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

MEETING NOTICE: The next meeting of the Administrative Regulation Review Subcommittee is tentatively scheduled on December 10 and 11, 1987. See tentative agenda on pages 1043-1044 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
December 10, 1987
(Rm. 110, Capitol Annex @ 2 p.m.)
PERSONNEL BOARD

Personnel Rules

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

Classified

101 KAR 2:040 & E. Applications and examinations.
101 KAR 2:050 & E. Registers.

GENERAL GOVERNMENT CABINET

Board of Dentistry

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

Board of Medical Licensure

201 KAR 9:121. Certification renewal.

Real Estate Commission

201 KAR 11:220. Errors and omissions insurance requirements.

Board of Examiners and Registration of Architects

201 KAR 19:095. Professional practice standards; violations, penalties.

Board of Podiatry

201 KAR 25:011 & E. Approved schools; examination application, fees. (Deferred from November meeting)

201 KAR 25:012 & E. Licensing examinations. (Deferred from November meeting)

Kentucky Athletic Commission

201 KAR 27:018 & E. Referees and seconds to wear surgical gloves. (Deferred from November meeting)

201 KAR 27:019 & E. Boxer repeatedly knocked out or otherwise defeated. (Deferred from November meeting)

TOURISM CABINET

Department of Fish and Wildlife Resources

Game

301 KAR 2:140. Seasons for wild turkey.

301 KAR 2:230 & E. Shoot to retrieve field trial permits and procedures.

Hunting and Fishing

301 KAR 3:021 & E. Hunting and fishing license fees.

COMMERCE CABINET

Department of Agriculture

Livestock Sanitation

302 KAR 20:040 & E. Entry into Kentucky.

302 KAR 20:055 & E. Brucellosis vaccination, testing and branding requirements.

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

302 KAR 20:070 & E. Stockyards.

302 KAR 20:210 & E. Pseudorabies surveillance.

Kentucky Grain Insurance and Grain Dealers - *(Emergency expired October 31, 1987)

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

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

Department for Environmental Protection

Division of Waste Management

Standards for Owners and Operators of Hazardous Waste Storage, Treatment and Disposal Facilities

401 KAR 34:120 & E. Liability requirements.

401 KAR 34:144 & E. Wording of the instrument for a surety bond guaranteeing payment into a trust fund.

401 KAR 34:159 & E. Wording of the instrument for financial tests on closure or postclosure care.

401 KAR 34:162 & E. Wording of the instrument for financial tests on liability coverage and closure or postclosure care.

401 KAR 34:165 & E. Wording of the instrument for a corporate guarantee.

Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities

401 KAR 35:120 & E. Liability requirements (IS).

Division for Air Quality

New Source Requirements; Non-Attainment Areas

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

401 KAR 51:052. Review of new sources in or impacting upon non-attainment areas.

Hazardous Pollutants

401 KAR 57:045. Inorganic arsenic emissions from glass manufacturing plants.

New Source Standards

401 KAR 59:221. New metal coil coating operations.

401 KAR 59:305. New synthetic organic chemical manufacturing industry equipment leaks.

401 KAR 59:310. New nonmetallic mineral processing plants.

CORRECTIONS CABINET

Office of the Secretary

501 KAR 6:030. Kentucky State Reformatory.

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

501 KAR 6:050. Luther Luckett Correctional Complex.
501 KAR 6:060. Northpoint Training Center.
501 KAR 6:120 & E. Blackburn Correctional Complex.

JUSTICE CABINET

Department of Criminal Justice Training

Law Enforcement Foundation Program Fund

503 KAR 5:090. Participation: requirements; application; withdrawal. (Deferred from November meeting)

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

TENTATIVE AGENDA

December 11, 1987

(Rm. 110, Capitol Annex @ 10 a.m.)

TRANSPORTATION CABINET

Administration

600 KAR 1:050. Employee conduct and working hours. (Deferred from November meeting)

Office of Minority Affairs

600 KAR 4:010 & E. Certification of disadvantaged, minority and women business enterprises.

600 KAR 4:020 & E. The disadvantaged, minority and women business enterprise program.

Department of Vehicle Regulation

Division of Motor Carriers

601 KAR 1:115. Taxicabs. (Deferred since October meeting)

Department of Highways

Traffic

603 KAR 5:210 & E. Extended weight coal haul road system.

603 KAR 5:230 & E. Bridge weight limits on the extended weight coal haul road system.

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Local Services

School Terms, Attendance and Operation

702 KAR 7:065 & E. Designation of agent to manage high school interscholastic athletics.

Office of Vocational Rehabilitation

Administration

706 KAR 1:020. Independent living rehabilitation services state plan. (Deferred from November meeting)

PUBLIC PROTECTION AND REGULATION CABINET

Department of Insurance

Assets and Liabilities

806 KAR 6:090. Discounting of casualty insurance loss reserves.

State Racing Commission

Thoroughbred Racing Rules

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

Department of Housing, Buildings & Construction

Boilers and Pressure Vessels

815 KAR 15:010. Definitions. (Deferred from November meeting)

CABINET FOR HUMAN RESOURCES

Department for Health Services

Maternal and Child Health

902 KAR 4:050 & E. Kentucky family planning program.

Local Health Departments

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

Hospitalization of Mentally Ill and Mentally Retarded

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

Disability Determination's Unit

902 KAR 16:010. Disability determinations program.

State Health Plan

902 KAR 17:010. State health plan.

902 KAR 17:020. State health plan process.

Department for Social Insurance

Public Assistance

904 KAR 2:015 & E. Supplemental programs for the aged, blind, and disabled.

Food Stamp Program

904 KAR 3:010 & E. Definitions.

Department for Social Services

Child Welfare

905 KAR 1:010. Application for permission to place or receive a child.

905 KAR 1:220 & E. Standards for determination of reasonable efforts in foster care placements.

Day Care

905 KAR 2:010. Standards for all child day care facilities. (Amended After Hearing)

Department for Medicaid Services

Medicaid Services

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

907 KAR 1:011 & E. Technical eligibility requirements.

OTHER BUSINESS

903 KAR 6:010. (Work incentive program.) The Subcommittee requested that the agency report back in one year to determine if the cuts made in this regulation were feasible.

REGULATION REVIEW PROCEDURE

Filing and Publication

Administrative bodies shall file with the Regulations Compiler all proposed administrative regulations, public hearing information, tiering statement, regulatory impact analysis, fiscal note, and the federal mandate comparison. Those regulations received by the deadline required in KRS 13A.050 shall be published in the Administrative Register. Following publication in the Register, all regulations shall be referred by the LRC to the appropriate subcommittee for review.

Public Hearing

The administrative body shall schedule a public hearing on proposed administrative regulations to be held not less than twenty (20) nor more than thirty (30) days following publication. 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 and the Compiler of the cancellation. 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.

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

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 Department of Personnel in accordance with KRS Chapter 18A, the Department of Personnel 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
THOMAS C. GREENWELL, Commissioner

DEPARTMENT OF PERSONNEL

101 KAR 2:040E. Applications and examinations.

RELATES TO: KRS 18A.030, 18A.110, 18A.120
PURSUANT TO: KRS Chapter 13A, 18A.030, 18A.110, 18A.150
EFFECTIVE: October 15, 1987
NECESSITY AND FUNCTION: KRS 18A.110 requires the Commissioner of Personnel to promulgate

comprehensive administrative regulations, consistent with the provisions of KRS Chapter 18A, which govern open competitive exams to test the relative fitness of applicants and for the rejection of candidates or eligibles who fail to meet reasonable requirements of the commissioner. This regulation is necessary to implement these statutory requirements and to assure uniformity in administering exams.

Section 1. Notices of Examinations. Examinations for entrance to the classified service shall be conducted on an open-competitive basis. For those job classifications in which there is expected to be a considerable and recurring need of eligibles, the commissioner shall establish a recruitment program which shall be both positive and continuous. Under such plan, applications may be accepted at any time and examinations held whenever and wherever the commissioner deems it desirable for the service. For those job classifications for which continuous recruitment is not needed, special announcements will be used. Eligibles will be listed in rank order irrespective of dates on which the examination was taken. Notice of examinations shall be announced publicly fifteen (15) days prior to

opening and may be distributed to public officials, employment service offices, newspapers, radio stations, educational institutions, professional and vocational societies, other media and such other individuals and organizations as the commissioner may deem expedient. The public notice of examination shall specify the title and minimum salary of the job classifications; the minimum qualifications required; the final date on which application will be received; the relative weights to be assigned to different parts of the examination; and all pertinent information and requirements.

Section 2. Minimum Qualifications for Filing. Open-competitive examinations shall be open to all applicants who meet the standards or requirements fixed by the commissioner with regard to education, experience, age, physical condition, and such other factors as may be held to relate to the ability of the candidate to perform with reasonable efficiency the duties of the position.

Section 3. Previous Experience. In determining whether a state employee meets the minimum requirements for experience required for a job classification, the department shall, in counting state service experience, consider only experience gained during permanent full-time employment.

Section 4. Filing Applications. (1) All applications shall be made on forms prescribed by the commissioner. Such application may require information concerning personal characteristics, education, experience, references, and other pertinent information. When the nature of the work is such that age limits are necessary, the commissioner after consultation with the appointing authority may approve the age limits, which shall be stated in the examination announcement. All applications shall be signed and the truth of the statements contained therein certified by such signatures. Applicants must meet the minimum qualifications specified in announcements as to education and experience, but in no case shall admittance to the examinations constitute assurance of a passing grade.

(2) For those job classifications for which there is to be continuous recruitment, a statement shall be included in the announcement to the effect that applications will be received until further notice.

(3) For those job classifications for which continuous recruitment is not needed, special announcement bulletins will be used. Applicants shall have fifteen (15) calendar days to apply for these special openings. The applications will be processed and those applicants who meet the minimum requirements will be notified of the testing dates.

Section 5. Disqualification of Applicants. The commissioner may refuse to examine an applicant, or, after examination, may disqualify such applicant, remove his name from a register, refuse to certify any eligible on a register or may consult with the appointing authority in taking steps to remove such person already appointed if:

(1) It is found that he does not meet any one of the preliminary requirements established for

the examination for the class of position;

(2) He is unable to perform the duties of the class;

(3) He has made a false statement of material fact in his application;

(4) He has used or attempted to use political pressure or bribery to secure an advantage in the examination;

(5) He has directly or indirectly obtained information regarding the examination to which, as an applicant, he was not entitled;

(6) He has failed to submit his application correctly or within the prescribed time limits;

(7) He has taken part in the compilation, administration, or correction of the examination for which he is an applicant;

(8) He has previously been dismissed from a position in the state service for cause or has resigned while charges for dismissal for cause of which he had knowledge were pending;

(9) He has been convicted of a felony within the preceding five (5) years and his civil rights have not been restored or he has not been pardoned by the governor;

(10) He has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification; or

(11) He has otherwise willfully violated the provisions of KRS Chapter 18A.

