate requires that a state, in order to be eligible for grants under Title VI, Part C, of the Act, must submit a plan supplement for a three-year period for providing training and traditionally time-limited postemployment services leading to supported employment for individuals with severe disabilities.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

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

706 KAR 1:020. Independent living <u>rehabilitation services state</u> plan.

RELATES TO: KRS 156.010, 156.035, 163.140, 163.160
PURSUANT TO: KRS 156.035, 156.070, 163.140
NECESSITY AND FUNCTION: Title VII, Part A, P.L. 93-112, as amended, requires the submission of a Three (3) Year State Plan for Independent Living Rehabilitation Services, to the Secretary, Department of Education. The plan must be approved in order for a state to be eligible for grants from the allotment of funds under Title VII, Part A, of the Rehabilitation Act of 1973, P.L. 93-112, as amended by P. L. 93-516, P. L. 95-602, P. L. 98-221, and P.L. 99-506. This regulation adopts such a plan, and thereby implements statutory responsibility of the Department of Education and the State Board of Education under KRS 156.010, 156.035, 163.140, and 163.160.

Section 1. Pursuant to the authority vested in the Kentucky State Board of Education by KRS 156.035 and 163.140, the Kentucky State Plan for Independent Living Rehabilitation Services for the period October 1, <u>1987</u> [1984] through September 30, <u>1990</u> [1987] is presented herewith for filing with the Legislative Research Commission, and incorporated by reference, as revised <u>September 2</u> [May 6], 1987. This plan describes how federal funds will be utilized to provide services for independent living to individuals with disabilities so severe that they presently do not have potential for employment, and a copy of said plan can be obtained from the Office of Vocational Rehabilitation, Department of Education.

ALICE McDONALD, Superintendent
APPROVED BY AGENCY: September 2, 1987
FILED WITH LRC: September 9, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, October 23, 1987 at 10 a.m. Eastern Daylight Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its September meeting. Those persons wishing to attend and testify shall contact in writing: Sheila A. Collins, Secretary, State Board of Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before October 18, 1987. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Joan Barker
(1) Type and number of entities affected: Office of Vocational Rehabilitation subgrant programs under Title VII, Part A, of the Rehabilitation Act of 1973.
(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: No changes from the most recent plan.
(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: No anticipated effect.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Program administration is mandated by the Rehabilitation Act of 1973 as amended, and by federal regulations in 34 CFR Part 365.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:

(6) Any additional information or comments:
TIERING: Was tiering applied? No. Tiering was not applied because the program is offered equally to all persons in the Commonwealth who are eligible for services.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: Title VII, Part A, of the Rehabilitation Act of 1973, as amended most recently by the Rehabilitation Act Amendments of 1986 (P.L. 99-506), requires a three-year state plan for independent living rehabilitation services be implemented. The Kentucky State Plan for independent Living Rehabilitation Services will be effective for the period October 1, 1987 through September 30, 1990. This plan describes how federal funds will be utilized to provide services for independent living for individuals with severe disabilities to enhance their ability to live independently and function within family or community, and if appropriate, secure and maintain appropriate employment.
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

PUBLIC PROTECTION & REGULATION CABINET
Kentucky State Racing Commission
(Proposed Amendment)

810 KAR 1:011. Pari-mutuel wagering.

RELATES TO: KRS 230.210 to 230.360
PURSUANT TO: KRS Chapter 13A
NECESSITY AND FUNCTION: To regulate conditions under which thoroughbred racing shall be conducted in Kentucky. The function of this regulation is to outline the requirements for the operation of pari-mutuel wagering.

Section 1. Pari-mutuel System of Wagering Required. Each association licensed to conduct racing in this state may permit wagering only on races conducted by such association on the grounds of such association; no association may accept wagers on races conducted elsewhere by another association. All such permitted wagering shall be under the pari-mutuel system, employing an electric totalizator approved by the commission. All systems of wagering other than pari-mutuel, such as bookmaking and auction-pool selling, are prohibited and any person participating or attempting to participate in prohibited wagering shall be ejected or excluded from association grounds.

Section 2. Totalizator Required. Each association shall install and operate during its race meeting an electric totalizator approved by the commission. Such totalizator shall be tested daily under the supervision of the commission to insure its proper working order.

Section 3. Records to be Maintained. The pari-mutuel manager shall maintain complete records of all wagering so the commission may upon review ascertain for any race: The opening line and subsequent odds fluctuations, the amount, and at which window, wagers were placed on any betting interest, and such other information as the commission may from time to time require. A copy of such wagering records shall be retained by each association and safeguarded for a period not less than two (2) years and may not be destroyed without permission of the commission.

Section 4. Calculation and Distribution of Pools. The only pari-mutuel wagering pools permitted in this state shall be for win, place, show, daily double, exacta, [and] quinella, and other such wagering approved by the commission as allowed by statute, each with separate and independent calculation and distribution. From each pool there shall be deducted by each association the commission as provided by KRS 138.515, with the remainder being the net pool for distribution as payoffs to ticket holders as follows:
(1) Win pool. The amount wagered on the horse or betting interest which finished first is deducted from the net pool, the balance remaining being the profit; the profit is divided by the amount wagered on the horse or betting interest finishing first, such quotient being the profit per dollar wagered to win; payoff includes return of amount wagered and profit thereon.
(a) In the event of a dead heat for first involving horses of two (2) different betting interests, the win pool is distributed as if a place pool; if involving horses of three (3) different betting interests, the win pool is distributed as if a show pool.
(b) In the event no win ticket is sold on the horse which finishes first, the net win pool is distributed to holders of win tickets on the horse finishing second.
(2) Place pool. The amounts wagered to place on the first two (2) horses to finish are deducted from the net pool to determine the profit; the profit is divided into two (2) equal amounts; one-half (1/2) of the profit is divided by the amount wagered to place on the first finisher, such quotient being the profit per dollar wagered to place on the first finisher; and one-half (1/2) of the profit is divided by the amount wagered to place on the second finisher, such quotient being the profit per dollar wagered to place of such second finisher; payoffs include return of amount wagered and profit thereon as to each of the first two (2) finishers.
(a) In the event of a dead heat for first: between horses representing the same betting interest, the place pool is distributed as if a win pool; if between horses representing two (2) different betting interests, the place pool is distributed as if one (1) betting interest finished first and the other finished second; if between horses representing three (3) different betting interests, the place pool is distributed as if a show pool.
(b) In the event of a dead heat for second: between horses representing the same betting interest, the place pool is distributed as if no dead heat occurred; if between horses representing two (2) or more different betting interests, the profit is divided in half, with one-half (1/2) allocated for wagers to place on

the horse which finished first, and other half divided equally so as to allocate one-fourth (1/4) of the profit on the net place pool for wagers to place on each of two (2) horses finishing in a dead heat for second, or one-sixth (1/6) of the profit for wagers to place on each of three (3) horses finishing in a dead heat for second.

(c) In the event the first and second finishers comprise a single betting interest, the place pool is distributed as if a win pool.

(d) In the event no place ticket is sold on a horse which finishes first or second, then the horse which finished third shall replace that horse in the distribution of wagers in the place pool.

(3) Show pool. The amounts wagered to show on the first three (3) horses to finish are deducted from the net pool to determine the profit; the profit is divided into three (3) equal amounts; one-third (1/3) of the profit is divided by the amount wagered to show on the first finisher, such quotient being the profit is divided by the amount wagered to show on the second finisher, such quotient being the profit per dollar wagered to show on such second finisher; and one-third (1/3) of the profit is divided by the amount wagered to show on the third finisher, such quotient being profit per dollar wagered to show on such third finisher; payoffs include return of amount wagered and profit thereon as to each of the first three (3) finishers.

(a) In the event of a dead heat for first: between two (2) horses involving different betting interest, or three (3) horses involving three (3) different betting interests , the show pool is distributed as if no dead heat occurred; if between two (2) horses involving the same betting interest two-thirds (2/3) of the profit is allocated to wagers to show on the coupled betting interest, and one-third (1/3) allocated to wagers to show on the other horse among the first three (3) finishers; if between three (3) horses involving one (1) betting interest, the show pool is distributed as if a win pool.

(b) In the event of a dead heat for second: between two (2) horses involving two (2) different betting interests, the show pool is distributed as if no dead heat occurred; if between horses involving the same betting interest, two-thirds (2/3) of the profit shall be allocated to wagers to show on the coupled betting interest, and one-third (1/3) allocated to wagers to show on the horse finishing first; if between three (3) horses involving two (2) or three (3) betting interests, one-third (1/3) of the profit is allocated to wagers to show on the horse finishing first, and the remaining two-thirds (2/3) of the profit is divided equally by the number of betting interests finishing in a dead heat for second for proportionate distribution on wagers to show for each such betting interest finishing in a dead heat for second.

(c) In the event of a dead heat for third: between horses involving the same betting interests, the show pool is distributed as if no dead heat occurred; if between horses involving two (2) or more betting interests, two-thirds (2/3) of the profit shall be allocated to wagers to show on the first two (2) finishers, and the remaining one-third (1/3) is divided equally by the number of betting interests finishing in a dead heat for third for proportionate distribution on wagers to show for each such betting interest finishing in a dead heat for third.

(d) In the event the first three (3) horses to finish comprise one (1) betting interest, the show pool shall be distributed as a win pool. In the event two (2) horses coupled as a single betting interest finish first and second, or first and third, or second and third, two-thirds (2/3) of the profit shall be allocated to wagers to show on the other horse among the first three (3) finishers.

(e) In the event one (1) horse coupled in the betting by reason of being in the mutuel field or part of a mutuel entry finishes first or second, and another horse included in the same betting interest finishes in a dead heat for third: one-half (1/2) of the profit in the show pool shall be allocated to wagers on such field or entry, one-third (1/3) of the profit in the show pool shall be allocated to wagers on the horse finishing first or second, and the remaining one-sixth (1/6) of such profit shall be allocated to wagers on the horse finishing in a dead heat for third with such field or entry.

(f) In the event only two (2) horses finish, the show pool, if any, shall be distributed as if a place pool; if only one (1) horse finishes, the place and show pools, if any, shall be distributed as if a win pool; if no horse finishes, all money wagered on such race shall be refunded upon presentation and surrender of pari-mutuel tickets sold thereon. In the event no show ticket is sold on a horse which finishes first, or second, or third, then, the horse which finished fourth shall replace that horse in the distribution of wagers in the show pool.

(4) Daily double pool. The amount wagered on the winning combination, such being the horse or betting interest which finishes first in the first daily double race, is deducted from the net pool to determine the profit; the profit is divided by the amount wagered on the winning combination, such quotient being the profit per dollar wagered on the winning daily double combination; payoff includes the amount wagered and profit thereon.

(a) In the event of a dead heat for first involving two (2) different betting interests, in one (1) of the two (2) daily double races, the daily double pool is distributed as if a place pool, with half the profit allocated to wagers combining the single winner of one (1) daily double race and one (1) of the betting interests involved in the dead heat in the other daily double race, with the other half of the profit allocated to wagers combining the single winner of one (1) daily double race and the other betting interest involved in the dead heat in the other daily double race.

(b) In the event of dead heats for first involving different betting interests in each of the daily double races, resulting in four (4), or six (6), or nine (9), winning combinations for proportionate allocation for each such winning daily double wager.

(c) In the event no daily double ticket is sold combining the horse or betting interest which finishes first in one (1) of the daily double races, the daily double pool is distributed as if win pool with the profit allocated to wagering combinations which include the horse or betting interest which finished first in one (1) of the daily double races.

(d) In the event no daily double ticket is

sold combining the horse or betting interests which finishes first in both the first and second race of the daily double, then the winning combination for distribution of the daily double profit shall be that combining the horses or betting interests which finished second in each of the daily double races.

(e) If after daily double wagering has commenced and a horse not coupled with another as a betting interest in the first race of the daily double is excused by the stewards or is prevented from racing because of failure of the starting-gate to open properly, then daily double wagers combining such horse shall be deducted from the daily double pool and refunded upon presentation and surrender of daily double tickets thereon.

(f) If, prior to closing of the daily double wagering, a scheduled starter in the second half of the daily double which is not coupled in the betting with another horse is excused by the stewards, then daily double wagers combining such horse shall be deducted from the daily double pool and refunded upon presentation and surrender of daily double tickets thereon.

(g) If after the first race of the daily double has been run, and a horse not coupled with another as a betting interest in the second race of the daily double is excused by the stewards or prevented from racing because of failure of the starting-gate door to open properly, then daily double wagers combining the winner of the first daily double race with such horses prevented from racing in the second daily double race shall be allocated consolation payoffs:

1. Consolation daily double payoffs shall be determined by dividing the net daily double pool by the amount wagered combining the winner of the first daily double race with every horse or betting interest scheduled to start in the second daily double race, such quotient being the consolation payoff per dollar wagered combining the winner of the first daily double race with such horse prevented from racing in the second daily double race;

2. Such consolation payoffs shall be deducted from the net daily double pool before calculation and allocation of wagers on the winning daily double combination.

(h) If for any reason the first daily double race is cancelled or declared "no race" by the stewards, then the entire daily double pool shall be refunded upon presentation and surrender of daily double tickets thereon. If for any reason the second daily double race is cancelled or declared "no race" by the stewards after the first daily double race is declared official, then the net daily double pool shall be distributed to wagering combinations which include the horse or betting interest which finished first in the first daily double race.

(i) If no daily double ticket is sold requiring distribution, then the entire daily double pool shall be refunded upon presentation and surrender of daily double tickets thereon.

(5) Quinella pool. The amount wagered on the winning combination, such being the first two (2) finishers irrespective of which horse finishes first and which horse finishes second, is deducted from the net pool to determine the profit; the profit is divided by the amount wagered on the winning combination, such quotient being the profit per dollar wagered on the winning quinella combination; payoff includes the amount wagered and profit thereon.

(a) In the event of a dead heat for first: between horses involving two (2) different betting interests, the net quinella pool is distributed as if no dead heat occurred; if between horses involving three (3) different betting interests, the net quinella pool is distributed as if a show pool and is allocated to wagers combining any of the three (3) horses finishing in a dead heat for first.

(b) In the event of a dead heat for second: between horses involving two (2) different betting interests, the net quinella pool is distributed as if a place pool and is allocated to wagers combining the first finisher with either horse finishing in a dead heat for second; if between horses involving three (3) different betting interests, the net quinella pool is distributed as if a show pool, and allocated to wagers combining the first horse with each of the three (3) horses finishing in a dead heat for second;

(c) In the event horses representing a single betting interest finish first and second, the net quinella pool shall be allocated to wagers combining such single betting interest with the horse or betting interest which finishes third.

(d) In the event no quinella ticket is sold combining:

1. The first finisher with one (1) of the horses finishing in a dead heat for second, then the net quinella pool is allocated to wagers combining the first finisher with the other horse finishing in a dead heat for second;

2. The first finisher with either of the horses finishing in a dead heat for second, then the net quinella pool is allocated to wagers combining the two (2) horses which finished in the dead heat for second;

3. The first finisher with either of the horses finishing in a dead heat for second, or combining with two (2) horses which finished in a dead heat for second, then the net quinella pool is distributed as if a show pool is allocated to wagers combining any of the first three (3) finishers with any other horses.

4. The first two (2) finishers, then the net quinella pool shall be distributed as if a place pool and is allocated to wagers combining the first finisher with any other horses, and wagers combining the second finisher with any other horse.

5. Horses or betting interest as would require distribution, then the entire quinella pool shall be refunded upon presentation and surrender of quinella tickets thereon.

(6) Exacta pool. The exacta pool is a contract by the purchaser of a ticket combining two (2) horses in a single race, selecting the two (2) horses that will subsequently finish first and second in that race. Payment of the ticket shall be made only to the purchaser who has selected the same order of finish as officially posted.

(a) The exacta is not a "parlay" and has no connection with or relation to the win, place and show betting and will be calculated as an entirely separate pool.

(b) If no ticket is sold on the winning combination of an exacta pool, the net pool shall be distributed equally between holders of tickets selecting the winning horse to finish first and/or holders of tickets selecting the second place horse to finish second.

(c) If no ticket is sold that would require distribution of an exacta pool to winner as

above defined, the association shall make a complete and full refund of exacta pool.

(d) In case of a dead heat between two (2) horses for first place, the net exacta pool shall be calculated and distributed as a place pool to holders of tickets of the winning combinations. In case of a dead heat between two (2) horses for second place, the exacta pool shall be figured as a place pool, the holders of tickets combining the winning horse and the two (2) horses finishing second participating in the payoff.

(e) In the event of a dead heat for second place, if no ticket is sold on one (1) of the two (2) winning combinations, the entire net pool shall be calculated as a win pool and distributed to those holding tickets on the other winning combination. If no tickets combine the winning horse with either of the place horses in the dead heat, the exacta pool shall be calculated and distributed as a place pool to holders of tickets representing any interest in the net pool.

(f) In the event of any entry finishing first and second, the net exacta pool shall be distributed to holders of tickets selecting the entry to win combined with the horse finishing third.

(7) Refunds.

(a) If after win, place, or show wagering has commenced, a horse not coupled with another as a betting interest is excused by the stewards or is prevented from racing because of failure of the starting-gate door to open properly, the wagers on such horse shall be deducted from the win, place, and show pools, as the case may be, and refunded upon presentation and surrender thereof. If more than one (1) horse represents a single betting interest by reason of coupling as a mutuel entry or mutuel field, such single betting interest being the sole subject of a wager or part of a combination in a daily double, exacta or quinella wager, then there shall be no refund unless all of the horses representing such single betting interest are excused by the stewards and/or are prevented from racing horses because of failure of the starting-gate doors to open properly.

(b) If after exacta and quinella wagering has commenced, a horse not coupled with another as a betting interest is excused by the stewards or is prevented from racing because of failure of the starting-gate to open properly, then exacta and quinella wagers combining such horse with any other horse or betting interest shall be deducted from the exacta and quinella pool and refunded upon presentation and surrender of exacta and quinella tickets thereon.

(8) Race cancelled. If for any reason a race is cancelled or declared "no race" by the stewards after wagering has commenced on such race, then all wagering thereon shall be refunded upon presentation and surrender of pari-mutuel tickets thereon; except as to daily double wagers upon cancellation of the second daily double race, which shall be distributed as provided under subsection (4)(h) of this section.

(9) Totalizator breakdown. In the event of an irreparable breakdown of the totalizator during the wagering on a race, the wagering on that race shall be declared closed and the payoff shall be computed on the sums wagered in each pool up to the time of the breakdown.

Section 5. Minimum Wager and Payoff. The minimum wager to be accepted by any licensed association shall be two (2) dollars. The minimum payoff on a two (2) dollar wager shall be two (2) dollars and twenty (20) cents. <u>However, in the event of a minus pool, the minimum payoff for a two (2) dollar wager shall be two (2) dollars and ten (10) cents.</u>

Section 6. Minors Prohibited from Wagering. No minor shall be permitted by any licensed association to purchase or cash a pari-mutuel ticket.

Section 7. Odds or Payoffs Posted. Approximate odds, based on win pool betting for finishing first for each betting interest, shall be posted on one (1) or more boards or television screens within view of the wagering public, at intervals of not more than ninety (90) seconds. If daily double wagering is conducted, before off-time of the second daily double race, the possible payoff for each two (2) dollar daily double wager combining the winner of the first daily double race with every horse or betting interest in the second daily double race; excepting that, in the event of a dead heat for first in the first daily double race, or a scheduled starter in the second daily double race is excused so as to cause a consolation daily double pool, then posting of all possible payoffs shall not be mandatory, but the association shall make every effort to compute such daily double prices and advise the public of same by posting or public-address announcement as soon as possible and prior to the running of the second daily double race.

Section 8. Betting Explanation. Each association shall cause to be published in the daily race program a general explanation of pari-mutuel betting and an explanation of each type of betting pool offered; such explanation also shall be posted in conspicuous places about the association grounds so as to adequately inform the public. Such explanation shall be submitted to the state steward prior to publication so as to insure an absence of conflict with these rules.

Section 9. Prior Approval Required for Betting Pools. Each association desiring to conduct more than nine (9) betting races on a single day, or desiring to offer daily double, exacta or quinella wagering, shall first apply therefor in writing to the commission and obtain specific approval as to number of betting races and type of wagering to be offered on a single day.

Section 10. Pools Dependent Upon Entries. (1) Unless the commission approves a prior written request from the association to alter wagering opportunities for a specific race, each association shall offer win, place, and show wagering on all programmed races involving six (6) or more betting interests.

(2) If horses representing five (5) or fewer betting interests qualify to start in a race, then the association may prohibit show wagering on that race; if horses representing four (4) or fewer betting interests qualify to start in a race, then the association may prohibit both place and show wagering on that race.

(3) If, by reason of a horse being excused by the stewards after wagering has commenced or a horse is prevented from racing because of

failure of a starting-gate door to open properly, the number of actual starters representing different betting interests is:

(a) Reduced to five (5), then the association may cancel show wagering on that race and the entire show pool shall be refunded upon presentation and surrender of show tickets thereon;

(b) Reduced to four (4) or fewer, then the association may cancel both place and show wagering on that race and the entire place pool and show pool shall be refunded upon presentation and surrender of such place and show tickets thereon.

Section 11. Pari-mutuel Ticket Sales. (1) No pari-mutuel tickets shall be sold except by the association conducting the races on which such wagers are made, and the same shall be sold only at regular "seller" windows properly designated by signs showing the type and denomination of tickets to be sold at such windows. No pari-mutuel ticket may be sold after the totalizator has been locked and no association shall be responsible for ticket sales entered into but not completed by issuance of a ticket before the totalizator has been locked.

(2) Any claim by a person that he has been issued a ticket other than that which he requested, must be made before such person leaves the seller window and before the totalizator is locked.

(3) After purchasing a ticket and after leaving a ticket window, a person shall not be entitled to enter for issuance an incorrect ticket, or claim refund or payment for tickets discarded, or lost, or destroyed, or mutilated beyond identification.

(4) Payment on valid pari-mutuel tickets shall be made only upon presentation and surrender thereof to the association where such wager was made within two (2) years following the running of the race on which such wager was made. Failure to present any such ticket within two (2) years shall constitute a waiver of the right to receive payment thereon.

(5) Payment of valid pari-mutuel tickets shall be made on the basis of the order of finish as purposely posted on the infield results board and declared "official" by the stewards; any subsequent change in such order of finish or award of purse money as may result from a subsequent ruling by the steward or commission, shall in no way affect the pari-mutuel payoff.

(6) The association shall be responsible for the correctness of all payoff prices posted as "official" on the infield results board. If an error is made in posting the payoff figures on the public board, and ascertained before any tickets are cashed thereon, then such posting error may be corrected accompanied by a public address announcement, and only the correct amounts shall be used in the payoff, irrespective of the initial error on the public board.

(7) Prior to posting payoffs, the pari-mutuel manager shall require each of the computer printout sheets (calculating sheets) of such race to be proven by the computer (calculator) and the winners verified. Such proof shall show the amounts for commission, breakage, and payoffs, which added together shall equal the total pool. All pay slips are to be checked with computer printout sheets (calculating sheets) as to winners and prices before being issued to cashiers, and all board prices are to be rechecked with the computer printout sheet (calculator) before released to the public.

(8) Whenever the recapitulation of the sales registered by each ticket issuing machine subsequently proves that the actual amount in the pool, or pools, is less than the amount used in calculating the payoff, such deficiency shall be deposited in the pool or pools by the association. Should the recapitulation of sales prove that the actual amount in the pool or pools, is greater than the amount used in calculating the payoff due to a mechanical error of the totalizator such error resulting in underpayment to the public, then the aggregate of such underpayments shall be paid into the corresponding pool of the next race or races, in such amounts as may be determined by the state steward and the pari-mutuel manager. If any such error should occur in computing the daily double pool, the underpayment shall be added to the daily double pool of the following day. Overpayments and underpayments subsequently discovered upon recapitulation after the close of a meeting may be adjusted, and any underpayment resulting from such final adjustment shall be paid to the Department of Revenue.

Section 12. Betting Interests Involving more than One (1) Horse. When two (2) or more horses entered for the same race are determined by the stewards to have common ties through ownership or training and are joined by the stewards as a "mutuel entry," such mutuel entry shall become a single betting interest and a wager on one (1) horse in a mutuel entry shall be a wager on all horses in the same mutuel entry. When the number of horses competing in a race exceeds the numbering capacity of the totalizator, the racing secretary shall assign the highest pari-mutuel numbers to horses so that the highest numbered horse within the numbering capacity of the totalizator, together with horses of higher numbers, shall be grouped in the "mutuel field" as a single betting interest, and a wager on one (1) horse in the mutuel field shall be a wager on all horses in the same mutuel field.

Section 13. Emergency Situation. In the event any emergency arises in connection with the operation of the pari-mutuel department not provided for by these rules, then the pari-mutuel manager shall make an immediate decision and render a full report to the commission.

MARTHA H. BROADBENT, Chairman

APPROVED BY AGENCY: September 15, 1987

FILED WITH LRC: September 15, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 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 this hearing should contact in writing: Michael A. Fulkerson, Chief Administrative Officer, Kentucky State Racing Commission, P.O. Box 1080, Lexington, Kentucky 40588.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Michael A. Fulkerson

(1) Type and number of entities affected: Four thoroughbred 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: Zero
(a) Direct and indirect costs or savings: Zero
1. First year: Zero
2. Continuing costs or savings: Zero
3. Additional factors increasing or decreasing costs: Zero
(b) Reporting and paperwork requirements: Zero
(3) Assessment of anticipated effect on state and local revenues: Minimal increase
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments: The four thoroughbred tracks previous to the 1986 session had the right to pick six wagering by court order. Once the statutory prohibition was removed the commission has approved both pick six and pick three and desires to make its rules of racing conform. One additional change to make the administrative regulations conform to KRS pertaining to minus pools.
TIERING: Was tiering applied? No. N/A

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 prerace treatment. Medications, drugs, or substances shall be categorized into two (2) sections and shall be designated as follows: NSAID (nonsteroidal 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 workout 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 workout, but through no fault of the trainer, such workout does not appear in the past performances, the horse shall be permitted to start and the correct workout 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 backsides 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 then 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.

(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 therefor were made, and in the absence of specific prohibition of such conditions:

(a) Horses originally joined as a mutuel entry may be place in different divisions of a split race unless the person making such multiple entry, at the time of such entry indicates such coupling of horses is not to be uncoupled when such race is split.

(b) Division of entries in any split stakes race may be made according to age, or sex, or both.

(c) Entries for any split race not divided by any method provided above by this rule, shall be divided by lot so as to provide a number of betting interests as near equal as possible for each division of such split race.

Section 10. Post Positions. Post positions for all races shall be determined by lot, drawn in the presence of those making the entries for such race. Post positions in split races also shall be redetermined by lot in the presence of those making the entries for such split race. The racing secretary shall assign pari-mutuel numbers for each starter to conform with the post position drawn, except when a race included two (2) or more horses joined as a single betting interest.

Section 11. Also-eligible List. (1) If the number of entries for a race exceeded the number of horses permitted to start in such race as provided by Section 8 of this regulation, then the names of as many as eight (8) horses entered but not drawn into such race as starters shall be posted on the entry sheet as "also-eligible" to start.

(2) After any horses have been excused from a race at scratch time, a new drawing shall be taken as to horses on the also-eligible list, and the starting and post position of such horses drawn from the also-eligible list shall be determined by the sequence drawn, unless otherwise stipulated in published conditions of the race.

(3) Any owner or trainer of any horse on the also-eligible list who does not wish to start such horse in such race shall so notify the racing secretary prior to scratch time for such race and such horse shall forfeit any preference to which it may have been entitled.

(4) Where entries are closed two (2) racing days prior to the running of a race, any horse on an also-eligible list, and which also has been drawn into a race as a starter for the succeeding day, shall not permitted to run in the race for which it had been listed as also-eligible.

Section 12. Preferred List; Stars. (1) The racing secretary shall maintain a list of horses which were entered but denied an opportunity to race because eliminated from a race programmed in the printed condition book either by overfilling or failure to fill. The racing secretary shall submit for approval of the commission at least thirty (30) days prior to the opening date of a race meeting a detailed description of the manner in which preference will be allocated.

(2) No preference shall be given a horse otherwise entitled thereto for a race if such horse also is entered for a race on the succeeding day.

Section 13. Arrears. No horse may be entered or raced if the owner thereof is in arrears as to any stakes fees due by such owner; except with the approval of the racing secretary.

Section 14. Declarations. Withdrawal of a horse from a race before closing thereof by the owner or trainer or person deputized by either, such being known as a "declaration," shall be made in the same manner as to form, time, and procedure as provided for the making of entries. Declarations and scratches are irrevocable. No declaration fee shall be required by any licensed association.

Section 15. Scratches. Withdrawal of a horse from a race after closing thereof by owner or trainer or person deputized by either, such being known as a "scratch," shall be permitted only under the following conditions:

(1) A horse may be scratched from a stakes race for any reason at any time up until fifteen (15) minutes prior to post time for the race preceding such stakes race by the filing in writing of such intention with the racing secretary, unless a list of also-eligibles has been drawn, in which case scratches must be filed at the regular scratch time as posted by the racing secretary, and no horse will be excused thereafter without a valid physical reason. Upon receiving a scratch from a stakes race, the racing secretary shall promptly notify the stewards and pari-mutuel manager, and shall cause public announcement of same to be made.

(2) No horse may be scratched from a purse race without approval of the stewards and unless such intention to scratch has been filed in writing with the racing secretary or his assistant at or before the time conspicuously posted as "scratch time." Scratch of one (1) horse coupled in a mutuel entry in a purse race must be made at or before the posted scratch time, unless permission is granted by the stewards to allow both horses to remain in the race until a later appointed scratch time therefor.

(3) In purse races, horses that are physically disabled or sick shall be permitted to be scratched first. Should horses representing more than ten (10) betting interests in either of the two (2) daily double races, or horses representing mire than eight (8) betting interests in any other purse race, remain in after horses with physical excuses have been scratched, then owners or trainers may be permitted at scratch time to scratch horses without physical excuses down to such respective minimum numbers for such races, this privilege to be determined by lot if an excessive number of owners or trainers wish to scratch their horses.

(4) Entry of any horse which has been scratched, or excused from starting by the stewards, because of a physical disability or sickness shall not be accepted until the expiration of three (3) calendar days after such horse was scratched or excused.

Section 16. In determining eligibility,

allowances and penalties, the reports, records, and statistics as published in the Daily Racing Form and the monthly chart books, or corresponding official publications of any foreign county, shall be considered official, but may be corrected until forty-five (45) minutes prior to post time of the race.

MARTHA H. BROADBENT, Chairman
APPROVED BY AGENCY: September 15, 1987
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 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: Off-track stables.
(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: Zero
(a) Direct and indirect costs or savings: Zero
1. First year: Zero
2. Continuing costs or savings: Zero
3. Additional factors increasing or decreasing costs: Zero
(b) Reporting and paperwork requirements: Zero
(3) Assessment of anticipated effect on state and local revenues: Zero
(4) Assessment of alternative methods; reasons why alternatives were rejected: Zero
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments: The Kentucky State Racing Commission unsuccessfully tried to retract a previous rule change on off-track stable requirements because the Administrative Regulatory Review Subcommittee adjourned before the commission had time to change its position. We notified the committee we would not enforce the inadvertent new rule and now we are converting back to its original form.
TIERING: Was tiering applied? No. N/A

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

811 KAR 1:105. Review and appeal.

RELATES TO: KRS 230.630(1), (3), 230.640, 230.720, 230.730
PURSUANT TO: KRS 230.630(3), (4), (7)

NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to regulate reviews and appeals of the Commission and the Franklin Circuit Court.

Section 1. (1) If any person, licensee or association be aggrieved of any order or revocation, suspension, exclusion, ruling off, fine or other decision on ruling of the judges, such person, licensee by filing a written appeal with the commission not later than five (5) days after such ruling or decision is made. If a ruling is in regard to a violation that occurred during the race, the written appeal must be filed before the winnings are paid over. Appeals resulting from rulings at Fairs shall be filed within five (5) days of a ruling.
(2) An appeal shall be addressed to the commission at its principal office and shall:
(a) Set forth the decision or ruling of the judges complained of the date when same was rendered; and
(b) Request a specification of charges and review by the commission of the charges upon which the action of the judges is based.

Section 2. (1) If the chairman of the commission or deputy commissioner (supervisor of racing) has information that any licensee or other person has secured his license based on false or fraudulent statements or has violated any rules of the commission or the provisions of the Kentucky Revised Statutes, he shall have the authority to revoke or suspend the license of such licensee or other person; provided, however, that such licensee or other person may have a review of such action by filing a written appeal with the commission not later than ten (10) days after such action is taken.
(2) The appeal shall be addressed to the commission at its principal office and shall:
(a) Set forth the decision, ruling or action of the chairman or deputy commissioner (supervisor of racing) complained of and the date when same was rendered; and
(b) Request a specification of charges and review by the commission of the charges upon which the action of the chairman or deputy commissioner (supervisor of racing) was based.

Section 3. If the commission is of the opinion that any association, licensee or other person has violated any rules of the commission or the provisions of the Kentucky Revised Statutes, it shall have the authority to issue a citation against such association, licensee or other person directing him to appear and show cause why his license should not be suspended or revoked or he not be ruled off or fined in an amount commensurate with the offense. Such citation shall contain the following:
(1) The rule or rules, or statute, alleged to have been violated and the time and place where such violation occurred;
(2) The acts committed by the offending party upon which said violations are based; and
(3) A full statement of charges preferred against the offending party.

Section 4. Notice of any commission hearing held under Sections 1, 2, and 3 of this regulation or in any other instance, shall be served upon the offending or aggrieved party by registered mail directed to the last known

address of such party. Such notice shall be in writing, shall fix the time and place of hearing and shall be issued and mailed not less than five (5) nor more than thirty (30) days before the date of such hearing.

Section 5. If notice is issued under Section 1 of this regulation, the same shall also contain a specification of the charges upon which the ruling or decision of the judges was based; or if issued under Section 2 or 3 of this regulation, such notice shall set forth the information required thereunder.

Section 6. In all hearings before the commission, the chairman of the commission shall preside and shall determine the competence and order of the introductions of evidence. A hearing officer may be appointed by the chairman who shall cause a transcript of the testimony and his recommendations, to be filed with the commission for action by the commission. The aggrieved party shall have the right to appear in person and by counsel. At the conclusion of the hearing the commission shall take the case under advisement and shall, as promptly as may be reasonably possible, make known its decision, and should the order or decision of the judges, chairman of the commission or deputy commissioner (supervisor of racing) be sustained, the secretary of the commission (executive racing secretary) shall at once notify the aggrieved party of the commission's decision. In the event the commission finds that the aggrieved party was not guilty or any infraction or violation, the action of the judges shall be set aside and revoked, and the aggrieved party so notified.

Section 7. Stay of Enforcement. In the event a penalty is imposed by the officials, the chairman of the commission, the commission or the deputy commissioner (supervisor of racing) or his assistants may grant a stay of the enforcement of such penalty until an appeal, if filed, is decided. In certain circumstances described in this section, the commission <u>may</u> [will] grant a stay pending appeal to any person licensed by it who is affected by any decision of, or penalty imposed by an official or officials at a race meeting.

(1) Such a stay will be available in cases involving the loss of purse money of <u>$500</u> [$100] or more, or a fine of $100 or more, or suspension of driving, or explusion from the paddock or race track grounds of more than five (5) days<u>, unless:</u>

<u>(a) In any case where licensee is alleged to have committed a flagrant violation of the prescribed rules of racing which presents a clear and present danger to the immediate integrity of racing; or</u>

<u>(b) Wherein it is impossible for the commission to secure necessary scientific evidence or indispensable witnesses within forty-eight (48) hours, then the commission or its hearing officer may refuse a request for the stay of any penalty imposed, as long as a hearing is held no later than thirty (30) days from the initial judges' determination of a violation</u>.

(2) The stay will begin when the person appealing files a "notice of appeal" and requests a stay on a form provided by the commission and security of not less than $100, or as follows:

(a) A filing shall be made at the commission's office, Lexington, Kentucky, or with its representative at the operating track within forty-eight (48) hours after the decision or penalty from which the appeal is taken.

(b) The "notice of appeal" and "request for stay" shall be sworn to and shall state the grounds for appeal.

(c) The security is $100 unless the commission sets a higher security within forty-eight (48) hours of the filing. If a higher security is set, the stay will automatically terminate unless the excess over the $100 is posted within twenty-four (24) hours of the notice of the higher security and has been received by the person appealing.

(d) Failure to sustain the appeal may cause forfeiture of the security and if the costs of said appeal exceed the amount of the security, the additional costs shall be paid upon order of the commission.

(3) The commission reserves the right to hold as forfeit all or any part of the posted security if, in its considered opinion, the appeal was frivolous or without foundation.

Section 8. Witnesses for hearings may be subpoenaed by the chairman, vice-chairman, deputy commissioner (supervisor of racing) or hearing officer.

Section 9. All actions of the commission may be appealed to the Franklin Circuit Court by an aggrieved party within thirty (30) days pursuant to the Rules of Civil Procedure. No injunction or restraining order shall issue pending said appeal.

CARL B. LARSON, Executive Director
ROBERT DAVIS, Secretary
APPROVED BY AGENCY: August 6, 1987
FILED WITH LRC: August 17, 1987 at noon
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on October 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. Larson, 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. Larson
(1) Type and number of entities affected: Horsemen
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None additional.
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None additional.

(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Regulation affects all horsemen.

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

811 KAR 1:215. Kentucky Standardbred Development Fund.

RELATES TO: KRS 230.770
PURSUANT TO: KRS 230.770(5), (6)
NECESSITY AND FUNCTION: To regulate the eligibility of horses participating in races for which a portion of the purse is provided by the Kentucky Standardbred Development Fund. The function of this regulation is to establish eligibility standards and administrative practices to enforce such standards and to establish mandatory criteria for these races and the administration of purses and payments in such races.

Section 1. Beginning with the 1985 breeding season the owner or lessee of any standard bred stallion desiring to use him for breeding purposes and to have him qualify under the Kentucky Standardbred Development Fund must register said stallion by February 1 of the breeding season with the Kentucky Harness Racing Commission. The registration shall be on forms provided by the commission with a payment of ten (10) percent of the stud fee or a minimum of $100. A virgin standardbred stallion entering stud for the first time may be registered prior to his first breeding and must stand in the Commonwealth of Kentucky the remainder of the breeding season.

Section 2. Stallions remaining in the state for more than one (1) breeding season shall be renewed annually. A renewal form must be filed by February 1 of the breeding season on forms provided by the commission. The annual renewal fee for stallions to the Kentucky Standardbred Development Fund will be ten (10) percent of the stud fee with a minimum of $100.

Section 3. Owners of standardbred stallions registered with the commission shall submit by October 1 a report of mares bred during the preceding twelve (12) months. In addition, beginning with foals of 1985 owners shall submit to the Kentucky Standardbred Development Fund a copy of the Foaling Report Sheet sent to the United States Trotting Association of foals dropped.

Section 4. If the commission finds a registration to be incorrect, such registration may be cancelled and notice thereof shall be sent to the owner of the horse.

Section 5. (1) In order to qualify for the Kentucky Standardbred Development Fund, a foal must be the product of the mating of a mare with a Kentucky registered and resident stallion. The mare to be bred must either be a resident at the farm on which the stallion stands or be shipped to the farm on which the stallion stands to be impregnated. The transporting or mailing of a Kentucky registered stallion's semen to a broodmare is strictly prohibited.
(2) A foal conceived by semen which is frozen, desiccated, or transported off the premises where it is produced or not implanted on the same day it is collected, is not eligible for nomination to the Kentucky Standardbred Development Fund.

Section 6. Upon failure of an owner or lessee of a registered stallion to furnish the commission requested information relative to the registration of a horse, the commission may suspend or cancel the registration.

Section 7. If the commission finds that an application for registration or transfer contains false or misleading information, the commission may summon the person who executed said application and any other person who has knowledge thereof. Failure to respond to such summons may cause the commission to suspend or cancel the registration of horses owned by such person. After a hearing, the commission may suspend, cancel, or bar from further registration, horses owned by the person who executed the false or misleading information.

Section 8. Any owner or lessee of a stallion eligible or the Kentucky Standardbred Development fund shall designate a resident of Kentucky as an authorized agent who shall be responsible for the registrations and records of the farm and for complying with the requirements of the Kentucky Standardbred Development Fund on behalf of the owner or lessee.

Section 9. The authorized agent application is provided by the Kentucky Harness Racing Commission and must be filed together with the stallion registration.

Section 10. Sires stakes races in which any part of the purse is provided by the Kentucky Standardbred Development Fund shall be subject to the rules and regulations of the Kentucky Harness Racing Commission.

Section 11. Each colt, gelding or filly participating in a Kentucky sires stakes race must have been sired by a stallion registered with the Kentucky Harness Racing Commission, and maintained eligibility to the Kentucky Standardbred Development Fund.

Section 12. Each race shall be a one (1) mile dash.

Section 13. The race will split if more than <u>eleven (11)</u> [twelve (12)] declare to start. <u>Thereafter, no division shall contain more than nine (9) horses.</u> In the case of a split the event will be raced as follows: The nominating, sustaining, stallion and starting fees shall be

added to the purse and each division shall race for an equal part of that purse.

Section 14. Gait must be specified by the first two (2) year old payment. Change of gait may be made at the time of declaration at the track, but sustaining payments remain in the funds of the original gait specified.

Section 15. All races will be raced in separate colt-gelding and filly divisions.

Section 16. All declaration fees will be added to the purse and will be made payable to the racing association at the time of declaration.

Section 17. The purse will be distributed on the following percentage basis:
(1) 50-25-12-8-5; five (5) starters or more;
(2) 50-25-15-10; four (4) starters;
(3) 60-30-10; three (3) starters;
(4) 65-35; two (2) starters.
The nominating, sustaining, stallion, supplemental and starting fees shall be added to the purse and each division shall race for an equal part of that purse. In 1985, purses for three (3) and two (2) year olds will be $16,500 estimated. This will apply at each of the Kentucky pari-mutuel tracks.

Section 18. Should circumstances prevent the racing of any event, if the race is not drawn, added monies will be equally divided among horses eligible for the uncontested event at the time of declaring off. In the event the race is drawn, the monies will be equally divided among the horses entered to start. This will include stake payments, declaration fees and purses provided by the Kentucky Standardbred Development Fund.

Section 19. Starters will declare in at each track at the time specified by the association conducting the event.

Section 20. At the time of the declaration a started must show at least one (1) charted line with no breaks within the last six (6) starts and within thirty (30) days prior to the day of the race; a two (2) year old trotter must have been timed in 2:14 or faster; a two (2) year old pacer must have been timed in 2:12 or faster; a three (3) year old trotter must have been timed in 2:10 or faster and a three (3) year old pacer must have been timed in 2:08 or faster. A broken equipment break or an interference break will not be considered a break as stated in this section. An eligibility certificate or a clear photocopy of the eligibility certificate must be on deposit with the race secretary at the time of declaration or the declaration will be rejected. If the horse has a start subsequent to the eligibility certificate or photocopy being sent, the declarer must advise the race secretary of the commitment to race or the horse may be scratched from the race. This rule shall be in effect for wagering and nonwagering races.

Section 21. The Kentucky Standardbred Development Fund will be distributed by the Kentucky Harness Racing Commission on an equitable basis to promote the purposes expressed in KRS 230.770. The commission may authorize expenditures at any time; however, the commission may at its scheduled meeting each November, make provisions for the following year's distribution of funds for stake races. The Sires Stakes racing dates shall be issued after the tracks' race dates are set.

Section 22. The Kentucky Standardbred Development Fund will provide a trophy for each event. In the case of division races each division shall receive a trophy.

Section 23. After payment of the nomination fee, foals shall remain eligible for events each year by making the required sustaining and declaration payments for that year. The two (2) year old March 15 payment must be made in order to remain eligible as a three (3) year old.

Section 24. All nomination and sustaining payments shall be made to the Kentucky Standardbred Development Fund.

Section 25. Payments. All yearlings will be nominated on May 15 and fees will be twenty (20) dollars each. Beginning with foals of 1983 a late payment of $100 will be accepted to nominate a yearling if the May 15 deadline is missed. This supplemental payment may be made at any time prior to the two (2) year old March 15 payment. Fees are payable to the Kentucky Standardbred Development fund.

TWO-YEAR OLD PAYMENTS

March 15th	$ 40
May 15th	$200
Declaration Fee (for each track)	$200

March 15th payment makes entry eligible as a 3-year old.

THREE-YEAR OLD PAYMENTS

February 15	$ 80
March 15	$200
Declaration Fee (for each track)	$200

CARL B. LARSEN, Executive Director
ROBERT DAVIS, Secretary
APPROVED BY AGENCY: September 5, 1987
FILED WITH LRC: September 15, 1987 at noon
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on October 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: Horsemen
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None additional.
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: None

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None additional.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Regulation affects all horsemen.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings & Construction
Division of Building Codes Enforcement
(Proposed Amendment)

815 KAR 7:070. Requirements for certification of Kentucky Building Code inspectors.

RELATES TO: KRS 198B.040(3), 198B.050(3)(c), (6), 198B.090

PURSUANT TO: KRS 198B.050(5)

NECESSITY AND FUNCTION: The department is required by KRS 198B.090 to create and administer a building official's certification program which is designed to ensure uniform statewide enforcement of applicable state building codes. This regulation establishes the testing, training and continuing education requirements for two (2) specifically designated professional classifications of building code inspectors: building inspector and plans and specifications inspector.

Section 1. Definitions and Categories of Inspectors. The scope of authority for each category of inspector identified is specifically limited according to the following description of responsibilities. Depending on the type and level of responsibility assumed by the jurisdiction, certification in more than one (1) category may be required.

(1) "Certified building inspector" means a person whose responsibility it is to inspect buildings as part of a permit application, to determine that the structures are free from conditions that would present a life safety, health or fire hazard to persons using such buildings, and to determine that the buildings are constructed in accordance with the Kentucky Building Code. This person must have been tested for competency in NCPCCI modules 1B and 3B and otherwise met the requirements of the department. This person is authorized by this regulation to make on-site inspections of all buildings, including one (1) and two (2) family dwellings within his/her jurisdiction, regardless of size. This person is further authorized to review and approve plans on those buildings which are the responsibility of local governments under KRS 198B.060(2).

(2) "Certified plans and specifications inspector" means a person whose responsibility it is to determine that the plans submitted as part of a building permit application comply with the Kentucky Building Code and referenced standards, and who has been tested for competency in NCPCCI modules 1B, 1C, 3B and 3C and otherwise met the requirements of the department as set forth in this regulation. This person is further authorized to inspect all buildings within his/her jurisdiction, regardless of size to determine if those buildings are constructed in accordance with the plans and in accordance with the Kentucky Building Code.

(3) "Limited certificate" means a limited authorization issued by the department which represents the level of competency for which a person has been tested. The department will issue a document specifying on its face that the person is qualified to perform the stated activity only. This certificate shall be issued only after the person has met the training requirements stated in Section 3 of this regulation.

(4) NCPCCI means "National Certification Program for Construction Code Inspectors" and are exam modules developed by the national code enforcement organizations in collaboration with the Educational Testing Service for the purpose of providing nationally recognized evidence of competence and professionalism in construction code enforcement and shall be used to meet the module testing requirements required herein. Other required training or testing shall be provided through the department.

Section 2. Inspection Operations. (1) It is the specific intention of this regulation to ensure that all Kentucky Building Code inspection programs require plan review and on-site inspection of buildings only by persons who have been tested for competency under this regulation.

(2) Each person who has successfully completed any NCPCCI exam module as listed in this regulation shall be given a "limited certificate." This certificate shall qualify the individual only for that inspection or plan review function on which he/she has been tested. For example, persons holding a limited certificate for NCPCCI Module Building One (1) and Two (2) Family-1A are deemed qualified to inspect and review plans for single family and duplex residential buildings only. Each person must renew the certification as required by Section 5(2) of this regulation and otherwise comply with this regulation.

(3) Each local government and the department shall provide for the services of certified inspectors. In circumstances where the jurisdiction chooses to distribute the inspection or plan review functions to more than one (1) person, each person shall be certified in his/her respective area of responsibility.

(4) Certification of plumbing, elevator and electrical inspectors are not covered by this regulation.

Section 3. Training and Testing Requirements to Become Certified as a Kentucky Building Code Inspector. (1) Each candidate seeking certification shall possess the ability to read and write the English language and possess a general educational level satisfactory to perform his duties.

(2) Each candidate seeking to become certified pursuant to this regulation shall be required to be trained and/or tested on the administrative and accessibility sections of the Kentucky Building Code as determined by the board.

(3) Each candidate seeking certification shall successfully complete the NCPCCI exam module(s) which is/are applicable to the activity in which said candidate shall be engaged. Unless the candidate qualifies as actively pursuing departmental certification under Section 4 of this regulation, no person shall be responsible for any inspection or plan review activity for which he/she has not been tested and passed said test. The testing modules are as follows:

(a) Building One (1) and Two (2) Family - 1A;
(b) Building General - 1B;
(c) Fire Protection General - 3B;
(d) Building Plan Review - 1C;
(e) Fire Protection Plan Review - 3C.

(4) Continuing education. From time to time, the department shall establish continuing education programs for the purpose of keeping the inspectors updated on code requirements. Participation in these programs shall be mandatory for all inspectors in order to maintain certification.

Section 4. Deadline for Certification. (1) All persons charged with the responsibility of inspecting and reviewing buildings plans for compliance with the Kentucky Building Code shall be certified or enrolled and actively pursuing departmental certification within ninety (90) days after employment of such inspector. Such person shall register with the department, complete the necessary application forms and pay the required fees stated in Section 5 of this regulation, within said timetable.

(2) "Actively pursuing departmental certification" means that each person who is seeking certification pursuant to this regulation shall sit for examination of at least one (1) module of the NCPCCI per year. Failure of any candidate to receive a passing score on each required module within three (3) years of employment shall terminate that person's ability to qualify under this definition. Limited certificates may continue to be renewed after three (3) years.

EXCEPTION 1: Where any candidate has been employed by a local jurisdiction and his three (3) years have expired, he shall be allowed one (1), and only one (1), additional year from the date of his original employment to achieve certification, upon written petition of the jurisdiction to the commissioner and still be covered by this definition. This exception is available only to those candidates who have passed at least one (1) required NCPCCI test module within the three (3) year period. No candidate shall be allowed to use this exception more than once. The petition must be filed prior to the expiration date of the certificate holder and prior to June 30, 1988 [December 31, 1987].

EXCEPTION 2: The commissioner, in his discretion, may waive the literal requirements of this section, as applied to an entire class of candidates, whenever circumstances warrant such waiver because changes in testing procedures, standards or dates or other reasons would render such strict application unfair.

(3) Time constraints for certification as stated in subsection (2) of this section shall not apply to those persons seeking certification who are not engaged in an inspection or plan review capacity.

Section 5. Application for Training and Certification. (1) Each person seeking to become a candidate for certification pursuant to this regulation shall submit an application on a form provided by the department, together with a fee of twenty-five (25) dollars to cover the administrative costs of processing the application, establishing the training program and issuing certificates.

(2) Each certified inspector and each candidate actively pursuing certification shall be required to pay an additional annual renewal fee of the sum of twenty-five (25) dollars no later than June 30, of each year in order to maintain his/her certification.

Section 6. Suspension and Revocation of Certification. (1) Formal written complaints concerning an inspector must be submitted through the department to the Board of Housing, Buildings and Construction for review and appropriate action.

(2) If, upon investigation, the board determines that there is reason to believe that the certified inspector has willfully, negligently or recklessly violated his/her duties as set forth in this regulation, the board may take action for the revocation or suspension of his/her certificate. No such action shall be taken unless the inspector is afforded the opportunity to be heard.

CHARLES A. COTTON, Commissioner
ROBERT M. DAVIS, Secretary
APPROVED BY AGENCY: August 27, 1987
FILED WITH LRC: August 28, 1987 at 2 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on Tuesday, October 27, 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 October 22, 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

PUBLIC PROTECTION & REGULATION CABINET
Department of Housing, Buildings & Construction
Division of Fire Prevention
(Proposed Amendment)

815 KAR 15:010. Definitions.

RELATES TO: KRS 236.030
PURSUANT TO: KRS Chapter 13A
NECESSITY AND FUNCTION: KRS 236.030 requires the commissioner, upon advisement of the Board of Boiler and Pressure Vessel Rules, to fix reasonable standards for the safe construction, installation, inspection and repair of boilers, pressure vessels and pressure piping. This regulation sets forth the definitions used in the boiler safety regulations.

Section 1. Definitions, as used in the Boiler and Pressure Vessel Safety Rules. (1) "Act" shall mean the Kentucky Boiler and Pressure Vessel Safety Act, KRS Chapter 236.
(2) "Department" shall mean the Department of Housing, Buildings and Construction hereinafter called the Department of Housing.
(3) "Commissioner" shall mean the Commissioner of the Department of Housing, Buildings and Construction.
(4) "Board of Boiler and Pressure Vessel Rules" shall mean the board created by the Act and empowered to make, alter, amend, and interpret rules and regulations for the safe construction, installation, inspection, and repair of boilers and pressure vessels and associated pressure piping within this Commonwealth.
(5) "Boiler Inspection Section" shall mean the agency, within the Division of Fire Prevention (Office of State Fire Marshal), Department of Housing, which supervises the implementation of KRS Chapter 236.
(6) "Chief boiler inspector" shall mean the person employed by the Commonwealth of Kentucky who shall supervise the work of the boiler inspectors and office staff under the general supervision of the State Fire Marshal and perform such other duties as may be prescribed.
(7) "Boiler inspector" shall mean any person employed by the Commonwealth of Kentucky for the purpose of inspecting boilers and pressure vessels in accordance [according] with provisions of the Act. Qualifying requirements are set forth in KRS 236.070 and 236.090. These requirements shall determine the applicant's ability to pass the National Board of Boiler and Pressure Vessel Inspectors examination. Successful completion of this written examination and granting of a National Board Commission is a requisite for permanent appointment as boiler inspector employed by the Commonwealth of Kentucky.
(8)(a) "Special boiler inspector" shall mean any person employed by an insurance company authorized to insure boilers and pressure vessels in this Commonwealth and who holds a commission as provided for in KRS 236.080.
(b) "Inspector" shall mean either or both of the above.
(9) "Owner or user" shall mean any person, firm, or corporation owning or operating any boiler or pressure vessel within this Commonwealth.
(10) "Internal inspection" shall mean an inspection made when a boiler or pressure vessel is shut down and hand holes and/or manways open for inspection of internal portions of the boiler or pressure vessel insofar as construction permits.
(11) "External inspection" shall mean an inspection made when a boiler or pressure vessel is in operation and under pressure.
(12) "Certificate of inspection" shall mean the certificate issued by the department to the owner or user following an inspection of a boiler or pressure vessel as provided for in KRS 236.210, otherwise known and referred to as an operating certificate.
(13) "Commission" shall mean the written credential issued by the department to an inspector or special inspector under the provisions of KRS 236.070 or 236.080.
(14) "ASME Boiler and Pressure Vessel Code" shall mean the 1986 [1980] edition of the: Power Boiler Code Section I; the Nuclear Vessel Code, Section III; Heating Boiler Code, Section IV; Pressure Vessel Code, Section VIII, Division I; plus referencing Codes Section II, Material Specifications; Section IX, Welding and Brazing; and Section V, Non Destructive Examination; including all code cases and addenda of the American Society of Mechanical Engineers United Engineering Center. Said copy shall be on file at the department's offices, U.S. 127 Building, Frankfort, Kentucky.
(15) "National Board (NB)" shall mean the National Board of Boiler and Pressure Vessel Inspectors whose headquarters are at 1055 Crupper Avenue, Columbus, Ohio 43229 and who have also issued a National Board Inspection Code.
(16) "Code boiler or pressure vessel (or standard boiler or pressure vessel)" shall mean a boiler or pressure vessel which bears the ASME Code Symbol stamp, and/or the National Board stamp. (See also subsection (37) of this section.)
(17) "Noncode boiler or pressure vessel (or nonstandard boiler or pressure vessel)" shall mean a boiler or pressure vessel that does not bear the ASME, or the National Board stamp. (See also subsection (37) of this section.)
(18) "Secondhand boiler or pressure vessel" shall mean a boiler or pressure vessel of which both the location and ownership have been changed after primary use.
(19) "Existing installations" shall mean and include any boiler or pressure vessels constructed, installed, placed in operation, or contracted for before June 1, 1962 and July 15, 1980, respectively.
(20) "Reinstalled boiler or pressure vessel" shall mean a boiler or pressure vessel removed from its original setting and reerected at the same location or erected at a new location without change of ownership.
(21) "Condemned boiler or pressure vessel"

shall mean a boiler or pressure vessel that has been inspected and declared unsafe or disqualified by legal requirements by an inspector, qualified to take such action, who has applied a stamping or marking designating its rejection.

(22) "Major repair" shall mean such repairs as would affect the strength of a boiler or pressure vessel by cutting and welding on any pressure part.

(23) "Approved" shall mean approved by the Board of Boiler Rules and the commissioner of the department, or the chief boiler inspector.

(24) "Boiler" shall mean a closed vessel in which water is heated, steam is generated, steam is superheated, or any combination thereof, under pressure or vacuum for use external to itself by the direct application of heat. The term "boiler" includes fired units for heating or vaporizing liquids other than water where these units are separate from processing systems and complete within themselves.

(25) "Power boiler" shall mean a steam or vapor boiler operating at a pressure of more than fifteen (15) pounds per square inch gauge.

(26) "Process steam generator" means a vessel or system of vessels comprised of one or more drums and one or more heat exchange surfaces as used in waste heat or heat recovery type steam boilers.

(27) "High temperature water boiler" shall mean a boiler heating water at a temperature above 250 degrees Fahrenheit or a working pressure or safety relief valve setting above 160 PSI.

(28) "Miniature boiler" shall mean a power boiler or high temperature water boiler which does not exceed any of the following:

(a) Sixteen (16) inches inside diameter of shell (not applicable to electric boilers).

(b) Twenty (20) square feet heating surface.

(c) Five (5) cubic feet gross exclusive of casing and insulation.

(d) 100 pounds PSI maximum allowable working pressure.

(29) "Hot water supply boiler" shall mean a boiler completely filled with water that furnishes hot water to be used externally to itself at pressures not exceeding 160 psig or at temperatures not exceeding 250 degrees Fahrenheit at or near the boiler outlet.

(30) "Hot water storage tank" shall mean a pressure vessel, unfired but directly connected to and subject to the same pressures as a companion hot water supply boiler, the combination being used to heat and store hot water for use externally to itself.

(31) "Fired jacketed steam kettles" shall mean vessels in which steam pressure is generated and shall be classed as a boiler.

(32) "Expansion tank" shall mean a pressure vessel, unfired but directly connected to a hot water heating boiler to absorb or cushion expansion therein and subject to comparable pressure with the boiler itself.

(33) "Nuclear vessel" shall mean a pressure vessel designed and constructed in accordance with Section III of ASME Boiler and Pressure Vessel Code.

(34) "Nuclear energy system" shall mean that portion of a power plant that serves the purpose of producing and controlling output of thermal energy from nuclear fuel.

(35) "Pressure piping" shall mean any piping, (steam, vapor or water) carrying pressures emanating from a power or heating boiler or pressure vessel and of substantially the same pressures and temperatures as encountered in the boiler or pressure vessel. It includes code piping as covered under ASME Boiler and Pressure Vessel Code, Sections I and IV, Unfired Pressure Vessel Code, Section III, Division I and the Power Piping Code ANSI B-31.1, 1986 edition and ANSI B-31.9, 1982 edition.

(36) "Underwriters laboratory label" shall mean the label of the Underwriters Laboratories, Inc., or other electrical testing laboratories, approved by the Board of Boiler Rules which must be affixed to all electric fired boilers. Other electrical testing laboratories labeling may be affixed to an electrical boiler provided they are approved by the department.

(37) "State special" shall mean a boiler of any type or size defined under this section or under these regulations and which carries neither the ASME Boiler and Pressure Vessel Code symbol nor National Board stamping may be acceptable to the boiler inspection section provided the manufacturer, installer, or owner can prove conclusively to the satisfaction of the chief boiler inspector that the standard to which the boiler or pressure vessel is built is at least equivalent to the applicable ASME Boiler and Pressure Vessel Code. Acceptable methods of proof will be as set forth in 815 KAR 15:020, Section 1(2).

(38) "State" or "Commonwealth" as used herein shall be synonymous.

(39) "Hot water heating boiler" means a boiler in which no steam is generated, from which hot water is circulated for heating purposes and then returned to the boiler, and which operates at a pressure not exceeding 160 psig and/or a temperature of 250 degrees Fahrenheit at or near the boiler outlet.

(40) "Boiler safety regulations" or "boiler safety rules" shall mean 815 KAR 15:010 to 815 KAR 15:060.

(41) "Lined potable water heater" means a water heater with a corrosion resistant lining, used to supply potable hot water.

(42) "Water heater" means a closed vessel in which water is heated by the combustion of fuels, electricity or any other source and withdrawn for use external to the system at pressures not exceeding 160 psig and shall include all controls and devices necessary to prevent water temperatures from exceeding 210 degrees Fahrenheit.

(43) "Electric boiler" means a power boiler, heating boiler, high or low-temperature water boiler in which the source of heat is electricity.

(44) "Unfired steam boiler" means a vessel or system of vessels intended for operation at a pressure in excess of fifteen (15) psig for the purpose of producing and controlling an output of thermal energy.

(45) "Waste heat boiler" (See unfired steam boiler).

(46) "Heat recovery boiler" (See process steam generator).

(47) "Nuclear power plant" means a nuclear power plant consisting of one or more nuclear power systems and containment systems.

(48) "Nuclear power systems" means a system which serves the purpose of producing and controlling an output of thermal energy from nuclear fuel and those associated systems essential to the functions of the power system.

The components of the system include such items as pressure vessels, piping system, pumps, valves and storage tanks.

(49) "Pressure vessel" means a vessel in which pressure is obtained from an external source or by the direct application of heat from a direct or indirect source.

(50) "ANSI" means the American National Standards Institute.

CHARLES A. COTTON, Commissioner
ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: September 12, 1987

FILED WITH LRC: September 14, 1987 at 2 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on Tuesday, October 27, 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 Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The U.S. 127 Building, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by October 22, 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

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings & Construction
Division of Plumbing
(Proposed Amendment)

815 KAR 20:120. Water supply and distribution.

RELATES TO: KRS Chapter 318

PURSUANT TO: KRS 318.130

NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to the types of piping, pipe sizes for a potable water supply system and the methods to be used to protect and control it.

Section 1. Quality. (1) The bacteriological and chemical quality of the water supply shall comply with the regulations of the department and other governing authorities. Toxic materials shall be kept out of the potable water system.

(a) Piping conveying, and all surfaces in contact with potable water shall be constructed of nontoxic materials.

(b) Chemicals or other substances that could produce either toxic conditions, taste, odor, or discoloration in a potable water system shall not be introduced into, or used in, such systems.

(c) The interior surface of a potable water tank shall not be lined, painted, or repaired with any material which will affect either the taste, odor, color, or potability of the water supply when the tank is placed in, or returned to, service. All interior tank coatings shall be from the list approved by the authority having jurisdiction.

(2) Potable water only shall be accessible to plumbing fixtures that supply water for drinking, bathing, culinary use or the processing of medicinal, pharmaceutical or food products.

(3) The potable water supply system shall be designed, installed, and maintained in such manner as to prevent contamination from nonpotable liquids, solids, or gases being introduced into the potable water supply through cross connections or any other piping connections to the system.

(4) Cross connections are prohibited except when and where, as approved by the authority having jurisdiction, suitable protective devices are installed.

(5) Cross connections between a private water supply and a public water supply shall not be made.

(6) When cross connection control devices are properly installed, they create a closed water system. A properly sized thermal expansion tank will be installed located in the cold water supply as near the water heater as possible.

(7) Backflow and back siphonage protection. Means of protection against backflow shall be as required in the following sections: 1, 7A through 7L in order of degree of protection provided. Backflow includes both back pressure and back siphonage.

(a) Air gap. Provides the best level of protection in all backflow situations. Minimum required air gap shall be determined as follows:

1. How measured. The minimum required air gap shall be measured vertically from the lowest end of a potable water outlet to the flood rim or line of the fixture or receptacle into which it discharges.

2. Size. The minimum required air gap shall be twice the effective opening of a potable water outlet, unless the outlet is a distance less than three (3) times the effective opening away from a wall or similar vertical surface, in which case the minimum required air gap shall be three (3) times the effective opening of the outlet. The minimum required air gap shall not be less than shown in the following table - Minimum Air Gaps for Plumbing Fixtures.

MINIMUM AIR GAPS FOR PLUMBING FIXTURES

Fixture	Minimum Air Gap When not affected by near wall	Minimum Air Gap When affected by near wall
Lavatories and other fixtures with effective opening not greater than 1/2 inch diameter	1	1 1/2
Sink, laundry trays, gooseneck bath faucets and other fixtures with effective openings not greater than 3/4 inch diameter	1 1/2	2 1/4
Over rim bath fillers and other fixtures with effective openings not greater than 1 inch diameter	2	3
Drinking water fountains - single orifice not greater than 7/16 (0.437) inch diameter or multiple orifices having total area of 0.150 square inches (area of circle 7/16 inch diameter)	1	1 1/2
Effective openings greater than 1 inch	2 x diameter of effective opening	3 x diameter of effective opening

NOTE 1. Side walls, ribs, or similar obstructions do not affect air gaps when spaced from inside edge of spout opening a distance greater than three (3) times the diameter of the effective opening for a single wall, or a distance greater than four (4) times the diameter of the effective opening for two (2) intersecting walls.

NOTE 2. Vertical walls, ribs, or similar obstructions extending from the water surface to or above the horizontal plane of the spout opening require a greater air gap when spaced closer to the nearest inside edge of spout opening than specified in NOTE 1 above. The effect of three (3) or more such vertical walls or ribs has not been determined. In such cases, the air gap shall be measured from the top of the wall.

(b) Reduced pressure principle back pressure backflow preventer. Reduced pressure principle back pressure backflow preventers provide the best mechanical protection against backflow available, and may be considered equivalent to an air gap in most situations.

(c) Double check valve assembly: applicable to low level of hazard back pressure backflow conditions only. These devices are manufactured assemblies consisting of two (2) independently acting check valves and including shutoff valves at each end, and petcocks and test gauges for testing the watertightness of each check valve.

(d) Pressure type vacuum breaker: applicable to back siphonage conditions only.

(e) Atmospheric type vacuum breaker: applicable to back siphonage conditions only. When applicable, all atmospheric type vacuum breakers must be installed after the last cut-off valve on the water line. These devices may operate under normal atmospheric pressure when the critical level (CL) is installed at the required height in accordance with the following table:

CRITICAL LEVEL (CL) SETTINGS
FOR ATMOSPHERIC TYPE VACUUM BREAKERS

Fixture or Equipment	Method of Installation
Aspirators, ejectors, and and showers	CL at least 6 in. above flood level of receptacle
Bidets	CL at least 6 in. above flood level of receptacle
Cup beverage vending machines	CL at least 12 in. above flood level of machine
Dental units	On models without built-in vacuum breakers: CL at least 6 in. above flood level rim of bowl.
Dishwashing machines	CL at least 6 in. above flood level of machine
Flushometers (closet & urinal)	CL at least 6 in. above top of fixture supplied
Garbage can cleaning machines	CL at least 6 in. above flood level of machine
Hose bibs (sinks or receptacles)	CL at least 6 in. above flood level of receptacle served
Hose outlets	CL at least 6 in. above highest point on hose line
Laundry machines	CL at least 6 in. above flood level of machine
Lawn sprinklers	CL at least 12 in. above highest sprinkler or discharge outlet
Steam tables	CL at least 12 in. above flood level
Tanks & vats	CL at least 6 in. above flood level rim or line

NOTE 1. Critical level (CL) is defined as the level to which the vacuum breaker may be submerged before backflow will occur. Where CL marking is not shown on the vacuum breaker, the bottom of the device shall be taken as the CL.

(f) Barometric loop: applicable only to back siphonage conditions. The use of a barometric loop is not acceptable as the primary back siphonage preventer.

(g) Location of backflow and back siphonage preventers. Backflow and back siphonage preventers shall be in an accessible location, preferable in the same room as the fixture or connection they protect. Devices may be

installed in utility or service spaces. Devices and air gaps shall not be subject to flooding or freezing.

(h) Inspection of devices. Periodic inspections shall be made of all backflow and back siphonage preventers to determine whether they are in proper working condition. Reduced pressure principle back pressure backflow preventers shall be tested on at least an annual basis. Records should be kept on all such inspections.

(i) Approval of devices. Before any device for the prevention of backflow or back siphonage is installed, it shall have first been certified by a recognized testing laboratory acceptable to the plumbing official. Devices installed in a building potable water supply distribution system for protection against backflow shall be maintained in good working condition by the person or persons responsible for the maintenance of the system.

(j) Protection of potable water system. All potable water openings, outlets, and connections, except those serving residential units, shall be protected against backflow in accordance with one (1) of the following sections, 1(7A) through 1(7L).