Section 6. Advance Examinations. Any applicant who does not meet minimum requirements as to education but who will meet these requirements as a result of the completion of further educational work which he has scheduled for the six (6) months following the date of receipt of application, may be allowed to take the examination at the discretion of the commissioner. An applicant taking the examination under this provision shall have his or her name entered on the register up to thirty (30) days prior to completing the educational requirements.

Section 7. Character of Examinations. Examinations shall be practical in nature, constructed to reveal the capacity of the candidate for the particular job classification for which he is competing and his general background and related knowledge, and shall be rated impartially. The commissioner may use a rating of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness which in his judgment serves the need to discover the relative fitness of applicants.

Section 8. Conduct of Examinations. (1) Examinations shall be conducted in as many places in the Commonwealth as are found convenient for applicants and practicable for administration.

(2) The commissioner may designate monitors in various parts of the Commonwealth to take charge locally of examinations under instructions prescribed by him, provide for the compensation of such monitors, and make arrangements for the use of public buildings in which to conduct the examinations.

(3) Retest procedures.

(a) For open continuous testing an applicant may be admitted to the same exam or its alternate no more than two (2) times within a regular workweek.

(b) For open continuous testing an applicant shall not be permitted to take the same exam or its alternate more than twelve (12) times in a twelve (12) month period beginning with the original date such test is taken.

(c) Retest procedures for examinations listed on special announcements shall be stated on the bulletin.

(d) An applicant who is removed from a register under 101 KAR 2:050, Section 6(1) who fails to make himself available to an appointing authority for consideration or who declines appointment by an appointing authority shall not be allowed to retest for the job class from which removed for six (6) months from the date of removal unless he has been restored for reasons satisfactory to the commissioner or in accordance with the decision of the board on appeal.

Section 9. Rating Examinations. The commissioner shall determine the rating or standing of applicants on the register for all examinations. Such final rating shall be based upon a weighted average of the various parts of the total examination. All applicants for the same job classification shall be accorded uniform and equal treatment in all phases of the examination procedure.

Section 10. Rating Education and Experience. (1) When the rating of education and experience forms a part of the total examination, the commissioner shall determine a procedure for the evaluation of the education and experience qualifications of the applicants. The formula used in appraisal shall give due regard to recency and quality as well as quantity of experience and the pertinency of the education.

(2) The commissioner shall investigate the candidate's educational record form. The commissioner may investigate the candidate's work history. If the results of this investigation bring out information affecting the rating of education and experience, the commissioner may rate the candidate accordingly or make the necessary revision of the rating and so notify the candidate.

Section 11. Oral Examinations. When an oral examination forms a part of the total examination for a position, the commissioner shall appoint one (1) or more oral examination panels as needed. An oral examination panel shall consist of three (3) or more members who shall be known to be interested in the improvement of public administration and in the selection of efficient government personnel of whom one (1) shall be technically familiar with the character of work in the position for which the applicants will be examined. Whenever practicable, all candidates for the same job classification who qualify for the oral examination shall be rated by the same oral examination panel. A member of an oral examination panel shall disclose each instance in which he knows the applicant personally and may refrain from rating such applicant.

Section 12. Notice of Examination Results. Each competitor shall be notified of his final rating as soon as the rating of the examination has been completed. Eligibles shall be entitled to information concerning their relative position on the register upon request and

presentation of proper identification.

Section 13. Adjustment of Errors. An error in the rating of an examination, if called to the attention of the commissioner within thirty (30) days after receipt by the applicant of the notice of examination results shall be corrected by the commissioner provided, however, that such corrections shall not invalidate any certification and appointment previously made.

Section 14. Special Examinations. Except in the case of an error in the examining of an applicant, no applicant shall be given a special examination unless the board by formal recorded action finds that the applicant's failure to take or complete an examination was due to circumstances entirely beyond the control of the applicant. The board's findings and recommendations shall be recorded in its minutes. No claim for a special examination shall be allowed unless it is filed in writing with the board within fifteen (15) days after the date of the original examination. Any special examination shall be constructed on a pattern similar to, and as extensive as, the original examination. Any such special examination shall not invalidate any certification or appointment previously made.

Section 15. Examination Records. The commissioner shall be responsible for the maintenance of all records pertinent to examination programs. Applications and other necessary examination records shall be kept during the life of the register.

Section 16. Job Bank. (1) Job bank is a list of eligible state employees with merit status who wish to be considered for particular job classes. The listing shall accompany competitive register certificates to inform appointing authorities of eligible state employee candidates who are available for internal mobility.

(2) A state employee with merit status who wishes to be considered for the job bank shall submit an application to the Department of Personnel. The Department of Personnel shall review application for eligibility, minimum qualifications and testing requirements.

THOMAS C. GREENWELL, Commissioner

APPROVED BY AGENCY: October 15, 1987

FILED WITH LRC: October 15, 1987 at 4 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 Department of Personnel in accordance with KRS Chapter 18A, the Department of Personnel 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

THOMAS C. GREENWELL, Commissioner

DEPARTMENT OF PERSONNEL

101 KAR 2:050E. Registers.

RELATES TO: KRS 18A.005, 18A.110, 18A.120
PURSUANT TO: KRS Chapter 13A, 18A.030, 18A.040, 18A.110

EFFECTIVE: October 15, 1987

NECESSITY AND FUNCTION: KRS 18A.110 requires the Commissioner of Personnel to promulgate comprehensive administrative regulations, consistent with the provisions of KRS Chapter 18A, which govern the establishment of eligible lists for appointment and for the rejection of candidates or eligibles who do not meet reasonable selection requirements of the commissioner. This regulation is necessary to comply with these statutory requirements.

Section 1. Responsibility for Maintenance of Registers. It shall be the duty of the appointing authorities to notify the commissioner as far in advance as possible of vacancies in full-time or part-time classified positions which may occur in the agencies. The commissioner shall be responsible for the establishment and maintenance of appropriate registers for all full-time or part-time classified positions and for the determination of the adequacy of existing registers.

Section 2. Open-competitive Registers. After each open-competitive examination, the commissioner shall prepare a register of persons with passing grades seeking employment in a full-time or part-time classified position. The names of such persons shall be placed on the register in the order of their final ratings, starting with the highest. Registers for job classifications listed on the special announcement bulletins shall be filled no sooner than five (5) days after the final testing date.

Section 3. Use of Related Registers. If a full-time or part-time vacancy exists in a job classification for which there is no appropriate register, the commissioner may prepare a full-time or part-time register for the job classification from one (1) or more existing related registers. The commissioner shall select registers from job classifications for which the minimum qualifications are comparable to or higher than those required for the job classification in which the vacancy exists. The commissioner may, if appropriate, rerate training and experience on the basis of the minimum qualification required for the job classification in which the vacancy exists.

Section 4. Duration of Registers. (1) A register shall expire automatically at the end of two (2) years from the time of its establishment unless the register is extended by the commissioner for a period not to exceed one (1) additional year or terminated by the commissioner.

(2) The life of registers for job classifications for which continuous recruitment and examination is conducted shall be indefinite but may be terminated by the commissioner. The names of eligibles shall be added to and removed from such registers on a continuous basis. Normally, the name of an eligible shall not remain on a register for a job classification in the continuous program for longer than two (2)

years from the date of its entry on the register. Whenever the name of an eligible is removed from a register, the eligible shall be notified in writing.

(3) When a register becomes so depleted that the preparation of usable certificates for a major portion of the imminent vacancies of the job classification is impracticable, the register will be considered exhausted. The register which has become exhausted shall be considered expired upon the administration of a superseding examination and the establishment of a register on the basis of that examination. When a register becomes exhausted, the commissioner shall send to each eligible remaining on such register a notification prior to the administration of a superseding examination.

Section 5. Replenishment of Registers. If the commissioner determines that a register, although not exhausted, is inadequate for the filling of anticipated vacancies, he may announce an open competitive examination for the purpose of replenishing such register.

Section 6. Removal of Names from the Register.

(1) Reasons for removal. The commissioner may, on receipt of authoritative information, remove the name of an eligible from the appropriate full-time or part-time register:

(a) If the eligible cannot be located by postal authorities at the last address provided by the eligible;

(b) If the eligible responds in writing that he no longer desires consideration for position in that class;

(c) If the eligible declines an offer of probationary appointment to the class for which the register was established;

(d) If it is shown that the eligible is not qualified or is unsuitable for appointment to the class for which the register is established;

(e) If the eligible fails to reply within a period of ten (10) calendar days of the receipt of the written request of the appointing authority for an interview, or fails to appear for an interview which he has scheduled with the appointing authority without good cause;

(f) If the eligible accepts an appointment and fails to present himself for duty at the time and place agreed to without giving reasons for the delay satisfactory to the appointing authority; or

(g) If the eligible states in writing that he is not available for appointment or does not wish to be considered for appointment.

(2) An applicant who is removed from a register under Section 6(1) of this regulation who fails to make himself available to an appointing authority for consideration or who declines appointment by an appointing authority shall not be allowed to be restored to the register for the job class from which removed for six (6) months from the date of removal unless he has been restored for reasons satisfactory to the commissioner or in accordance with the decision of the board on appeal.

(3) The names of eligibles who have been considered for a probationary full-time or part-time appointment three (3) times by any one (1) or more appointing authorities and have not been offered employment may be removed from a full-time or part-time register if it is

determined they would not be suited to the type of work found in the class for which the register is established.

(4) When the Department of Personnel is authoritatively notified that an eligible has accepted a bona fide offer of probationary appointment to any full-time or part-time classified position, effective on a specified date, his name may be removed from the registers for all classes for which the maximum salary is the same or less than that of the class to which he has been appointed.

(5) Whenever an eligible's name is removed from a full-time or part-time register for reasons cited in subsections (1), (2) and (3) of this section, the commissioner shall notify, in writing, the eligible of this action and the reasons therefor, together with his right of appeal to the board pursuant to 101 KAR 1:350. A copy of the appeal form shall be attached to the notice. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the commissioner or in accordance with the decision of the board upon appeal.

(6) Whenever an eligible notifies the Department of Personnel in writing that he is unavailable for employment or employment consideration, the department may remove the name of that eligible from the appropriate full-time or part-time register without further notification to the person.

Section 7. Promotional Register. At the request of the appoint authority, the commissioner shall prepare a register of status employees interested in promotion to a full-time or part-time classified position who meet the minimum requirements and has obtained a passing grade on the competitive promotional examination. The names of such employees shall be placed on the register in the order of their final ratings, starting with the highest. The register shall be certified to agencies for their consideration in filling vacancies from a promotional register.