(k) Degree of hazard. The protection required at any given outlet or connection shall be determined based on the degree of hazard posed by that outlet or connection as follows:

1. Severe hazard. Potential for contamination by toxic substances or disease-causing organisms.

2. Moderate hazard. Potential for contamination by nontoxic but objectionable substances.

3. Minor hazard. Potential for contamination by generally nontoxic, nonobjectionable substances, but which may cause the consumer to question the quality of water.

(l) Minimum acceptable protection. All openings and outlets shall be protected by an air gap between the opening and floor level rim whenever possible. The acceptable protection for various types of outlets or connections shall be as shown in the following table:

CROSS CONNECTIONS, DEGREE OF HAZARD AND ACCEPTABLE PROTECTION FOR VARIOUS PLUMBING OUTLETS AND CONNECTIONS

	Degree of Hazard			Acceptable Protection				
					Backflow		Back-siphonage	
Type of Connection	Severe	Moderate	Minor	Air Gap	Reduced Pressure Device	Double Check Valve Assembly	Pressure Type Vacuum Breaker	Atmospheric Type Vacuum Breaker
I. Connections subject to back pressure from:								
A. Pumps, tanks, and lines handling:								
1. Toxic substance	X			X	X			
2. Nontoxic subst.		X		X	X	X		
B. Boilers								
1. With chemical additives	X			X	X			
2. Without chemical additives		X		X	X	X		
C. Gravity due to obvious site conditions subject to:								
1. Contamination by toxic substances	X			X	X			
2. Contamination by nontoxic subst.		X		X	X	X		
II. Water outlets and connections not subject to back pressure:								
A. Connection to sewer or sewage pump	X			X				
B. Outlet to receptacles containing toxic substances	X			X	X		X	X
C. Outlet to receptacles containing non-toxic substances		X		X	X	X	X	X
D. Outlet into domestic water tanks			X	Each case treated separately				
E. Flush valve toilets	X			X	X		X	X
F. Flush valve urinals		X		X	X		X	X

G. Outlets with hose attachments subject to contamination from:							
1. Toxic substances	X		X	X		X	X
2. Nontoxic subst.		X	X	X	X	X	X
H. Outlets to recirculating cooling tower:							
1. With chemical additives	X		X	X			
2. Without chemical additives		X	X	X	X		

APPLICATION CHART

TYPE AND PRESSURE	DESCRIPTION	INSTALLED AT	EXAMPLES OF INSTALLATIONS	APPLICABLE STANDARDS
Reduced Pressure Principle Backflow Preventer For high hazard cross connections.	Two independent check valves with intermediate relief valve. Supplied with shutoff valves and ball type test cocks.	All cross connections subject to backpressure or back-siphonage where there is a high potential health hazard from contamination. Continuous pressure.	Main Supply Lines Commercial Boilers Cooling Towers Hospital Equipment Processing Tanks Laboratory Equipment Waste Digesters Car Wash Sewerage Treatment	A.S.S.E. No. 1013 A.W.W.A. C506 FCCCHR of U.S.C. CSA B.64.4 Sizes 3/4 " - 10"
(A) Double Check Valve Assembly For low hazard cross connections.	Two independent check valves. Supplied with shutoff valves and ball type test cocks.	All cross connections subject to back pressure where there is a low potential health hazard or nuisance. Continuous pressure.	Main Supply Lines Food Cookers Tanks and Vats Lawn Sprinklers Fire Sprinkler Lines Commercial Pools	A.S.S.E. No. 1015 A.W.W.A. C506 FCCCHR of U.S.C. CSA B.64.5 Sizes 3/4" - 10"
(B) Dual Check Valve Backflow Preventer For low hazard applications.	Two independent check valves. Checks are removable for testing.	Cross connections where there is a low potential health hazard and moderate flow requirements.	Post ground hydrants.	A.S.S.E. No. 1024 Sizes 3/4" & 1"
(A) Backflow Preventer with Intermediate Atmospheric Vent For moderate hazard cross connections in small pipe sizes.	Two independent check valves with intermediate vacuum breaker and relief valve.	Cross connections subject to backpressure or back-siphonage where there is a moderate health hazard. Continuous pressure.	Boilers (Small) Cooling Towers (Small) Dairy Equipment Residential	A.S.S.E. No. 1012 CSA B.64.3 Sizes 1/2" & 3/4"
		Pump outlet to prevent backflow to carbon dioxide gas and carbonated water into the water supply system to beverage machines.	Post-mix Carbonated Beverage Machine	Special Approvals
(B) Laboratory Faucet and Double Check Valve with Intermediate Vacuum Breaker In small pipe sizes for moderate to low hazard.	Two independent check valves with intermediate vacuum breaker and relief vent.	Cross connection subject to backpressure or back-siphonage where there is a moderate to low health hazard.	Laboratory Faucets and Pipe Lines Barber Shop and Beauty Parlor Sinks	A.S.S.E. No. 1035 (N-LF9)

NONTOXIC

(A) Atmospheric Vacuum Breakers For moderate to high hazard cross connections.	Single float and disc with large atmospheric port.	Cross connections not subject to backpressure or continuous pressure. Install at least 6" above fixture rim. Protection against back-siphonage only.	Process Tanks Dishwashers Soap Dispensers Washing Machines Lawn Sprinklers	A.S.S.E. No. 1001 ANSI.A112.1.1 CSA B.64.1.1 FCCCHR of U.S.C. Sizes 1/4" - 3"
(B) Antisiphon Pressure Breakers For moderate to high hazard cross connections.	Spring loaded single float and disc with independent 1st check. Supplied with shutoff valves and ball type test cocks.	This valve is designed for installation in a continuous pressure potable water supply system 12" above the overflow level of the system being supplied. Protection against back-siphonage only.	Laboratory Equipment Cooling Towers Comm. Laundry Machines Swimming Pools Commercial Plating Tanks Lg. Total & Urinal Facilities Degreasers, Photo Tanks Livestock Water Systems Lawn Sprinklers	A.S.S.E. No. 1020 CSA B.64.1.2 FCCCHR of U.S.C. Sizes 1/2" - 2"
(C) Hose Connection Vacuum Breakers For residential and industrial hose supply outlets.	Single check with atmospheric vacuum breaker vent.	Install directly on hose bibs, service sinks and wall hydrants. Not for continuous pressure.	Hose Bibs Service Sinks Hydrants	A.S.S.E. No. 1011 CSA B.64.2 Size 3/4" Hose

Section 2. Water Required. (1) Every building equipped with plumbing fixtures and used for habitation or occupancy shall be equipped with a supply of potable water.

(2) In buildings used as residences or buildings in which people assemble or are employed, both hot and cold water shall be supplied.

Section 3. Water Service. (1) The water service piping to any building shall be not less than three-fourths (3/4) inch nominal pipe size but shall be of sufficient size to permit a continuous and ample flow of water to all fixtures on all floors at all times.

(2) The underground water service pipe from the main or water supply system to the water distribution system shall not be less than five (5) feet apart horizontally from the house sewer and shall be separated by undisturbed or compacted earth except they can be placed in the same trench provided:

(a) The bottom of the water service pipe at all points shall be at least eighteen (18) inches above the top of the sewer at its highest point.

(b) The water service pipe shall be placed on a solid shelf excavated at one (1) side of the common trench.

(c) The number of joints in the water service pipe shall be kept to a minimum.

Section 4. Distribution. (1) The water supply shall be distributed through a piping system entirely independent of any other piping system.

(2) Piping which has been used for any other purpose than conveying potable water shall not be used for conveying potable water.

(3) Nonpotable water may be used for flushing water closets and urinals, provided such water shall be piped in an independent system.

(a) When a dual water distribution system is used, the nonpotable water supply shall be durably and adequately identified by color markings and metal tags, or other appropriate method as may be approved by the governing authority. Each outlet on the nonpotable water distribution system which might be used for drinking or domestic purposes shall be permanently posted: DANGER - UNSAFE WATER. Each branch, fitting or valve shall be identified by the word - "NONPOTABLE WATER" either by signs or brass tags that are permanently affixed to the pipe, fittings, valves, etc. These identification markings shall not be concealed. Their maintenance shall be the responsibility of the owner.

(4) Any backflow device or cross-connection control device shall be approved by the department.

(5) Combination stop and waste valves, cocks, or hydrants shall not be installed in the underground water distribution system without the installation of an approved backflow preventor.

(6) No private water supply shall be interconnected with any public water supply.

(7) Water used for cooling of equipment or in other processes shall not be returned to the potable water system. Such water shall be discharged into a drainage system through an air gap, or may be used for nonpotable purposes on written approval of the plumbing official.

Section 5. Water Supply to Fixtures. Plumbing fixtures shall be provided with a sufficient supply of water for flushing to keep them in a sanitary condition. Every water closet or pedestal urinal shall be flushed by means of an approved tank or flush valve. The tank or valves shall furnish at least a sufficient amount of water to thoroughly cleanse the surface area of water closets, urinals or similar fixtures. When a water closet, urinal, or similar fixture is supplied directly from the water supply system through a flushometer or other valve, such valves shall be set above the fixture in a manner so as to prevent any possibility of polluting the potable water supply by back siphonage. All such fixtures shall have a vacuum breaker. Plumbing fixtures, devices or appurtenances shall be installed in a manner that will prevent any possibility of a cross connection between the potable water supply system, drainage system or other water system.

Section 6. Connections to Boilers. Potable water connections to boiler feed water systems

in which boiler conditioning chemicals are introduced shall be made through an air gap, or provided with a reduced pressure principle backflow preventer located in the potable water line before the point where such chemicals are introduced. Boilers shall be equipped with a check valve in the cold water supply to the boiler.

Section 7. Water Supply to Drinking Fountains. The orifice of a drinking fountain shall be provided with a protective cowl to prevent any contamination of the potable water supply system.

Section 8. Sizing of Water Supply Piping. (1) The minimum size water service from the property line to the water heater shall be three-fourths (3/4) inch. The hot and cold water piping shall extend three-fourths (3/4) inch in size to the first fixture branch. No two and one-half (2 1/2) inch fixture branches are supplied from any one-half (1/2) inch pipe. (EXCEPTION: A combination of two (2) of the following fixtures may be connected utilizing the one-half (1/2) inch branch: a flush tank water closet, a lavatory and/or drinking fountain.)

(2) The following schedule shall be used for sizing the water supply piping to fixtures. The branch pipe to any fixture shall terminate not more than thirty (30) inches from the point of connection to the fixture and in every instance shall be brought to the floor or wall adjacent to the fixture. No concealed water branch pipe shall be less than one-half (1/2) inch nominal pipe size.

Fixture Branches	Nominal Pipe Size (Inches)
Bath tubs	1/2
Combination sink and tray	1/2
Cuspidor	1/2
Drinking fountain	1/2
Dishwasher (domestic)	1/2
Kitchen sink (res.)	1/2
Kitchen sink (com.	1/2 or 3/4 as required
Lavatory	1/2
Laundry tray	1/2
Sinks (service, slop)	1/2
Sinks flushing rim	3/4
Urinal (flush tank)	1/2
Urinal (direct flush type)	1/2 or 3/4 as required
Water closet (tank type)	1/2
Water closet (flush valve type	1
Hot water boilers	3/4
Hose bibs	1/2
Wall hydrant	1/2
Domestic clothes washer	1/2
Shower (single head)	3/4

(3) Water hammer. In all building supply systems in which devices or appurtenances are installed utilizing quick acting valves that cause noises due to water hammer, protective devices such as air chambers or approved mechanical shock absorbers shall be installed as close as possible to the quick acting valve causing the water hammer.

(a) Where mechanical shock absorbers are installed, they shall be in an accessible place.

(b) Where mechanical devices are used, the manufactures specifications shall be followed as to location and method of installation.

(4) Inadequate water pressure. Whenever water pressure from the source of supply is insufficient, fifteen (15) lb. or less to provide adequate flow at the fixture outlets, a booster pump and pressure tank or other approved means shall be installed in the building water supply system.

(5) Variable street pressures. When the source of water supply has a fluctuation, the water distribution system shall be designed for the minimum pressure.

Section 9. Water Supply Pipes and Fittings, Materials. Water supply piping for a potable water system shall be of galvanized wrought iron, galvanized steel, brass, Types K, L, and M copper, cast iron, Types R-K, R-L, and R-M brass tubing, standard high frequency welded tubing conforming to ASTM B-586-73, fusion welded copper tubing conforming to ASTM B-447-72 and ASTM B-251, DWV welded brass tubing conforming to B-587-73, seamless stainless steel tubing, Grade H conforming to CS A-268-68, reinforced thermosetting resin pipe conforming to ASTM D-2996 (red thread for cold water use and silver and green thread for hot and cold). Polyethylene plastic pipe conforming to ASTM D-2239-69, PVC plastic pipe conforming to ASTM 1785, and CPVC plastic pipe conforming to CS D-2846-70, PVC SDR 21 and SDR 26 conforming to ASTM D-2241, polybutylene pipe conforming to ASTM-D-3309-85b with brass, copper or celcon fittings, Quicktite connection using a celcon asetal copolymer, polybutylene cone and stainless steel ring, plastic pipe and fittings shall bear the NSF seal of approval. (EXCEPTION: Polybutylene pipe utilizing insert fittings of brass, copper or celcon shall use only copper clamping rings. Its use between the diverter spout of a tub and the shower nozzle is prohibited.) Polybutylene hot and cold water connectors to lavatories, sinks and water closets shall conform to ASTM-D-3309-85b, and polybutylene plastic pipe conforming to ASTM 2662 for cold water applications only. Fittings shall be brass, copper or approved plastic or galvanized cast iron or galvanized malleable iron. Piping or fittings that have been used for other purposes shall not be used for the water distribution system. All joints in the water supply system shall be made of screw, solder, or plastic joints. Cast iron water pipe joints may be caulked, screwed, or machine drawn. When Type M copper pipe, Type R-M brass tubing, standard high frequency welded tubing or stainless steel tubing is placed within a concrete floor or when it passes through a concrete floor it shall be wrapped with an approved material that will permit expansion or contraction. In no instance shall Polythylene, PVC or CPVC be used below ground under any house or building.

Section 10. Temperature and Pressure Control Devices for Shower Installations. Temperature and pressure control devices shall be installed on all shower installations that will maintain an even temperature and pressure and will provide nonscald protection. Such devices shall be installed on all installations other than in homes or apartment complexes.

Section 11. Water Supply Control. (1) A main shutoff valve shall be provided near the curb, in or near the meter box or property line on the

water service pipe. In addition, a main supply control valve shall be placed inside a foundation wall. The main supply control valve shall be accessible and provided with a drip or drain valve. A pit or similar type installation is prohibited for a potable water supply shutoff valve.

(2) Pressure on gravity tanks shall have their supply lines valved at or near their source.

(3) Each family unit in a two-family or multifamily dwelling shall have each family unit controlled by an arrangement of shutoff valves which will permit each unit to be shutoff without interfering with the cold water supply to any other family unit or portion of the building.

(4) In all buildings other than dwellings, shutoff valves shall be installed which permit the water supply to each piece of equipment to be isolated without interference with the supply to other equipment.

(5) Each fixture or group of bath fixtures shall be valved and each lawn sprinkler opening shall be valved. In residential construction all fixtures except bathtub and showers shall be valved individually or in lieu each group of fixtures shall be valved.

(6) A group of fixtures or fixture group shall mean two (2) or more fixtures adjacent to or near each other in the same room or back to back on a common wall.

(7) The cold water branch to each hot water storage tank or water heater shall be provided with a shutoff valve located near the equipment and only serving this equipment.

Section 12. Water Supply Protection. All concealed water pipes, storage tanks, cisterns, and all exposed pipes or tanks subject to freezing temperatures shall be protected against freezing. Water services shall be installed at least thirty (30) inches in depth.

Section 13. Temperature and Pressure Relief Devices for Water Heaters. Temperature and pressure relief devices shall be installed on all water heaters on the hot water side not more than three (3) inches from the top of the heater. Temperature and pressure relief devices shall be of a type approved by the department. When a water heater is installed in a location that has a floor drain, the discharge from the relief device shall be piped to within two (2) inches of the floor; when a water heater is installed in a location that does not have a floor drain, the discharge from the relief device shall be piped to the outside of the building with an ell turned down and piped to within four (4) inches of the surface of the ground. Relief devices shall be installed on a pneumatic water system.

Section 14. Protection of a Private Water Supply or Source. Private water supplies or sources shall be protected from pollution in a manner approved by the department. Such approval shall be obtained before an installation is made.

Section 15. Domestic Solar Water Heaters. Domestic solar water heaters may have a "single wall heat exchanger" provided the solar panel and the water heater exchanger use a nontoxic liquid such as propylene glycol or equal, and that the heat exchanger is pretested by the manufacturer to 450 PSI and that the water heater has a warning label advising that a nontoxic heat exchanger fluid must be used at all times and that a pressure relief valve is installed at the highest point in the solar panel.

Section 16. Domestic Water Heater Preheating Device. A domestic water heater preheating device may be used and connected with the high pressure line from the compressor of a domestic home air conditioner or heat pump water heater. Double wall heat-exchangers with two (2) separate thicknesses separating the heat exchange fluid (other than potable water) from the potable water supply shall be provided. The water inlet to the heat exchange vessel shall be provided with a check valve, and adjacent to, and at the outlet side of the check valve, an approved pressure relief valve set to relieve at five (5) PSI above the maximum water pressure at the point of installation shall be provided if the heat exchange units contain more than twenty (20) pounds of refrigerants. This device must be equipped with a temperature limit control that would actuate a pump that would circulate hot water from the water heater through the preheater device. Condensate drain water shall be piped in accordance to the plumbing code and in no instance shall it be permitted to drain into crawl space, or into a sewer or vent stack, or be installed in areas subject to freezing. If a drain is not available or if a drain is located above the vent, a condensate pump must be utilized.

Section 17. Tanks and Vats, below Rim Supply. Tanks and vats with potable water supply below the rim shall be subject to the following requirements:

(1) Where a potable water outlet terminates below the rim of a tank or vat and the tank or vat has an overflow of diameter not less than given in the following table, sizes of overflow pipes for water supply tanks, the overflow pipe shall be provided with an air gap as close to the tank as possible.

SIZES FOR OVERFLOW PIPES FOR WATER SUPPLY TANKS

Maximum capacity of water supply line to tank	Diameter of over-flow pipe (inches ID)	Maximum capacity of water supply line to tank	Diameter of over-flow pipe (inches ID)
0- 50 gpm	2	400- 700 gpm	5
50-150 gpm	2 1/2	700-1000 gpm	6
150-200 gpm	3	Over 1000 gpm	8

(2) The potable water outlet to the tank or vat shall terminate a distance not less than one and one-half (1 1/2) times the height to which water can rise in the tank above the top of the overflow. This level shall be established at the maximum flow rate of the supply to the tank or vat, and with all outlets, except the air gap overflow outlet closed.

(3) The distance from the outlet to the high water level shall be measured from the critical point of the potable water supply outlet.

Section 18. Water Distribution for Fan Coil Units. When a domestic water heater is used for heating purposes through a fan coil medium, its temperature must not exceed 140 [150] degrees

Fahrenheit. It must utilize not less than three-fourths (3/4) inch Type M copper in its piping and its run shall not exceed 140 feet between the water heater and the heating unit. (Relates to 815 KAR 20:070.)

Section 19. Fire Protection Systems. Fire protection systems using water from the potable water distribution system inside of buildings present special cross-connection prevention problems that require the use of protective devices. The devices used to connect such situations must be of the double check valve assembly as outlined in part 2 or 3 of the application chart.

Section 20. Water Distribution and Connections to Mobile Homes. (1) An adequate and safe water supply shall be provided to each mobile home conforming to the regulations of the department.

(2) All materials, including pipes and fittings used for connections shall conform with the other sections of this code.

(3) An individual water connection shall be provided at an appropriate location for each mobile home space. The connection shall consist of a riser terminating at least four (4) inches above the ground with two and three-fourths (2 3/4) inch valve outlets with screw connection, one (1) for the mobile home water system and the other for lawn watering and fire control. The ground surface around the riser pipe shall be graded so as to divert surface drainage. The riser pipe shall be encased in an eight (8) inch vitrified clay pipe or equal with the intervening space filled with an insulating material to protect it from freezing. An insulated cover shall be provided which will encase both valve outlets but not prevent connection to the mobile home during freezing weather. A shutoff valve may be placed below the frost depth on the water service line, but in no instance shall this valve be a stop-and-waste cock.

Section 21. Conservation of Water. Refer to 815 KAR 20:070, Section 14.)

CHARLES A. COTTON, Commissioner
ROBERT M. DAVIS, Secretary
APPROVED BY AGENCY: August 31, 1987
FILED WITH LRC: September 2, 1987 at 2 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on Tuesday, October 27, 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 October 22, 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 September 15, 1987 [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 September [August] 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 September [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 September [August] 15, 1987, edition of the "Western State Hospital Policy Manual" consisting of thirty-three (33) [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 September [August] 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 1. Oakwood Policy Manual

DST-0-1A	1A	More clearly delineates annual Interdisciplinary Program Plan from semiannual individual Program Review.
	3A	Omits reference to revising or updating goals and objectives at will by individual charting requirements.
	5A	Specifies nursing goals to be developed for all residents.
DST-0-2	3C	Prohibits formal discharge from the facility for any AWOL resident.
	14A	Omits reference to consolidating form numbers with Policy Manuals.
DST-0-3	14C	Clarifies procedures for utilization and documentation of manual restraints.
	20B	Updates terminology and procedures in light of current regulations and trends for behavior management.
Oakwood	A - 2	Volume II
DST-0-8A	5D	Reflects current Peerview/Medicaid and 202B requirements for certification.
DST-0-8B	7A	Prohibits formal discharge for resident who is AWOL.
DST-0-9	1A	Specifies comprehensive psychological evaluation every two years rather than twice yearly.
DST-1-1	4B	Policy deleted. References weekly meetings.
DST-1-3	8B	Specifies ID tags for all furniture and equipment valued at $50 or more.
	13F	Identifies social worker's role in purchasing and inventory procedures.
	25A	Omits specified dates for pest control service.
DST-1-5	13A	Clarifies procedure for directing law enforcement officials on third shift.
Oakwood	A - 3	Volume III
DST-2-1	12B	Removes restriction against admitting client with communicable disease.
DST-2-2	12B	Omits reverence to emergency vehicle as ambulance and updates driving procedures.
DST-2-3	2A	Delineates procedures following Novacain injections.
DST-2-4	1A	Provides for administrative responsibility of the lab to be delegated to Director of Nursing rather than Medical Manager.
DST-4-2	16D	Stipulates individual razors for each resident.
DST-4-3	2A	Stipulates that Interdisciplinary Team determine resident's readiness to attend community church rather than specified staff.
	5A	Stipulates Interdisciplinary Team to identify goals and assignments in on-grounds work training.
DST-4-4	2A	Increases supervision responsibilities of medically restricted residents while swimming.
	4A	Revises lifeguard responsibilities.
	5A	Assigns total responsibility for monitoring pool chlorine and pH levels to lifeguard.

Section 4 - Eastern State Hospital Policy Manual
Vol Da - Sec I
p. 70a New policy on Needle Stick Injuries

page 33 - A revision of the Visitors Procedure policy for closer patient supervision and protection.

Section 5 - Central State Hospital Policy Manual

B No. 12 - Incident Reports - Followup Procedures - revised to delete some wording

under Procedure #2 and omit one word in Procedure #3.

B No. 13 - Administrative Officer of the Day - Revised to change time from 5 p.m. to 4:30 p.m. Also, Item No. 12 had the charge nurse changed to read shift supervisor.

Section HH - Treatment Program

HH 1.05 - Acute Psychiatric Treatment Program - revised to organize the treatment categories into units under Procedure No. 5.

HH 1.10 - Admissions - revised to describe the admission system as it effects the patient's movement from intake to assessment.

HH 1.40 - Patient Name Bands and Privileges - revised due to CSH's move to a new physical plant.

HH 1.60 - Photograph of Patient - revised to delete repetitions, and to add procedure number 4 regarding cuts and bruises.

HH 1.70 - Referrals for Admission - revised to eliminate descriptive material not pertinent.

HH 2.30 - Referral under Chapter 504 of the Penal Code - revised to address all the provisions of Chapter 504 of the penal code.

HH 4.50 - Patient Leave Status - revised to delete outdated terminology and replace it with current information.

HH 4.80 - Return from Home Visit & Convalescent Leave - revised to add new date and the new Hospital Director's signature.

HH 4.85 - Transfer of patient to another Unit - revised to add Item No. 11 and Item No. 12 under the Procedure section.

HH 5.15 - Crash Carts (Emergency Equipment Cart) - new emergency cart protocal.

HH 5.65 - Patient room Assignments - new policy written to reflect that race, color or national origin will not be a determining factor in the assignment of rooms.

HH 5.70 - Pets - revised to mean that while patients have availability to pets as therapeutic modality, they will not have direct ownership during their period of hospitalization.

HH 8.10 - Acceptable Initials & Abbreviation - revised to add new and enlarged list of abbreviations.

HH 8.50 - Recordkeeping - Orders Written by O.D.'s - revised with new date and the new Hospital Directors Signature.

HH 8.60 - Progress Notes - revised to address documentation.

HH 9.08 - Patient's Daily Activity schedule - revised to change "chart schedule" to read "activity schedule" under No. 3 in the Procedure Section.

HH 9.45 - Occupational Therapy - revised - this policy was deleted from Section H - Activity Therapy to be added in the Treatment Program.

HH 9.48 - Patient Education - revised to reflect that instructions and counseling given to the patient are consistent with that of the responsible medical practitioner.

HH 9.50 - Therapeutic Recreation - revised; Recreational Therapy renamed Therapeutic Recreation.

HH 10.05 - Alcohol (ETOH) Blood Level - revised in Procedure #3, Shelby Building lab to read Unit J refrigerator, Infirmary Medicine room. Same change made in Procedure #4.

HH 10.25-1 - Anesthesia Services - revised to change "Clonotherapy" to read "Electroconvulsive Therapy" and all three paragraphs had some wording changed. This is to comply with accreditation standards of the Joint Commission on Accreditation of Hospitals.

HH 10.40 - Dexamethasone Suppression Test (DST) - revised to make change in Item No. 8 under Procedure to Unit J refrigerator Infirmary Medicine Room in place of Shelby Wing.

HH 10.50 - Serum & Urine Drug Screening - revised to make change in Item 4 under Procedure to add Unit J refrigerator Infirmary Medicine Room in place of Shelby Building.

HH 10.80 - Physical Examination - revised to make change in Item 1 under Procedure to read "Physicians assigned to Admission Unit C", are responsible for admitting patients' physical examinations..."

HH 10.82 - Precautions for Patients Diagnosed with AIDS or R/O AIDS - revised to alert the hospital precautions for patients with AIDS or R/O AIDS.

HH 10.97 - Mortality Review by Medical Staff - new policy and form added to allow a more thorough and relevant investigation of any death of patient in the hospital or while on Convalescent Leave from the hospital.

HH 11.50 - Visitation of Patients - revised to make changes in Item No. 1 to limited visitation to immediate family only.

H 2 - Recreational Therapy - delete

H 3 - Occupational Therapy - delete

HH 4.55 - Patients Taken Out of the Hospital - delete

HH 8.55 - Problem Appraisal Scales - deleted

HH 10.87 - Sodium Amytal Interview - deleted because the technique of interviewing the patient by injection of intravenous sodium amytal has been considered to be obsolete and furnishing no information which cannot be obtained by use of other drugs which are safer, e.g. lorazepan.

E-2 Nursing Manual

Sec 2 No. 13 - Glucoscan Testing - new policy

has been approved to provide guidelines and policies as to the procedures for obtaining immediate blood glucose readings.

Sec 2 No. 5 - Patient Flow Sheet, Documentation On & Form - The policy was written to indicate that the flow sheet is kept in the patient's medical record and filled out on each shift by the assigned nursing personnel.

Sec 14 No. 4 - PRN (as needed) Pool - New policy written to reflect that on-call nurses will be used to meet nurse staffing needs.

Section 6 - Western State Hospital Policy Manual

F2 - Nursing Manual - Cover Page and Table of Contents reflect revisions. The following are revised to be in keeping with current acceptable practices in nursing care:

Unit II	Procedure #7	Intramuscular injections;
	Procedure #1	Artificial respiration;
	Procedure #3	Cardiopulmonary resuscitation;
	Procedure #6	Neurological Assessment;
Unit 5	Procedure #1	Handwashing;
Unit 6	Procedure #12	Application of heat;
	Procedure #13	Application of cold.

F4 - Dental Clinic - Revised cover page and introduction reflect the current contract.

F18 - Barber and Beautician Services - manual was reviewed and signature page reflects date of review.

F11 - X-ray Clinic - Manual was reviewed with new cover page.

Policy #2 was revised according to Center for Disease Control guidelines.

Policy #4 was revised on utilization of the community hospital.

Policy #11 was revised concerning use of paper gowns.

F19 - EEG, EKG & Physical Therapy.

Cover page was revised, alone with the policy on disease control to follow Center for Disease Control guidelines.

F22 - Laundry Department

Policies 1, 2 and 8 have been changed because the laundry services has been contracted to an outside firm.

F12 - Diet Manual

Pages 36 to 44, 46 to 54 are revised to comply with the newly revised publications of the American Diabetes Association Inc., and the American Dietetics Association.

F27 - Occupational Therapy

#17 - New policy is established to specify that OT staff may use state vehicles to transport patients.

#18 - A new policy is established to insure that OT staff receive hospital memos.

#1 - this policy is revised to reflect changes in charting.

#2 - this policy is revised in accordance with the Quality Assurance.

#4 - this was revised to adapt to the Quality Assurance Plan.

#7 - The treatment session schedules were changed.

#9 - Chart Audits. This policy reflects a change resulting from chart audits.

F32 - Employee Health Procedures

A new Infection Control policy for employees has been added.

F33 - Infection Control Manual

Policy #6 on Infection Control in Hospital Personnel is added.

Section 10 - Kentucky Correctional Psychiatric Center Policies and Procedures.

J1 - B1 - Seclusion and Restraints

The attached General Hospital Policy and Procedure, "Seclusion and/or Restraints," has been revised to more clearly state the procedures now being used for seclusion/restraint in this facility. Administrative Lock-down and Cool-downs have been added and the procedure for each more clearly defined.

Policy #J-4/3a = Blood/Body Fluids - Cleaning of Spills is a new policy.

Policy #J-4/10 = "Contraband" changed to read "Security"; juice cans, glass ampules, etc., added to policy statement. Old item G changed to Item H and the word "contraband" changed to read "security."

Policy #J-4/18 - #6, temperature of 100 degrees upon admission with no other symptoms - added to policy statement. Item C under procedures has been added. Old item C changed to Item D, item E changed to item J to reflect proper sequence of events. Old items F thru J changes to items D through I to reflect change of old item E.

Policy #J-4/23 = Item A - "needles" changed to "syringes and needles". Item C is new and added to reflect current CDC recommendations. Old items C thru F changed to D through G to reflect the addition of new item C. Item D - sentence changed to read " The staff member shall then notify the Infection Control Nurse and the Nursing Shift Supervisor." Item E - the phrase "...the employee was exposed to, if the patient source is needed." was deleted upon recommendation of the Pharmacy & Therapeutics Committee.

[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 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 OD 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.]

DENNIS D. BOYD, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 9, 1987
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 21, 1987, at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 16, 1987 of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Verna Fairchild
(1) Type and number of entities affected: This regulation with the attached reference material is the 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 2:116. Low income home energy assistance program.

RELATES TO: KRS 194.050

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility as prescribed by Public Law 97-35 (Title XXVI of the Omnibus Budget Reconciliation Act of 1981 as amended) to administer a program to provide assistance for eligible low income households within the Commonwealth of Kentucky to help meet the costs of home energy. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth the eligibility and benefits criteria for each of two (2) components of energy assistance, subsidy and crisis under the Home Energy Assistance Program (HEAP).

Section 1. Application. Each household or authorized representative of the household requesting assistance shall be required to complete an application and provide such information as may be deemed necessary to determine eligibility and benefit amount in accordance with the procedural requirements prescribed by the cabinet. An "authorized representative" is that person applying on behalf of a household who presents to the cabinet or its representative a written statement signed by the appropriate household member authorizing that person to apply on the household's behalf. An application shall not be considered completed until all information necessary to determine eligibility and benefit amount is received.

Section 2. Definitions. Terms used in HEAP are defined as follows:

(1) "Principal residence" is that place where a person is living voluntarily and not on a temporary basis; the place he/she considers home; the place to which, when absent, he/she intends to return; and such place is identifiable from other residences, commercial establishments, or institutions.

(2) "Energy" is defined to include electricity, gas, and any other fuel such as coal, wood, oil, bottled gas, etc., that is used to sustain reasonable living conditions.

(3) "Household" means any individual or group of individuals who are living together in the principal residence as one (1) economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.

(4) "Economic unit" is one (1) or more persons sharing common living arrangements.

(5) "Subsidy component" is that portion of benefits reserved as energy assistance for heating.

(6) "Crisis component" is that component administered by local organizations under contract with the cabinet to provide fuel, heaters, blankets and/or sleeping bags, vouchers to purchase these items, or minor repair of the heating system to eligible households who are without heat, or will be without fuel within five (5) days, or receive a notice of disconnection of service, or require a heat system repair to obtain adequate heat.

(7) "Life threatening situation" is defined as without heat or will be without heat within forty-eight (48) hours and temperatures at a dangerous level for household members.

Section 3. Eligibility Criteria. (1) A household must meet the following conditions of eligibility for receipt of a HEAP payment under the subsidy and crisis components:

(a) For purposes of determining eligibility, the amount of continuing and noncontinuing earned and unearned gross income including lump sum payments received by the household during the calendar month preceding the month of application will be considered. Income received on an irregular basis will be prorated.

(b) Gross income for the calendar month preceding the month of application must be at or below the applicable amount shown on the income scale for the appropriate size household. Excluded from consideration as income are payments received by a household from a federal, state, or local agency designated for a special purpose and which the applicant must spend for that purpose, payments made to others on the household's behalf, loans, reimbursements for expenses, incentive payments (WIN and JTPA) normally disregarded in AFDC, federal payments or benefits which must be excluded according to federal law, and Supplemental Medical Insurance premiums.

Income Scale

Family Size	Monthly	Yearly
1	$ 504	$ 6,050
	[491	5,896]
2	678	8,140
	[664	7,964]
3	852	10,230
	[836	10,032]
4	1,027	12,320
	[1,008	12,100]
5	1,201	14,410
	[1,180	14,168]
6	1,375	16,500
	[1,353	16,236]

(c) For each household member more than six (6), the above income eligibility limitation for six (6) will be increased by $174 [172] monthly or $2,090 [2,068] yearly for each additional household member.

(d) The household must have total liquid assets at the time of application of not more than $5,000. Excluded assets are cars, household or personal belongings, principal residence, cash surrender value of insurance policies, prepaid burial policies, real property, and cash on hand or in a bank account if said cash is income considered under paragraph (a) of this subsection.

(e) Applicants for the crisis component must be without heat, or will be without fuel within five (5) days, or have received a notice of disconnection of service, or require a heat system repair to obtain adequate heat.

(2) Households are eligible to receive benefits under the subsidy component once and under the crisis component not to exceed the maximum amount of benefits.

Section 4. Benefit Levels. Payment amounts for the subsidy and crisis components are set at a level to serve a maximum number of households while providing a reasonably adequate benefit relative to energy costs. In the subsidy component, the highest level of assistance will be provided to households with lowest incomes and highest energy costs in relation to income, taking into account family size.

(1) Payments to eligible households under the subsidy component will be made for the full benefit amount based on type of energy for heating, monthly household income, and household size as specified in the following benefit scales.

Benefit Scales
Subsidy Component

Scale A.
Energy Sources: Electricity

Monthly Household Income	Payment Amount Household Size 1 and 2	Household Size 3 or More
$ 0 - $400	$123	$135
$401 - $800	$105	$117
Over $800	---	$101

Scale B.
Energy Sources: LP Gas (Propane), Fuel Oil, Kerosene, Natural Gas

Monthly Household Income	Payment Amount Household Size 1 and 2	Household Size 3 or More
$ 0 - $400	$113	$125
$401 - $800	$ 95	$107
Over $800	---	$ 88

Scale C.
Energy Sources: Coal, Wood

Monthly Household Income	Payment Amount Household Size 1 and 2	Household Size 3 or More
$ 0 - $400	$100	$112
$401 - $800	$ 82	$ 94
Over $800	---	$ 75

(2) If the cabinet receives only a percentage of the federal funds authorized by Congress, benefits to eligible households under the subsidy component may be reduced proportionately.

(3) Benefits to eligible households under the crisis component shall be in the form of fuel or other energy for heating, heaters, blankets, and/or sleeping bags, vouchers to purchase these item, or repair to a heating system to obtain adequate heat. The contracting agency will determine the type and value of assistance necessary to alleviate the crisis, not to exceed a maximum of $300 total benefit value per eligible household.

Section 5. Benefit Delivery Methods. Benefits shall be provided to eligible households as follows:

(1) Whenever feasible, payment under the subsidy component is authorized by a two (2) party check made payable to the recipient and the provider or landlord if the heating is included as an undesignated portion of rent.

(2) When a two (2) party check is not issued under the subsidy component, the recipient shall sign a statement as part of the application prior to receipt of funds affirming that benefits received under HEAP shall be utilized solely for home energy.

(3) Under the subsidy component, at the recipient's discretion, the total benefit may be made in separate authorizations to facilitate payment to more than one (1) provider (e.g., when the recipient heats with both a wood stove and electric space heaters). However, the total amount of the payments may not exceed the maximum for the primary source of energy for heating. The household will decide how to divide payment if more than one (1) provider is used.

(4) For the crisis component, no direct cash payments shall be made to the recipient. Benefits shall be provided to eligible households by the contracting agency in the amount and value determined by the contracting agency necessary to alleviate the crisis, not to exceed the maximum allowable payment. Payments under the crisis component will be authorized to the energy provider by one (1) party checks upon delivery of fuel, heaters, blankets, and/or sleeping bags, restoration or continuation of service, or upon repair of the heating system.

Section 6. Right to a Fair Hearing. Any individual has a right to request and receive a fair hearing in accordance with 904 KAR 2:055, Hearings and appeals.

Section 7. Time Standards. Under the subsidy component, the cabinet shall make an eligibility determination promptly after receipt of a completed and signed application but not to exceed thirty (30) days. Under the crisis component, completed applications will be processed such that the crisis is resolved within forty-eight (48) hours and in life threatening situations within eighteen (18) hours. Applicants under the crisis component will have no more than ten (10) working days from the date of application to provide information necessary to complete the application.

Section 8. Effective Dates. The following shall be the implementation and termination dates for HEAP:

(1) Applications for the subsidy component shall be accepted as follows:

(a) Households containing at least one (1) member who is elderly (age sixty (60) or older) or receiving benefits on the basis of 100 percent disability may apply beginning October 19, 1987 [20, 1986] and ending no later than October 30, 1987 [31, 1986].

(b) Applications shall be accepted from all households beginning November 16, 1987 [17, 1986] and ending no later than December 30, 1987 [1986].

(2) Applications for the crisis component shall be accepted beginning January 11, 1988 [5, 1987] and ending no later than April 29, 1988 [30, 1987].

(3) Applications shall be processed in the order taken until funds are expended. HEAP subsidy component shall be terminated by the secretary when actual and projected component expenditures have resulted in utilization of available funds or December 30, 1988 [1987], whichever comes first.

(4) HEAP may be reactivated after termination under the same terms and conditions as shown in this regulation should additional federal funds be made available for that purpose.

Section 9. Allocation of Funds. (1) Up to fifteen (15) percent of the total HEAP allocation shall be reserved for weatherization

assistance. [Up to $47,177 of this allocation shall be reserved for the Department for Social Insurance weatherization and related conservation initiatives.]

(2) Up to $6,000,000 shall be reserved for the crisis component. Eighty-five (85) percent of the funds reserved for the crisis component shall be allocated, by local administering agency, based upon the poverty levels of the counties served by the local administering agency in accordance with the 1980 Census. Fifteen (15) percent of the funds plus any additional funds made available from the subsidy component shall be held by the contracting agency as a contingency fund to be allocated to any local administering agency of the state chosen at the discretion of the contracting agency to provide low income home energy assistance in accordance with its contract. On February 8, 1988 [9, 1987], all unobligated allocations may be reallocated as necessary by the contracting agency with the concurrence of the Department for Social Insurance.

(3) Remaining benefit funds available under Public Law 97-35 less $25,000 reserved under subsection (5) of this section shall be reserved for the subsidy component. Fifty (50) percent of the funds available under the subsidy component shall be reserved for households eligible to apply beginning October 19, 1987 [20, 1986] and ending no later than October 30, 1987 [31, 1986]. The remaining fifty (50) percent plus any funds remaining available after October 30, 1987 [31, 1986] shall be reserved for households applying beginning November 16, 1987 [17, 1986] and ending no later than December 30, 1987 [1986]. The funds available for the households applying beginning November 16, 1987 [17, 1986] shall be allocated by area development district based upon the level of poverty in accordance with the 1980 Census. Any funds remaining available under the subsidy component after December 30, 1987 [1986] shall be made available under the crisis component contingency fund held by the contracting agency.

(4) Up to $400,000 [500,000] of the contingency fund under subsection (2) of this section shall be reserved to assure component availability until March 15, 1988 [1987] for emergency crisis assistance for households who are without heat.

(5) Up to $25,000 of the funds in Section 3 of this regulation shall be reserved for the Preventive Assistance Program administered by the Department for Social Services to assist families with an energy payment not to exceed $300 per family if the payment will prevent the removal of a child from a family or if it will assist in reuniting a child with the family.

Section 10. Energy Provider Responsibilities. Any provider accepting payment from HEAP for energy provided to eligible recipients is required to comply with the following:

(1) Reconnection of utilities and/or delivery of fuel must be accomplished upon certification for payment;

(2) The household must be charged in the normal billing process the difference between the actual cost of the home energy and the amount of payment made through this program. For balances remaining after acceptance of the HEAP payment, the customer must be offered the opportunity for a deferred payment arrangement or a level payment plan;

(3) HEAP recipients shall not be treated adversely than households not receiving benefits;

(4) The household on whose behalf benefits are paid shall not be discriminated against, either in the costs of goods supplied or the services provided; and

(5) A landlord shall not increase the rent of recipient households on the basis of receipt of this payment.

MIKE ROBINSON, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 14, 1987
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 21, 1987 at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 16, 1987 of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James E. Randall

(1) Type and number of entities affected: Approximately 150,000 low income households.

(a) Direct and indirect costs or savings to those affected: Approximately $16.8 million in benefit funds will be provided to eligible households.

1. First year: Approximately 100,000 households in the subsidy component will receive an average benefit of $108 and approximately 50,000 households will receive an average benefit of $116 in the crisis component.

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: All households must apply for benefits.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Up to 10% of LIHEAP block grant funds which are not transferred to other block grants will be reserved for administrative costs.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Administrative requirements for grants under appropriate state and federal law and regulations.

(3) Assessment of anticipated effect on state and local revenues: All benefits apply to energy costs of low income households.

(4) Assessment of alternative methods; reasons why alternatives were rejected: 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: Low Income Home Energy Assistance Program is 100% federally funded and this regulation is

promulgated in accordance with the LIHEAP block grant application and plan narrative.

TIERING: Was tiering applied? No. Not applicable to LIHEAP regulations.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Division of Management & Development
(Proposed Amendment)

904 KAR 3:020. Eligibility requirements.

RELATES TO: KRS 194.050
PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer a Food Stamp Program as prescribed by the Food Stamp Act of 1977, as amended, and 7 CFR Part 270 through 280. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth the eligibility requirements used by the cabinet in the administration of the Food Stamp Program.

Section 1. Eligibility Requirements. In accordance with regulations promulgated by the Food and Nutrition Service (FNS), of the United States Department of Agriculture, national uniform standards of eligibility for the Food Stamp Program, composed of both financial and nonfinancial criteria, shall be utilized. Financial criteria shall consist of income and resource limitations. Nonfinancial criteria shall consist of certain technical factors. Participation in the program shall be limited to those households whose incomes are determined to be a substantial limiting factor in permitting them to obtain a more nutritious diet. The income eligibility standards are derived from the Office of Management and Budget's (OMB) nonfarm income poverty guidelines.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(15) Earnings to individuals who are participating in on-the-job training programs under the Job Training Partnership Act. This provision does not apply to household members under nineteen (19) years of age who are under the parental control of another adult member.

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

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

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

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

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

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

(6) As defined in 7 CFR 273.9(c), educational loans on which payment is deferred, grants, scholarships, fellowships, veteran educational benefits, and the like to the extent that they are used for tuition and mandatory fees at an institution of post secondary education, including correspondence schools at that level, or a school at any level for the physically or mentally handicapped. Origination fees and insurance premiums on student loans are excludable charges. For federal education assistance programs funded under Title IV of the Higher Education Act, additional income exclusions include costs of books, travel, routine supplies, and cost for rental or purchase of equipment used for educational purposes. Portions of nonfederal (state, local, or private) deferred payment educational loans are excluded based on provisions contained in 7 CFR 273.9(c)(4).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Medical and dental care;

(b) Hospitalization or outpatient treatment and nursing care;

(c) Medication and medical supplies;

(d) Health and hospitalization premiums; and

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

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

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

(2) $2000: for all other households.

(3) Households which are categorically eligible as defined in CFR 273.2 shall be considered as having met the food stamp resource requirement.

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

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

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

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

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

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

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

(7) Any governmental payments which are designated for the restoration of a home damaged in a disaster, if the household is subject to legal sanction if funds are not used as intended.

(8) Resources whose cash value is not accessible to the household.

(9) Resources which have been prorated as income.

(10) Indian lands held jointly with the tribe, or land that can be sold only with the approval of the Department of the Interior's Bureau of Indian Affairs; and

(11) Resources which are excluded for food stamp purposes by express provision of federal statute.

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

Section 9. Nonfinancial Criteria. Nonfinancial eligibility standards apply equally to all households and consist of:

(1) Residency. A household must live in the county in which they make application;

(2) Identity. Applicant's identity will be verified; also, where an authorized representative applies for the household, both the applicant's and the authorized representative's identities will be verified;

(3) Citizenship and alien status. Program participation shall be limited to either citizens of the United States or eligible aliens, as outlined in 7 CFR Part 273.4. Individuals whose status is questionable shall be ineligible to participate until such status has been verified;

(4) Household size. Size of household will be verified through readily available documentary evidence or through a collateral contract; and

(5) Students. Persons aged eighteen (18) to sixty (60) who are physically and mentally fit and enrolled at least half-time in an institution of higher education are ineligible to participate unless they meet criteria specified in 7 CFR Part 273.5.

(6) Mandatory monthly reporting (MMR). Households shall be required to file monthly reports in accordance with 7 CFR 273.21 and any waivers thereto approved by FNS as a condition of eligibility, unless otherwise exempted by the appropriate federal agency.

(7) Social security number (SSN). Households applying for or participating in the Food Stamp Program must comply with SSN requirements by providing the SSN of each household member or applying for one (1) prior to certification. Failure to comply without good cause shall be determined for each household member and shall result in such individual's disqualification from participation in the Food Stamp Program until this requirement is met.

(8) Work registration. All household members, except those exempt in 7 CFR Part 273.7(b), shall be required to register for work, accept suitable employment and be subject to other work registration requirements specified in 7 CFR Part 273.7. Strikers whose households are eligible in accordance with 904 KAR 3:035, Section 5(9), shall be subject to the work registration requirements unless exempt for reasons other than employment at the time of application.

(9) Quality Control. Refusal to cooperate in completing a quality control review shall result in termination of the participating household's benefits.

Section 10. Provisions contained in this regulation shall become effective <u>September</u> [April] 1, 1987 unless otherwise specified.

MIKE ROBINSON, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: August 25, 1987
FILED WITH LRC: September 2, 1987 at 2 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 21, 1987 at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 16, 1987 of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James E. Randall

(1) Type and number of entities affected: Earning from JTPA/OJT will be considered as income. These earnings were previously exempt. Approximately 2000 households will be affected.

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

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Minimal - this change merely incorporates federal material.

(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: No significant impact on state or local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Federal requirements do not allow for alternatives.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Federal requirements must be applied uniformly, statewide, therefore tiering was not necessary/possible.

CABINET FOR HUMAN RESOURCES
Department for Social Services
Division of Family Services
(Proposed Amendment)

905 KAR 2:010. Standards for all child day care facilities.

RELATES TO: KRS 199.892 to 199.896

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: KRS 199.896 grants authority to establish regulations and standards for day care of children. The function of this regulation is to set minimum standards for all child day care facilities.

Section 1. Definitions. The following definitions shall apply to all child day care regulations and standards:

(1) "Day care" means care of a child in any child day care facility, which provides full- or part-time care day or night, to at least four (4) children not related to the operator of the child day care facility by blood, marriage, or adoption away from his own home and is designed to supplement, but not substitute for, the parent's responsibility for the child's protection, development and supervision, when it is necessary or desirable for the parent or child to be out of the home for all or part of the day or night. The term shall not include child care facilities operated by religious organizations while religious services are being conducted, or kindergarten programs that are part of a public or private educational school system. Child [or nursery schools which have as their primary function educational instruction.] day care includes:

(a) "Type I day care facility" means[:

1.] any facility other than a dwelling unit which regularly receives four (4) or more children for day care; or

[2.] any facility, including a dwelling unit, which regularly provides day care for thirteen (13) or more children. If preschool children of any day care staff receive care in the facility, they shall be included in the number for which the facility is licensed.

(b) "Type II child day care facility" means any home or dwelling unit which regularly provides care apart from parents for four (4), but not more than twelve (12) children. The director's own preschool children shall be included in the number for which the home is licensed.

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

(3) "Secretary" means the Secretary of the Cabinet for Human Resources.

(4) "Child" means a person under eighteen (18) years of age.

(5) "Director" means the person responsible for the day-to-day operation of a facility for the care of children.

(6) "Child day care staff" means all persons, including volunteers, who work in a Type I or Type II child day care facility.

(7) "Facility" shall include both Type I and Type II child day care facilities.

(8) "Regularly" means the provision of child day care services at a facility on more than one (1) day in any one (1) week or more than ten (10) hours per week, whichever is greater.

(9) "School-age child" shall be considered as one attending kindergarten [first grade] or above.

(10) "Infant/toddler" shall be considered to be under two (2) years of age.

(11) "Nighttime care facilities" are defined as facilities in which children are received for regular, full, or part-time [periodic] care during the night. The hours of facilities providing nighttime care shall conform to the hours established by the state fire marshal for nighttime care, which pertain to day care facilities that are open after 6 p.m.

Section 2. Responsibilities of the Cabinet Licensing Authority. The cabinet shall be responsible [has responsibility] for the licensing and supervision of any agency, association, organization, group, or individual who regularly provides full or part-time care during any part [time] of the day or night for four (4) or more children not related to the licensee by blood, marriage or adoption. Authorized representatives of the cabinet shall at all times have the authority [right] to inspect premises, records required by this regulation, and programs of child day care facilities. Inspection by the cabinet shall be unannounced.

Section 3. Licensing Issuance. (1) The license shall be issued for a specified physical location and for operation by a designated sponsor or owner, for specific hours of operation, and for a specified maximum number of children on the premises at any one time. The number of children for which the facility is licensed shall be determined by available space, as determined by the state fire marshal's office; adequacy of program, equipment, and staff as defined in these regulations.

(2) Types of licenses.

(a) A regular license shall be issued when the facility has met all requirements provided for by the regulations of the cabinet under KRS

199.892 to 199.896.

(b) A provisional license shall be issued when, in the opinion of the cabinet, the facility has met all requirements for a regular license, except the required liability insurance and other requirements that require the presence of children in order to monitor. A provisional license may also [shall] be issued when the facility does not meet the requirements for a regular license but there is sufficient reason for belief that the facility will comply with minimum regulations within the time period designated by the licensing authority. A provisional license shall be issued for a period not to exceed six (6) months and shall not be renewable.

(3) A license shall [is] not be transferable. A change in ownership of a facility shall require[s] a new application and fee. When circumstances covered by the license change (i.e., number of children to be served, location, hours of operation when the difference is over one (1) hour or changes the facility from day care to night care or vice versa), notification shall be made in writing to the Division for Licensing and Regulation. Notification shall be made within the time established under Section 11 of this regulation. This does not require an additional fee.

(4) The license shall be posted in a conspicuous place.

Section 4. (1) Licensing fees shall be:

(a) Fifty (50) dollars for all new Type I facilities.

(b) Twenty-five (25) dollars for all new Type II facilities.

(c) Twenty-five (25) dollars annual renewal [renewable] fee for all facilities.

(2) A check or money order payable to the Kentucky State Treasurer shall be attached to the license application. Initial application fees shall not be refundable. Renewal fees shall be refunded if relicensure is denied but not if a license is revoked.

Section 5. Licensing Procedure. (1) To qualify for a license, a child day care facility shall comply with regulations and standards established by the cabinet.

(2) An applicant for licensure shall:

(a) Secure approval of the office of the state fire marshal or his designee.

(b) Complete three (3) copies of the application, which may be obtained from the Cabinet for Human Resources, Division for Licensing and Regulation, Frankfort, Kentucky 40621.

(c) Send application fee, and two (2) completed applications to the Cabinet for Human Resources, Division of Licensing and Regulation, Frankfort, Kentucky 40621. [;]

(d) Keep one (1) copy on file.

(3) To obtain the license to open, a child day care facility shall [must] have:

(a) A current report (within the last year) of negative TB test on all child day care personnel and adults who reside on the premises.

(b) Approved sewage system in accordance with local, county and state laws.

(c) Been surveyed by a representative of the Cabinet for Human Resources to determine if the facility qualifies for licensing, based on the regulations.

(d) Adequate equipment, supplies, and staff to serve initial enrollment of children.

(4) No facility subject to licensing shall begin operation without a license to operate from the Cabinet for Human Resources.

(5) A facility operating without having a license shall be subject to legal action.

Section 6. License Renewal Procedure. (1) Facilities shall be relicensed annually from the date of issuance of the original license.

(2) To be eligible for relicensure, a child day care facility shall:

(a) Submit a renewal application and fee prior to the expiration date of the current license.

(b) Comply with the applicable provisions of the child day care licensure regulations. Compliance will be verified through onsite inspection by representatives of the Cabinet for Human Resources.

Section 7. Basis for Revocation or Denial. The secretary may deny[, suspend,] or revoke a license for failure to meet the standards set by the secretary after the expiration of a period not to exceed to six (6) months from the date of the first official notice that standards have not been met. When a license is revoked the applicant/licensee shall not reapply for a period of at least six (6) months. [at any time the day care facility fails to meet the requirements as set forth in the regulations.]

Section 8. Right of Appeal. (1) When a regular license has been denied[, suspended,] or revoked, the licensee shall be notified in writing of the right to appeal. The request for a hearing shall be made in writing within fifteen (15) days after receiving the notice of the action of the secretary.

(2) Upon receipt of the request for a hearing, the secretary or his representative shall notify the licensee in writing within fifteen (15) days of the time and place of the hearing. The secretary shall appoint a hearing officer to review the record, take additional evidence, and make recommendations upon the matter appealed.

(3) Based upon the record and upon the information obtained at the hearing, the hearing officer shall affirm or overturn the initial decision of negative action. Such decision shall be considered final. The licensee shall be notified in writing of the decision of the hearing officer. Where regular license denials[, suspensions] or revocations are upheld, the cabinet's notification shall specify the date by which the facility shall close.

(4) A child day care facility continuing to have children in attendance after the closing date established by the secretary, shall be subject to legal action by the cabinet as provided by law. [Likewise, a facility operating without having received a license shall be subject to legal action.]

Section 9. Administrative Responsibilities. (1) General.

(a) The licensee shall have primary responsibility to the cabinet for maintaining adequate standards of operation in accordance with the child day care regulations.

(b) Staff shall be instructed in the requirements for operation and a copy of the minimum standards shall [must] be available for their use.

(c) Liability insurance shall be carried by

the facility.

(d) 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.

(e) Volunteers must abide by the policies and procedures of the center. [The licensee shall provide a safe and supervised environment which will protect children from hazardous situations.]

(f) Program policies and procedures shall be in writing and shall include personnel policies, job descriptions, organization charts, chain of command, and other rules and regulations pertaining to the operation of the facility.

(2) Services. The services to be provided within the child day care facility shall be clearly stated at the time of the application. A written statement of services and policies shall be given to parents.

(3) Staff-child ratios.

(a) Minimum staff-child ratios for all facilities shall be maintained throughout the times that a facility is in operation, as follows:

Age of Children	Ratio
Under one year	1 staff for 6 children
1 to 2 years	1 staff for 6 children
2 to 3 years	1 staff for 10 children
3 to 4 years	1 staff for 12 children
4 to 5 years	1 staff for 14 children
5 to 7 years	1 staff for 15 children
7 and older	1 staff for 25 children (for before and after school)
	1 staff for 20 children (for full day of care)

(b) When only one (1) staff member is present in the facility, the age of the youngest child determines the staff-child ratio. In no case may one (1) adult alone provide care for more than ten (10) preschool children, or for more than fifteen (15) school-age children.

(c) Children under care shall never be left without adult supervision. Additional staff shall be employed during cooking and cleaning periods if necessary to insure adequate supervision of the children.

(d) In facilities where more than one (1) staff member is present, the age of the youngest child in the group shall determine the staff/child ratio as set forth in paragraph (a) of this subsection [following apply: mixed age groups including children under two (2) years, one (1) staff for seven (7) children; mixed age groups children, age two (2) to six (6), one (1) staff for ten (10) children; mixed age groups children, age six (6) and older, one (1) staff for fifteen (15) children.]

(4) Director.

(a) The director shall assume responsibility for supervision and conduct of staff.

(b) The director shall provide a child care program which meets the regulations herein set forth.

(c) The director shall have the ability to supervise personnel and carry out personnel policies, including scheduling of daily activities, conducting staff meetings, and visiting classrooms to guide teaching staff.

(d) The director shall be able to develop center plans, policies, procedures and budgets in compliance with state regulations.

(e) The director shall have the ability to provide for health, safety and comfort of children, including fire drills, regulating heating, lighting and carrying out emergency measures in case of illness, accident or fire, and reporting suspected child abuse or neglect.

(f) The director shall be able to evaluate the teaching activities of staff and identify any problems with emotional development, including identifying children's problems with vision, speech and hearing, and assist in obtaining appropriate treatment or necessary services.

(g) The director shall assure that additional staff is available during cooking or cleaning hours if necessary, to maintain supervision of the children.

(5) Staff.

(a) At all times a staff person shall be on duty who is trained in pediatric first aid including CPR.

(b) At all times one (1) adult shall be designated as being in charge. In the event that the director is not present in the center, the adult left in charge shall be capable of carrying out the duties of the director.

(c) A minimum of two (2) qualified substitutes with current negative tuberculin test reports at the time of employment, shall be available in case of need.

(d) The minimum of adult workers in a center shall be sufficient to ensure that minors under eighteen (18) years of age and student trainers are at all times under direct supervision. No person under age of sixteen (16) shall be counted as part of the staff/child ratio.

(e) No controlled substance or alcohol use, or persons under the influence shall be permitted on the premises.

(f) Smoking by staff shall be permitted only in designated areas away from the children.

(g) Staff members shall remain awake while on duty.

Section 10. Records. The [of the] following records shall be maintained at the facility:

(1) Sufficient records to identify the individual children and to enable the person in charge to communicate with the parents or persons designated as being responsible for the child either at their home or place of employment, and in a medical emergency, with the family physician.

(2) Each child's medical history, along with authorization for emergency medical care, signed by the parent or guardian and left with the center director at the time of enrollment.

(3) Except as provided in KRS 214.036 immunization [Immunization] records for preschool children shall be on file within thirty (30) days of admission. The facility shall [will] have ninety (90) days to obtain evidence that immunizations are current in accordance with 902 KAR 2:060 as revised.

(4) Permission for trips off the premises, signed by the parent or guardian.

(5) Daily attendance records of children.

(6) For each employee, a copy of the results of a TB skin test administered within the last year [thirty (30) days] of the date of his/her employment.

(7) A written schedule of staff working hours.

(8) A written record [Records] of staff training.

(9) A written plan for staff development.
(10) A written record [Records] of monthly fire drills and quarterly disaster drills.
(11) A written plan and/or diagram outlining the course of action in the event of natural or man-made disaster.
(12) Criminal records check on staff and volunteers as required by KRS 17.165.

Section 11. Reports of the following shall be made to the cabinet:
(1) Any serious occurrences involving children including accident or injury requiring extensive medical care and/or hospitalization; or death; or any form of child abuse; or fire or other emergency situations; or any incident which results in legal action by or against the center which affects any child or children or personnel; within twenty-four (24) hours.
(2) Change of director, within one (1) week. [Change of ownership, sponsorship or director; within one (1) week.]
(3) Notification of the following shall be made to the cabinet sufficiently in advance to allow for approval before implementation: [Change of location; sufficiently in advance to allow for approval of the facility.]
(a) Change of ownership/sponsorship.
(b) Change of location.
(c) Increase in capacity.
(d) Change of hours of operation.
(e) Change of services.
(4) Change of hours of operation in advance.
(5) Change of services within one (1) week.
(6) Change in number of children to be served; increase in capacity must notify the cabinet and the state fire marshal for the purpose of relicensure.

Section 12. Child Abuse or Neglect. (1) Each licensed facility shall maintain a child care program which assures affirmative steps are taken to protect children from abuse or neglect while said children are under the supervision of employees of the facility. Such program is to include procedures to inform employees of the licensee of the laws of the Commonwealth pertaining to child abuse or neglect.
(2) No day care facility may employ any person convicted of child abuse or neglect.

Section 13. Staff Requirements. (1) Type I facility. After the effective date of this regulation, a director hired in a Type I facility shall have a minimum educational requirement of a child development associate credential (CDA), based on national competency standards, or associate of arts with an emphasis in child development or bacherlor's degree from an accredited college or university. This educational requirement shall be supplemented by a minimum of two (2) years of satisfactory full-day experience in working with young children in a group. Three (3) years of full-time paid experience in a chid care facility may be substituted for the required education. The director shall be at least twenty-one (21) years of age and have at least two (2) character references from nonrelatives. This provision does not apply to directors employed prior to the effective date of this regulation. [The director shall be a literate adult who shall assume responsibility for supervision and conduct of staff.]
(2) Type II facility. A child care director in a Type II facility, after the effective date of this regulation, shall have as a minimum educational requirement of a general equivalency diploma (GED) or a high school diploma and have completed at least twelve (12) hours of child development training completed during the first six (6) months of operation. The director must be at least twenty-one (21) years of age. [The director shall provide a child care program which meets the regulations herein set forth.]
[(3) All members of the child care staff shall provide good care and maintain responsible supervision.]
[(4) Staff shall have practical knowledge of first aid.]
[(5) At all times one (1) adult shall be designated as being in charge. At no time shall children be left without adult supervision.]
[(6) A minimum of two (2) qualified substitutes with current (within the past year) negative tuberculin test reports shall be available in case of need.]
[(7) The licensee shall assure that additional staff is available during cooking or cleaning, if necessary, to maintain supervision of the children.]
[(8) The number of adult workers in a center shall be sufficient to ensure that minors under eighteen (18) years of age and student trainees are at all times under direct supervision. No staff person under age of sixteen (16) shall be counted as part of the staff-child ratio.]
[(9) The total child care staff shall be qualified by experience and training to provide the services for which the facility is licensed considering the hours of care given, the program offered, the size of the facility, and the number and ages of children under care. Experience and training may be obtained on the job.]

Section 14. Staff Training. (1) Directors employed after the effective date of this regulation, unless qualified by a bachelor's degree in early childhood education/development or a degree in a related field supplemented by a minimum of two (2) years of full-day experience in a child care setting, shall complete twelve (12) hours of specialized training prior to receiving a regular license. This training must be completed before or within the first six (6) months of operation while the facility operates on a provisional license.
(2) The director and all child care staff shall participate in at least six (6) hours of training annually beginning July 1, 1987. This training shall be designed to improve the quality of child care.
(3) Staff shall be trained in pediatric first aid, including CPR, to permit a staff member with this training to be on duty at all times.
(4) All training shall have prior approval of the cabinet according to guidelines developed by cabinet staff.
(5) Training shall be documented in writing by the provider.

Section 15. [14.] Physical Facilities. (1) Building.
(a) The building shall be suitable for the purpose intended and should maintain a minimum of thirty-five (35) square feet of space per child used for play, exclusive of the kitchen, bathroom, and storage areas. It shall be kept clean and in good repair.

(b) If all or any portion of the building is used for purposes other than day care, necessary provisions shall be made to avoid interference with the day care program.

(c) The building shall be so constructed that it is dry, adequately heated, ventilated, lighted, that windows, doors, stoves, heaters, furnaces, pipes, and stairs are protected; that screening is provided on windows and doors which are left open.

(d) There shall be a minimum of one (1) toilet and wash basin for each twenty (20) children. In boy's bathrooms if urinals are used, urinals may be substituted for up to one-third (1/3) of the number of toilets. Toilet facilities shall be cleaned and sanitized daily.

(e) The kitchen shall be clean and equipped for the proper preservation, storage, preparation, and serving of food, and shall not be used for any other activities of the center.

(f) The center shall be equipped with a telephone accessible to the rooms used by the children.

(g) If care is provided school-age children, a separate area or room shall be provided.

(h) Separate toilet facilities for males and females, or a plan whereby the same facilities are used at separate times, shall be provided for school-age children.

(i) No child shall return from the toilet to activities without first washing hands. Children shall wash their hands with soap and warm, running water prior to eating and after toileting.

(j) [(i)] If the only food served by the center is an afternoon snack for the school-age children, a kitchen is not required if adequate refrigeration is available.

(k) [(j)] Indoor areas for infants/toddlers shall be provided separated from areas used by older children. The infants/toddlers may participate in activities with older children for short periods of time.

(l) [(k)] There shall be adequate crawling space for infants/toddlers protected from older children away from general traffic patterns of the center.

(m) [(l)] Each area used for infants/toddlers shall have direct access to hand-washing facilities.

(n) [(m)] A protected outdoor area, with sun and shade and out of the traffic pattern of older children, shall be provided if infants or toddlers are cared for.

(o) [(n)] Plans and specifications for new buildings and/or additions which are to be constructed for day care facilities shall be approved prior to construction by health and fire safety officials having jurisdiction.

(2) Grounds.

(a) Any outdoor play area shall be fenced unless a fence is determined unnecessary for the safety of the children and waived by the Office of Inspector General, Division of Licensing and Regulation in writing. The outdoor play area shall be [There shall be a fenced outdoor play area] free from litter, glass, rubbish, and inflammable materials and adequate in size to accommodate the number of children using the area at a particular time [unless the cabinet determines that fencing is not necessary for the protection of the children]. The outdoor area shall be safe and drained.

(b) If a facility does not have an outdoor play area, the indoor space to be used as a play area has to be a minimum of sixty (60) square feet per child using the area at any one time separate from and in addition to the thirty-five (35) square feet minimum as described in subsection (1)(a) of this section, and include gross motor equipment and be well-ventilated and heated.

(c) If a facility does not have a fenced outdoor play area or an indoor play area, a bus may be used to transport children to a fenced playground. Transportation guidelines shall be in accordance with Section 18 of this regulation.

(3) Equipment.

(a) All equipment and furnishings shall be in good repair. There shall be safe play equipment in good repair, both indoors and outdoors, to meet the physical and other developmental needs and interests of children of different age groups.

(b) Each center shall have enough toys, [and] play apparatus, and age-appropriate developmental materials to provide each child with a variety of activities during the day as specified in Section 16 [15] of this regulation.

(c) Tables and chairs shall be of a suitable size for children.

(d) There shall be storage space in the form of low open shelves accessible to the children.

(e) Individual space for children's clothing shall be provided.

(f) An individual cot, crib, baby bed or two (2) inch thick mat shall be provided for each child, as appropriate. Cribs shall be provided for children up to eighteen (18) months old. Cribs shall have a firm, comfortable waterproof mattress. For sanitary reasons, individual sheets and covers shall be provided for each child and shall be laundered as needed. Where mats are used, floors shall be warm and free from drafts and dampness. Cots and all other equipment and furnishings shall be properly spaced so as to allow free and safe movement by children and adults.

(g) Tiered cribs shall not be allowed.

(h) Supplies shall be stored so that the adult may reach them without leaving the child unattended.

(i) There shall be a variety of safe, clean, washable toys, appropriate to the age levels and number of children present. Toys shall be too large to swallow, durable, and without sharp points or edges.

(j) Chairs shall be provided for staff to use when feeding, holding or playing with children.

(k) There shall be safe equipment that encourages crawling, walking, and climbing.

Section 16. [15.] Care of the Children. (1) Program. The day care center shall provide a planned program of activities geared to the individual needs and developmental levels of the children served. These activities shall provide experiences which promote the individual child's physical, emotional, social and intellectual growth and well-being. Activities of anyone living in the facility shall not interfere with the day care program. The daily program shall be under adult supervision and shall provide:

(a) A variety of creative activities which may include the following: art, music, dramatic play, stories and books, science, and block building.