Section 8. Full-time or Part-time Reemployment Registers. The commissioner shall prepare reemployment registers in accordance with 101 KAR 1:330, Section 5.

Section 9. Job Bank. Job bank is a list of eligible state employees with merit status who wish to be considered for particular job classes. The listing shall accompany competitive register certificates to inform appointing authorities of eligible state employee candidates who are available for internal mobility.

Section 10. [9.] Cooperation with Other Merit Systems. The commissioner may cooperate with the governmental agencies of other jurisdictions whose merit systems operate in conformity with standards comparable to those contained in these regulations. The commissioner may announce and administer joint examinations and establish joint lists from which eligibles shall be certified for appointment in accordance with the provisions of these regulations.

THOMAS C. GREENWELL, Commissioner

APPROVED BY AGENCY: October 15, 1987

FILED WITH LRC: October 15, 1987 at 4 p.m.

STATEMENT OF EMERGENCY

As a result of the 1987 Surface Transportation Act new guidelines for treatment of Women Business Enterprises were recently issued by the Federal Highway Administration. As a result the Transportation Cabinet's programs dealing with disadvantaged, minority and women business enterprises have to be changed. The certification of these firms as it exists under the 1987 Act is included in this administrative regulation. It is necessary that this regulation be promulgated on an emergency basis in order that new guidelines relating to WBE's be in effect as soon as possible. This emergency regulation will be replaced by an ordinary administrative regulation as soon as possible.

MARTHA LAYNE COLLINS, Governor

C. LESLIE DAWSON, Secretary

TRANSPORTATION CABINET Office of Minority Affairs

600 KAR 4:010E. Certification of disadvantaged, minority and women business enterprises.

RELATES TO: KRS Chapters 96A, 174, 176, 177, 183

PURSUANT TO: KRS 13A.120, 174.080

EFFECTIVE: October 15, 1987

NECESSITY AND FUNCTION: Title 49 of the Code of Federal Regulations Part 23 requires that most recipients of funds from the United States Department of Transportation (USDOT) implement a program to support the fullest possible participation of firms or business enterprises owned and controlled by minorities, women and socially and economically disadvantaged individuals in USDOT programs. The Kentucky Transportation Cabinet as a recipient of USDOT funds is required by the federal regulation to have a program of certification of disadvantaged, minority and women business enterprises. This administrative regulation establishes the procedures and criteria for the Transportation Cabinet's certification program.

Section 1. Definitions. (1) "Applicant" means any corporation, partnership, sole proprietorship, or joint venture applying with the Transportation Cabinet for certification as a disadvantaged, minority or women business enterprise.

(2) "Approval" means that the applicant meets disadvantaged, minority or women business enterprise or joint venture eligibility criteria as outlined in 49 CFR Part 23 and as required by this administrative regulation.

(3) "Certification" means the process whereby the Transportation Cabinet determines if an applicant meets disadvantaged, minority or women business enterprise or joint venture criteria.

(4) "Challenge" means an action of a third party which takes issue with the socially and economically disadvantaged status of certified disadvantaged business enterprise program participants or applicants for DBE certification.

(5) "Decertified" means that a firm or business enterprise which has been certified by the Transportation Cabinet which certification has not expired, as a disadvantaged, minority or women business enterprise or joint venture has been determined to be ineligible and is,

therefore, no longer entitled to the rights and privileges accorded to those who are certified by the Transportation Cabinet as a disadvantaged, minority or women business enterprise or joint venture.

(6) "Denial" means that the applicant does not meet disadvantaged, minority or women business enterprise or joint venture eligibility criteria as outlined in 49 CFR Part 23 and as required by this administrative regulation.

(7) "Disadvantaged business enterprise" or "DBE" means a small business concern as defined pursuant to Section 3 of the Small Business Act and implementing regulations:

(a) Which is at least fifty-one (51) percent owned by one (1) or more socially and economically disadvantaged persons; or, in the case of any publicly owned business, at least fifty-one (51) percent of the stock of which is owned by one (1) or more socially and economically disadvantaged individuals; and

(b) Whose management and daily business operations are controlled by one (1) or more of the socially and economically disadvantaged individuals who own it.

(8) "Joint venture" means an association of two (2) or more businesses to perform a specified business contract for profit for which purpose the businesses combined their property, capital, efforts, skills and knowledge.

(9) "Minority" means a person who is a citizen or lawful permanent resident of the United States and who is:

(a) Black (a person having origins in any of the black racial groups of Africa);

(b) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race);

(c) Portugese (a person of Portugese, Brazilian, or other Portugese culture or origin, regardless of race);

(d) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands);

(e) American Indian and Alaskan native (a person having origins in any of the original peoples of North America); or

(f) Members of other groups, or other individuals, found to be economically and socially disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended (15 U.S.C. 637(a)).

(10) "Minority business enterprise" or "MBE" means a small business concern, as defined pursuant to Section 3 of the Small Business Act and implementing regulations, which is owned and controlled by one (1) or more minorities or women. This definition applies only to financial assistance programs. For the purposes of this part, owned and controlled means a business:

(a) Which is at least fifty-one (51) percent owned by one (1) or more minorities or women or, in the case of a publicly owned business, at least fifty-one (51) percent of the stock of which is owned by one (1) or more minorities or women; and

(b) Whose management and daily business operations are controlled by one (1) or more such individuals.

(11) "Notice" means written notice from the Transportation Cabinet or Office of Minority Affairs delivered certified mail to the business address listed on the application form.

(12) "Onsite inspection" means conducting an interview with principals of the firm at its primary place of business, reviewing business-related documents, and inspecting business facilities.

(13) "Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are black Americans, Hispanic Americans, native Americans, Asian-Pacific Americans, Asian-Indian Americans, or women and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act. The Transportation Cabinet rebuttable presumption that individuals listed in the groups below are socially and economically disadvantaged. The Transportation Cabinet also may determine, on a case-by-case basis, that individuals who are not a member of one (1) of the following groups are socially and economically disadvantaged:

(a) "Black Americans," which includes persons having origins in any of the black racial groups of Africa;

(b) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;

(c) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or native Hawaiians;

(d) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas;

(e) "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh; and

(f) "Women."

(14) "Women business enterprise" or "WBE" means a disadvantaged or minority business enterprise which is owned and controlled by one (1) or more women.

Section 2. Application Process. (1) Application for certification as a DBE, MBE, or WBE shall be made on forms prescribed and furnished by the Transportation Cabinet. Each application form shall be completed in full. All documentation required by the application shall be attached to the completed application. The person signing the application shall identify his position with the business enterprise applying for certification. The completed application shall be submitted to the Transportation Cabinet, Office of Minority Affairs.

(2) If the application is not complete, the Office of Minority Affairs shall return the application to the applicant firm requesting that the omitted information be included. An incomplete application shall not be considered by the Office of Minority Affairs.

(3) The Office of Minority Affairs may perform an onsite inspection of any new applicant. Failure of the applicant firm to participate in the onsite inspection shall be sufficient cause for the Office of Minority Affairs to deny the application.

(4) An out-of-state applicant as a prerequisite to consideration of certification by the Office of Minority Affairs shall be

certified as a DBE, MBE or WBE by the state transportation agency responsible for certifying firms under 49 CFR Part 23 in the state in which the firm has residence.

(5) The Office of Minority Affairs may request additional information in order to determine if an applicant firm should be certified. Failure of the applicant firm to provide the requested information shall be cause for the Office of Minority Affairs to deny the application.

Section 3. Evaluation of Application. (1) The Transportation Cabinet, Office of Minority Affairs shall use the eligibility standards set forth in 49 CFR Part 23.53 to determine the eligibility of a firm to be certified or recertified as a MBE. The Office of Minority Affairs shall use the eligibility standards set forth in 49 CFR Part 23.53; 49 CFR Part 23, Subpart D, Appendix A, Appendix B and Appendix C to determine the eligibility of a firm to be certified or recertified as a DBE or WBE. To be certified a firm shall perform a commercially useful function as set forth in 49 CFR Part 23.47.

(2) The Office of Minority Affairs shall issue a determination of eligibility for certification within ninety (90) days of receipt of a completed application provided that a challenge as set forth in Section 8 of this administrative regulation has not been received.

Section 4. Certification of Applicant Firm.

(1) If an application for certification as a DBE, MBE or WBE is approved by the Transportation Cabinet, Office of Minority Affairs and a challenge to the status of a firm from a third party as set forth in Section 8 of this administrative regulation is not received during the time the Office of Minority Affairs is evaluating the application, the notification required by Section 4(2) of this administrative regulation shall be the notice to the applicant firm of certification as a DBE, MBE or WBE.

(2) Certification as a DBE, MBE or WBE is valid for one (1) year from the date of notice of certification.

(3) Records of a certified firm shall be retained for a period of not less than five (5) years from the date of notice of certification.

(4) Certification of a business enterprise shall expire immediately upon any change in ownership or control of the business enterprise. The business enterprise may submit a new application to the Office of Minority Affairs to be considered for certification under the new ownership or control. If, within seven (7) days of the change in ownership or control, the firm notifies the Office of Minority Affairs of the change, the office may extend the expired certification for a brief period of time and with reasonable conditions placed on the firm.

Section 5. Recertification. (1) At least thirty (30) days prior to its certification expiration a certified DBE, MBE or WBE that intends to continue its certification shall submit an application to the Transportation Cabinet, Office of Minority Affairs. The application shall be in the same form and require the same information as in Section 2 of this administrative regulation.

(2) Certification of a DBE, MBE or WBE which has requested recertification at least thirty (30) days prior to the date of certification

expiration shall not expire unless the Office of Minority Affairs denies the request for recertification as set forth in Section 5 of this administrative regulation.

(3) If a firm is notified that its request for recertification is denied and the reasons therefore, the firm may request a predetermination meeting within ten (10) days of the date of the notice. If the firm fails to request a predetermination meeting within the ten (10) days, its request for recertification shall be denied.

(4) The predetermination meeting, if requested, shall be held in accordance with the procedures specified in Section 9 of this administrative regulation.

(5) If the Office of Minority Affairs' decision after the predetermination meeting is that the request for recertification shall be denied, the denial shall be effective immediately. However, the firm may appeal that decision in accordance with Section 10 of this administrative regulation.

Section 6. Denial of Certification. (1) If an application for certification as a DBE, MBE, or WBE is denied by the Transportation Cabinet, Office of Minority Affairs, the notification required by Section 4(2) of this administrative regulation shall set forth the reasons for denial.

(2) A denial may be appealed to the Transportation Cabinet within thirty (30) days of the notice. The appeal shall be filed in accordance with Section 10 of this administrative regulation.

(3) An applicant firm may not reapply for certification for one (1) year from the effective date of denial. The effective date of denial shall be the date of the notice if the denial is not appealed. If the denial is appealed and the denial is upheld the effective date of the denial shall be the date of the notice of final action on behalf of the Transportation Cabinet.