(b) Indoor and outdoor play in which the children make use of both small and large muscles.

(c) A balance of active and quiet play, including group and individual activities, both indoors and outdoors.

(d) Opportunities for a child to have some free choice of activities and to play alone, if he/she desires, or with others.

(e) Opportunities to practice self-help procedures in respect to clothing, toileting, hand-washing, and feeding.

(f) Activity areas, equipment, and materials so arranged that the child's activities are visible to the supervising staff.

(g) Regularity of [physical] routines to afford the child the security of knowing what is coming next.

(h) Sufficient time for activities and routines so that children can progress at their own developmental rate.

(i) No long waiting periods between activities or prolonged periods during which children must stand or sit.

[(j) Diapering and toilet training shall be a relaxed, pleasant activity. Toilet training shall be coordinated with parent or guardian.]

[(k) Adequate quantities of freshly laundered or disposable diapers and clean clothing shall be always on hand.]

[(l) The infants/toddlers shall be kept clean, dry and comfortable throughout the day. Diapers and/or wet clothing shall be changed promptly.]

[(m) Soiled diapers shall be stored in covered containers temporarily and shall be washed at least once a day.]

[(n) When a child is diapered, the child shall be placed on a fresh washable surface or disposable covering.]

[(o) Individual washcloths and towels shall be used to thoroughly dry the child's buttocks.]

[(p) When training chairs are used, they shall be emptied promptly and sanitized at least once a day.]

[(q) Caregivers shall wash hands after diapering or toileting each child.]

[(r) The infant's formula shall be prepared and provided by the parent.]

[(s) Bottles shall be individually labeled and promptly refrigerated.]

[(t) Caregivers shall wash hands immediately before feeding children.]

[(u) At no time shall a child be placed in bed with a propped bottle.]

[(v) Infants/toddlers' shoes and restrictive clothing shall be removed for sleep periods.]

(2) Discipline. Disciplinary methods shall be in writing and implemented through positive guidance to help the individual child develop self-control and assume responsibility for his acts. The center shall:

(a) Establish simple and consistent rules both for children and staff that set the limits of behavior.

(b) Not subject children to harsh or physical discipline; loud, profane, threatening, frightening or abusive language shall not be used by staff or any other person on the premises.

(c) Not associate discipline with rest, toileting, or food.

(3) Health.

(a) Sufficient first aid supplies shall be available to provide prompt and proper first aid treatment. Written provisions shall be made for obtaining emergency medical care.

(b) Any child showing any signs of communicable illness may not be admitted. If a child becomes ill during the day, he/she shall be placed in a supervised area isolated from the rest of the children. In a situation where a child becomes ill, the parent or authorized person shall be contacted immediately and arrangements will be made to remove the child from the center. [, until arrangements can be made for him/her to be taken home.]

(c) No medication shall be given to a child except as prescribed by a duly licensed physician and/or on written daily request of the parent or guardian. The center shall keep a written record of the administration of each medication, including time, date and amount. Medication shall be properly labeled and stored in a separate place out of reach of children. Prescriptions shall be in the original bottle and properly labeled. At no time will medication be given to a child if the expiration date on the bottle has passed.

(d) Good personal hygiene shall be practiced by all persons in the center and children shall be helped with their personal care and cleanliness.

(e) Diapering and toilet training shall be a relaxed, pleasant activity. Toilet training shall be coordinated with parent or guardian.

(f) Adequate quantities of freshly laundered or disposable diapers and clean clothing shall be always on hand.

(g) The infants/toddlers shall be kept clean, dry and comfortable throughout the day. Diapers and/or wet clothing shall be changed promptly.

(h) Soiled diapers shall be stored in covered containers temporarily and shall be washed or disposed of at least once a day.

(i) When a child is diapered, the child shall be placed on a fresh washable surface or disposable covering.

(j) Individual washcloths and towels shall be used to thoroughly clean and dry the child's buttocks.

(k) When training chairs are used, they shall be emptied promptly and sanitized after each use.

(l) Caregivers shall wash hands with soap and running water after diapering or toileting each child.

(m) The infant's formula shall be prepared and provided by the parent. An exception may be made for centers that qualify for the child-care food program.

(n) Bottles shall be individually labeled and promptly refrigerated.

(o) Caregivers shall wash hands with soap and running water immediately before feeding children.

(p) At no time shall a child be placed in bed with a propped bottle.

(q) All children's shoes and restrictive clothing shall be removed for sleep periods.

(r) [(e)] The children in attendance shall have sufficient supervised rest not to exceed two (2) hours at any one time except in nighttime care, for their ages and for the number of hours spent at the facility.

(s) [(f)] The water supply shall be approved by the local health department. Drinking water shall be freely available and individual drinking cups provided where no fountains are provided.

(t) [(g)] Toilet articles such as combs, brushes, toothbrushes, towels and washcloths used by children shall be individual and plainly marked.

(u) [(h)] The facility shall provide all

children present at meal times with [All children present at meal time shall be served] a meal which includes a food from each of the four (4) basic food groups except for breakfast, which shall be from the three (3) groups of bread and cereal, milk, fruit juices or vegetables. Adequate amounts of food shall be available. The center shall provide a midmorning and midafternoon snack. All school-age children shall be provided a snack after school.

(v) [(i)] Children shall be seated at eating time with sufficient room to manage food and tableware.

(w) [(j)] Individual eating utensils shall be of size and design that children can handle easily.

(x) [(k)] Weekly menus shall be prepared, dated and posted in advance in a conspicuous place. Menus shall be kept on file for thirty (30) days.

(4) Nighttime care.

(a) No child in care is permitted to spend more than sixteen (16) hours in the facility during one (1) twenty-four (24) hour period or day. Where school-age children are served, time spent in school shall be included in the sixteen (16) hour limit.

[(b) Staff members shall remain awake while on duty.]

(b) [(c)] At least one (1) staff member shall be stationed in an area on the same floor with children, either in or adjacent to each sleeping room.

(c) [(d)] A nighttime care facility, if children are present for extended periods of time during their waking hours, shall provide a program of well-balanced and constructive activities geared to the age levels and developmental needs of the children served.

(d) [(e)] Children sleeping three (3) hours or more shall sleep in pajamas or nightgowns. School children shall be offered breakfast if they go to school from the center.

Section 17. [16.] Health and Sanitation. (1) All facilities are to have a three (3) compartment sink or such other equipment and procedures approved by the cabinet for the purpose of washing and sanitizing all dishes, silverware, eating and cooking utensils after use.

(2) Type I and Type II facilities shall conform to the following minimum food service and sanitation guidelines for day care homes and centers:

(a) Food supplies. All food shall be from sources approved or considered satisfactory by the health authority and shall be clean, free from spoilage, free from adulteration and misbranding and safe for human consumption. No hermetically sealed, nonacid and low-acid food which has been processed in a place other than a commercial food-processing establishment shall be used. Food served shall be from a source which is in compliance with applicable state and local laws and regulations. Established commercial food stores may be assumed to be an acceptable source.

(b) Food protection.

1. All food, while being stored, prepared and displayed or served shall be protected against contamination from dust, flies, rodents and other vermin; unclean utensils and work surfaces; unnecessary handling; coughs and sneezes, flooding, drainage and overhead leakage.

2. All potentially hazardous food shall, except when being prepared and served, be kept in a safe environment for preservation.

3. Frozen food shall be kept at such temperatures as to remain frozen, except when being thawed for preparation or use. Potentially hazardous frozen food shall be thawed at refrigerator temperatures or under cool, potable running water, or quickthawed as part of the cooking process, or by any other method satisfactory to the health authority.

4. Each cold-storage facility used for storage of perishable food in nonfrozen state shall be provided with an indicating thermometer or other appropriate temperature measuring device.

5. Convenient and suitable utensils, such as forks, knives, tongs, spoons or scoops, shall be provided and used to minimize handling of food at all points where food is prepared.

6. Poultry, pork and their products which have not been specially treated to destroy bacteria, including trichinae, shall be thoroughly cooked. Fruits and vegetables shall be washed before cooking or serving.

7. Meat salads, poultry salads, potato salads, and cream filled pastries shall be prepared with utensils which are clean and shall, unless served immediately, be refrigerated pending service.

8. All food shall be stored in clean racks, shelves or other clean surfaces. Food in nonabsorbent type containers may be stored on the floor when it is maintained in an acceptable sanitary condition.

9. Individual portions of food once served to a child shall not be served again; provided, however, that wrapped food, which is still wholesome and has not been unwrapped, other than potentially hazardous food, [which is still wholesome and has not been unwrapped] may be reserved.

10. All poisonous and toxic material shall be properly identified and stored in cabinets which are used for no other purpose, or stored in a place outside food storage, food preparation, and utensil storage areas.

(c) Personnel.

1. Health and disease controls: No person while infected with any disease in a communicable form, or while a carrier of such disease, or while afflicted with boils, infected wounds, sores, or an acute respiratory infection, shall work in any area of a facility in any capacity in which there is a likelihood of such person contaminating food or food contact surfaces with pathogenic organisms or transmitting disease to other individuals. If the manager or person in charge of the facility has reason to believe any employee has contracted a disease, he shall advise that employee to seek appropriate treatment.

2. Cleanliness. All employees shall maintain personal cleanliness and conform to hygienic practices while on duty. They shall wash their hands thoroughly before starting work, and as often as may be necessary to remove soil and contamination. No employee shall resume work after visiting the toilet room without first washing his/her hands.

(d) Food equipment and utensils.

1. All food contact surfaces of equipment and utensils used in a facility shall be smooth, free of breaks, open seams, cracks, chips, and also be accessible for cleaning, and nontoxic.

2. Cleanliness of equipment and utensils. All

eating and drinking utensils shall be cleaned after each usage. All kitchenware and food contact surfaces of equipment, exclusive of cooking surfaces of equipment, used in preparation or serving of food or drink, and all food storage utensils, shall be cleaned after each use. Cooking surfaces of equipment shall be cleaned at least once a day. All utensils and food contact surfaces of equipment used in preparation, service, display, or storage of potentially hazardous food shall be cleaned prior to such use. Nonfood contact surfaces of equipment shall be cleaned at such intervals as to keep them in a clean and sanitary condition. After cleaning and until use, all food contact surfaces of equipment and utensils shall be stored and handled as to be protected from contamination. All single-service articles shall be stored, handled, and dispensed in a sanitary manner, and shall be used only once.

(e) Sanitary facilities and controls. All facilities shall have lavatories located in or immediately adjacent to all toilet rooms.

(f) Vermin control.

1. Effective control measures shall be utilized to minimize the presence of rodents, flies, roaches, and other vermin on the premises.

2. Unless flies and other flying insects are absent from the immediate vicinity of the establishment, all openings to the outer air shall be effectively protected against the entrance of such insects by self-closing doors, closed windows, screening, controlled air current, or other effective means.

(g) Other facilities and operations (floors, walls and ceilings). Walls and ceilings shall be smooth and constructed to be easily cleanable. All walls and ceilings shall be kept clean and in good repair.

(h) Ventilation. The kitchen in a facility shall be adequately ventilated to the outside air.

(i) Water supply. The water supply for the facility shall be properly located, protected and operated, and shall be adequate and of an approved source.

1. The water supply is favorably located away from all possible sources of contamination and is easily accessible to encourage its use. The approved distance from toilets, septic tanks, etc., may vary, depending upon type of soil, topography, etc. The source of water supply is a public water supply, approved by the Cabinet for Natural Resources and Environmental Protection, or a spring, or well, or cistern which complies with the specifications for construction and protection required by the Cabinet for Natural Resources and Environmental Protection.

2. The water supply is adequate in quantity and pressure to permit unlimited use.

3. All ground water supplies for facilities caring for more than twenty-five (25) children shall meet the specifications of the Cabinet for Natural Resources and Environmental Protection. Facilities caring for twenty-five (25) children or less may secure approval from the local health department.

4. Individual drinking cups or paper cups are required.

(j) Sewage and solid waste disposal. All sewage and solid waste shall be properly disposed of and solid waste shall be kept in suitable receptacles in accordance with local, county and state laws.

1. All sewage and liquid wastes are disposed of in a public sewer or, in the absence of a public sewer, by a method approved by the Cabinet for Natural Resources and Environmental Protection. Consultation will be sought from the Cabinet for Natural Resources and Environmental Protection or the local sanitarian having jurisdiction on facilities in which the adequacy of the plumbing is questioned.

2. All waste paper and solid waste is disposed of in a manner approved by the state and local health regulations. Easily cleanable containers shall be provided for storage of waste materials. All garbage and rubbish containing food waste shall be stored in containers and kept covered.

(k) Toilet and hand-washing facilities. Each facility shall be provided with adequate and conveniently located toilet and hand-washing facilities. Toilets shall be kept in clean condition, in good repair, lighted and ventilated. In case privies are permitted and used, they shall be of sanitary type, constructed and operated in conformity with the standards of the Cabinet for Human Resources. Hot and cold water under pressure, soap and approved towels shall be provided at lavatories. Covered waste receptacles shall be provided in each toilet room.

1. Adequate toilet facilities, in desirable locations are provided. Hand-washing facilities shall be adequate and conveniently located. Privies shall be constructed and operated in accordance with the standards of the Cabinet for Human Resources.

2. Each toilet room shall be lighted, ventilated to the outside air, and kept in good repair.

3. A supply of toilet paper is to be on hand at all times. Soap and individual cloth or paper towels are provided. Most new commercial soap dispensers are satisfactory.

[4. No child shall return from the toilet to activities without first washing hands.]

4. [5.] Easily cleanable receptacles shall be provided for waste materials.

5. [6.] Hand-washing facilities are of such type that the washing of hands under warm running water may be accomplished.

6. [7.] All openings to the outer air in the toilet rooms are effectively screened.

Section 18. [17.] Transportation. (1) When transportation is provided directly, contracted for or arranged by a day care facility, these requirements shall apply:

(a) There shall be conformance to state laws pertaining to vehicles, drivers and insurance.

(b) The staff-child ratio set in this regulation in Section 9(3) of this regulation, shall apply when not inconsistent with special requirements or exceptions in this section.

(c) Any center providing transportation service shall have an individualized written plan and statement of transportation policies and procedures.

(d) Each child shall have a seat and remain seated while the vehicle is in motion.

(e) On any vehicle equipped with seat belts, these shall be used to secure individual children.

(f) All vehicles used to transport children shall be designed and offered with seats for each passenger as manufactured standard equipment.

(g) A vehicle containing children shall never

be left unattended.
(h) The maximum number of children under the age of six (6) a driver shall supervise alone is five (5). The staff/child ratios shall apply after this number. No children under two (2) years of age shall be transported unless restrained in an approved safety seat or accompanied by another adult.
(i) A child under age six (6) shall not be left unattended at the time of delivery.
(j) If the parent, or a person authorized by the parent to accept the child, is not present upon delivery of the child, a note shall be left explaining where the child can be picked up.
(k) If anyone other than the authorized person is to receive the child, such arrangements shall be made by the parent or guardian.
(2) The vehicle shall not pick up and deliver children to a location which would require the child to cross the street or highway unless accompanied by an adult.
(3) The following standards shall be met when transportation is provided by any means other than licensed public transportation:
(a) The vehicle shall be maintained in good mechanical/operable condition at all times.
(b) A thorough inspection of the vehicle shall be made and documented by a qualified mechanic at least every six (6) months.
(c) Vehicles used to transport children, which require other traffic to stop while loading and unloading children at their various homes along public roads, shall be equipped with a system of signal lamps, identifying color and words.
(d) The motor shall be turned off, keys removed, and brake set any time the driver is not in the driver's seat.

ANNA GRACE DAY, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 11, 1987
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 21, 1987 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by October 16, 1987 of their desire to appear and testify at the hearing: Ryan Halloran, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Eugenia Jump
(1) Type and number of entities affected: All day care providers - statewide.
(a) Direct and indirect costs or savings to those affected: May be some nominal costs to day care centers for staff training.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Minimal
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None that would affect Department for Social Services, may have some effect on Division of Licensing and Regulation.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Applies statewide.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:026. Dental 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 dental services for which payment shall be made by the Medical Assistance Program in behalf of both the categorically needy and the medically needy.

Section 1. Out-of-hospital Services. Payment for services is limited to those procedures listed in the cabinet's dental benefit schedule which are included in the following categories:
(1) Diagnostic;
(2) Preventive;
(3) Oral surgery;
(4) Endodontics;
(5) Orthodontics;
(6) Prosthetics;
(7) Operative;
(8) Crown; and
(9) Other services.

Section 2. Limitations for those under Age Twenty-one (21). The following limitations shall be applicable with regard to services provided to eligible recipients of medical assistance who are under age twenty-one (21):
(1) Dental prophylaxis, to include application of stannous fluoride, is limited to one (1) treatment per year.
(2) Bitewing x-rays are limited to four (4) x-rays per patient per year per dentist.
(3) Full mouth radiograph is limited to one (1) per patient per every two (2) years per dentist.
(4) The following orthodontic procedures are limited per twelve (12) month period to any combination totaling two (2) per patient: fixed space maintainer, band type; removable space maintainer, acrylic; removable appliance for

tooth guidance; and fixed or cemented appliance for tooth guidance.

(5) The following prosthetic procedures are limited as specified for the individual procedure:

(a) Transitional appliance, includes one (1) tooth on appliance, upper appliance, is limited to one (1) per twelve (12) month period, per patient;

(b) Transitional appliance, includes one (1) tooth on appliance, lower appliance, is limited to one (1) per twelve (12) month period, per patient;

(c) Repair of fracture of transitional appliance and space maintainer is limited to three (3) per twelve (12) month period, per patient;

(d) Repair of fracture and replacement of one (1) broken tooth on a transitional appliance and space maintainer is limited to three (3) per twelve (12) month period, per patient;

(e) Repairing broken complete denture with no teeth damaged is limited to three (3) per twelve (12) month period, per patient; and

(f) Repairing broken complete denture and replacing one (1) broken tooth is limited to three (3) per twelve (12) month period, per patient.

(g) Relining upper denture (flask cured only) is limited to one (1) per twelve (12) month period per patient.

(h) Relining lower denture (flask cured only) is limited to one (1) twelve (12) month period per patient.

Section 3. Inpatient Hospital Services. (1) Payment shall be made for all hospital inpatient services rendered by oral surgeons subject to the general physician limitations shown in 907 KAR 1:009, Physicians' services.

(2) Payment shall be provided for services rendered by general dentists for hospital inpatient care for patients termed to be "medically a high risk," defined as:

(a) Heart disease;

(b) Respiratory disease;

(c) Chronic bleeder;

(d) Uncontrollable patient, i.e., retardate, emotionally disturbed;

(e) Other, e.g., car accident, high temperature, massive infection.

Section 4. Coverage of Dental Benefits for Adults. The following named dental benefits only shall be covered for adults (eligible individuals aged twenty-one (21) or over), effective January 1, 1982 except as otherwise specified in this regulation.

(1) Oral surgery, as follows:

(a) Extraction, [uncomplicated,] single tooth, with local anesthetic and including routine postoperative care, effective with regard to services provided on or after November 1, 1987; [and]

(b) Extraction, [uncomplicated,] each additional tooth, with local anesthetic and including routine postoperative care, effective with regard to services provided on or after November 1, 1987; and

(c) Root removal (but not payable on the same day the same tooth was extracted).

(2) Operative, as follows:

(a) Amalgam filling for one (1) surface cavity;

(b) Amalgam filling for two (2) surface cavity;

(c) Amalgam filling for cavity involving three (3) or more surfaces;

(d) Silicate cement filling;

(e) Acrylic, plastic, or composite filling; and

(f) Buildup to repair a fractured incisal or anterior tooth.

(3) Diagnostic services, as follows:

(a) Bitewing x-rays, limited to four (4) x-rays per patient per year per dentist;

(b) Intraoral periapical radiograph, single view; and

(c) Full mouth radiograph, single panoramic film limited to one (1) per patient per every two (2) years per dentist.

(4) Preventive services as follows: adult dental prophylaxis, effective with regard to services provided on or after August 1, 1986.

(5) [(4)] Other services, as follows: emergency treatment for pain, infection and hemorrhage.

Section 5. Other Provisions, Limitations and Clarifications. (1) Intraoral periapical radiograph, single view, is limited to fourteen (14) per patient, per year, per dentist.

(2) The procedure code for stainless steel crown will also include polycarbonate (acrylic) and full composite crown for anterior teeth. However, should a provider choose to provide crowns for anterior teeth, the usual and customary charge for a stainless steel crown must be billed.

(3) Bonded veneers are not covered as a separate entity, nor should they be provided and billed under any existing procedure code.

(4) The Sargenti method of root canal treatment is not covered under the present root canal procedure codes.

(5) The Medical Assistance Program recognizes five (5) surfaces of a tooth (buccal or labial, mesial, distal, lingual, occlusal or incisal). Only one (1) filling may be billed per surface with a maximum of five (5) per tooth.

(6) Nitrous oxide is not covered under the procedure for general anesthesia or any other procedure.

R. HUGHES WALKER, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 14, 1987
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 21, 1987 at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 16, 1987 of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: R. Hughes Walker

(1) Type and number of entities affected: Potentially, all participating dentists and eligible Medicaid recipients.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: $125,000-$150,000 (costs).
2. Continuing costs or savings: $125,000-$150,000 (costs).
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Not applicable for Medicaid regulations.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This regulation does not set state compliance standards.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:027. Payments for dental services.

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

Section 1. Out-of-hospital Care. (1) The cabinet shall reimburse participating dentists for covered services rendered to eligible medical assistance recipients at rates based on the dentist's usual customary, reasonable, and prevailing charges.
(2) Definitions. For purpose of determination of payment.
(a) "Usual and customary charge" refers to the uniform amount which the individual dentist charges in the majority of cases for a specific dental procedure or service.
(b) "Prevailing charge" refers to those charges which fall within the range of charges as computed by the use of a predetermined and established statistical percentile. Prevailing charges for each dental procedure are derived from the overall pattern existing within the state.
(3) Method and source of information on charges.
(a) Effective with fee revisions December 1, 1974 and after, individual fee profiles for participating dentists will be generated from historical data accumulated from charges submitted and processed by the Medical Assistance Program during all of the calendar year preceding the start of the fiscal year in which the determination is made.
(b) Effective with revisions December 1, 1974 and after, Title XIX prevailing fee maximums will be generated from the same historical data as referenced in paragraph (a) of this subsection.
(c) Effective with revisions December 1, 1974 and after, when applicable, Title XVIII, Part B current aggregate prevailing charge data will be utilized by the Medical Assistance Program.
(d) Percentile. The Title XIX prevailing charges were established by utilizing the statistical computation of the 50th and 75th percentile.
(4) Maximum reimbursement for covered procedures. Reimbursement for covered procedures shall be limited to the lowest of the following:
(a) The actual charge for services rendered as submitted on the billing statement.
(b) The dentist's median charge for a given service derived from claims processed during all of the calendar year preceding the start of the fiscal year in which the determination is made.
(c) The Title XIX prevailing fee maximum for a given service, derived from claims processed as described in paragraph (b) of this subsection.

Section 2. Hospital Inpatient Care. (1) Hospitalized inpatient care, <u>which is paid in the same manner as shown in Section 1 of this regulation with the exception that the same inpatient hospital rate reduction applied to physicians will also be applied to general dentists,</u> refers to those services provided inpatients. It does not include dental services provided in the outpatient, extended care or home health units of hospitals. Any dentist submitting a claim for [either of the two (2)] hospital inpatient care benefits [- attendance or consultation -] must agree to accept payment in full for services rendered that patient during that admission.
(2) A general dentist may submit a claim for hospital inpatient services for the patient termed "medically a high risk." Medically high risk is defined as a patient in one (1) of the following classifications:
(a) Heart disease;
(b) Respiratory disease;
(c) Chronic bleeder;
(d) Uncontrollable patient (retardate, emotionally disturbed); or
(e) Other (car accident, high temperature, massive infection, etc.).
[(3) A general dentist shall receive "attendance fee" or "consultation fee" for the hospital inpatient service in the amount of forty (40) dollars as "attendance fee" and

twenty (20) dollars as "consultation fee."]

[(4) "Attendance fee" is considered to be full payment for daily attendance of a hospital inpatient, per admission, regardless of length of stay, diagnosis, or type of professional service rendered. This fee is to be requested by the attending dentist for any given admission. The attendance fee is not applicable to services included under in-hospital surgery.]

[(5) "Consultation fee" is considered to be in full payment of consultation provided on behalf of a hospital inpatient or at the request of the consulting dentist. This fee may be paid to more than one (1) dentist per admission. The fee is thus considered full payment for all consultation provided by a given dentist (other than the attending dentist) during a given admission.]

Section 3. Oral surgeons shall be treated in the same manner as physicians for reimbursement purposes, and shall be subject to the terms and conditions of payment shown in 907 KAR 1:010, Payments for physicians' services.

Section 4. The amendments to this regulation shall be effective with regard to services provided on or after November 1, 1987.

R. HUGHES WALKER, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: September 14, 1987
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for October 21, 1987 at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by October 16, 1987 of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: R. Hughes Walker
(1) Type and number of entities affected: Potentially, all participating general dentists and eligible Medicaid recipients.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: Minimal costs
2. Continuing costs or savings: Minimal costs
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Not applicable for Medicaid regulations.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This regulation does not set state compliance standards.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Not applicable.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

PROPOSED REGULATIONS RECEIVED THROUGH SEPTEMBER 15

GENERAL GOVERNMENT CABINET
Board of Hairdressers and Cosmetologists

201 KAR 12:170. Complaints and investigations.

RELATES TO: KRS 317A.140, 317A.145
PURSUANT TO: KRS 317A.060, 317A.145
NECESSITY AND FUNCTION: The board shall receive and investigate complaints relating to licensee's business or professional practices and illegal practices.

Section 1. All complaints shall be in writing and shall contain the name, address, telephone number, date and signature of the person making the complaint and the name and address of the person or persons against whom charges are made.

Section 2. The complaint shall contain a clear and concise description of the issues of fact and law involved and the statutes and regulations which were allegedly violated by the person or persons against whom the complaint is brought.

Section 3. The person making the complaint shall indicate willingness to testify in the event it is necessary.

Section 4. Any complaint or charge filed with the board will be forwarded to the person against whom the complaint is filed and the person will be given ten (10) days from date of receipt to respond, in writing, to the board.

Section 5. Upon receipt of the response, the

board shall determine whether the nature and quality of the charges are such that further investigation or the initiations of a hearing procedure is warranted. In making its determination, the board shall consider whether the charges are such that if proven would warrant discipline by the board.

Section 6. Upon the completion of any investigation, the person or persons making such investigation shall submit a written report, to the board, containing all facts disclosed by the investigation.

Section 7. Upon receipt of the complaint and answer, and/or upon completion of the investigation, the board may dismiss a case if insufficient evidence is discovered during the investigation to justify further proceedings.

Section 8. Upon receipt of the complaint and answer, and/or upon completion of the investigation, the board may set a case for hearing.

Section 9. The board may, at any time, proceed with an investigation on its own initiative either on the basis of information contained in its own records on the basis of information obtained through its own investigation.

Section 10. Whether charges are initiated by written complaint or the board's own volition, no formal charge shall be brought against a person except upon the affirmative vote of a majority of the board.

Section 11. All preliminary information will be treated as confidential during the investigation and shall not be disclosed to the public. If a board member has participated in the investigation or has substantial knowledge of facts prior to a hearing on the complaint that could influence an impartial decision by the member, that member shall not participate in the adjudication of the complaint.

CARROLL ROBERTS, Administrator
APPROVED BY AGENCY: September 3, 1987
FILED WITH LRC: September 15, 1987 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on October 30, 1987 at 2 p.m. The hearing will be held at 314 West Second Street, Frankfort, Kentucky. Contact Carroll Roberts, Administrator.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carroll Roberts
(1) Type and number of entities affected: N/A
(a) Direct and indirect costs or savings to those affected: N/A
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: N/A
(2) Effects on the promulgating administrative body: N/A
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Tiering was not applied as it was not necessary.

GENERAL GOVERNMENT CABINET
Board of Nursing

201 KAR 20:380. Standards for refresher course approval.

RELATES TO: KRS 314.101
PURSUANT TO: KRS Chapter 314
NECESSITY AND FUNCTION: It is necessary for the board to develop standards for approval of refresher courses for nurses.

Section 1. Definition. (1) "Approved refresher course" means an organized learning experience, designed, planned, and evaluated to meet behavioral objectives designed to: update knowledge of current nursing theory and clinical practice. By design, a refresher course consists of didactic and clinical learning experiences which address current professional entry level competencies by licensure category.
(2) "Approved" means board recognized.
(3) "Successful completion" means the participant has satisfactorily met the behavioral objective requirements of the refresher course.

Section 2. Refresher Course Approval Application. An approved refresher course shall comply with the board's administrative standards as stated herein. Using forms supplied by the board, the applicant for approval of a refresher course shall submit evidence of:
(1) Nurse administrator of refresher course. A nurse, holding a current, active license, with experience in adult and nursing education shall be administratively responsible for the planning, development, implementation, and evaluation of the refresher course. The nurse administrator shall hold a baccalaureate or higher degree in nursing.
(2) Instructor(s) qualifications. The instructor(s) shall have academic preparation equal to, or greater than, that of the target audience and shall have documented expertise in the subject matter, and experience in presenting content to adult learners and facilitating adult learning.
(3) Course syllabus. The course syllabus shall include:
(a) Course requirements and prerequisites including identification of target audience and fees.
(b) Course objectives. The course objectives shall provide statements of observable behaviors, which when taken as a whole, present a clear description of the competencies to be achieved by the learner.

(c) Unit objectives. The unit objectives shall be stated in operational/behavioral terms. Each objective shall have corresponding content identified.

(d) Content. The content shall be described in outline format with corresponding time frames indicated for each content area. The content shall be related to, and consistent with, the objective.

(e) Time frame. The time frame for each topical area shall be identified with the division of time between didactic and clinical learning indicated. The time allotted shall be consistent with objectives and appropriate for the content being presented.

(f) Teaching methods. The activities of both teacher(s) and learner(s) shall be specified in relation to content outline. These activities shall be congruent with stated objectives and content, and reflect application of adult learning principles.

(g) Evaluation. There are clearly defined methods for evaluating the learner's achievement of each educational objective.

(h) Instructional/reference materials. All required instructional materials and reference shall be identified.

(4) Completion requirements. Requirements for successful completion of the refresher course shall be clearly specified and a statement of policy regarding candidates who fail to successfully complete the refresher course shall be included.

(5) Course presentation dates. The initial schedule of course presentation dates shall be indicated, and provision shall be made for notifying the board at least two (2) months prior to scheduling on an ongoing basis.

(6) Contact hour credit for continuing education. Any portion of a refresher course conducted by a board approved provider of continuing education, which the provider identifies as being continuing education, shall be approved for contact hour credit which may be applied to licensure requirements.

(7) Clinical practice. The instructor-student ratio for clinical experience shall not exceed 1-12.

(8) Approval period. Board approval for a refresher course shall be granted for a two (2) year period.

Section 3. Continued Board Approval of a Refresher Course. (1) Applications for continued approval of a refresher course shall be submitted at least two (2) months prior to the end of the current biennial approval period.

(2) A revised course syllabus which reflects an annual updating of course content shall be submitted with the application for continued approval of a refresher course.

(3) Continued approval shall be based on the past approval period performance and compliance with board standards.

(4) Refresher course approval awarded by another organization may be recognized by the board as equivalent or comparable, provided the organization's standards and criteria for refresher course approval have been reviewed and accepted by the board.

Section 4. The board may deny, revoke, suspend, or probate the approval status of any refresher course for cause.

Section 5. Appeal. If a refresher course administrator is dissatisfied with a board decision concerning approval and wishes a review of the decision, the following procedure shall be followed:

(1) A written request for the review must be filed with the board within thirty (30) days after the date of notification of the board action which the refresher course administrator contests.

(2) The board, or its designee, shall conduct a review in which the refresher course administrator may appear in person and present reasons why the board's decision should be set aside or modified.

SHARON M. WEISENBECK, Executive Director
APPROVED BY AGENCY: September 15, 1987
FILED WITH LRC: September 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 27, 1987 at 1 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by October 22, 1987: Sharon M. Weisenbeck, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck

(1) Type and number of entities affected: Current regulation requires that those persons not holding a current active license for the previous five years must show evidence of either earning forty-five approved contact hours of continuing education or a board approved refresher course as part of the eligibility for active licensure. This regulation clarifies minimum requirements for refresher course approval.

(a) Direct and indirect costs or savings to those affected: Affected entities assume the cost for application submission.

1. First year: As above 1(a).
2. Continuing costs or savings: As above
3. Additional factors increasing or decreasing costs (note any effects upon competition): The board requires providers to periodically submit documentation of participant competency. Affected individuals assume associated costs.

(b) Reporting and paperwork requirements: Affected individuals will be required to submit written application to the board.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: The Kentucky Board of Nursing assumes costs for application services.

1. First year: As above
2. Continuing costs or savings: As above
3. Additional factors increasing or decreasing costs: None known

(b) Reporting and paperwork requirements: Review of application.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Minimum requirements for approval are established entities for wishing to present refresher courses.

(5) Identify any statute, administrative

regulation or government policy which may be in conflict, overlapping, or duplication: None known
(a) Necessity of proposed regulation if in conflict: Not applicable
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable
(6) Any additional information or comments: None
TIERING: Was tiering applied? Tiering was not applicable.

GENERAL GOVERNMENT CABINET
Kentucky Athletic Commission

201 KAR 27:018. Referees and seconds to wear surgical gloves.

RELATES TO: KRS 229.081, 229.091(1)
PURSUANT TO: KRS 229.180
NECESSITY AND FUNCTION: This regulation is designed to protect referees and seconds in boxing matches from infectious or communicable diseases.

Section 1. At all times while carrying out their official duties, referees and seconds at professional boxing matches or exhibitions in Kentucky shall wear surgical gloves or such other protective clothing as may be required by the commission or a representative thereof.

FRED H. LAMPSON, Chairman
APPROVED BY AGENCY: August 14, 1987
FILED WITH LRC: August 27, 1987 at 3 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on these proposed regulations will be held on October 21, 1987, at the hour of 10:30 a.m. EDT at the offices of the Kentucky Athletic Commission, Kentucky Towers, 430 Muhammad Ali Blvd., Louisville, Kentucky 40202. Any person interested in commenting on this regulation at that hearing should contact Ms. Mary Abel, Executive Secretary, Kentucky Athletic Commission, Kentucky Towers, 430 Muhammad Ali Blvd., Louisville, Kentucky 40202, in writing by October 16, 1987.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Mary Abel
(1) Type and number of entities affected: Approximately 200 licensees.
(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: Minimal
(2) Effects on the promulgating administrative body: No significant effect.
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? N/A

GENERAL GOVERNMENT CABINET
Kentucky Athletic Commission

201 KAR 27:019. Boxer repeatedly knocked out or otherwise defeated.

RELATES TO: KRS 229.111, 229.091(1)
PURSUANT TO: KRS 229.180
NECESSITY AND FUNCTION: This regulation is designed to protect boxers from life-threatening injury as a result of being repeatedly knocked out or otherwise defeated.

Section 1. A boxer who has been repeatedly knocked out and severely beaten shall be retired and not permitted to box again if, after subjecting him to a thorough examination by a physician, the commission decides such action is necessary in order to protect the health and welfare of such boxer.

Section 2. A boxer who has suffered six (6) consecutive defeats by knockout shall not be allowed to box again until he has been investigated by the commission and examined by a physician.

FRED H. LAMPSON, Chairman
APPROVED BY AGENCY: August 14, 1987
FILED WITH LRC: August 27, 1987 at 3 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on these proposed regulations will be held on October 21, 1987, at the hour of 10:30 a.m. EDT at the offices of the Kentucky Athletic Commission, Kentucky Towers, 430 Muhammad Ali Blvd., Louisville, Kentucky 40202. Any person interested in commenting on this regulation at that hearing should contact Ms. Mary Abel, Executive Secretary, Kentucky Athletic Commission, Kentucky Towers, 430 Muhammad Ali Blvd., Louisville, Kentucky 40202, in writing by October 16, 1987.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Mary Abel
(1) Type and number of entities affected: Approximately 200 licensees.
(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: Minimal
(2) Effects on the promulgating administrative body: No significant effect.
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? N/A

TOURISM CABINET
Department of Fish and Wildlife Resources

301 KAR 1:190. Special restrictions on the sale of musseling licenses.

RELATES TO: KRS 150.025, 150.110, 150.170, 150.190
PURSUANT TO: KRS 13A.350, 150.025
NECESSITY AND FUNCTION: It is necessary to limit the issuance of mussel licenses in order to stabilize and eventually reduce the conflicts between mussel harvesters and other resource user groups.

Section 1. Effective August 24, 1987, and until further notice by the Fish and Wildlife Resources Commission, no additional musseling licenses will be issued and only current holders of valid musseling licenses will be permitted to renew those licenses in succeeding years.

Section 2. The musseling license is nontransferable and must be renewed in person with accompanying proof of identity and residency. The license must be renewed on or before March 31, following the year in which the license expires. Failure to renew within the specified period will result in the loss of the license.

G. WENDELL COMBS, Secretary
DON R. McCORMICK, Commissioner
CHARLES E. PALMER, JR., Chairman
APPROVED BY AGENCY: August 27, 1987
FILED WITH LRC: August 27, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 21, 1987 at 9 a.m. in the meeting room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Peter W. Pfeiffer, Director, Division of Fisheries, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick
(1) Type and number of entities affected: Approximately 200-300 potential commercial musselers.
(a) Direct and indirect costs or savings to those affected: Not applicable.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: Some potential loss of license revenue.
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: Little impact.
(4) Assessment of alternative methods; reasons why alternatives were rejected: No acceptable alternative available.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(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.

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

401 KAR 63:042. Requirements for asbestos abatement entities.

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

Section 1. Applicability. (1)(a) Except as provided in paragraph (b) of this subsection, the provisions of this regulation shall apply to each asbestos abatement entity which is involved in any asbestos abatement project.
(b) An asbestos abatement entity shall not be required to obtain the certificate as required in Section 3 of this regulation or attend the training required in Section 10 of this regulation in order to conduct asbestos abatement projects which are not subject to the provisions of 401 KAR 57:011, however, that entity shall comply with the provisions of Sections 4(3) and 12 of this regulation when performing such projects.
(2) Any person may request that the cabinet determine whether a project is an asbestos abatement project. Such a request shall include the type of disturbance involved, a description of the friable asbestos materials, and laboratory data sheets with bulk sample results, methods of analysis, and the signature of the analyst. The cabinet shall make its determination, in writing, not later than ten (10) working days after it has received a written request with complete and accurate information adequate to make a determination.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010 or 401 KAR 57:011.

(1) "Airlock" means a system of enclosures within the containment area consisting of two (2) doorways, curtained with polyethylene sheeting, at least three (3) feet apart.

(2) "Asbestos abatement project" means any renovation or demolition activity at a facility which may cause a disturbance of friable asbestos material.

(3) "Asbestos abatement entity" means any partnership, firm, association, corporation, sole proprietorship, or other business concern, any governmental agency, or any other organization, composed of one (1) or more employees or members, or any individual involved in any of the asbestos-related activities specified in subsection (2) of this section.

(4) "Certificate" means a permit issued by the cabinet pursuant to KRS 224.033(19) to allow an asbestos abatement entity to engage in asbestos abatement projects, including the use of equipment or practices that control the emissions of asbestos fibers into the outside air.

(5) "Certification fee" means a fee established by the cabinet pursuant to KRS 224.033(20) for the issuance of certificates to asbestos abatement entities according to the provisions of this regulation.

(6) "Clean room" means an uncontaminated area or room which is part of the worker decontamination enclosure system with provisions for storage of workers' street clothes and clean protective equipment.

(7) "Clearance air monitoring" means the monitoring of air conducted inside the work area after cleanup of an asbestos abatement project has been completed.

(8) "Containment area" means the entire area in which an asbestos abatement project is conducted; this includes, but is not limited to, the work area, equipment room, shower room, clean room, and all associated airlocks.

(9) "Demolition" means the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations.

(10) "Emergency operation" means a renovation operation that was not planned but results from a sudden, unexpected event. This term includes operations necessitated by nonroutine failures of equipment.

(11) "Equipment room" means a contaminated area or room which is part of the worker decontamination enclosure system with provisions for storage of contaminated clothing and equipment.

(12) "Facility" means any institutional, commercial, or industrial structure, installation, or building, excluding apartment buildings having no more than four (4) dwelling units.

(13) "Facility component" means any pipe, duct, boiler, tank, reactor, turbine, or furnace at or in a facility; or any structural member of a facility.

(14) "Friable asbestos material" means any material containing more than one (1) percent asbestos by weight that hand pressure can crumble, pulverize, or reduce to powder when dry.

(15) "Glovebag" means a manufactured device consisting of plastic with a thickness of six (6) mils or more, two (2) inward-projecting longsleeve rubber gloves, one (1) inward-projecting waterwand sleeve, an internal tool pouch, and an attached, labeled receptacle for asbestos waste. The glovebag is constructed and installed in such a manner that it surrounds the object or area from which the asbestos containing material is to be removed, and contains all asbestos fibers released during the removal process.

(16) "Glovebag technique" means a method of removing asbestos from pipes, ducts, valves, joints, and other nonplanar surfaces, which uses one (1) or more glovebags.

(17) "HEPA filtration" means high efficiency particulate air filtration found in respirators and vacuum systems capable of filtering particles greater than or equal to three-tenths (0.3) microns in size, with 99.97 percent efficiency.

(18) "HVAC" means a heating, ventilation, and air conditioning system.

(19) "Lockdown agent" means a protective coating or sealant which is applied to a surface from which asbestos-containing material has been removed.

(20) "OSHA" means the Occupational Safety and Health Administration.

(21) "Polyethylene sheeting" or "polyethylene bags" means sheeting or bags of polyethylene plastic with a thickness of six (6) mils or more, except as otherwise specified.

(22) "Publicly owned facility" means any facility owned by the state, or any political subdivision thereof, municipality, or other public entity.

(23) "Renovation" means altering in any way one (1) or more facility components. Operations in which load-supporting structural members are wrecked or taken out are excluded.

(24) "Shower room" means a room between the clean room and the equipment room in the worker decontamination enclosure system with hot and cold running water controllable at the tap and suitably arranged for complete showering during decontamination.

(25) "Structure" means a whole facility, building, or a major portion thereof, such as a building wing.

(26) "Work area" means the contaminated area within the containment area that contains the friable asbestos material which is to be abated.

Section 3. Prohibition. No asbestos abatement entity shall engage in any asbestos abatement project which is subject to the provisions of 401 KAR 57:011 after April 1, 1988, unless:

(1) A certificate to so engage in such projects has been issued by the cabinet in accordance with the provisions of this regulation, and is currently in effect. The provisions of this subsection shall not apply during the demonstration of compliance required in Section 6(2) of this regulation.

(2) At least one (1) person identified in Section 10 of this regulation is in attendance at the site of the containment area during the execution of the project.

Section 4. Work Practice Requirements. Except as specified, the work practice requirements of this section shall apply to asbestos abatement entities which perform the indicated asbestos abatement projects. The provisions of this section shall not apply to asbestos abatement

entities which perform asbestos abatement projects at the entities' own manufacturing or industrial facilities when the projects are performed exclusively by employees of the manufacturer or industry.

(1) Renovations addressed in 401 KAR 57:011. Any asbestos abatement entity that engages in any asbestos abatement project, including emergency operations, which is determined to be subject to the provisions of 401 KAR 57:011 and involves renovation shall comply with the following work practice requirements:

(a) All objects and exposed surfaces in the work area shall be cleaned. Moveable objects may then be removed. Objects not removed from the work area shall be covered with polyethylene sheeting secured in place. All openings within the containment area, including windows, doorways, elevator openings, corridor entrances, drains, ducts, grills, grates, diffusers, skylights, and openings created by the construction of any barriers, shall be sealed with polyethylene sheeting. Containment areas shall be established by permanent walls extending from the floor to the ceiling, or where permanent walls do not exist, by barriers. Barriers shall be constructed of polyethylene sheeting attached securely in place.

(b) Floor sheeting shall be installed within the containment area and shall consist of at least two (2) layers of polyethylene sheeting. Floor sheeting shall extend up sidewalls at least twelve (12) inches and shall be sized to minimize seams. No seams shall be located at wall-to-floor joints.

(c) Wall sheeting shall be installed throughout the containment area according to the procedures specified in this paragraph. All wall sheeting shall consist of polyethylene sheeting, with each layer having a thickness of at least four (4) mils, shall be securely installed to minimize seams, and shall extend beyond each wall-to-floor joint at least twelve (12) inches. No seams shall be located at wall-to-wall joints.

1. Within the work area. Wall sheeting on a permanent wall shall consist of at least two (2) layers. Wall sheeting on a barrier shall consist of at least one (1) layer.

2. Within all other areas of the containment area. Wall sheeting on a permanent wall shall consist of at least one (1) layer. No wall sheeting is required where barriers are used.

(d) A worker decontamination enclosure system shall be provided, consisting of a clean room, shower room, and equipment room, each separated from each other and from the work area by airlocks and accessible through doorways protected with two (2) overlapping polyethylene sheets.

(e) All HVAC equipment in or passing through the containment area shall be shut down, locked out, and tagged to advise personnel not to activate the equipment. All intake and exhaust openings and any seams in system components shall be sealed with polyethylene sheeting and waterproof tape.

(f) Warning signs shall be displayed at all approaches to any location where airborne fiber levels can be expected to exceed background levels. Such signs shall be of a vertical format measuring twenty (20) inches in length and fourteen (14) inches in width, and shall contain the following information which shall be printed in letters of sufficient size and contrast as to be readily visible and legible:

DANGER
ASBESTOS
CANCER AND LUNG DISEASE HAZARD
AUTHORIZED PERSONNEL ONLY
RESPIRATORS AND PROTECTIVE CLOTHING
ARE REQUIRED IN THIS AREA

(g) Negative pressure ventilation units with HEPA filtration and in sufficient number to provide one (1) workplace air change every fifteen (15) minutes shall be operated continuously for the duration of the project. The duration of the project for this requirement shall be considered to be from the time that a containment area is established and wall and floor sheeting are installed through the time that acceptable final clearance air monitoring results are obtained.

(h) All friable asbestos material shall be thoroughly wetted through to the substrate prior to removal.

(i) Facility components shall be removed intact or in large sections whenever possible and shall be carefully lowered to the floor. Other friable asbestos material shall be removed in small sections.

(j) Materials located at heights greater than fifteen (15) feet but less than or equal to fifty (50) feet above the floor shall be dropped into inclined chutes or onto scaffolding or containerized at their elevated levels for eventual disposal. For materials located at heights greater than fifty (50) feet above the floor, a dust-tight enclosed chute shall be constructed to transport removed material to containers on the floor.

(k) At no time shall the friable asbestos material that has been removed be allowed to accumulate or become dry.

(l) For porous surfaces that have been stripped of friable asbestos materials, a lockdown agent shall be applied to securely seal any residual fibers that may be present. The lockdown agent should be chosen so as to be compatible with subsequent covering.

(m) Following abatement, wall sheeting and floor sheeting shall be removed and containerized for disposal. A sequence of HEPA filtration vacuuming, wet wiping all exposed surfaces, and surface drying shall be performed until no visible residue is observed in the work area. A minimum of twenty-four (24) hours after wet wiping shall be required to ensure that sufficient drying has occurred.

(n) All asbestos-containing waste, except for large facility components, shall be thoroughly wetted before being placed into containers for disposal. Large components shall be thoroughly wetted before being wrapped in polyethylene sheeting for disposal. Disposal shall occur at locations identified in paragraph (u) of this subsection.

(o) Wet asbestos-containing waste shall be double bagged in polyethylene bags placed in sealed, rigid containers (for example: steel drums, fiber drums, or heavy cardboard boxes) for transport to the approved landfill identified in paragraph (u) of this subsection. Large facility components may be wrapped in two (2) layers of polyethylene sheeting which are secured with waterproof tape for disposal.

(p) All polyethylene sheeting that is used in an asbestos abatement project shall be treated as asbestos-containing waste.

(q) All wrapping or containerizing of asbestos-containing waste shall be done in such

a manner so as to prevent the outside of the wrapping or container from being contaminated with asbestos fibers.

(r) All packaged wastes (boxes, drums, and wrapped components) shall be labeled according to the provisions of 40 CFR 61.152, filed by reference in 401 KAR 57:011.

(s) Clearance air monitoring shall be performed. At least five (5) samples of air per work area, or one (1) sample per room, whichever is greater, shall be obtained for the clearance air monitoring. A sample volume of 3,000 liters of air shall be used. The air samples shall be obtained when the air is being artificially circulated so that the fibers remain airborne during the sampling. Barriers shall not be dismantled, and openings shall not be uncovered, until the final samples show total fiber concentrations of less than or equal to 0.01 fibers per cubic centimeter of air. The method for determining compliance with the provisions of this paragraph shall be either of the methods specified in Appendix M to "Guidance for Controlling Asbestos-Containing Materials in Buildings" (U.S. Environmental Protection Agency, Office of Pesticides and Toxic Substances, EPA 560/5-85-024, June 1985). Appendix M, "Detailed Specifications for Sampling and Analyzing Airborne Asbestos," is hereby adopted and filed herein by reference.

1. Copies of Appendix M to "Guidance for Controlling Asbestos-Containing Materials in Buildings" are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

2. Copies of the material incorporated by reference in this regulation shall be available for public review at the offices of the Division for Air Quality as listed in 401 KAR 50:015.

(t) Transport and disposal of asbestos-containing waste shall occur in a manner that will not permit the release of asbestos fibers into the outside air.

(u) Disposal shall occur at a site that has approval from the Division of Waste Management to accept asbestos-containing waste according to the provisions of Title 401, Chapter 47, and shall meet all other applicable local, state, and federal laws.

(v) The asbestos abatement entity shall submit copies of all results of sampling obtained during clearance air monitoring and all disposal receipts to the building owner and the cabinet.

(2) Demolitions addressed in 401 KAR 57:011. Any asbestos abatement entity that engages in any asbestos abatement project which is determined to be subject to 401 KAR 57:011 and involves demolition shall comply with the following work practice requirements:

(a) Any demolition of a structure or portion of a structure which contains facility components composed of or covered by friable asbestos material shall be preceded by a removal of all such materials prior to demolition, according to the requirements of subsection (1) of this section.

(b) In lieu of the requirements specified in subsection (1)(a), (b), (c), (e), and (l) of this section, asbestos abatement entities engaging in demolition activities shall comply with the following requirements:

1. Before beginning a demolition project, all doors, windows, floor drains, vents, and other openings to the outside of the building and to areas within the building that do not contain asbestos materials, shall be sealed off with polyethylene sheeting and waterproof tape; and

2. If a structure is to be partially demolished, all HVAC equipment in the demolition area or passing through it but servicing areas of the building which will remain, shall be shut down, locked out, tagged to advise personnel not to activate the equipment, and thoroughly sealed with polyethylene sheeting and waterproof tape.

(c) Clearance air monitoring as described in subsection (1)(s) of this section shall be required, following abatement activities conducted for demolition purposes, prior to demolition.

(d) All other requirements of subsection (1) of this section, unless specifically deleted in paragraph (b) of this subsection, shall apply to demolition abatement activities.

(3) Any asbestos abatement entity engaged in an asbestos abatement project, including emergency operations, not subject to the requirements of subsections (1) and (2) of this section shall take reasonable precautions to prevent the release of asbestos fibers to the outside air. Such precautions shall include, but not be limited to:

(a) Construction of adequate barriers or use of wall and floor sheeting to contain asbestos fibers released within the containment area;

(b) Wetting of all friable asbestos materials prior to removal and keeping them wet until containerized;

(c) Use of HEPA filtration vacuum equipment and wet cleaning techniques to clean up the work area following the project until there is no visible residue;

(d) Appropriately wrapping or containerizing asbestos-containing waste and labeling the packaged waste (wrapped components, boxes, or fiber or metal drums); and

(e) Transportation to and disposal at a location identified in subsection (1)(u) of this section in a manner that does not release fibers into the outside air.

(4) In lieu of the work practice requirements of subsection (1)(a) to (e), (g), (i), (m), (n), (p), and (s) of this section, subsection (2)(b) and (c) of this section, and subsection (3)(a) and (c) of this section, the asbestos abatement entity may elect to use the glovebag technique for an asbestos abatement project. Such technique is an acceptable alternative to those requirements. The cabinet may, on a case-by-case basis, approve other alternative work practice requirements for an asbestos abatement project provided that the asbestos abatement entity submits the alternative to the requirements to the cabinet, in writing prior to beginning the asbestos abatement project, and demonstrates to the satisfaction of the cabinet that compliance with the requirements prescribed in this section is not practical or not feasible and that the proposed alternative to the requirements provides an equivalent control of asbestos and is not in conflict with any applicable local, state, or federal law.

Section 5. Applications. (1) No asbestos abatement entity shall be considered for certification unless the training requirements of Section 10 of this regulation have been completed prior to application.

(2) Applications for certification required under Section 3 of this regulation shall be made on a form prepared by the cabinet for such

purpose and shall contain such information as the cabinet shall deem necessary to determine whether the certificate should be issued.

(3) Applications for certification shall be signed by a duly authorized agent of the asbestos abatement entity. Such signature shall constitute personal affirmation that the statements made in the application are true and complete.

(4) Failure to supply information required or deemed necessary by the cabinet to enable it to act upon the certification application shall result in denial of the certificate.

(5) Any asbestos abatement entity which submits an application for certification shall include with the application a filing fee, as specified in Section 8 of this regulation.

Section 6. Consideration of Applications. (1) Within thirty (30) days after receipt of an application for certification, the cabinet shall advise the asbestos abatement entity as to whether or not the application is complete, and if not complete, what additional information is necessary in order to evaluate the application.

(2) Within fifteen (15) days after the application for certification is deemed complete, the cabinet shall contact the asbestos abatement entity to establish a date when the cabinet can witness an asbestos abatement project which shall be performed by the entity to demonstrate compliance with the provisions of this regulation.

(3) The cabinet shall make its determination concerning the application, including its approval or denial, within thirty (30) days after attendance at the asbestos abatement project demonstration, unless the cabinet determines that an additional period of time is necessary to adequately review the application or its evaluation of the demonstration. The cabinet shall notify the asbestos abatement entity, in writing, of its determination and shall set forth its reasons for any denials.

(4) If the application is approved, the asbestos abatement entity shall submit the certification fee, as specified in Section 8 of this regulation. Upon receipt of the certification fee, the cabinet shall issue to the asbestos abatement entity the certificate to engage in asbestos abatement projects, according to the provisions of this regulation.

(5) The cabinet shall deny an application for certification if the cabinet determines that any provision of this regulation or 401 KAR 57:011 is not met, if the asbestos abatement entity willfully made any misstatements in the application, or if the owner or operator of an asbestos abatement entity, or an entity with a different name to which a certificate had previously been issued, cannot reasonably be expected to conduct himself or herself in a manner that is consistent with the acceptance of responsibility for asbestos abatement projects. The cabinet shall make determinations regarding issuance or denial of the certification based upon the applicant'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.

(6) Certificates issued hereunder shall be subject to such terms and conditions as set forth and embodied in the certificate as the cabinet shall deem necessary to ensure compliance with the requirements of this regulation and of 401 KAR 57:011.

Section 7. Duration and Renewal of Certificates. (1) Unless the cabinet revokes a certificate, that certificate, including renewal of certification, shall remain in effect for one (1) year after the date of issuance.

(2) No asbestos abatement entity shall be considered for renewal of certification unless the training requirements of Section 10 of this regulation have been completed prior to application.

(3) Applications for renewal of certification shall be made on a form prepared by the cabinet for such purpose and shall contain such information as the cabinet shall deem necessary to determine whether the certificate should be issued. Applications for renewal shall be submitted not earlier than ninety (90) days and not later than thirty (30) days before the date of expiration.

(4) Applications for renewal of certification shall be signed by a duly authorized agent of the asbestos abatement entity. Such signature shall constitute personal affirmation that the statements made in the application are true and complete.

(5) Failure to supply information required or deemed necessary by the cabinet to enable it to act upon the renewal application shall result in denial of that renewal.

(6) Any asbestos abatement entity which submits an application for renewal of certification shall include with the application a filing fee, as specified in Section 8 of this regulation.

(7) The cabinet shall make its determination concerning the application, including its approval or denial, within thirty (30) days of receipt of a complete renewal application. The cabinet shall notify the asbestos abatement entity, in writing, of its determination and shall set forth its reasons for any denials.

(8) If the renewal is approved, the asbestos abatement entity shall submit the fee for renewal of certification, as specified in Section 8 of this regulation. Upon receipt of the fee, the cabinet shall issue to the asbestos abatement entity the renewed certificate to engage in asbestos abatement projects, according to the provisions of this regulation.

(9) The cabinet may deny an application for renewal of certification if the asbestos abatement entity has failed to comply fully with all applicable requirements of this regulation or of 401 KAR 57:011 during the year preceding the renewal application.

Section 8. Fees. The provisions of this section shall not apply to any publicly owned facility, as defined in Section 2 of this regulation. All fees shall be submitted to the cabinet as a certified check or money order, payable to the Kentucky State Treasurer.

(1) Filing fee. Each asbestos abatement entity shall submit with the application for certification or renewal of certification, a filing fee, as specified in paragraph (a) or (b) of this subsection. Such fee is not refundable if the certification is denied or the application is withdrawn. The filing fee, shall be applied toward the certification or renewal fee when the certificate is issued, pursuant to Section 6 or 7 of this regulation.

(a) The filing fee for certification shall be

$100.
(b) The filing fee for renewal of certification shall be fifty (50) dollars.
(2) Certification or renewal fee. A fee as specified in paragraph (a) or (b) of this subsection, shall be submitted to the cabinet prior to the issuance of the certificate or renewed certificate to any asbestos abatement entity.
(a) The certification fee shall be $500.
(b) The fee for renewal of certification shall be $250.

Section 9. Certification Revocation. The cabinet may revoke any certification issued under this regulation if the asbestos abatement entity:
(1) Willfully makes any misstatements or knowingly omits information in the certification application, renewal application, or any amendments thereto;
(2) Fails to comply with the terms or conditions of the certification;
(3) Fails to comply with the work practice requirements in Section 4 of this regulation; or
(4) Fails to properly dispose of friable asbestos materials.

Section 10. Training Requirements. (1) As a part of the certification as required in Section 3 of this regulation, the asbestos abatement entity shall provide at least one (1) supervisory person who will be in attendance during the execution of each asbestos abatement project with an initial training course approved by the cabinet, and an annual retraining course approved by the cabinet.
(2) Persons identified in subsection (1) of this section shall be required to successfully complete a written examination, administered by the training sponsors, at the completion of the training or retraining course in order to demonstrate familiarity with those issues relevant to the safe performance of asbestos abatement activities. Correct response to at least seventy (70) percent of the examination questions shall be necessary to meet the requirements of this subsection.
(3) As a part of the certification as required in Section 3 of this regulation, persons identified in subsection (1) of this section shall attend an orientation program sponsored by the cabinet, concerning the requirements, procedures, and standards established by this regulation.
(4) If at any time, the supervisory person identified in subsections (1) through (3) of this section is no longer employed by the asbestos abatement entity to which the certificate has been issued, or is no longer in attendance during the execution of asbestos abatement projects for such entity, the entity shall immediately notify the cabinet. The cabinet may continue the certificate, based upon a showing that there is another employee who has fulfilled the training requirements in this section, and who will be in attendance during the execution of asbestos abatement projects for the entity.

Section 11. Training Course Requirements. (1) The initial training course required in Section 10(1) of this regulation shall provide, as a minimum, information on the following topics:
(a) The physical characteristics of asbestos, including fiber size, aerodynamic characteristics, and physical appearance;
(b) The health hazards of asbestos;
(c) Employee personal protective equipment;
(d) Recommended medical monitoring procedures, benefits of medical monitoring, and employee access to records;
(e) Air monitoring procedures;
(f) State-of-the-art work practices for asbestos abatement activities;
(g) Personal hygiene;
(h) Additional safety hazards that may be encountered during abatement activities and how to deal with them;
(i) The requirements, procedures, and standards established by federal regulations;
(j) Contract specifications and bidding procedures, liability insurance and bonding, and legal consideration related to asbestos abatement; and
(k) Establishing respiratory protection programs, medical surveillance programs, and U.S. EPA and OSHA recordkeeping requirements.
(2) The yearly retraining course required in Section 10(1) of this regulation shall, as a minimum, adequately review the topics in subsection (1) of this section, update information on state-of-the-art procedures and equipment, and review regulatory changes and interpretations.
(3) The course entitled "Supervision of Asbestos Abatement Projects," as approved by the U.S. EPA, shall satisfy the requirements for initial training and retraining courses, as specified in subsections (1) and (2) of this section.
(4) Training courses, other than the course referenced in subsection (3) of this section, may be approved by the cabinet on a case-by-case basis. The cabinet may approve such training courses, based on the cabinet's determination that the course would provide equivalent training as the course specified in subsection (3) of this section. A prospective course sponsor shall submit, as a minimum, the following information:
(a) Information about the course sponsor;
(b) Course location and fees;
(c) Copies or description of course handouts;
(d) A detailed description of course content and the amount of time allotted to each major topic;
(e) A description of teaching methods to be utilized and a list of all audio-visual materials;
(f) A list of all personnel to be involved in course preparation and presentation and a brief description of the background, special training, and qualifications of each;
(g) A description of student evaluation methods to be used;
(h) A description of course evaluation methods to be used;
(i) Any restriction on attendance (language, etc.); and
(j) A copy of the written examination which will be administered at completion of the course.

Section 12. Records. (1) Each asbestos abatement entity shall maintain records of all asbestos abatement projects which it performs and shall make these records available to the cabinet upon request. The asbestos abatement entity shall retain the records for at least six (6) years.

(2) The asbestos abatement entity shall record the following information for each project:
(a) Name and address of supervisor responsible;
(b) The location and description of the project and the estimated amount of asbestos removed;
(c) Starting and completion date. If the completion date differs from that originally scheduled, include reasons for delay;
(d) Summary of the procedures used to comply with all applicable requirements, including copies of all notifications, if applicable;
(e) Name and address of the waste disposal site and disposal receipts, including the amount of asbestos-containing material disposed; and
(f) Results of all air sampling conducted during the asbestos abatement project, if applicable, including personal, area, and clearance samples.

Section 13. Penalties. Any asbestos abatement entity which violates any provision of this regulation shall be subject to the appropriate enforcement action as provided under KRS 224.994.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: September 15, 1987
FILED WITH LRC: September 15, 1987 at noon
PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed regulation will be conducted on October 27, 1987, at 10 a.m. (EST) in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. Hisham M. Saaid, Assistant Director, Division for Air Quality, Frankfort Office Park, 18 Reilly Road, Fort Boone Plaza, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann
(1) Type and number of entities affected: The division has a present regulation (401 KAR 57:011) which provides for the control of asbestos emissions from asbestos mills, roadways, manufacturing and fabricating operations, demolition and renovation, spray application, insulation installation, and waste disposal. This present regulation has been applied to the control of asbestos emissions primarily from specific-sized demolition and renovation operations, due, in part, to the small number of asbestos mills and manufacturing and fabricating processes in the Commonwealth. This proposed regulation will refine the control of asbestos emissions from some of those demolition and renovation operations and will apply to certain asbestos abatement entities which will be involved in that kind of disturbance of friable asbestos materials. Since recordkeeping began in January 1983, approximately 90 currently operating individual asbestos abatement entities (contractors and industrial facilities) have identified themselves. All such entities will be affected by this regulation, in addition to entities involved in smaller abatement projects.
This regulation specifies that entities that engage in asbestos abatement projects that are not subject to the provisions of 401 KAR 57:011 shall not be required to obtain a certificate for such projects or attend the training specified in the regulation. However, most of those entities shall be required to follow the itemized work practice requirements when performing such projects and maintain records of such projects.
(a) Direct and indirect costs or savings to those affected: The proposed regulation requires attendance at training courses and payment of certification fees for entities which engage in asbestos abatement projects that are subject to the provisions of 401 KAR 57:011. It will be assumed that training expenses will be new costs resulting from this regulation and will be applied to those supervisory persons who will be in attendance during the execution of asbestos abatement projects; however, in many cases, the asbestos abatement entity will already be providing the training for many of its employees as a matter of routine operating procedures.
Some entities will also be required to purchase and maintain equipment and supplies in order to perform the asbestos abatement projects. In most cases, entities already have purchased and are maintaining such equipment and supplies, or are planning to do so, and the proposed regulation would impose no new costs beyond those already realized; however, because there are no current requirements for such purchases and maintenance, costs beyond those presently required would be the total cost of all required equipment (e.g., negative pressure ventilation units, vacuuming equipment, polyethylene sheeting, and sampling and analysis equipment for clearance air monitoring) and maintenance.
For smaller projects not subject to 401 KAR 57:011, at least $1,300 would have to be spent for required equipment, which would include polyethylene sheeting (about $35 for a 1,000 square-foot roll), HEPA (high-efficiency particulate air) filtration vacuum units (starting around $1,200, completely equipped), disposal bags (about $45 for a case of 75 bags), a disposal drum or rigid cardboard container ($5 and up), and necessary incidentals such as rags, water, and transportation and disposal. Section 4(4) of the regulation also provides for alternatives to the work practice requirements. The glovebag technique is an acceptable alternative to some of those requirements, which would reduce costs; other alternatives, if approved by the cabinet, could provide equivalent asbestos control for certain projects at costs less than $1,300. Larger projects would entail additional expenses for additional equipment, including a negative pressure ventilation unit (starting around $2,000, completely equipped), a shower (portable, filtered units cost about $850), and monitoring and analysis equipment (starting around $2,500, including about $850 for a pump and filter cassettes and $1,700 for a phase-contrast microscope with necessary accessories; alternatively, one-time monitoring and analysis services start around $400, depending on consultant's fees). The bulk of the equipment costs is for nonexpendable equipment, and these costs can be amortized.
The requirement that certain abatement projects be performed using negative pressure ventilation units could result in entities having to purchase a license from the owner of the rights to this patented process, depending on the outcome of litigation in Pennsylvania. If licenses are in fact required by a patent law, annual fees may range from $10,000 to $50,000,

depending on the amount of work performed annually by the applying entity.

1. First year: Entities which engage in projects which are subject to the provisions of 401 KAR 57:011 will be required to submit a certification fee of $500 in order to obtain the initial certification. The costs for training of the supervisory personnel who will be in attendance during the execution of each asbestos abatement project would vary, depending on the location of the course, mode of travel, etc. Costs could range from $600 to $1200 or more for each person. The same individual must also attend the division's orientation course.

2. Continuing costs or savings: Entities which engage in projects which are subject to the provisions of 401 KAR 57:011 will be required to submit an annual certification renewal fee of $250. At least one designated person is required to attend a retraining course each year, with costs the same as for the first year. The same person must also attend the division's orientation course each year.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Costs can be expected to increase as training and associated expenses rise.

(b) Reporting and paperwork requirements: Each entity will be required to maintain records on all asbestos abatement projects which it performs for at least six years. There will be no additional reporting requirements beyond those required in 401 KAR 57:011 as a result of this regulation. Annual applications for certificates will require the completion of a single form and the submittal of photocopied training certificates.

(2) Effects on the promulgating administrative body: The implementation of this regulation will have a major impact on the Division for Air Quality in that the division must have the necessary personnel and equipment to initiate and maintain an effective asbestos abatement certification and inspection program. Such a program would entail certifying the entities, developing the orientation program, inspecting the asbestos abatement projects, and auditing the entities as they perform their projects. Funding to support such a program, including personnel, has been allocated to the cabinet by the 1986 General Assembly and by the U.S. Environmental Protection Agency (U.S. EPA). A total of $239,500 has been budgeted this year for this program, including amounts from federal and state government and from anticipated certification fees.

(a) Direct and indirect costs or savings:

1. First year: The division will incur costs for establishing a division information program for the asbestos abatement entities, including hand-out materials, audio-visual aids, etc., for the orientation program. These costs are estimated to be $600.

The division will review and process applications for certification of asbestos abatement entities. Costs of that reviewing and processing will be recovered by a certification fee pursuant to this proposed regulation.

Inspection of the abatement projects of the entities is a part of the division's normal day-to-day operations, where these projects are subject to 401 KAR 57:011, and is budgeted accordingly. Additional inspections will be conducted as necessary, and the costs will be absorbed as a part of the operating budget for the asbestos program, which is funded in part by federal and state grants requiring inspection of all abatement projects for which notification has been received by the Division for Air Quality.