Section 7. Decertification. (1) The Transportation Cabinet, Office of Minority Affairs may perform periodic reviews of each certified DBE, MBE or WBE during its certification period to verify continued eligibility of the firm. If the Office of Minority Affairs finds noncompliance with the eligibility criteria or the certified firm fails to provide reasonable information requested by the Office of Minority Affairs as a part of the periodic review, the office may initiate a decertification proceeding.

(2) The Office of Minority Affairs shall notify the certified firm of the pending decertification. The notice shall specify the reasons for the pending decertification. The firm may request a predetermination meeting within ten (10) days of the notice. If the firm fails to request a predetermination meeting within the ten (10) days, it shall be decertified.

(3) The predetermination meeting, if requested, shall be held in accordance with the procedures specified in Section 9 of this administrative regulation.

(4) If the Office of Minority Affairs' decision after the predetermination meeting is that the firm shall be decertified, the firm may appeal that decision in accordance with Section

10 of this administrative regulation.

(5) The effective date of the decertification is thirty (30) days after the date the notice of decertification is mailed to the firm providing the firm does not appeal the decertification to the Transportation Cabinet. If a firm appeals the decertification, the effective date of the decertification shall be the date of the final ruling of the Secretary of the Transportation Cabinet as set forth in Section 10 of this administrative regulation. Decertification shall be for a specific period of time but not less than one (1) year.

Section 8. Challenge of DBE Certification. (1) Any third party may challenge the socially and economically disadvantaged status of any individual, except an individual who has a current 8(a) certification from the Small Business Administration, rebuttably presumed to be socially and economically disadvantaged if that individual is an owner of a firm certified by or seeking certification from the Transportation Cabinet, Office of Minority Affairs as a DBE. The challenge shall be made in writing to the Office of Minority Affairs.

(2) With its letter, the challenging party shall include all information available to it relevant to a determination of whether the challenged party is in fact socially and economically disadvantaged.

(3) The Office of Minority Affairs shall determine, on the basis of the information provided by the challenging party, if there is reason to believe that the challenged party is in fact not socially and economically disadvantaged.

(4) If the Office of Minority Affairs determines that there is not reason to believe that the challenged party is not socially and economically disadvantaged, the office shall so inform the challenging party in writing. This terminates the proceeding.

(5) If the Office of Minority Affairs determines that there is reason to believe that the challenged party is not socially and economically disadvantaged, the office shall notify the challenged party that his status as a socially and economically and disadvantaged individual has been challenged. The notice shall identify the challenging party and summarize the grounds for the challenge. The notice shall also require the challenged party to provide to the Office of Minority Affairs, within a specified reasonable time, information sufficient to evaluate his status as a socially and economically disadvantaged individual. Failure to provide the requested information within the time limit shall be cause for the DBE to be decertified or to be denied certification.

(6) If the social and economic disadvantaged status of a new applicant is challenged, the challenge proceedings shall be completed prior to completion of the certification.

(7) The Office of Minority Affairs shall evaluate the information available and make a proposed determination of the social and economic disadvantage of the challenged party. The office shall notify both parties of this proposed determination, setting forth the reasons for its proposal.

(8) Either party may request a predetermination meeting within ten (10) days of the date of the notice. If neither party requests a predetermination meeting within the

ten (10) days, the proposed determination of the Office of Minority Affairs shall become the final determination, i.e., the challenged party shall either be decertified or continue to be certified.

(9) The predetermination meeting, if requested, shall be held in accordance with Section 9 of this administrative regulation. However, both parties shall be allowed to attend the meeting or respond in writing to the proposed determination.

(10) In making the determinations called for in subsections (3) and (7) of this section and Section 9 of this administrative regulation as it relates to challenge, the Office of Minority Affairs shall use the standards set forth in 49 CFR Part 23, Subpart D, Appendix C.

(11) During the pendency of a challenge under this section, the presumption that the challenged party is a socially and economically disadvantaged individual shall remain in effect.

(12) The decision of the Office of Minority Affairs in subsection (4) of this section or after an appeal and hearing before the Secretary of the Transportation Cabinet as set forth in Section 10 of this administrative regulation may be appealed to the United States Department of Transportation, by the adversely affected party to the proceeding under the procedures of 49 CFR Part 23.55.

Section 9. Predetermination Meeting. (1) A predetermination meeting with the Office of Minority Affairs may be requested by any party as set forth in Sections 7 and 8 of this administrative regulation. The request shall be made in writing, signed and dated.

(2) The Transportation Cabinet, Office of Minority Affairs shall schedule the predetermination meeting between five (5) and ten (10) days after receipt of the request for the predetermination meeting. Upon agreement between the Office of Minority Affairs and all affected parties the meeting may be scheduled later than the ten (10) days.

(3) The Office of Minority Affairs shall notify all affected parties in writing of the date, time and location of the predetermination meeting.

(4) The predetermination meeting shall be an informal proceeding. The predetermination meeting shall provide the opportunity for the affected parties to present evidence or arguments, either written or oral, on the matter being considered by the Office of Minority Affairs. The affected parties may be represented by legal counsel.

(5) The Office of Minority Affairs shall render a decision within seven (7) days of completion of the predetermination meeting. In making this decision, the Office of Minority Affairs shall use the standards set forth in Section 3 of this administrative regulation. The affected parties shall be notified of the decision of the Office of Minority Affairs.

Section 10. Appeal and Hearing. (1) Any party in Sections 5(2), 7(4) and 8(10) of this regulation adversely affected by a decision of the Transportation Cabinet, Office of Minority Affairs may appeal that decision within thirty (30) days of the notice of determination. The appeal shall be filed in writing with the Transportation Cabinet.

(2) The Transportation Cabinet shall schedule

the hearing on the appeal between fifteen (15) and thirty (30) days after the appeal is received unless otherwise agreed to by all parties.

(3) The Transportation Cabinet shall provide written notice to the appellant of the date, time and location of the hearing.

(4) At the hearing, the hearing officer appointed by the Transportation Cabinet, shall provide an opportunity for the appellant to call witnesses and present evidence and arguments both written and oral as to why the decision of the Office of Minority Affairs should be overturned.

(5) The Office of Minority Affairs shall present evidence at the hearing on the reasons their decision was made. However, the burden of proof is on the appellant.

(6) The hearing officer appointed by the Transportation Cabinet has the authority to issue subpoenas to compel the appearance of witness or the production of other evidence.

(7) The Transportation Cabinet shall provide a stenographer to record all oral testimony at the hearing.

(8) The hearing officer shall prepare a written report setting forth findings of fact, conclusions of law and a recommendation of final action within sixty (60) days of the hearing. The report shall be submitted to the Secretary of the Transportation Cabinet or his appointed designee.

(9) The Secretary shall render the final decision of the Transportation Cabinet within ten (10) days of receipt of the hearing officer's report. A copy of the decision shall be sent by certified mail to the appellant and the Office of Minority Affairs.

(10) An appeal from the Transportation Cabinet's final decision may be made to the United States Department of Transportation in accordance with the provisions of 49 CFR 23.55 and 49 CFR 23 Subpart D, Appendix A, Decertification Procedures.

Section 11. Joint Ventures. (1) Any joint venture which includes a certified DBE, MBE or WBE may apply to be certified as a joint venture eligible to participate in the DBE, MBE or WBE program. Application for certification shall be on forms prescribed and furnished by the Transportation Cabinet. The application procedure, eligibility standards, and certification procedure followed shall be as set forth in this administrative regulation.

(2) Application from a joint venture which includes a disadvantaged, minority or women business enterprise which has not been certified shall not be considered by the Transportation Cabinet.

(3) If all firms involved in the joint venture are certified DBEs, MBEs or WBEs, there is no need for the joint venture to request certification.

Section 12. All portions of 49 CFR 23, last amended August 22, 1983, are hereby incorporated by reference. The federal regulation sets forth the United States Department of Transportation policy of supporting the fullest possible participation of firms owned and controlled by minorities, women and individuals who are socially and economically disadvantaged. It further sets forth the responsibilities of and requirements for recipients of funds from USDOT.

A copy of the material incorporated by reference may be viewed at the Transportation Cabinet, Office of Minority Affairs.

C. LESLIE DAWSON, Secretary/Commissioner
YOLANDA L. MORRIS, Executive Director
APPROVED BY AGENCY: October 15, 1987
FILED WITH LRC: October 15, 1987 at 4 p.m.

STATEMENT OF EMERGENCY

As a result of the 1987 Surface Transportation Act the Federal Highway Administration has recently issued new guidelines for the certification of women business enterprises. The Transportation Cabinet has found it necessary to enact an emergency regulation relating to certification of the disadvantaged, minority and women business enterprises. In order that the total program be effective at the same time this administrative regulation dealing with the procedures to be followed by and requirements of contractors and subcontractors dealing with the Transportation Cabinet in the DBE, MBE and WBE programs must be effective at the same time. Therefore, it is necessary that this administrative regulation be promulgated on an emergency basis. This emergency regulation will be replaced by an ordinary administrative regulation as soon as possible.

MARTHA LAYNE COLLINS, Governor
C. LESLIE DAWSON, Secretary

TRANSPORTATION CABINET Office of Minority Affairs

600 KAR 4:020E. The disadvantaged, minority and women business enterprise program.

RELATES TO: KRS Chapters 96A, 174, 176, 177 183
PURSUANT TO: KRS 13A.120, 174.080
EFFECTIVE: October 15, 1987

NECESSITY AND FUNCTION: Title 49 of the Code of Federal Regulations Part 23 requires that most recipients of funds from the United States Department of Transportation (USDOT) implement a program of supporting the fullest possible participation of firms owned and controlled by minorities, women and socially and economically disadvantaged individuals in USDOT programs. The Kentucky Transportation Cabinet as a recipient of USDOT funds is required by the federal regulation to have a program that requires the participation of disadvantaged, minority and women business enterprises in contracts financed in whole or in part with federal funds. This administrative regulation establishes the procedures to be followed by and requirements of contractors and subcontractors dealing with the Transportation Cabinet.

Section 1. Definitions. (1) "DBE" means a firm certified by the Transportation Cabinet under the provisions of 600 KAR 4:010 as a disadvantaged business enterprise.

(2) "MBE" means a firm certified by the Transportation Cabinet under the provisions of 600 KAR 4:010 as a minority business enterprise.

(3) "WBE" means a firm certified by the Transportation Cabinet under the provisions of 600 KAR 4:010 as a women business enterprise.

(4) "Good faith effort" means an attempt that can reasonably be expected to produce a level of

disadvantaged, minority or women business enterprise participation sufficient to meet contract goals.