2. Continuing costs or savings: The division will review and process applications for certification of new asbestos abatement entities and annual applications for renewal of certificates. Costs for these reviews and processing will be recovered by a certification fee pursuant to this proposed regulation. Inspection and training expenses are a part of the asbestos program's normal day-to-day operations and are budgeted accordingly.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Review and processing of certification and renewal of certification applications will increase paperwork significantly. The addition of six positions in the asbestos certification and inspection program, as allocated in the budget for FY 86-87 (which incorporates the U.S. EPA and state grants), will assist in handling this additional paperwork.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The cabinet may consider the alternative of not promulgating this regulation; however, such an action would not protect the citizens of this Commonwealth from the dangers of the release of asbestos fibers to the outside air from contractors, companies, or other entities which do not use the proper techniques in demolition and renovation activities involving friable asbestos material.

Other versions of the regulation were considered. However, this regulation was selected because it is considered the most viable approach; it fills regulatory gaps that exist under currently applicable state and federal regulations which otherwise might not prevent unregulated asbestos emissions from escaping to the outside air; and it contains provisions that are recommended by the U.S. EPA.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Some of these provisions are similar to those used by the U.S. EPA and the Occupational Safety and Health Administration (OSHA); however, the U.S. EPA's work practice provisions are guidelines, and some of the state and federal OSHA regulations's work practice provisions are not binding and enforceable requirements. A provision has been added to the regulation which states that alternative procedures may be allowed, provided that they do not conflict with any other state, federal, or local laws.

This regulation is to be used in conjunction with 401 KAR 57:011 in order to determine the applicability of portions of this regulation.

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments: Recognizing that asbestos has been known to cause cancer and other severe illnesses in humans who breathe or swallow its fibers, the U.S. EPA has identified asbestos as a hazardous

air pollutant. The U.S. EPA also promulgated a regulation (40 CFR 61, Subpart M) to control the emissions of asbestos fibers into the outside air, and the Kentucky Division for Air Quality has adopted the federal regulation into its regulation, 401 KAR 57:011.

However, such a regulation does not ensure that the quality of the work performed during demolition and renovation operations is adequate to protect the citizens of the Commonmwealth. Companies, contractors, or other entities may be using improper techniques in the removal of asbestos during these operations. Therefore, a program is necessary to protect Kentucky's citizens against unethical business practices or incompetent persons or companies involved in those renovation and demolition operations to which this regulation would apply. This regulation will ensure that entities which perform asbestos abatement projects, which are subject to the provisions of 401 KAR 57:011, will be certified to do so and will be trained in the proper techniques.

TIERING: Was tiering applied? Yes. Only entities which perform projects which are subject to the provisions of 401 KAR 57:011 are required to obtain certification and attend the required training courses. In addition, the work practice practice requirements prescribed for entities engaged in smaller renovation and demolition operations differ from those for entities engaged in larger operations. Finally, entities which perform asbestos abatement projects at their own manufacturing or industrial facilities, using exclusively the employees of the manufacturer or industry, are exempt from the work practice requirements.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The U.S. EPA has expressed its concern about the quality of asbestos abatement projects and has determined that its role in this quality assurance is to provide and support as many good sources of asbestos abatement training and certification materials as possible. The role of the state, as seen by the U.S. EPA, is to oversee specific projects, to certify those involved in asbestos abatement projects, and to require training which meets the needs of that state. Consequently, the U.S. EPA has provided funding to the Commonwealth to perform those tasks. This regulation contains provisions to allow the division to certify individual entities and to require specific training for those entities which engage in projects that are subject to the provisions of 401 KAR 57:011. These provisions are in accordance with recommendations from the U.S. EPA.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: There are no federal regulations for this category of sources. This regulation closes a gap in the implementation of 401 KAR 57:011 and imposes requirements that are recommended by the U.S. EPA.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: The U.S. EPA recognizes that its regulations are inadequate to protect public health from the dangers of asbestos which is released during renovation and demolition operations. Therefore, it has provided funding for the states to implement programs toward that end. KRS 224.033 charges the cabinet with preventing, abating, and controlling air pollution, and the work practice and training requirements of this regulation are designed to achieve that end in a timely and cost-effective manner.

TRANSPORTATION CABINET
Motor Vehicle Commission

605 KAR 1:160. Motor vehicle component manufacturers.

RELATES TO: KRS 186.070, 190.010 through 190.990

PURSUANT TO: KRS 190.015, 190.020, 190.030(1), 190.058(8), 190.073

NECESSITY AND FUNCTION: KRS 190.010(1) defines a motor vehicle manufacturer as "any person ... who manufactures or assembles new motor vehicle ..." KRS 190.030 authorizes the Motor Vehicle Commission to provide by regulation for "other licensee activities and an appropriate fee therefor." A substantial industry is in place and expanding, centered around the processes ancillary to the manufacture and assembly of new motor vehicles in this Commonwealth. The function of this regulation is to provide a means whereby motor vehicle component manufacturers may qualify for a license as such and otherwise conduct necessary business functions in accordance with applicable state laws and regulations.

Section 1. "Motor vehicle component manufacturer" means any resident person, partnership, firm, association, corporation or trust, who manufactures or assembles components or constituent parts, for inclusion in the final assembly of new motor vehicles, in this state, but is not otherwise involved in the distribution or sale of motor vehicles.

Section 2. The license fee for a calendar year or any part thereof for a motor vehicle component manufacturer shall be $100.

Section 3. The following statutes and regulations shall apply to a licensee or applicant hereunder: KRS 186.070, 190.020, 190.030(4), (5), (7), (9), (11), 190.033, 190.040, 190.053, 190.057, 190.058, 190.059, 605 KAR 1:070, and 605 KAR 1:130.

Section 4. A licensee licensed hereunder shall be prohibited from otherwise engaging in the business of a motor vehicle manufacturer or dealer.

JAMES O. BUTTS, Chairman

APPROVED BY AGENCY: September 11, 1987

FILED WITH LRC: September 15, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on October 22, 1987, at 10 a.m., at the office of the Kentucky Motor Vehicle Commission, 114 West Clinton Street, Frankfort, Kentucky. Those interested in attending this hearing shall contact: David Garnett, Executive Director, Kentucky Motor Vehicle Commission, 114 West Clinton Street,

Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: David Garnett

(1) Type and number of entities affected: All motor vehicle component manufacturers located within the Commonwealth, specific number unknown.

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

1. First year: Costs are the license fees, $100 per calendar year or any part thereof, for each licensee, plus the costs required by KRS 186.070 for registering with the county clerk of the county where the place of business is located.

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Any change by the General Assembly in fees (none contemplated); as the regulation provides for a new type of license, there should be no effect upon competition as similarly situated businesses may also apply for such a license.

(b) Reporting and paperwork requirements: License would be obtained through an application process; licensees would be required to provide the licensor with such information as the licensor shall, from time to time, require; licenses would be renewed at year's end, through a renewal application; licensor has the authority to inspect the pertinent books, letters, records and contracts of a licensee; if licensees make application for motor vehicle manufacturer registration plates, filings and affidavits therefor would be made in accordance with KRS 186.070.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The effects are minimal, limited to the costs of processing and issuing licenses, and these would be offset by the additional revenue the agency realizes from the license fees.

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs: None, unless the General Assembly increases fees for similar licenses.

(b) Reporting and paperwork requirements: Minimal, as the procedures for the issuance of licenses for other classes of motor vehicle businesses are in place.

(3) Assessment of anticipated effect on state and local revenues: Substantial, for the reason that this regulation allows such businesses which are already located in this state to perform in a lawful manner, and is conducive to the recruitment and location within this state of other, similar businesses.

(4) Assessment of alternative methods; reasons why alternatives were rejected: An alternative is for such businesses to continue to rely on the understanding and good graces of local and state law enforcement personnel to allow them to operate motor vehicles on the highways of the Commonwealth with no registration or other operating authority. This alternative was rejected as it requires the entities affected to operate in an unlawful manner. Another alternative is to wait until the regular 1988 Session of the General Assembly to seek legislation to statutorily provide for such a class of licensee; this alternative was rejected because of the length of time involved, with no assurances of success.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: This administrative regulation is an example of a regulatory agency which recognizes that laws must adapt to the demands of a changing industry, and that agencies must respond to innovative business practices in such a manner as to allow the Commonwealth to be competitive in attracting new industries and businesses.

TIERING: Was tiering applied? No. All members of this class of licensee would be treated uniformly.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the September 8 and 10, 1987 Meeting

The September meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, September 8, 1987 at 2 p.m. and on Thursday, September 10, 1987 at 2 p.m. in Room 110. Representative Mark D. O'Brien, Chairman, called the meeting to order, and the secretary called the roll. On motion of Senator Quinlan, seconded by Representative Meyer, the minutes of the August 4-5, 1987 meeting were approved.

Present were:

Members: Representative Mark D. O'Brien, Chairman; Senators Harold Haering, Pat McCuiston and Bill Quinlan; Representatives Jim Bruce, Ronny Layman and Joe Meyer.

Guests: Alta P. Haunsz, Connie K. Lusher, Carol A. McGuire, Mary Romelfanger, Bill Shouse, Bernadette Sutherland, M. Pamela Troutman, Sharon M. Weisenbeck, Board of Nursing; Cherry Callihan, Stephen T. DeMers, Dave Nicholas, Board of Psychology; Joe Ann Dove, Thomas Fisher, Becky Pelfrey, Patricia Todd Thomas, Board of Occupational Therapy; Wanda Delaplane, Carl Dills, Tom Troth, Department of Agriculture; James Hale, George Risk, Natural Resources & Environmental Protection Cabinet; Cathy C. Snell, Justice Cabinet; A. Jack May, Department of Criminal Justice Training; Michael Bradley, Barbara Hickey, Barbara W. Jones, Corrections Cabinet; Charles Briggs, Bill Debord, R. D. Evans, Edward Sue Perkins, D. B. Price, Sandy Pullen, John Trager, David Woodford, Transportation Cabinet; Capt. Roger Long, Lt. Richard McQuown, KY State Police; Gary Bale, Edwin Smith, Department of Education; Judith Walden, Department of Housing, Buildings and Construction; Roy Butler, Ron Camic, Lonnie Carpenter, Ked Fitzpatrick, Eric Friedlander, William Gaddis, N. Clifton Howard, Eugenia Jump,

Delano Miller, Larry W. Moore, Lynda Sherrard, Cabinet for Human Resources; Luke J. Dober, American Health Resources, Inc.; Robert Stevens, Deters, Benzinger & LaVelle, American Hospital for Rehabilitation - Edgewood; Susanne Steinbock, Council of Nurse Practitioner of Kentuckiana; Nancy S. Clark, Nancy Fishwick, Gertrude Morgan, Heidi R. Sulis, MPH, Kenneth J. Tuggle, Sr. Martha Walsh, Frontier Nursing Services; Marie Alagia Cull, Nancy Cox, Jim Judy, KY Association of Health Care Facilities; Nancy Lipinski, KY Hospital Association; Bill Doll, KY Medical Association and KY Academy of Family Practice; Glenda J. Bourne, Jean P. Duncan, Patricia C. Miller, KY Nursing Association; Marcia Stanhope, University of Kentucky College of Nursing; Michael A. Sheets; George E. Jones, Jr., Richard L. Ross, KY Board of Pharmacy; Prentice Harvey, County Judges Association; Earl Dunlap, Chairperson, Juvenile Detention Facilities Regulations Subcommittee; Rhonda Blevins, Cheryl Clark, Kaye Ratliff, Gateway Juvenile Diversion Project, Inc.; David W. Richart, Barbara VanDyke, KY Youth Advocates; Rebecca Mercier, L.F.U.C.G.D.C.S.; Mike Helton, KY Petroleum Council; Katie Nienaber.

LRC Staff: Susan Wunderlich, Joe Hood, Gregory Karambellas, Donna Valencia, and Carla Arnold.

The Administrative Regulation Review Subcommittee met on September 8 and 10, 1987, and submits the following report:

The Subcommittee determined that the following regulation does not comply with KRS Chapter 13A and attached a statement of objection:

General Government Cabinet: Board of Nursing

201 KAR 20:057 (Scope and standards of practice of advanced registered nurse practitioners.) Representatives of the Kentucky Board of Nursing and the Frontier Nursing Service appeared in favor of the regulation. Representatives of the Kentucky Hospital Association, the Kentucky Medical Association and the Kentucky Academy of Family Practice opposed the regulation. Bill Shouse, attorney for the Board of Nursing explained the duties of registered nurse practitioners, the guidelines, and the scope and standards of practice adopted by the board in conformity with the requirements of relevant professional associations as provided by KRS Chapter 314. He explained that the written protocol, the agreement between the doctor and the nurse, sets strict limits on the nurse's activities and authority. He added that the regulation limited the challenged practice to relatively few practitioners. This type of practice is permitted by twenty states, by regulation, by statute, or by court decision. The amendments to KRS Chapter 314 permit this type of practice. However, Mr. Shouse felt that the controversy could better be resolved by the General Assembly enacting legislation that would specifically permit or prohibit the challenged practice. Mr. Doll, representing those opposed to the regulation, stated that the statutes did not clearly or specifically authorize registered nurse practitioners to prescribe medication or treatment; the written protocols were vague; if such nurse practitioners could be permitted to prescribe medication or treatment, only the Medical Licensure Board could authorize such activities; other statutes prohibit the writing of prescriptions except by specified medical personnel and the filling of prescriptions written by other than such personnel. He added that this regulation would result in an adverse fiscal impact and several classes of medical care. The Subcommittee approved a motion by Representative Meyer to attach the following statement: "This regulation exceeds statutory authority. The Subcommittee requests that this regulation be referred by the Legislative Research Commission to the appropriate committee for legislation specifically establishing the scope of practice for registered nurse practitioners."

The Subcommittee determined that the following regulations, as amended, complied with KRS Chapter 13A:

General Government Cabinet: Board of Examiners of Psychologists

The following regulations were amended to renumber Section 3(12) as Section 2(12) and to specify the standard to be followed in permitting the correction of educational deficiencies.

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.)

Corrections Cabinet: Execution Hearings

501 KAR 8:010 (Hearings, procedures, disposition.) This regulation was amended to delete the words "/her" and "/she" to conform to KRS Chapter 446. After an additional review by LRC staff of relevant court cases, the Subcommittee may choose to consider other issues related to executions.

Transportation Cabinet: Department of Highways: Pre-Construction

603 KAR 2:015 (Prequalification for construction; certificate of eligibility.) This regulation was amended to clarify that the state highway engineer's or the general counsel's designee may attend the hearing relating to contract claims or requests for relief; and further amends the procedure concerning recomendations transmitted to the Commissioner.

Traffic

603 KAR 5:066 (Weight limits for trucks.) Subsection 3(2) was amended to clarify terminology relating to the number of axles to which this subsection refers.

Education and Humanities Cabinet: Department of Education: Office of Vocational Education: Management of State-Operated Schools

705 KAR 5:060 (Live work projects, selection of.) The citation of 705 KAR 5:120 in Section 2(5) of this regulation was amended to 705 KAR 4:010, as the original citation is not in effect.

Cabinet for Human Resources: Department for Health Services: Certificate of Need and Licensure

902 KAR 20:240 (Comprehensive physical rehabilitation services.) This regulation was amended to clarify the number of hours of physical therapy services that a physical therapist must perform. Representative Meyer questioned the wording of the amendment to Section 4(8)(c). He stated that as it read it appeared to require a physical therapist to be employed in both freestanding specialty and general hospitals for a number of hours exceeding what would constitute full-time employment. Agency personnel agreed to amend the amendment by deleting the word "and" and inserting in lieu thereof the word "or".

The Subcommittee determined that the following regulations complied with KRS Chapter 13A:

General Government Cabinet: 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 reinspection.

Natural Resources and Environmental Protection Cabinet: Department for Surface Mining Reclamation and Enforcement: General Provisions

405 KAR 7:070 (Certification of blasters.)

Justice Cabinet: 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.) The cabinet is in the process of reviewing suggestions made by the Subcommittee and LRC staff. Cabinet and LRC personnel will make necessary revisions, after which the cabinet will file amended regulations.
501 KAR 6:130 (Western Kentucky Farm Center.)

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: 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 9:080 (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: Traffic

603 KAR 5:025 (Fully controlled access highways.)
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.) Representative Meyer asked agency personnel if, upon indictment of a teacher for a morals offense, whether the teacher could be immediately suspended without pay and his certificate revoked until resolution of the charges. Agency personnel stated that if there were enough evidence such suspension could be ordered after an administrative hearing. Representative Meyer pointed out that any administrative or court proceeding required a great deal of time before the matter was resolved; parents were often reluctant to have the affected child(ren) testify at an administrative hearing while the court proceedings were pending and the teacher was still employed. Agency personnel pointed out that the suggested procedure would exceed statutory authority.

Teacher Certification

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

Office of Vocational Education: Management of State-Operated Schools

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.)

Cabinet for Human Resources: Department for Health Services: Hospitalization of Mentally Ill and Mentally Retarded

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

Certificate of Need and Licensure

902 KAR 20:230 (Facility specifications; comprehensive physical rehabilitation.)

Department for Employment Services: Unemployment Insurance

903 KAR 5:260 (Unemployment insurance procedures.)

Department for Social Services: Child Welfare

905 KAR 1:200 (Alternative to detention shelters - nonsecure facilities operated as child caring agencies or institution.)

905 KAR 1:210 (Alternative to detention; court resource home.)

Department for Medicaid Services: Medicaid Services

907 KAR 1:031 (Payments for home health services.)

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

907 KAR 1:037 (Hospital furnished skilled nursing and intermediate care facility services.)

907 KAR 1:042 (Amounts payable for hospital furnished skilled nursing and intermediate care facility services.) Representative Bruce voted no.

907 KAR 1:045 (Payments for mental health center services.)

The Subcommittee deferred the following regulations at the agencies' request:

General Government Cabinet: Board of Dentistry

201 KAR 8:006 (Advertising of dental services.)

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

Justice Cabinet: Juvenile Detention Facilities

The Subcommittee determined that the cabinet did not comply with KRS 13A.010(7) and 13A.280. Instead of issuing a concise statement setting forth the reasons for its decision not to accept suggestions or recommendations, the cabinet simply filed a copy of the transcript of the public hearing. The cabinet agreed to comply with KRS Chapter 13A and to defer the regulations to the October meeting.

500 KAR 6:010 (Definitions.)

500 KAR 6:020 (Administration, organization and management.)

500 KAR 6:030 (Personnel.)

500 KAR 6:040 (Juvenile Records.)

500 KAR 6:050 (Safety and Emergency Procedures.)

500 KAR 6:060 (Security and Control.)

500 KAR 6:070 (Food Service.)

500 KAR 6:080 (Sanitation and Hygiene.)

500 KAR 6:090 (Juvenile Rights.)

500 KAR 6:100 (Training and Staff Development.)

500 KAR 6:110 (Medical and Health Care Services.)

500 KAR 6:120 (Rules and Discipline.)

500 KAR 6:130 (Intake.)

500 KAR 6:140 (Admission Procedures.)

500 KAR 6:150 (Programs.)

500 KAR 6:160 (Communication: Mail, Visiting and Telephone.)

500 KAR 6:170 (Release Preparation and Transfer Programs.)

500 KAR 6:180 (Citizens and Volunteer Involvement.)

Cabinet for Human Resources: Department for Employment Services: Employment Services

903 KAR 6:060 (Confidentiality of records of the Department for Employment Services.) Section 1 provides that records pertaining to the Job Training Partnership Act (JTPA) are confidential and not subject to disclosure. Chairman O'Brien asked agency personnel on what authority this section was based. Agency personnel stated that, although the federal government no longer required that such records be confidential, the state felt these records should be confidential. Chairman O'Brien asked whether the federal government granted states the option of making such records confidential. Agency personnel were unaware of such an option. Chairman O'Brien stated that it did not appear that such records were exempted under the provisions of KRS 61.878 and asked if agency personnel could cite specific authority for Section 1. At the suggestion of the chairman, agency personnel agreed to defer this regulation until the October meeting in order to provide the Subcommittee with either statutory authority or a statement of necessity that would fall within statutory provisions.

Other Business:

Since the LRC administrative regulation governing the promulgation of administrative regulations by agencies had not been amended to comply with the requirements of KRS Chapter 13A, the Subcommittee requested staff to prepare drafts of administrative regulations relating to the implementation of KRS Chapter 13A. After a review of the drafts (1 KAR 1:020, 1 KAR 1:030, and 1 KAR 1:040), the Subcommittee approved a motion that the drafts be transmitted to LRC with a request that the Commission repeal 1 KAR 1:010 and promulgate 1 KAR 1:020, 1 KAR 1:030, and 1 KAR 1:040 in its place.

The Subcommittee directed staff to review issues discussed by the Subcommittee relating to the legislative role in the promulgation of administrative regulations and to prepare suggestions for legislation.

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

Locator Index - Effective Dates.....D2

KRS Index.....D6

Subject Index to Volume 14.....D10

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
201 KAR 8:006	1859	
201 KAR 8:390	1860	
201 KAR 27:017	2169	8-5-87
806 KAR 12:110 Amended	2107	8-5-87
806 KAR 38:060 Amended	2109	8-5-87
806 KAR 38:080 Amended	2111	8-5-87
902 KAR 13:010 Amended	2121	8-5-87
902 KAR 13:030 Amended	2122	8-5-87
902 KAR 13:050 Amended	2123	8-5-87
902 KAR 13:080 Amended	2125	8-5-87
902 KAR 13:090 Amended	2126	8-5-87

VOLUME 14

Emergency Regulation	14 Ky.R. Page No.	Effective Date
201 KAR 25:011E	544	8-24-87
201 KAR 25:012E	545	8-24-87
201 KAR 27:017E Replaced		8-5-87
201 KAR 27:018E	545	8-27-87
201 KAR 27:019E	546	8-27-87
301 KAR 1:190E	546	8-27-87
301 KAR 2:044E	407	8-7-87
302 KAR 34:050E	121	7-2-87
401 KAR 47:010E	408	8-14-87
401 KAR 47:020E	408	8-14-87
401 KAR 47:040E	411	8-14-87
401 KAR 49:030E	416	8-14-87
401 KAR 49:050E	419	8-14-87
405 KAR 7:070E	4	6-15-87
Replaced	432	9-10-87
500 KAR 6:010E	122	7-1-87
500 KAR 6:020E	124	7-1-87
500 KAR 6:030E	126	7-1-87
500 KAR 6:040E	127	7-1-87
500 KAR 6:050E	128	7-1-87
500 KAR 6:060E	129	7-1-87
500 KAR 6:070E	130	7-1-87
500 KAR 6:080E	131	7-1-87
500 KAR 6:090E	132	7-1-87
500 KAR 6:100E	133	7-1-87
500 KAR 6:110E	134	7-1-87
500 KAR 6:120E	136	7-1-87
500 KAR 6:130E	137	7-1-87
500 KAR 6:140E	138	7-1-87
500 KAR 6:150E	138	7-1-87
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
Resubmitted	546	8-17-87
501 KAR 6:060E	15	6-15-87
Replaced	50	8-5-87
Resubmitted	548	8-17-87
501 KAR 6:080E	16	6-15-87
Replaced	52	8-5-87
605 KAR 1:160E	550	9-15-87
702 KAR 3:190E	550	9-8-87
811 KAR 2:096E	420	7-24-87
815 KAR 7:070E	551	8-27-87
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
904 KAR 3:020E	553	9-2-87
905 KAR 1:091E	427	8-7-87
905 KAR 1:200E	141	7-6-87
Replaced	389	9-10-87
905 KAR 1:210E	146	7-6-87
Replaced	525	9-10-87
907 KAR 1:016E	431	7-17-87
907 KAR 1:031E	150	7-1-87
Replaced	301	9-10-87
907 KAR 1:036E	152	7-1-87
Replaced	303	9-10-87
907 KAR 1:037E	158	7-1-87
Replaced	310	9-10-87
907 KAR 1:042E	159	7-1-87
Replaced	310	9-10-87
907 KAR 1:045E	160	7-8-87
Replaced	312	9-10-87
907 KAR 1:140E	17	6-8-87
Replaced	81	8-5-87
907 KAR 1:150E	19	6-8-87
Replaced	83	8-5-87
907 KAR 1:250E	20	6-8-87
Replaced	85	8-5-87

Regulation	14 Ky.R. Page No.	Effective Date
201 KAR 1:062 Amended	161	7-2-87
201 KAR 12:170	666	
201 KAR 18:050 Amended	571	
201 KAR 20:057 Amended	30	9-10-87
201 KAR 20:070 Amended	571	
201 KAR 20:090 Amended	573	
201 KAR 20:095 Amended	574	

Regulation	14 Ky.R. Page No.	Effective Date
201 KAR 20:110		
Amended	575	
201 KAR 20:115		
Amended	576	
201 KAR 20:161		
Amended	578	
201 KAR 20:162		
Amended	579	
201 KAR 20:205		
Amended	581	
201 KAR 20:210		
Amended	582	
201 KAR 20:215		
Amended	583	
201 KAR 20:220		
Amended	584	
201 KAR 20:225		
Amended	585	
201 KAR 20:230		
Amended	587	
201 KAR 20:240		
Amended	588	
201 KAR 20:270		
Amended	589	
201 KAR 20:290		
Amended	590	
201 KAR 20:310		
Amended	591	
201 KAR 20:320		
Amended	593	
201 KAR 20:330		
Amended	594	
201 KAR 20:360		
Amended	595	
201 KAR 20:370		
Amended	596	
201 KAR 20:380	667	
201 KAR 23:040		
Amended	167	8-5-87
201 KAR 23:060		
Amended	168	8-5-87
201 KAR 23:070		
Amended	168	8-5-87
201 KAR 25:011		
Amended	597	
201 KAR 25:012		
Amended	598	
201 KAR 26:171	526	
201 KAR 26:200		
Amended	231	9-10-87
201 KAR 26:210	313	9-10-87
201 KAR 26:220	314	9-10-87
201 KAR 26:230	528	
201 KAR 27:018	669	
201 KAR 27:019	669	
201 KAR 28:050		
Amended	31	8-5-87
201 KAR 28:060		
Amended	32	8-5-87
201 KAR 28:080		
Amended	232	9-10-87
201 KAR 28:090		
Amended	233	9-10-87
201 KAR 28:110		
Amended	33	8-5-87
301 KAR 1:190	670	
301 KAR 2:044		
Amended	463	
301 KAR 2:050		
Amended	33	8-5-87
301 KAR 2:110		
Amended	35	8-5-87
301 KAR 2:220		
Amended	598	
301 KAR 2:240	87	8-5-87
301 KAR 3:030		
Amended	36	8-5-87
301 KAR 4:050		
Amended	604	
302 KAR 16:040		
Amended	234	9-10-87
302 KAR 34:050	315	
302 KAR 45:010		
Amended	431	8-5-87
401 KAR 4:060	316	
Amended	556	
401 KAR 47:010	529	
401 KAR 47:020		
Amended	464	
401 KAR 47:040		
Amended	468	
401 KAR 49:030		
Amended	475	
401 KAR 49:050	530	
401 KAR 63:041	320	*(No eff. date)
*Since Statement of Consideration was not received by 15th day following hearing, proposed regulation must be refiled. (KRS 13A.280(2))		
401 KAR 63:042	670	
405 KAR 7:070		
Amended	37	
Amended	432	9-10-87
405 KAR 16:060		
Amended	22	
405 KAR 18:060		
Amended	24	
405 KAR 18:190		
Amended	27	
500 KAR 4:030		
Amended	162	7-2-87
500 KAR 4:040		
Amended	163	7-2-87
500 KAR 4:050		
Amended	163	7-2-87
500 KAR 4:060		
Amended	164	7-2-87
500 KAR 4:070		
Amended	165	7-2-87
500 KAR 6:010	328	
500 KAR 6:020	330	
500 KAR 6:030	332	
500 KAR 6:040	333	
500 KAR 6:050	334	
500 KAR 6:060	336	
500 KAR 6:070	337	
500 KAR 6:080	338	
500 KAR 6:090	339	
500 KAR 6:100	340	
500 KAR 6:110	342	
500 KAR 6:120	344	
500 KAR 6:130	346	
500 KAR 6:140	346	
500 KAR 6:150	347	
500 KAR 6:160	348	
500 KAR 6:170	349	
500 KAR 6:180	349	
500 KAR 6:190	531	
501 KAR 6:020		
Amended	45	8-5-87
Amended	235	9-10-87

Regulation	14 Ky.R. Page No.	Effective Date
501 KAR 6:030		
Amended	47	8-5-87
Amended	236	9-10-87
Amended	605	
501 KAR 6:040		
Amended	48	8-5-87
Amended	238	9-10-87
Amended	478	
501 KAR 6:050		
Amended	480	
501 KAR 6:060		
Amended	50	8-5-87
Amended	239	9-10-87
Amended	481	
501 KAR 6:080		
Amended	52	8-5-87
501 KAR 6:120		
Amended	52	8-5-87
501 KAR 6:130		
Amended	54	8-5-87
Amended	241	9-10-87
Amended	483	
501 KAR 6:140	533	
501 KAR 8:010	88	9-10-87
502 KAR 20:020		
Amended	607	
503 KAR 1:100		
Amended	242	9-10-87
503 KAR 5:090		
Amended	608	
600 KAR 1:050		
Amended	611	
600 KAR 1:070		
Amended	55	8-5-87
600 KAR 2:010		
Amended	243	9-10-87
600 KAR 2:020		
Amended	244	9-10-87
600 KAR 2:030		
Amended	245	9-10-87
601 KAR 1:020		
Amended	484	
601 KAR 1:115		
Amended	246	
Amended	560	
601 KAR 2:010		
Amended	248	9-10-87
601 KAR 9:010		
Amended	249	9-10-87
601 KAR 9:012		
Amended	250	9-10-87
601 KAR 9:013		
Amended	251	9-10-87
601 KAR 9:015		
Amended	252	9-10-87
601 KAR 9:040		
Amended	252	9-10-87
601 KAR 9:047		
Amended	254	9-10-87
601 KAR 9:060		
Amended	255	9-10-87
601 KAR 9:074		
Amended	256	*(No eff. date)
*Since Statement of Consideration was not received by 15th day following hearing, proposed regulation must be refiled. (KRS 13A.280(2))		
601 KAR 9:080		
Amended	260	9-10-87
601 KAR 9:085		
Amended	261	9-10-87
601 KAR 9:125	91	8-5-87
Amended	614	
601 KAR 12:020		
Amended	485	
601 KAR 12:030		
Amended	486	
601 KAR 12:040		
Amended	486	
601 KAR 13:010		
Amended	487	
601 KAR 13:020		
Amended	489	
601 KAR 13:030		
Amended	491	
602 KAR 15:010		
Amended	262	9-10-87
602 KAR 15:020		
Amended	263	9-10-87
602 KAR 50:010		
Amended	265	9-10-87
602 KAR 50:030		
Amended	267	9-10-87
602 KAR 50:050		
Amended	268	9-10-87
602 KAR 50:120		
Amended	269	9-10-87
603 KAR 1:030		
Amended	492	
603 KAR 2:015		
Amended	171	9-10-87
603 KAR 5:025		
Amended	271	9-10-87
603 KAR 5:061		
Amended	55	8-5-87
603 KAR 5:066		
Amended	272	9-10-87
603 KAR 5:075		
Amended	274	9-10-87
603 KAR 5:100		
Amended	492	
603 KAR 5:110		
Amended	57	8-5-87
603 KAR 5:230		
Amended	174	8-5-87
603 KAR 8:010		
Amended	275	9-10-87
605 KAR 1:160	678	
702 KAR 3:190		
Amended	615	
704 KAR 10:022		
Amended	277	9-10-87
704 KAR 20:005		
Amended	616	
704 KAR 20:280		
Amended	617	
704 KAR 20:450	350	9-10-87
705 KAR 2:120	351	
Amended	561	
705 KAR 5:060		
Amended	278	9-10-87
705 KAR 5:100	352	9-10-87
705 KAR 5:110	353	9-10-87
706 KAR 1:010		
Amended	279	9-10-87
Amended	618	
706 KAR 1:020		
Amended	619	
707 KAR 1:003		
Amended	279	9-10-87
803 KAR 2:020		
Amended	59	8-5-87

Regulation	14 Ky.R. Page No.	Effective Date
803 KAR 2:030		
Amended	65	8-5-87
804 KAR 4:245	534	
806 KAR 5:050		
Amended	212	8-5-87
806 KAR 9:200		
Amended	212	8-5-87
806 KAR 9:210		
Amended	213	8-5-87
808 KAR 3:050		
Amended	71	8-5-87
810 KAR 1:011		
Amended	620	
810 KAR 1:013		
Amended	493	
Amended	625	
811 KAR 1:105		
Amended	628	
811 KAR 1:215		
Amended	630	
811 KAR 2:096	535	
815 KAR 7:010		
Amended	281	9-10-87
815 KAR 7:020		
Amended	289	9-10-87
815 KAR 7:070		
Amended	632	
815 KAR 10:020		
Amended	496	
815 KAR 15:010		
Amended	634	
815 KAR 20:120		
Amended	636	
902 KAR 3:055	354	
902 KAR 3:060	355	
Amended	561	
902 KAR 3:065	357	
902 KAR 3:070	359	
902 KAR 3:075	360	
902 KAR 3:080	361	
902 KAR 3:085	363	
902 KAR 3:090	363	
902 KAR 3:095	365	
902 KAR 3:100	366	
Amended	563	
902 KAR 3:105	367	
Amended	564	
902 KAR 3:110	368	
Amended	564	
902 KAR 3:115	369	
Amended	565	
902 KAR 3:120	371	
902 KAR 3:205	372	
902 KAR 3:210	373	
Amended	566	
902 KAR 3:215	375	
902 KAR 3:220	376	
902 KAR 3:225	377	
902 KAR 3:230	379	
902 KAR 3:235	380	
902 KAR 3:240	381	
902 KAR 3:245	382	
Amended	567	
902 KAR 3:250	385	
Amended	569	
902 KAR 3:255	387	
902 KAR 3:260	388	
902 KAR 10:120		
Amended	214	8-5-87

Regulation	14 Ky.R. Page No.	Effective Date
902 KAR 12:080		
Amended	72	8-5-87
Amended	294	9-10-87
Amended	507	
Amended	643	
902 KAR 13:110		
Amended	229	8-5-87
902 KAR 20:132		
Amended	79	8-5-87
902 KAR 20:230	92	
Amended	439	9-10-87
902 KAR 20:240	105	
Amended	452	9-10-87
903 KAR 5:250		
Amended	166	7-2-87
903 KAR 5:260		
Amended	299	9-10-87
903 KAR 5:270		
Amended	80	8-5-87
903 KAR 6:060	388	
904 KAR 2:016		
Amended	512	
904 KAR 2:116		
Amended	648	
904 KAR 2:140		
Amended	517	
904 KAR 2:150		
Amended	518	
904 KAR 2:170		
Amended	519	
904 KAR 3:020		
Amended	652	
904 KAR 3:090		
Amended	520	
905 KAR 1:091		
Amended	521	
905 KAR 1:200	389	9-10-87
905 KAR 1:210	394	9-10-87
905 KAR 2:010		
Amended	655	
907 KAR 1:016		
Amended	525	
907 KAR 1:026		
Amended	663	
907 KAR 1:027		
Amended	665	
907 KAR 1:031		
Amended	301	9-10-87
907 KAR 1:036		
Amended	303	9-10-87
907 KAR 1:037		
Amended	310	9-10-87
907 KAR 1:042		
Amended	310	9-10-87
907 KAR 1:045		
Amended	312	9-10-87
907 KAR 1:140		
Amended	81	8-5-87
907 KAR 1:150		
Amended	83	8-5-87
907 KAR 1:250		
Amended	85	8-5-87