(5) "Notice" means written notice from the Transportation Cabinet or Office of Minority Affairs delivered certified mail to the business address listed on the firm's application for certification or bid documents.

(6) "Prime contractor" means an individual, partnership, firm, corporation, joint venture, or any other acceptable business entity that contracts with the Kentucky Transportation Cabinet for the performance of prescribed work.

(7) "Subcontractor" means an individual, partnership, firm, corporation, joint venture, or any other acceptable business entity that subcontracts any portion of a contract with the written consent of the Transportation Cabinet.

(8) "Suspension" means the action taken for cause by the Transportation Cabinet to disqualify for a specified period of time a person or firm from participating as a DBE, MBE, or WBE in Transportation Cabinet federal-aid projects.

Section 2. Contract Goals. (1) Goals shall be established for DBE, MBE or WBE participation in a portion of the Transportation Cabinet projects in which there is United States Department of Transportation funding.

(2) A project proposal may contain goals for participation of DBE, MBE or WBE subcontractors.

(3) Any contractor who bids on and is the apparent successful competitor for such a project shall be responsible for meeting the goals for participation of DBE, MBE or WBE subcontractors which are set forth in the project proposal. The contractor shall submit to the Transportation Cabinet DBE, MBE or WBE subcontractor participation information.

Section 3. Prime Contractor Guidelines. (1) Before a prime contractor enters into a contractual agreement with the Transportation Cabinet on a project which contains goals for participation of DBE, MBE or WBE subcontractors, he shall submit an original and two (2) copies of each agreement between the prime contractor and any DBE, MBE, or WBE to the Transportation Cabinet, Department of Highways. The agreement shall be signed and notarized by both parties to the agreement. The agreement shall set forth a description of the work the DBE, MBE, or WBE subcontractor is to perform or the materials or services to be supplied; the unit price the DBE, MBE, or WBE subcontractor is to be paid for each item; and the total dollar value of the subcontract. All such agreements shall be reviewed by the Transportation Cabinet, Office of Minority Affairs prior to the execution of the project contract to ensure that the project goal will be met and that the DBE, MBE, or WBE subcontractors are certified in Kentucky.

(2) Toward the DBE, MBE or WBE participation goal established for the project, the prime contractor may count expenditures for materials and supplies obtained from DBE, MBE or WBE suppliers and manufacturers, provided the DBE, MBE or WBE assumes actual and contractual responsibility for providing the materials and supplies as follows:

(a) The prime contractor may count its entire expenditure to a DBE, MBE or WBE manufacturer who produces goods from raw materials or substantially alters them before resale; and

(b) The prime contractor may count twenty (20) percent of its expenditures to DBE, MBE or WBE suppliers that are not manufacturers, provided the DBE, MBE or WBE supplier performs a commercially useful function in the supply process.

(3) Toward the DBE, MBE or WBE participation goal established for the project, the prime contractor may count only expenditures to DBEs, MBEs or WBEs that perform a commercially useful function in the work of a contract. A DBE, MBE or WBE firm is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing and supervising the work involved. To determine if a DBE, MBE or WBE is performing a commercially useful function, the amount of work subcontracted, industry practices and other relevant factors shall be evaluated.

(4) A prime contractor may count toward its DBE, MBE or WBE goal a portion of the total dollar value of a subcontract with a joint venture certified under the provisions of 600 KAR 4:010 equal to the percentage of ownership and control of the DBE, MBE or WBE partner in the joint venture.

(5) If the prime contractor fails to reach the goals of the project and fails to demonstrate sufficient good faith efforts as set forth in Section 6 of this administrative regulation, the Office of Minority Affairs shall in writing advise the Department of Highways that the contract agreement with the prime contractor should not be executed because he has failed to reach the DBE, MBE, or WBE participation goals of the contract.

(6) If the prime contractor reaches the DBE, MBE or WBE participation goals and the contractual agreement with the Transportation Cabinet is executed, the prime contractor is bound by the approved DBE, MBE or WBE percentage participation of the contract.

(7) If the prime contractor's subcontract is cancelled, he shall replace the approved DBE, MBE or WBE with another certified DBE, MBE or WBE firm. An original and two (2) copies of the completed and executed agreement between the prime contractor and the new DBE, MBE, or WBE subcontractor shall be submitted to the Office of Minority Affairs. The agreement shall be reviewed by the Office of Minority Affairs as set forth in subsection (1) of this section prior to the replacement DBE, MBE or WBE beginning work on the project. If the prime contractor is unable to replace the subcontractor with a certified DBE, MBE or WBE he shall request a finding of good faith effort as set forth in Section 6 of this administrative regulation.

(8) If the prime contractor and DBE, MBE, or WBE subcontractor intend to amend their agreement which has previously been reviewed by the Office of Minority Affairs, the revision shall be submitted to the Office of Minority Affairs for review prior to the amendment being implemented to ensure that the DBE, MBE, or WBE participation goal will still be met.

(9) The prime contractor shall pay the DBE, MBE or WBE subcontractor for work performed or materials furnished within seven (7) working days after receiving payment from the Transportation Cabinet.

(10) The prime contractor shall, upon request,

make available to the Office of Minority Affairs information related to the conduct of the project.

Section 4. Prime Contractor Failure. (1) The following shall be deemed failure of the prime contractor to meet the approved DBE, MBE or WBE percentage participation of the contract and thus violation of his contract provisions:

(a) Failure to use the approved DBE, MBE or WBE subcontractor;

(b) Use of the approved DBE, MBE or WBE subcontractors to an extent that provides a percentage participation less than indicated in the contract agreement with the Transportation Cabinet; and

(c) Use of a DBE, MBE or WBE subcontractor other than those named in the subcontract reviewed by the Office of Minority Affairs.

(2) The Office of Minority Affairs shall notify the prime contractor of his failure to meet the approved DBE, MBE or WBE percentage participation of the contract. The notice shall contain the reasons for the failure and a time deadline for correction of the failure. The prime contractor in accordance with the provisions of Section 10 of 600 KAR 4:010 may file an appeal within the time deadline. If the firm fails to file an appeal and fails to meet the DBE, MBE or WBE percentage participation of the contract, the Office of Minority Affairs shall in writing advise the Department of Highways of the violation of contract provisions.

Section 5. Good Faith Efforts. (1) If the apparent successful competitor for the project is unable to meet his DBE, MBE or WBE goals but believes he has made a good faith effort toward the goal, he may in writing request a finding of good faith effort from the Office of Minority Affairs. The written request shall substantiate his claim that reasonable efforts were put forth to obtain the project goals. The Office of Minority Affairs shall consider the application for a finding of good faith effort and provide notice to the apparent successful competitor of its decision within ten (10) days of receipt of the application.

(2) The Office of Minority Affairs shall in writing advise the Department of Highways of its decision.

(3) The criteria used by the Office of Minority Affairs for determining if an apparent successful competitor has demonstrated good faith efforts shall include but are not limited to the following:

(a) The apparent successful competitor's attendance at the prebid meeting regarding the specific project;

(b) The apparent successful competitor's providing written announcement of project to a reasonable number of DBEs, MBEs or WBEs regarding subcontracting opportunities;

(c) The apparent successful competitor's allowing sufficient time for DBEs, MBEs or WBEs to respond to the written announcement of project;

(d) The apparent successful competitor's following up written announcement of project with telephone calls or personal contact;

(e) The apparent successful competitor's contacting the Transportation Cabinet's supportive services contractor for assistance in identifying DBE, MBE or WBE firms. The supportive services contractor is a contractor

that provides services to the Transportation Cabinet relating to DBE, MBE, or WBE;

(f) The apparent successful competitor's selecting items of work on the project that DBEs, MBEs or WBEs are prequalified in accordance with 603 KAR 2:015 to perform;

(g) The apparent successful competitor's providing DBEs, MBEs or WBEs with adequate information about the project when requesting quotations;

(h) The apparent successful competitor's making efforts to assist DBEs, MBEs or WBEs in obtaining bonding, credit or insurance;

(i) The apparent successful competitor's advertising in general circulation, trade association and minority focus media for a reasonable time, preferably at least twenty (20) days, before bids or proposals are due;

(j) The location of the project;

(k) The size of the project;

(l) The type of work required by the project; and

(m) The availability of DBEs, MBEs and WBEs.

(4) If the apparent successful competitor is unable to meet the DBE, MBE or WBE participation goal and either did not request a finding of good faith effort or failed to satisfy the Office of Minority Affairs that he has substantiated his claim of good faith efforts, the Office of Minority Affairs shall notify the apparent successful competitor of the reasons why his claim of good faith efforts was not accepted and additional efforts he may make to meet the contract goal.

(5) The apparent successful competitor for the project may file an appeal with the Transportation Cabinet in accordance with the provisions of Section 10 of 600 KAR 4:010 within ten (10) days of the date of the notice. If the firm fails to file an appeal or successfully make the additional efforts within the ten (10) days, the Office of Minority Affairs shall in writing advise the Department of Highways that the firm has neither met the project goals nor made a good faith effort to meet the project goals.

(6) If the apparent successful competitor elects not to file an appeal under the provisions of 600 KAR 4:010, he may within the ten (10) days appeal to the Commissioner, Department of Highways as provided in Sections 9 and 10 of 603 KAR 2:015. However, instead of departmental construction engineers a representative of the Office of Minority Affairs shall be present at the hearing. The hearing examiner and the Commissioner of the Department of Highways shall use the criteria set forth in subsection (3) of this section to determine if the apparent successful competitor has demonstrated good faith efforts.

Section 6. Subcontractor's Guidelines. (1) Only a subcontractor who is certified under the provisions of 600 KAR 4:010 prior to the date of the bid letting for the project may issue a quote on a USDOT assisted project in order to meet a DBE, MBE or WBE goal.

(2) At least fifty (50) percent of the DBE, MBE or WBE subcontractor's work force shall perform the work outlined in the subcontract.

(3) Second tier subcontracting by a DBE, MBE or WBE subcontractor may only be accomplished if the proposed second tier subcontractor is a DBE, MBE or WBE and the Office of Minority Affairs has reviewed the second tier DBE, MBE or WBE

subcontract prior to execution.

(4) A DBE, MBE or WBE subcontractor shall designate in writing a project superintendent who supervises the subcontractor's work force daily. The project superintendent shall not be employed by any other contractor on the same project for the life of the project.

(5) If the subcontractor rents equipment from another contractor, the rental agreement shall be in writing and be approved by the Transportation Cabinet's resident engineer on the project.

Section 7. DBE, MBE or WBE as Contractor. Nothing in this administrative regulation shall be construed so as to prohibit a DBE, MBE or WBE from competing on a project in the role of prime contractor.

Section 8. DBE, MBE or WBE Noncompliance. (1) If any certified DBE, MBE or WBE is found to be in noncompliance with any of the requirements of this administrative regulation, the firm may have its certification suspended for a specified period of time. The Office of Minority Affairs shall notify the certified firm of the pending suspension. The notice shall specify the reasons for the pending suspension.