KRS INDEX

KRS Section	Regulation
15.330	503 KAR 1:100
15.440	503 KAR 5:090
15A.210	500 KAR 6:010
	500 KAR 6:020
	500 KAR 6:030
	500 KAR 6:040
	500 KAR 6:050
	500 KAR 6:060
	500 KAR 6:070
	500 KAR 6:080
	500 KAR 6:090
	500 KAR 6:100
	500 KAR 6:110
	500 KAR 6:120
	500 KAR 6:130
	500 KAR 6:140
	500 KAR 6:150
	500 KAR 6:160
	500 KAR 6:170
	500 KAR 6:180
	500 KAR 6:190
Chapter 18A	600 KAR 1:050
45.360	603 KAR 1:030
45A.245	603 KAR 2:015
61.874	201 KAR 20:115
	601 KAR 12:040
109.011-109.280	401 KAR 47:010
	401 KAR 49:030
	401 KAR 49:050
Chapter 138	601 KAR 9:040
138.655-138.725	601 KAR 9:074
150.010	301 KAR 2:044
	301 KAR 2:050
	301 KAR 2:220
	301 KAR 2:240
	301 KAR 3:030
	301 KAR 4:050
150.015	301 KAR 2:044
	301 KAR 2:220
	301 KAR 4:050
150.025	301 KAR 1:190
	301 KAR 2:044
	301 KAR 2:050
	301 KAR 2:110
	301 KAR 2:220
	301 KAR 2:240
	301 KAR 3:030
	301 KAR 4:050
150.110	301 KAR 1:190
150.170	301 KAR 1:190
	301 KAR 2:044
	301 KAR 2:050
	301 KAR 2:220
	301 KAR 2:240
	301 KAR 3:030
150.175	301 KAR 2:220
150.176	301 KAR 2:050
150.180	301 KAR 2:240
150.183	301 KAR 2:240
150.190	301 KAR 1:190
150.235	301 KAR 2:220
150.240	301 KAR 2:220
150.250	301 KAR 2:050
150.300	301 KAR 2:044
	301 KAR 2:240
	301 KAR 4:050
150.305	301 KAR 2:044
	301 KAR 2:220
	301 KAR 2:240
150.320	301 KAR 2:044
150.330	301 KAR 2:044
	301 KAR 2:220
	301 KAR 2:240
	301 KAR 3:030
150.340	301 KAR 2:044
	301 KAR 2:220
	301 KAR 2:240
150.360	301 KAR 2:044
	301 KAR 2:050
	301 KAR 2:110
	301 KAR 2:220
	301 KAR 2:240
	301 KAR 3:030
150.365	301 KAR 2:110
	301 KAR 2:240
150.370	301 KAR 2:110
	301 KAR 2:240
	301 KAR 4:050
150.390	301 KAR 2:110
	301 KAR 2:240
150.399	301 KAR 2:110
	301 KAR 2:240
150.400	301 KAR 2:110
	301 KAR 2:240
150.410	301 KAR 2:110
	301 KAR 2:240
150.415	301 KAR 2:240
150.416	301 KAR 2:240
150.417	301 KAR 2:240
150.600	301 KAR 2:220
	301 KAR 4:050
150.603	301 KAR 2:044
	301 KAR 2:220
150.630	301 KAR 2:220
150.640	301 KAR 2:050
151.100	401 KAR 4:060
151.110	401 KAR 4:060
151.180	401 KAR 4:060
151.210	401 KAR 4:060
151.250	401 KAR 4:060
151.260	401 KAR 4:060
151.280	401 KAR 4:060
151.310	401 KAR 4:060
156.010	706 KAR 1:010
	706 KAR 1:020
	707 KAR 1:003
156.031	705 KAR 5:060
	706 KAR 1:010
156.035	705 KAR 2:120
	706 KAR 1:020
	707 KAR 1:003
156.070	705 KAR 5:100
156.160	704 KAR 10:022
	704 KAR 20:450
156.210	704 KAR 20:450
157.200-157.290	707 KAR 1:003
157.360	702 KAR 3:190
157.580	702 KAR 3:190
160.340	704 KAR 20:450
161.020	704 KAR 20:005
	704 KAR 20:280
161.025	704 KAR 20:005
	704 KAR 20:280
161.030	704 KAR 20:005
	704 KAR 20:280
161.120	704 KAR 20:450
163.020	705 KAR 5:060

KRS Section	Regulation
163.030	705 KAR 2:120
	705 KAR 5:060
	705 KAR 5:100
	705 KAR 5:110
163.087	705 KAR 5:100
163.140	706 KAR 1:010
	706 KAR 1:020
163.160	706 KAR 1:010
	706 KAR 1:020
174.080	600 KAR 1:050
175.450	600 KAR 2:010
	600 KAR 2:020
	600 KAR 2:030
175.470	600 KAR 2:010
	600 KAR 2:020
	600 KAR 2:030
175.520	600 KAR 2:010
	600 KAR 2:020
	600 KAR 2:030
Chapter 176	603 KAR 8:010
176.070	603 KAR 1:030
176.130	603 KAR 1:030
176.130-176.220	603 KAR 2:015
176.140	603 KAR 1:030
Chapter 177	603 KAR 2:015
177.220	603 KAR 5:025
177.230	603 KAR 5:025
177.300	603 KAR 5:025
177.9771	603 KAR 5:230
183.120	602 KAR 15:020
183.200-183.213	602 KAR 15:010
183.505	602 KAR 15:020
183.764	602 KAR 15:020
183.861	602 KAR 50:030
183.861-183.990	602 KAR 50:010
183.865	602 KAR 50:030
183.867	602 KAR 50:030
	602 KAR 50:050
183.870	602 KAR 50:030
183.871	602 KAR 50:120
Chapter 186	601 KAR 2:010
	601 KAR 9:040
	601 KAR 9:060
	601 KAR 9:125
186.070	601 KAR 9:015
	605 KAR 1:160
186.115	601 KAR 9:047
186.173	601 KAR 9:013
186.174	601 KAR 9:012
186.276	601 KAR 9:010
186.281	601 KAR 9:010
186.440	601 KAR 12:020
186.450	601 KAR 12:030
186.480	601 KAR 12:020
186.560	601 KAR 13:030
186.570	601 KAR 13:010
	601 KAR 13:020
186.572	601 KAR 13:020
186A.090	601 KAR 9:080
186A.115	601 KAR 9:047
	601 KAR 9:085
189.190	603 KAR 5:025
189.221	601 KAR 1:020
189.222	601 KAR 1:020
	603 KAR 5:066
	603 KAR 5:075
	603 KAR 5:100
189.230	603 KAR 5:230
189.270	603 KAR 5:100
	603 KAR 5:110
189.271	601 KAR 1:020
189.340	603 KAR 5:025

KRS Section	Regulation
190.010-190.990	605 KAR 1:160
194.030	904 KAR 2:140
	904 KAR 2:150
	904 KAR 3:090
194.050	904 KAR 2:116
	904 KAR 3:020
195.020	903 KAR 6:060
195.040	903 KAR 6:060
Chapter 196	501 KAR 6:020
	501 KAR 6:030
	501 KAR 6:040
	501 KAR 6:050
	501 KAR 6:060
	501 KAR 6:080
	501 KAR 6:120
	501 KAR 6:130
	501 KAR 6:140
	501 KAR 8:010
Chapter 197	501 KAR 6:020
	501 KAR 6:030
	501 KAR 6:040
	501 KAR 6:050
	501 KAR 6:060
	501 KAR 6:080
	501 KAR 6:120
	501 KAR 6:130
	501 KAR 6:140
	501 KAR 8:010
Chapter 198B	815 KAR 7:010
	815 KAR 7:020
198B.040	815 KAR 7:070
198B.050	815 KAR 7:070
199.011	905 KAR 1:091
199.640	905 KAR 1:091
199.640-199.670	905 KAR 1:200
199.645	905 KAR 1:210
199.650	905 KAR 1:091
199.660	905 KAR 1:091
199.670	905 KAR 1:091
199.892-199.896	905 KAR 2:010
Chapter 205	904 KAR 2:140
205.200	904 KAR 2:016
	904 KAR 2:150
205.210	904 KAR 2:016
205.520	907 KAR 1:016
	907 KAR 1:026
	907 KAR 1:027
	907 KAR 1:031
	907 KAR 1:036
	907 KAR 1:037
	907 KAR 1:042
	907 KAR 1:045
	907 KAR 1:140
	907 KAR 1:150
	907 KAR 1:250
205.795	904 KAR 2:170
Chapter 210	902 KAR 12:080
210.610-210.680	902 KAR 3:205
	902 KAR 3:210
	902 KAR 3:215
	902 KAR 3:220
	902 KAR 3:225
	902 KAR 3:230
	902 KAR 3:235
	902 KAR 3:240
	902 KAR 3:245
	902 KAR 3:250
	902 KAR 3:255
	902 KAR 3:260

KRS Section	Regulation
210.990	902 KAR 3:205
	902 KAR 3:210
	902 KAR 3:215
	902 KAR 3:220
	902 KAR 3:225
	902 KAR 3:230
	902 KAR 3:235
	902 KAR 3:240
	902 KAR 3:245
	902 KAR 3:250
	902 KAR 3:255
	902 KAR 3:260
211.180	902 KAR 10:120
211.960-211.968	902 KAR 13:110
211.990	902 KAR 10:120
	902 KAR 13:110
216B.010-216B.131	902 KAR 20:132
	902 KAR 20:230
	902 KAR 20:240
216B.990	902 KAR 20:132
	902 KAR 20:230
	902 KAR 20:240
222.210-222.310	902 KAR 3:055
	902 KAR 3:060
	902 KAR 3:065
	902 KAR 3:070
	902 KAR 3:075
	902 KAR 3:080
	902 KAR 3:085
	902 KAR 3:090
	902 KAR 3:095
	902 KAR 3:100
	902 KAR 3:105
	902 KAR 3:110
	902 KAR 3:115
	902 KAR 3:120
224.005	401 KAR 47:010
	401 KAR 47:020
224.320	401 KAR 63:042
224.330	401 KAR 63:042
224.340	401 KAR 63:042
224.830-224.860	401 KAR 47:010
	401 KAR 47:020
224.835	401 KAR 47:040
	401 KAR 49:030
	401 KAR 49:050
224.842	401 KAR 47:040
	401 KAR 49:030
	401 KAR 49:050
224.855	401 KAR 47:040
224.868	401 KAR 47:010
	401 KAR 47:020
224.869	401 KAR 47:020
224.886	401 KAR 47:010
224.887	401 KAR 47:010
	401 KAR 49:030
	401 KAR 49:050
224.888	401 KAR 47:010
	401 KAR 49:030
	401 KAR 49:050
224.994	401 KAR 47:010
	401 KAR 47:020
224.995	401 KAR 47:010
	401 KAR 47:020
Chapter 227	815 KAR 10:020
229.081	201 KAR 27:017
	201 KAR 27:018
229.091	201 KAR 27:017
	201 KAR 27:018
	201 KAR 27:019
229.111	201 KAR 27:019
230.210-230.360	810 KAR 1:011
	810 KAR 1:013

KRS Section	Regulation
230.410-230.447	811 KAR 2:096
230.630	811 KAR 1:105
230.640	811 KAR 1:105
230.720	811 KAR 1:105
230.730	811 KAR 1:105
230.770	811 KAR 1:215
236.030	815 KAR 15:010
244.440	804 KAR 4:245
247.232	302 KAR 16:040
247.234	302 KAR 16:040
247.236	302 KAR 16:040
251.700	302 KAR 34:050
280.010-280.130	603 KAR 5:061
Chapter 281	601 KAR 1:115
	601 KAR 2:010
	601 KAR 9:040
	601 KAR 9:060
281.720	601 KAR 9:010
290.070	808 KAR 3:050
290.100	808 KAR 3:050
290.225	808 KAR 3:050
290.585	808 KAR 3:050
290.715	808 KAR 3:050
304.5-070	806 KAR 5:050
304.9-030	806 KAR 9:200
304.9-080	806 KAR 9:200
304.9-105	806 KAR 9:210
304.9-330	806 KAR 9:210
304.9-410	806 KAR 9:200
304.9-430	806 KAR 9:210
311.420	201 KAR 25:011
	201 KAR 25:012
313.220	201 KAR 8:006
	201 KAR 8:390
314.011	201 KAR 20:057
	201 KAR 20:115
	201 KAR 20:161
	201 KAR 20:162
	201 KAR 20:205
	201 KAR 20:210
	201 KAR 20:215
	201 KAR 20:220
	201 KAR 20:290
	201 KAR 20:310
	201 KAR 20:320
	201 KAR 20:330
314.021	201 KAR 20:205
	201 KAR 20:215
314.031	201 KAR 20:161
	201 KAR 20:162
	201 KAR 20:205
314.041	201 KAR 20:070
	201 KAR 20:095
	201 KAR 20:110
	201 KAR 20:115
	201 KAR 20:230
	201 KAR 20:240
	201 KAR 20:370
314.042	201 KAR 20:240
314.051	201 KAR 20:070
	201 KAR 20:095
	201 KAR 20:110
	201 KAR 20:115
	201 KAR 20:230
	201 KAR 20:240
	201 KAR 20:370
314.071	201 KAR 20:161
	201 KAR 20:162
	201 KAR 20:225
	201 KAR 20:230
	201 KAR 20:240
	201 KAR 20:370

KRS Section	Regulation
314.073	201 KAR 20:205
	201 KAR 20:210
	201 KAR 20:215
	201 KAR 20:220
	201 KAR 20:225
	201 KAR 20:230
	201 KAR 20:240
314.091	201 KAR 20:115
	201 KAR 20:161
	201 KAR 20:162
314.193	201 KAR 20:057
314.101	201 KAR 20:090
	201 KAR 20:115
	201 KAR 20:380
314.111	201 KAR 20:270
	201 KAR 20:290
	201 KAR 20:310
	201 KAR 20:320
	201 KAR 20:330
	201 KAR 20:360
314.131	201 KAR 20:205
	201 KAR 20:215
	201 KAR 20:240
	201 KAR 20:270
	201 KAR 20:320
	201 KAR 20:330
	201 KAR 20:360
314.161	201 KAR 20:162
	201 KAR 20:240
314.991	201 KAR 20:161
	201 KAR 20:162
317A.140	201 KAR 12:170
317A.145	201 KAR 12:170
Chapter 318	815 KAR 20:120
319.050	201 KAR 26:171
	201 KAR 26:200
	201 KAR 26:230
319.058	201 KAR 26:171
	201 KAR 26:220
	201 KAR 26:230
319.064	201 KAR 26:171
	201 KAR 26:210
	201 KAR 26:230
319A.100	201 KAR 28:060
319A.110	201 KAR 28:050
	201 KAR 28:060
	201 KAR 28:080
319A.120	201 KAR 28:050
319A.130	201 KAR 28:060
	201 KAR 28:080
319A.140	201 KAR 28:050
	201 KAR 28:080
319A.150	201 KAR 28:080
319A.160	201 KAR 28:090
319A.170	201 KAR 28:110
322.020	201 KAR 18:050
322.110	201 KAR 18:050
329.030	502 KAR 20:020
335.010	201 KAR 23:040
335.010-335.160	201 KAR 23:060
335.080	201 KAR 23:070
335.090	201 KAR 23:070
335.100	201 KAR 23:070
335.150-335.160	201 KAR 23:040
335B.010-335B.070	704 KAR 20:450
Chapter 338	803 KAR 2:020
	803 KAR 2:030
341.005-341.990	903 KAR 5:260
341.380	903 KAR 5:270
350.020	405 KAR 18:190
350.093	405 KAR 18:190

KRS Section	Regulation
350.100	405 KAR 16:060
	405 KAR 18:060
	405 KAR 18:190
350.151	405 KAR 18:060
	405 KAR 18:190
350.405	405 KAR 18:190
350.410	405 KAR 16:060
	405 KAR 18:190
350.420	405 KAR 16:060
	405 KAR 18:060
350.421	405 KAR 16:060
	405 KAR 18:060
350.430	405 KAR 7:070
350.440	405 KAR 16:060
	405 KAR 18:060
350.450	405 KAR 18:190
350.465	405 KAR 16:060
	405 KAR 18:060
	405 KAR 18:190
351.380	405 KAR 7:070
Chapter 431	501 KAR 8:010
433.750	603 KAR 5:025
433.753	603 KAR 5:025
Chapter 439	501 KAR 6:020
	501 KAR 6:030
	501 KAR 6:040
	501 KAR 6:050
	501 KAR 6:060
	501 KAR 6:080
	501 KAR 6:120
	501 KAR 6:130
	501 KAR 6:140
1984 Acts c. 344	600 KAR 1:070
1984 Acts c. 406	600 KAR 1:070
1986 Acts c. 401	603 KAR 8:010

SUBJECT INDEX

AERONAUTICS
Airport Development
  Aid; 602 KAR 15:020
  Loans; 602 KAR 15:010
Airport Zoning
  Commission jurisdiction; 602 KAR 50:030
  Definitions; 602 KAR 50:010
  Hearing procedures; 602 KAR 50:120
  Map; 602 KAR 50:050

AGRICULTURE
Amusement Rides
  Violation, re-inspection; 302 KAR 16:040
Grain Insurance, Grain Dealers
  Federal warehouses; 302 KAR 34:050 and E

AIR POLLUTION
General Standards
  Asbestos abatement; 401 KAR 63:042

AIRPORT DEVELOPMENT
(See Aeronautics)

AIRPORT ZONING
(See Aeronautics)

ALCOHOLIC BEVERAGE CONTROL
Licensing
  Definitions; 804 KAR 4:245

AMUSEMENT RIDES
(See Agriculture)

ATHLETIC COMMISSION
Boxer defeats; 201 KAR 27:019 and E
Surgical gloves; 201 KAR 27:018 and E

BUILDING CODE
Administration, enforcement; 815 KAR 7:010
Building code; 815 KAR 7:020
Inspector certification; 815 KAR 7:070 and E

COMMERCE
Agriculture
  Amusement rides; 302 KAR Chapter 16
  Grain insurance, dealers; 302 KAR Chapter 34

CORRECTIONS
Execution Competency Hearings
  Hearings, procedures, disposition; 501 KAR 8:010
Office of the Secretary
  Bell County Forestry Camp; 501 KAR 6:140
  Blackburn Correctional Complex; 501 KAR 6:120
  Cabinet manuals; 501 KAR 6:080 and E
  Kentucky State Penitentiary; 501 KAR 6:040 and E
  Kentucky State Reformatory; 501 KAR 6:030 and E
  Luther Luckett Correctional Complex; 501 KAR 6:050
  Northpoint Training Center; 501 KAR 6:060 and E
  Policies, procedures; 501 KAR 6:020 and E
  Western Kentucky Farm Center; 501 KAR 6:130

CRIMINAL JUSTICE TRAINING
Law Enforcement Council
  Instructor certification; 503 KAR 1:100
Law Enforcement Foundation Program
  Participation; 503 KAR 5:090

DENTISTRY
Advertising; 201 KAR 8:006
Anesthesia, sedation; 201 KAR 8:390

EDUCATION AND HUMANITIES CABINET
Exceptional Children
  Programs; 707 KAR Chapter 1
Instruction
  Elementary, secondary; 704 KAR Chapter 10
  Teacher certification; 704 KAR Chapter 20
Local Services
  School district finance; 702 KAR Chapter 3
Vocational Education
  Fiscal management; 705 KAR Chapter 2
  State-operated schools; 705 KAR Chapter 5
Vocational Rehabilitation Services
  Administration; 706 KAR Chapter 1

EMPLOYMENT SERVICES
Employment Services
  Confidentiality; 903 KAR 6:060
Unemployment Insurance
  Maximum weekly benefit rate; 903 KAR 5:270 and E
  Procedures; 903 KAR 5:260

ENGINEERS, LAND SURVEYORS
Branches; 201 KAR 18:050

EXCEPTIONAL CHILDREN (EDUCATION)
Programs
  Annual program; 707 KAR 1:003

FINANCIAL INSTITUTIONS
Credit Unions
  Conduct; 808 KAR 3:050

FIRE PREVENTION
Definitions; 815 KAR 15:010

FISH, WILDLIFE RESOURCES
Fish
  Musseling licenses; 301 KAR 1:190 and E
Game
  Bobcat harvest season; 301 KAR 2:240
  Land Between the Lakes hunting; 301 KAR 2:050
  Migratory birds; 301 KAR 2:220
  Migratory wildlife, taking; 301 KAR 2:044 and E
  Raccoon and opossum; 301 KAR 2:110
Hunting and Fishing
  Birds, animals year-round season; 301 KAR 3:030
Wildlife
  Swan Lake WMA; 301 KAR 4:050

HAIRDRESSERS, COSMETOLOGISTS
Complaints, investigations; 201 KAR 12:170

HARNESS RACING COMMISSION
Harness Racing
  Review, appeal; 811 KAR 1:105
  Standardbred development fund; 811 KAR 1:215
Quarter horse, appaloosa, Arabian; 811 KAR Chapter 2

HEALTH SERVICES
Alcohol, Drugs and Occupational Programs
  Drug Abuse Treatment, Education Centers
    Administration; 902 KAR 3:215
    Client rights; 902 KAR 3:230
    Communication centers; 902 KAR 3:260
    Day care centers; 902 KAR 3:250

HEALTH SERVICES (cont'd)
Definitions; 902 KAR 3:205
Educational information; 902 KAR 3:255
Licensing procedures; 902 KAR 3:210
Personnel policies; 902 KAR 3:220
Physical plant; 902 KAR 3:235
Program operations; 902 KAR 3:240
Quality assurance; 902 KAR 3:225
Residential treatment; 902 KAR 3:245
Non-medical Alcohol Treatment, Education Center
Administration; 902 KAR 3:065
Client rights; 902 KAR 3:080
Definitions; 902 KAR 3:055
Detoxification; 902 KAR 3:095
Education; 902 KAR 3:120
Intensive treatment; 902 KAR 3:115
Licensing procedures; 902 KAR 3:060
Outpatient treatment; 902 KAR 3:110
Personnel policies; 902 KAR 3:070
Program operations; 902 KAR 3:090
Quality assurance; 902 KAR 3:075
Residential treatment; 902 KAR 3:100
Transitional treatment; 902 KAR 3:105
Certificate of Need and Licensure
Comprehensive physical rehabilitation; 902 KAR 20:230; 902 KAR 20:240
Minimums; 902 KAR 20:132
Emergency Medical Technicians
First responder; 902 kAR 13:110
Mentally Ill/Mentally Retarded
Policies, procedures; 902 KAR 12:080
Sanitation
Swimming, bathing facilities; 902 KAR 10:120

HIGHWAYS
Construction and Materials
Bidding; 603 KAR 1:030
Traffic
Fully controlled access; 603 KAR 5:025
Intrastate toll bridges, ferries; 603 KAR 5:071
Mobile homes; 603 KAR 5:110
Overload, overdimension permits; 603 KAR 5:075
Permits for moving buildings; 603 KAR 5:100
Truck weight limits; 603 KAR 5:066
Transportation Scholarship Program
Program; 603 KAR 8:010

HOUSING, BUILDINGS AND CONSTRUCTION
Kentucky building code; 815 KAR Chapter 7
Fire prevention; 815 KAR Chapter 15
Plumbing; 815 KAR Chapter 20
Standards of Safety
Fire safety; 815 KAR 10:020

HUMAN RESOURCES
Employment Services
Employment services; 903 KAR Chapter 6
Unemployment insurance; 903 KAR Chapter 5
Health Services
Alcohol, drugs, occupational programs; 902 KAR Chapter 3
Certificate of need and licensure; 902 KAR Chapter 20
Emergency medical technicians; 902 KAR Chapter 13
Mentally ill, mentally retarded; 902 KAR Chapter 12
Sanitation; 902 KAR Chapter 10
Medicaid services; 907 KAR Chapter 1
Social Insurance
Food stamp program; 904 KAR Chapter 3
Public assistance; 904 KAR Chapter 2
Social Services
Day care; 905 KAR Chapter 2
Child welfare; 905 KAR Chapter 1

INSTRUCTION (EDUCATION)
Elementary, Secondary Education Act
School standards; 704 KAR 10:022
Teacher Certification
Certificate revocation; 704 KAR 20:450
Gifted; 704 KAR 20:280
Professional school personnel; 704 KAR 20:005

JUSTICE
Criminal Justice Training
Law enforcement council; 503 KAR Chapter 1
Law enforcement foundation; 503 KAR Chapter 5
Juvenile Dentention Centers
Admission; 500 KAR 6:140 and E
Communication; 500 KAR 6:160 and E
Definitions; 500 KAR 6:010 and E
Discipline, rules; 500 KAR 6:120 and E
Food services; 500 KAR 6:070 and E
Intake; 500 KAR 6:130 and E
Medical, health care; 500 KAR 6:110 and E
Organization, management; 500 KAR 6:020 and E
Personnel; 500 KAR 6:030 and E
Physical plant; 500 KAR 6:190
Programs; 500 KAR 6:150 and E
Records; 500 KAR 6:040 and E
Release, transfer; 500 KAR 6:170 and E
Rights; 500 KAR 6:090 and E
Safety, emergency procedures; 500 KAR 5:050 and E
Sanitation, hygiene; 500 KAR 6:080 and E
Security, control; 500 KAR 6:060 and E
Staff training, development; 500 KAR 6:100 and E
Volunteers; 500 KAR 6:180 and E
State Police
Polygraph; 502 KAR Chapter 20

LABOR
Occupational safety, health; 803 KAR Chapter 2

LAND SURVEYORS
(See Engineers, Land Surveyors)

LOCAL SERVICES (EDUCATION)
School District Finance
Maximum class size; 702 KAR 3:190 and E

MEDICAID SERVICES
Alternative home, community based services for mentally retarded; 907 KAR 1:140 and E; 907 KAR 1:150 and E
Dental services; 907 KAR 1:026; 907 KAR 1:027
Home health services; 907 KAR 1:031 and E
Hospital furnished skilled nursing, intermediate care; 907 KAR 1:037 and E; 907 KAR 1:042 and E
Mental health centers; 907 KAR 1:045 and E
Psychiatric hospital; 907 KAR 1:016 and E
Reference materials; 907 KAR 1:250 and E
Skilled nursing, intermediate care; 907 KAR 1:036 and E

MOTOR VEHICLE COMMISSION
Component manufacturers; 605 KAR 1:160 and E

NATURAL RESOURCES, ENVIRONMENTAL PROTECTION
Air pollution; 401 KAR Chapter 63
Surface Mining Reclamation, Enforcement
General provisions; 405 KAR Chapter 7
Surface mining; 405 KAR Chapter 16
Underground mining; 405 KAR Chapter 18
Waste Management
Solid waste facilities; 401 KAR Chapter 47
Solid waste planning; 401 KAR Chapter 49
Water; 401 KAR Chapter 4

NURSING
Advanced registered nurse practitioners; 201 KAR 20:057
Applications; 201 KAR 20:370
Complaints; 201 KAR 20:161
Contact hours; 201 KAR 20:215
Continuing education; 201 KAR 20:205; 201 KAR 20:210
Disciplinary hearings; 201 KAR 20:162
Extension programs; 201 KAR 20:290
Fees; 201 KAR 20:240
Inactive status; 201 KAR 20:095
License reinstatement; 201 KAR 20:225
License renewal; 201 KAR 20:230
Licensure by endorsement; 201 KAR 20:110
Licensure by examination; 201 KAR 20:070
Limited licensure; 201 KAR 20:115
Nursing program surveys; 201 KAR 20:270
Program curriculum; 201 KAR 20:320; 201 KAR 20:330
Program evaluation; 201 KAR 20:360
Program faculty; 201 KAR 20:310
Provider appeal; 201 KAR 20:220
Refresher courses; 201 KAR 20:380
Temporary work permit; 201 KAR 20:090

OCCUPATIONAL SAFETY, HEALTH
29 CFR Part 1910; 803 KAR 2:020
29 CFR Part 1926; 803 KAR 2:030

OCCUPATIONAL THERAPY
Fees; 201 KAR 28:110
Licenses; 201 KAR 28:080
Regular licensure; 201 KAR 28:060
Renewals; 201 KAR 28:090
Special licensure; 201 KAR 28:050

OCCUPATIONS AND PROFESSIONS
Athletic commission; 201 KAR Chapter 27
Dentistry; 201 KAR Chapter 8
Engineers, land surveyors; 201 KAR Chapter 18
Hairdressers, cosmetologists; 201 KAR Chapter 12
Nursing; 201 KAR Chapter 20
Occupational therapy; 201 KAR Chapter 28
Podiatry; 201 KAR Chapter 25
Psychology; 201 KAR Chapter 16

PLUMBING
Water supply, distribution; 815 KAR 20:120

PODIATRY
Approved schools; 201 KAR 25:011 and E
Licensing examinations; 201 KAR 25:012 and E

PSYCHOLOGY
Definitions; 201 KAR 26:200; 201 KAR 26:210; 201 KAR 26:220
Examinations; 201 KAR 26:030
Supervision requirements; 201 KAR 26:171

PUBLIC PROTECTION, REGULATION
Alcoholic Beverage Control
  Licensing; 804 KAR Chapter 4
Financial Institutions
  Credit unions; 808 KAR Chapter 3
Housing, Buildings and Construction
  Building code; 815 KAR Chapter 7
  Fire prevention; 815 KAR Chapter 15
  Plumbing; 815 KAR Chapter 20
  Standards of safety; 815 KAR Chapter 10
Racing
  Quarter horse, appaloosa, Arabian; 811 KAR Chapter 2
  Thoroughbred; 810 KAR Chapter 1

QUARTER HORSE, APPALOOSA, ARABIAN RACING
Medication; 811 KAR 2:096 and E

RACING
(See Thoroughbred, Harness, or Quarter Horse Racing)

RECLAMATION, ENFORCEMENT
General Provisions
  Blasters certification; 405 KAR 7:070 and E
Surface Mining Activities
  Hydrologic requirements; 405 KAR 16:060
Underground Mining Activities
  Backfilling and grading; 405 KAR 18:190
  Hydrologic requirements; 405 KAR 18:060

SOCIAL INSURANCE
Food Stamp Program
  Eligibility; 904 KAR 3:020 and E
  Reference materials; 904 KAR 3:090
Public Assistance
  AFDC, reference materials; 904 KAR 2:150
  AFDC, standards; 904 KAR 2:016 and E
  Child support, reference materials; 904 KAR 2:170
  HEAP; 904 KAR 2:116
  Supplementary policies; 904 KAR 2:140

SOCIAL SERVICES
Day Care
  Standards; 905 KAR 2:010
Child Welfare
  Detention shelter alternatives; 905 KAR 1:200; 905 KAR 1:210
  Facility and agency standards; 905 KAR 1:091 and E

STATE POLICE
Polygraph
  Examiners; 502 KAR 20:020

THOROUGHBRED RACING
Entries, subscriptions, declarations; 810 KAR 1:013
Pari-mutuel wagering; 810 KAR 1:011

TOLL FACILITIES
(See Transportation)

TOURISM
Fish and Wildlife Resources
  Game; 301 KAR Chapter 2
  Hunting and fishing; 301 KAR Chapter 3

TRANSPORTATION
Aeronautics
  Airport development; 602 KAR Chapter 15
  Airport zoning; 602 KAR Chapter 50
Administration
  Employee conduct, hours; 600 KAR 1:050
  Motor pool procedure; 600 KAR 1:070
Highways
  Construction and materials; 603 KAR Chapter 1
  Traffic; 603 KAR Chapter 5
  Scholarship program; 603 KAR Chapter 8
Motor Vehicle Commission; 605 KAR Chapter 1
Toll Facilities
  Assessment on turnpikes; 600 KAR 2:010
  Emergency vehicles; 600 KAR 2:020
  Credit cards; 600 KAR 2:030
Vehicle Regulation
  Administration; 601 KAR Chapter 2
  Driver improvement; 601 KAR Chapter 13
  Driver's license; 601 KAR Chapter 12
  Motor carriers; 601 KAR Chapter 1
  Motor vehicle tax; 601 KAR Chapter 9

VEHICLE REGULATION
Administration
  General procedures; 601 KAR 2:010
Driver Improvement
  Alcohol driver education clinic; 601 KAR 13:030
  Medical review board; 601 KAR 13:010
  Point system; 601 KAR 13:020
Driver's License
  Driving history record; 601 KAR 12:040
  Instruction permit; 601 KAR 12:030
  Renewal of expired or suspended; 601 KAR 12:020
Motor Carriers
  Permits; 601 KAR 1:020
  Taxicabs; 601 KAR 1:115
Motor Vehicle Tax
  Assigned, replacement vehicle registration; 601 KAR 9:080
  Commercial vehicles; 601 KAR 9:060
  Dealer plates; 601 KAR 9:125
  Highway use license, records, taxes; 601 KAR 9:074
  Inspector procedures; 601 KAR 9:085
  Motor carrier registration; 601 KAR 9:010
  Dealer registration; 601 KAR 9:015
  National Guard license plates; 601 KAR 9:013
  Personalized license plates; 601 KAR 9:012
  Rebuilt, reconstructed registration; 601 KAR 9:047
  Reciprocity; 601 KAR 9:040

VOCATIONAL EDUCATION
Fiscal Management
  Fund distribution; 705 KAR 2:120
State-Operated Schools
  Admission priorities; 705 KAR 5:110
  Contract, agreement; 705 KAR 5:100
  Live work projects; 705 KAR 5:060

VOCATIONAL REHABILITATION SERVICES
Independent living; 706 KAR 1:020
Three-year plan; 706 KAR 1:010

WASTE MANAGEMENT
Solid Waste Facilities
  General provisions; 401 KAR 47:010 and E
  Permit process; 401 KAR 47:020 and E
  Sanitary landfills; 401 KAR 47:040 and E
Solid Waste Planning
  Designation; 401 KAR 49:030 and E
  Fees; 401 KAR 49:050 and E

WATER
Resources
  Stream construction criteria; 401 KAR 4:060