(2) The firm may request a predetermination meeting within ten (10) days of the date of the notice. If the firm fails to request a predetermination meeting within the ten (10) days it shall be suspended for a specified period of time.

(3) The predetermination meeting, if requested, shall be held in accordance with the procedures specified in Section 9 of 600 KAR 4:010.

(4) If the Transportation Cabinet, Office of Minority Affairs' decision after the predetermination meeting is that the firm shall be suspended, the firm may appeal the decision in accordance with Section 10 of 600 KAR 4:010.

(5) The effective date of the suspension is thirty (30) days after the date the notice of suspension is mailed to the firm, providing the firm does not appeal the suspension to the Transportation Cabinet. If a firm appeals the suspension, the effective date of the suspension shall be the date of the final ruling of the Secretary of the Transportation Cabinet as set forth in Section 10 of 600 KAR 4:010.

C. LESLIE DAWSON, Secretary/Commissioner
YOLANDA L. MORRIS, Executive Director
APPROVED BY AGENCY: October 15, 1987
FILED WITH LRC: October 15, 1987 at 4 p.m.

STATEMENT OF EMERGENCY

KRS Chapter 278 requires the Kentucky Public Service Commission to promulgate administrative regulations to carry out the effects of the statute. This regulation was initially promulgated in 1983 to provide a means for residential electric and gas customer to obtain service during the winter season if they had been previously disconnected for reasons of nonpayment of their utility bill. The regulation provided for a partial payment plan with certain payments on reconnection of service and entering into an agreed payment plan to eventually repay the entire bill.

The commission continues to believe that

certain customers in such hardship situations should have a program by which they can obtain utility service to heat their homes or apartments during the winter season. The commission has regularly reviewed these regulations to ensure that they are still applicable. During this year's review, which included meetings with many utilities and consumer groups, it was determined that certain revisions were necessary. The revisions clarify eligibility requirements, provide that optional payment plans are made available, and require that utility employees are properly trained to assist customers who receive service under this regulation.

Because the winter heating season is upon us and officially begins November 1, the enactment of this regulation on an emergency basis is necessary. The commission intends to replace this emergency regulation by an ordinary regulation under the normal procedure with the Legislative Research Commission.

MARTHA LAYNE COLLINS, Governor
RICHARD D. HEMAN, JR., Chairman
ROBERT M. DAVIS, Secretary

PUBLIC PROTECTION AND REGULATION CABINET Public Service Commission

807 KAR 5:008E. Winter hardship reconnection of residential electric and gas service.

RELATES TO: KRS Chapter 278

PURSUANT TO: KRS 278.280(2)

EFFECTIVE: October 30, 1987

NECESSITY AND FUNCTION: KRS 278.280(2) provides that the commission shall prescribe rules for the performance of any service or the furnishing of any commodity by any utility. This regulation establishes a reconnection rule which applies to electric and gas utility service during the winter months in hardship situations.

Section 1. Notwithstanding the provision of 807 KAR 5:006, Section 11(5) to the contrary, an electric or gas utility shall reconnect service to a residential customer who has been previously disconnected for nonpayment of bills [during the fifteen (15) months] prior to application for reconnection pursuant to 807 KAR 5:006, Section 11(2)(a) and who applies for such reconnection of service during the months from November through March when the customer or his or her agent:

(1) Presents a certificate of need from the Department for Social Insurance including a certification that a referral for weatherization services has been made in accordance with Section 3 of this regulation;

(2) Pays one-third (1/3) of his or her outstanding bill or \$200, whichever is less; and

(3) Agrees to a repayment schedule which would permit the customer to become current in the payment of his or her electric or gas bill as soon as possible but no later than October 15 provided, however, that if, at the time of application for reconnection, the customer has an outstanding bill in excess of \$600 and agrees to a repayment plan that would pay current charges and makes a good faith reduction in the outstanding bill consistent with his or her ability to pay, then such plan shall be accepted. In addition to payment of current charges, repayment schedules shall provide an

option to the customer to select either one (1) payment of arrearages per month or more than one (1) payment of arrearages per month.

Section 2. Certificate of Need for Reconnection. Federal and statewide energy assistance programs are administered by the Kentucky Cabinet for Human Resources, Department for Social Insurance. A customer who is eligible for energy assistance under the department's guidelines or is certified as being in genuine financial need, defined as any household with gross income at or below 130 percent of the poverty level, may obtain a certificate of need from the department to be used in obtaining a service reconnection from the utility.

Section 3. Weatherization Program. Customers obtaining a certificate of need under this regulation shall agree to accept referral to and utilize weatherization services which are administered by the Kentucky Cabinet for Human Resources [Department for Manpower Services]. The provision and acceptance of weatherization services is contingent on the availability of funds and other program guidelines. Weatherization services include, but are not limited to, weather-stripping, insulation and caulking.

Section 4. Customers who are current in their payment plans under Section 1(3) of this regulation shall not be disconnected.

Section 5. Utility Personnel Training. The chief operating officer of each utility subject to this regulation shall be required to certify each year the training of utility personnel assigned to counsel persons presenting themselves for utility service under the provisions of this section. Training is hereby defined as an annual review of commission regulations and policies regarding winter hardship and disconnect regulations, Cabinet for Human Resources policy and programs for issuing certificates of need, and company policies regarding collection, arrears repayment plans, budget billing procedures, and weather/health disconnect policies. Certification is defined as written notice to the commission by no later than October 31 of each year identifying the personnel trained, the date training occurred, and that the training met the requirements of this section.

RICHARD D. HEMAN, JR., Chairman

ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: October 29, 1987

FILED WITH LRC: October 30, 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 Department of Management & Development

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

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

PURSUANT TO: KRS 205.200(2)

EFFECTIVE: November 6, 1987

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

Section 1. Definitions. (1) "Assistance group" is composed of one (1) or more children and may include as specified relative any person specified in 904 KAR 2:006, Section 3. The assistance group shall include the dependent child, child's eligible parent(s), and all eligible siblings living in the home with the needy child. Additionally, if the dependent child's parent is a minor living in the home with his/her eligible parent(s), the minor's parent(s) shall also be included in the assistance group if the minor's parent applied for assistance. The incapacitated natural or adoptive parent of the child(ren) who is living in the home shall be included as second parent if the technical eligibility factors are met.

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

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

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

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

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

(a) The number of hours required by the individual program for participation in a General Educational Development (GED) program; or

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

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

(d) Eight (8) clock hours per month in a

literacy program.

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

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

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

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

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

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

Section 2. Resource Limitations. Real and personal property owned in whole or in part by an applicant or recipient including sanctioned individual(s) and his/her parent(s), even if the parent(s) is not an applicant or recipient, if the applicant/recipient is a dependent child living in the home of said parent, shall be considered. The amount that can be reserved by each assistance group shall not be in excess of \$1,000 equity value excluding those items specifically listed in subsection (1) of this section as follows:

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

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

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

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

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

(2) Disposition of resources. An applicant/recipient must not have transferred or otherwise divested himself/herself of property without fair compensation in order to qualify

for assistance. If the transfer was made expressly for the purpose of qualifying for assistance and if the uncompensated equity value of the transferred property, when added to total resources, exceeds the resource limitation, the household's application shall be denied, or assistance discontinued. The time period of ineligibility shall be based on the resulting amount of excess resources and begins with the month of transfer. If the amount of excess transferred resources does not exceed \$500, the period of ineligibility shall be one (1) month; the period of ineligibility shall be increased one (1) month for every \$500 increment up to a maximum of twenty-four (24) months.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Nonemergency medical transportation payments;

(j) Principal of loans;

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

(l) Highway relocation assistance;

(m) Urban renewal assistance;

(n) Federal disaster assistance and state disaster grants;

(o) Home produce utilized for household consumption;

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

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

(r) Funds distributed per capita to or held in trust for members of any Indian tribe under P.L.

92-254, P.L. 93-134 or P.L. 94-540;

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

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

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

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

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

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

(y) The first fifty (50) dollars of child support payments collected in a month which represents the current month's support obligation and is returned to the assistance group;

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

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

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

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

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

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

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

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

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

(b) First thirty (30) dollars and one-third (1/3) of the remainder of each individual's earned income not already disregarded, if that individual's needs are considered in determining the benefit amount. The one-third (1/3) portion

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

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

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

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

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

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

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

4. A bona fide offer of employment at a minimum wage customary for such work in the community was not made.

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

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

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

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

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

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

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

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

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

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

(b) An amount equal to the AFDC assistance

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

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

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

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

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

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

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

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

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

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

(c) Amounts paid by the sponsor to nonhousehold members who are or could be claimed

as dependents in determining his/her federal personal tax liability;

(d) Actual payments of alimony or child support paid to nonhousehold members; and

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

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

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

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

Number of Eligible Persons	Monthly Standard
1 Child	\$147 [140]
2 Persons	\$179 [170]
3 Persons	\$207 [197]
4 Persons	\$259 [246]
5 Persons	\$303 [288]
6 Persons	\$342 [325]
7 or more Persons	\$381 [362]

Section 9. Educational Allowance. An educational allowance shall be included in the assistance standard each month at the request of the caretaker relative, if the criteria in subsection (1) of this section are met and verified for said month(s) and funds are available. Households receiving the educational allowance shall be subject to time frames, procedures, and penalties established for households required to report monthly.

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

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

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

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

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

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

	1 Child		2 or More Children	
	Full-Time	Part-Time	Full-Time	Part-Time
Literacy	\$ 20	-	\$ 25	-
GED	\$ 94	-	\$117	-
Elementary School/				
Junior High	\$174	=	\$218	=
High School	\$174	=	\$218	=
Vocational School	\$174	=	\$218	=
College/University	\$174	\$103	\$218	\$129
[High School, Vocational School, or College/University	\$174	\$103	\$218	\$129]

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

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

(b) High school level.

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

Type of Program	Maximums
General Educational Development (GED)	16 months
High School (includes primary and secondary)	27 months

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

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

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

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

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

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

(a) The overpaid assistance unit;

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

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

(3) Overpayments shall be recovered through:

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

(b) Reduction of future AFDC benefits, which shall result in the assistance group retaining, for the payment month, family income and liquid resources of not less than ninety (90) percent

of the amount of assistance paid to a like size family with no income in accordance with Section 8; and/or

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

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

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

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

Section 11. Provisions contained in this regulation shall become effective December 1, 1987.

E. AUSTIN, JR., Secretary

MIKE ROBINSON, Commissioner

APPROVED BY AGENCY: October 27, 1987

FILED WITH LRC: November 6, 1987 at 9 a.m.

STATEMENT OF EMERGENCY

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

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

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

904 KAR 2:020E. Child support.

RELATES TO: KRS 205.795

PURSUANT TO: KRS 205.795

EFFECTIVE: October 26, 1987

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility for administering the Child Support Program in accordance with Title IV-D of the Social Security Act and KRS 205.710 to 205.800 and 205.992. The cabinet is required by the Social Security Act to make efforts to establish paternity and/or secure support from absent parents of children receiving public assistance as a result of desertion or abandonment or due to birth out-of-wedlock and for other children on application. KRS 205.795 empowers the secretary to adopt regulations pertaining to the administration of the Child Support Program. This regulation specifies the procedure for the operation of the program.

Section 1. Compliance with Federal Regulations. The cabinet shall administer the

Kentucky Child Support Program in accordance with Title IV-D of the Social Security Act and Title 45 CFR Sections 301, 302, 303, 304, 305, 306 and 307.

Section 2. Relation to Title IV-A Program. The cabinet shall administer the Kentucky Child Support Program, as the program relates to Title IV-A recipients, in accordance with regulations cited in Section 1 of this regulation and Title 45 CFR Sections 205, 232, 233, 234, and 235.

Section 3. Relation to Title IV-E Program. The cabinet shall administer the Kentucky Child Support Program, as it relates to Title IV-E recipients, in accordance with regulations cited in Section 1 of this regulation and Title 45 CFR Section 1356.

Section 4. Definitions. (1) "Cabinet" shall mean the Cabinet for Human Resources.

(2) "Secretary" shall mean Secretary of the Cabinet for Human Resources or his designee.

(3) "Court order" shall mean any judgment, decree, or order of the courts of this or any other state.

(4) "Dependent child" or "needy dependent child" shall mean any person under age eighteen (18) who is not otherwise emancipated, self-supporting, married or a member of the Armed Forces of the United States and is a recipient of or an applicant for public assistance or who has applied for child support services in accordance with Title IV-D of the Social Security Act.

(5) "Duty of support" shall mean any obligation of support imposed or imposable by law or by court order, decree, or judgment whether interlocutory or final, and includes the duty to pay arrearages of support past due in addition to medical support whenever health care coverage is available at a reasonable cost.

(6) "Parent" shall mean the natural or adoptive parent of a child and includes the father of a child born out-of-wedlock if paternity has been established in a judicial proceeding or in any manner consistent with the laws of this state.

(7) "AFDC recipient" shall mean a child or caretaker relative who is receiving AFDC as prescribed by Title IV-A of the Social Security Act.

(8) "Cooperation" shall mean the act of providing to the IV-D agency or the responsible local official any verbal or written information or documentation needed by the IV-D agency or local official for child support activities, and otherwise complying with the requirements of the Child Support Program.

(9) "Good cause" shall mean that the public assistance recipient has a valid and acceptable reason (as determined by the cabinet) for failing to cooperate in activities related to the Child Support Program.

(10) "Nonpublic assistance recipient" shall mean any child or family who does not receive public assistance, but does receive child support services based on an application filed with the IV-D agency or with a responsible local official who has entered into a written agreement with the IV-D agency.

(11) "Responsible local official" shall mean the elected or appointed official in a political subdivision who is legally responsible for law enforcement activities and has entered into a

written agreement with the IV-D agency.

(12) "Title IV-D agency" shall mean the organizational unit in the state that has responsibility for administering the Title IV-D (Child Support) Program.

(13) "Title IV-A agency" shall mean the organizational unit in the state that has responsibility for administering the Title IV-A (AFDC) program.

(14) "Title IV-E agency" shall mean the organizational unit in the state that has responsibility for administering the Title IV-E (foster care maintenance and adoption assistance) program.

(15) "Paternity blood tests" shall mean those tests used in contested paternity actions including, but not limited to, ABO and human leucocyte antigen (HLA) tests administered by qualified laboratories or medical personnel.

(16) "Public assistance" shall mean money grants, assistance in kind or services to or for the benefit of needy aged, needy blind, needy permanently and totally disabled persons, needy children or persons with whom a needy child lives, or a family containing a combination of these categories.

(17) "Consumer reporting agency" shall mean any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

Section 5. Initiation of Support Action. Support activity shall be initiated upon referral of forms from the Title IV-A or Title IV-E agency or upon application of a nonpublic assistance recipient to the IV-D agency or its authorized representative.

Section 6. Safeguarding Information. Pursuant to 45 CFR 303.21 and consistent with KRS 205.175 and 205.990, the cabinet will disclose information regarding recipients of child support services only to public officials or the recognized persons, such as private attorneys, acting on behalf of the recipients of child support services, who require the information for their official duties and to other persons and agencies involved with the administration of the Child Support Program or other federally assisted programs which provide cash benefits or services to needy individuals.

(1) Pursuant to 45 CFR 303.21(b), the IV-D agency may not disclose to any committee or legislative body any information that identifies by name or address any applicant or recipient.

(2) Pursuant to 45 CFR 303.105 and consistent with KRS Chapter 205, the cabinet shall disclose arrearage information to consumer reporting agencies in cases where the overdue support is greater than \$1,000. The cabinet may release arrearage information when the amount owed is less than \$1,000.

(a) The consumer reporting agency must submit a written request for such information to the cabinet.

(b) The cabinet may charge the consumer reporting agency a fee which may not exceed the cabinet's cost of providing the information.

(c) Within twenty (20) calendar days of

receipt of such request, the cabinet shall notify the parent owing the support of the proposed release of information. The notification must inform the parent of the methods available to contest the accuracy of the information.

(d) The parent shall be given a minimum of twenty (20) days from [contact the cabinet within twenty (20) days of] the date of the above notice to contest the accuracy of the information.

Section 7. Establishing Paternity. In establishing paternity for children in the Child Support Program pursuant to the Social Security Act, the cabinet may utilize any of the provisions which are contained in Kentucky Revised Statutes related to paternity.

Section 8. Securing and Enforcing Support. In securing or enforcing support for children in the Child Support Program pursuant to the Social Security Act, the cabinet may utilize any of the provisions which are contained in Kentucky Revised Statutes related to support.

Section 9. Assignment of Support to IV-D Agency. (1) By accepting public assistance for or on behalf of a needy dependent child, a public assistance recipient assigns to the cabinet the right to all past due and future child support including any voluntary contributions made by the absent parent. Any support income received by AFDC recipients must be forwarded to the cabinet no later than the tenth day of the month following receipt.

(2) Nonpublic assistance recipients may assign their support rights to the cabinet, but these recipients are not required to make such an assignment.

Section 10. Agency Receipt of Support Payments. (1) When the support payment is made payable to the cabinet, money received is credited to the account of the noncustodial or absent parent.

(2) If the amount of the current month's support collection or the court ordered amount, whichever is lower, exceeds the AFDC grant by fifty (50) dollars or more, the IV-D agency will notify the IV-A agency, as required by 45 CFR 302.32.

Section 11. Nonpublic Assistance Recipients. The IV-D agency will provide all services to individuals who are not recipients of public assistance benefits as provided in 45 CFR 302.33(a). Pursuant to KRS 205.721, the cabinet shall continue to provide IV-D services for the period of not less than five (5) months after the family's AFDC benefits have been discontinued. These services shall be continued indefinitely unless the client requests discontinuance of IV-D services.

(1) An application fee for these services must be paid in accordance with 45 CFR 302.33 and KRS 205.721.

(2) In addition to the fees provided for in 42 U.S.C. 453(e)(2) and 463 regarding the federal parent locator service, the state may charge a fee for federal income tax refund intercept services in accordance with 45 CFR 303.72. Additionally, any other fee which must be paid to the federal government for services will be collected by the IV-D agency from the applicant.

Section 12. Cooperative Agreements. Pursuant to 45 CFR 302.34, 42 USC 654(7) and KRS 205.800, all eligible local officials may enter into a written agreement with the cabinet to cooperate in activities relative to the Child Support Program when approved by the cabinet. When officials enter into an agreement with the cabinet, federal financial participation (FFP) for child support activities will be provided pursuant to federal laws and regulations when billing is submitted in accordance with procedures established by the cabinet. The officials shall provide the cabinet in timely fashion such statistical information concerning IV-D activities as prescribed by the cabinet in the manner and form prescribed by the cabinet. If no agreement is executed, referrals for child support activities may be made to local law enforcement officials in accordance with the official's statutory obligations, but the officials will not be eligible for reimbursement as specified above.

Section 13. Distribution of Support Payments. Distribution of support payments received by the cabinet are made in accordance with 45 CFR 302.32, 302.38, 302.51, and 302.52. The first fifty (50) dollars, up to the obligation amount, of all child support collected in a month by the cabinet for an AFDC assistance unit which represents the current month's support obligation shall be returned to the assistance unit. Rights related to hearings as written in 904 KAR 2:055 do not apply to payment of the pass-through of support collected by the IV-D agency.

Section 14. Good Cause for Refusal to Cooperate. (1) The IV-D agency or its authorized representative must immediately notify the IV-A or IV-E agency at such time as the recipient refuses to cooperate in support enforcement efforts. If the IV-A or IV-E agency should determine, pursuant to laws and regulations, that the recipient has a good cause for failing to cooperate and that pursuit of support action would be detrimental to the best interests of the child, the IV-D agency will not pursue any action in the child's behalf.

(2) If the agency determines that the recipient has good cause for not cooperating but that additional support action would not harm the child, the IV-D agency may proceed in the name of the cabinet for the use of and in behalf of the minor dependent child pursuant to federal laws and regulations.

Section 15. Parent Locator Service. The cabinet shall use available resources to locate absent parents for children in the Child Support Program in accordance with Kentucky Revised Statutes and applicable federal laws and regulations.

Section 16. Paternity Blood Testing. Pursuant to 45 CFR 303.5(c) the IV-D agency shall identify laboratories within the state which perform legally and medically acceptable blood tests, including ABO and HLA tests, which tend to include or exclude an alleged father in paternity proceedings under KRS Chapter 406. The IV-D agency shall make a list of such laboratories available upon request. In addition, the cabinet shall provide a list of all such laboratories to the Kentucky Bar

Association and to the Administrative Office of the Courts for distribution to appropriate agencies and individuals on an annual basis.

MIKE ROBINSON, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: October 20, 1987

FILED WITH LRC: October 26, 1987 at 10 a.m.

STATEMENT OF EMERGENCY

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

MARTHA LAYNE COLLINS, Governor

E. AUSTIN, JR., Secretary

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

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

RELATES TO: KRS 194.060, 199.420 to 199.990, 200.080 to 200.120, 205.201 to 205.204, 205.455 to 205.465, Chapters 208, 209, and 600 to 645

PURSUANT TO: KRS 194.050, 199.420, 200.080, 209.030, 605.150, 615.050, 620.180, 625.120, 630.140, 635.100, 640.120, 645.250

EFFECTIVE: November 10, 1987

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

Section 1. DSS Policies and Procedures Manual. For the purpose of implementing and enforcing those sections of the Kentucky Revised Statutes relating to social service programs for children and adults that apply to the Department for Social Services, the Secretary of the Cabinet for Human Resources hereby adopts, by reference, the Department for Social Services' Policy and Procedural Manual as revised through November 6 [April 7], 1987, as the current policies and procedures of that department. The manual contains policies and procedures relating to management procedures, adult services, support services, family and children's services, and youth services. The Department for Social Services' Policy and Procedures Manual may be reviewed in any departmental field office located in each of the 120 counties or at the Office of the Commissioner, Department for Social Services, 275 East Main Street,

Frankfort, Kentucky, during regular working hours.

Section 2. Summary of Amendment. In Chapter I, Management Procedures, strike the entire Section A.5, Fair Hearing, pages 1 through 13 dated 7/87, and substitute in lieu thereof Section A.5, Fair Hearing, pages 1 through 13 dated 11/87. The revised Section A.5 transmits revisions dealing with clarifying when services should be continued, giving adequate notice to clients, requesting a hearing, adding a definition for "affecting," and changing the definition of "hearing officer." [Strike the entire manual as revised through October 15, 1986, and substitute in lieu thereof the entire revised manual dated April, 1987, which transmits revised material as related to the Unified Juvenile Code.]

E. AUSTIN, JR., Secretary
ANNA GRACE DAY, Commissioner
APPROVED BY AGENCY: November 9, 1987
FILED WITH LRC: November 10, 1987 at 11 a.m.

STATEMENT OF EMERGENCY

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

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

CABINET FOR HUMAN RESOURCES Department for Medicaid Services

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

RELATES TO: KRS 205.550, 205.560

PURSUANT TO: KRS 194.050

EFFECTIVE: November 6, 1987

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

Section 1. Amount of Payment. Payment for covered services rendered to eligible medical assistance recipients is based on the physicians' usual, customary, reasonable and prevailing charges.

Section 2. Definitions. For purposes of determination of payment:

(1) Usual and customary charge refers to the uniform amount the individual physician charges in the majority of cases for a specific medical procedure or service.

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

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

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

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

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

(5) Percentile:

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

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

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

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

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

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

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

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

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

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

(1) Reimbursement for physician's services provided to inpatients of hospitals is made on the basis of 100 percent reimbursement per procedure for the first twenty (20) dollars of allowable reimbursement and on the basis of a percentage of the physician's usual, customary and reasonable charge in excess of twenty (20) dollars per procedure, after the appropriate prevailing fee screens are applied. The

percentage rate applied to otherwise allowable reimbursement in excess of twenty (20) dollars per procedure is established at thirty-five (35) percent. The percentage rate will be reviewed periodically and adjusted according to the availability of funds.

(2) Payments for specified obstetrical services provided on or after November 1, 1987 [October 1, 1986], shall be at the lower of the actual billed charge or the following flat rates: for board certified obstetricians, normal delivery and cesarean section, \$650; for all other physicians, normal delivery, and cesarean section, \$550 [normal delivery, \$250; classic cesarean section, \$300; low cervical cesarean

section, \$320; cesarean and hysterectomy, \$350; and extraperitoneal cesarean section, \$200].

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

E. AUSTIN, JR., Secretary

R. HUGHES WALKER, Commissioner

APPROVED BY AGENCY: October 29, 1987

FILED WITH LRC: November 6, 1987 at 9 a.m.

AS AMENDED

GENERAL GOVERNMENT CABINET Board of Nursing (As Amended)

201 KAR 20:095. Inactive nurse licensure status.

RELATES TO: KRS 314.041(7), 314.051(7)

PURSUANT TO: KRS Chapter 314

EFFECTIVE: November 11, 1987

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 shall [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; or

[(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;]

[(2) [(3)] Completion of fifteen (15) contact hours of continuing education, for each year since the last year of active licensure, 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.

**GENERAL GOVERNMENT CABINET
Board of Nursing
(As Amended)**

201 KAR 20:110. Licensure by endorsement.

RELATES TO: KRS 314.041(4), 314.051(5)

PURSUANT TO: KRS Chapter 314

EFFECTIVE: November 6, 1987

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 the board for applicants licensed prior to 1953.
- (d) Have and submit a copy of a current active license to practice nursing in another U.S. jurisdiction or Canada [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 and is not subject to any pending disciplinary action.
- (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 have:
 - (a) Successfully completed an examination that meets the criteria of 201 KAR 20:070(3); and [Submit evidence that the examination was taken in English.]
 - (b) Achieved 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, for each year since the last year of active practice, in nursing within the twenty-four (24) months preceding the date of application for active Kentucky licensure status prior to being licensed by the board.

[(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.

GENERAL GOVERNMENT CABINET
Board of Nursing
(As Amended)

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
EFFECTIVE: November 6, 1987

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 shall be [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) If a nurse or applicant agrees to waive her right to a hearing, the board may issue a consent decree in accordance with the provisions of KRS 314.991 [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 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.

GENERAL GOVERNMENT CABINET
Board of Nursing
(As Amended)

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

EFFECTIVE: November 6, 1987

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 subpoenas 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 that may not be reproduced under the provisions of [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 convenient to all parties [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 shall [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 shall [will] be available to all board members. Any documents or exhibits introduced into evidence shall [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 for relief from sanctions previously imposed by the board pursuant to the provisions of KRS Chapter 314. In cases of financial hardship, 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.

GENERAL GOVERNMENT CABINET
Board of Nursing
(As Amended)

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)
EFFECTIVE: November 6, 1987
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 at the option of the board,] prior to being licensed by the board[:

(a)] fifteen (15) contact hours of continuing education, for each year since the last year of active licensure, 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.

AMENDED AFTER HEARING

CABINET FOR HUMAN RESOURCES
Department for Social Services
Division of Family Services
(Amended After Hearing)

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 or program 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) Comply with local zoning requirements.

(c) [(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.

(d) [(c)] Send application fee, and two (2) completed applications to the Cabinet for Human Resources, Division of Licensing and Regulation, Frankfort, Kentucky 40621. [;]

(e) [(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 on-site 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 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 staff [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 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 manmade disaster.

(12) Criminal records check on staff and volunteers [as required by KRS 17.165]. If the volunteer does not replace staff, is never alone with children, and has no supervising responsibility, then he would not be considered a volunteer for the purpose of criminal records check.

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 a 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 bachelor's degree in a related field from an accredited college or university or competency vocational training. This educational requirement shall be supplemented by a minimum of two (2) years of satisfactory full-time paid [day] experience in working with young children in a group. Three (3) years of full-time paid experience in a child care facility may be substituted for the required education, making a total of five (5) years experience necessary. All experience must be verified. 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 bachelor's 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 January 1, 1988 [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-half (1/2) [one-third (1/3)] of the number of toilets required. 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)] If a facility provides an outdoor play area and cares for infants and toddlers, 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 in attendance for more than three and one-half (3 1/2) hours per day [, 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 facilities [centers] that qualify for the child-care food program, or provide formula as a fringe benefit to the parent.

(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. Snacks shall include one (1) or more of the following foods: milk, fruit, vegetables, juice, protein rich foods such as peanut butter or cheese.

(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 that serve a meal 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.

Section 19. Visitation. Parents or persons exercising custodial control of a child shall be permitted to visit the facility at any time during regular hours of operation.

ANNA GRACE DAY, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: November 4, 1987

FILED WITH LRC: November 5, 1987 at 11 a.m.

PROPOSED AMENDMENTS

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

301 KAR 1:075. Gigging, hand grabbing or snagging, tickling and noodling.

RELATES TO: KRS 150.010, 150.025, 150.170, 150.175, 150.235, 150.360, 150.440, 150.445, 150.470

PURSUANT TO: KRS 13A.350, 150.025

NECESSITY AND FUNCTION: This regulation is necessary to permit and govern methods of harvest to the benefit of the fishery resource. This amendment is necessary to prohibit gigging in Line Fork [expand the gigging season].

Section 1. As used in this regulation, the word "snagging" means an act of taking fish by using a single hook or one (1) treble hook (except in the Green River and its tributaries and Rolling Fork River and its tributaries where five (5) hooks, either single or treble hooks, may be used) which is attached by line to a pole and is used in a jerking and pulling manner.

Section 2. A person may gig or snag from the stream or lake banks, but cannot use these fishing methods from a boat or platform, except gigging is permitted from a boat in any lake with a surface acreage of 500 acres or larger during the daylight hours.

Section 3. The season during which gigging and snagging is permitted is February 1 through May 10, annually, except persons may gig rough fish through the ice in these same waters any time the surface is frozen thick enough to stand on, and gigger must gig while supported by the ice.

Section 4. Gigging and/or snagging for rough fish is permitted night and day in all lakes and streams, except where specifically prohibited in Sections 2 and 5 of this regulation.

Section 5. Gigging and/or snagging is specifically prohibited in the following streams and their tributaries. (Exceptions: See subsection (1)(b) and subsection (2)(b) of this section.

(1)(a) The Cumberland River below Wolf Creek Dam downstream to the Tennessee line, and in the Cumberland River in the area below Barkley Dam downstream to US 62 bridge.

(b) Those tributaries to the Cumberland River below Wolf Creek Dam downstream to the Tennessee line shall be open to gigging and snagging, in season, except that portion of each tributary which is within one-half (1/2) mile of its junction with the Cumberland River.

(2)(a) Within 200 yards of any dam on any stream;

(b) Snagging only is permitted in the Tennessee River below Kentucky Dam subject to restrictions in 301 KAR 1:020.

(3) Little Kentucky River - upstream from a point 200 yards below the low water dam at the Sulphur Road Bridge.

(4) Goose Creek - Russell and Casey.

(5) Casey Creek - Trigg.

(6) Rough River, below Rough River Dam downstream to where Ky. 54 crosses the stream, and above the first riffle on Rough River Lake.

(7) Middle Fork of the Kentucky River, from Buckhorn Dam downstream to Breathitt-Perry County line.

(8) Trammel Creek, upstream from the Butlersville Bridge where Ky. 1332 crosses the stream.

(9) Peters Creek - Barren and Monroe.

(10) Beaver Dam Creek - Edmonson.

(11) Canada Creek - Wayne.

(12) Shultz Creek - Greenup.

(13) Sulphur Spring Creek - Simpson.

(14) Lick Fork Creek - Simpson.

(15) Sinking Creek - Breckinridge.

(16) Beaver Creek - Barren.

(17) Big Brush Creek - Green.

(18) Rough Creek - Hardin.

(19) Claylick Creek - Crittenden.

- (20) Lynn Camp Creek - Hart.
- (21) Roundstone Creek - Hart.
- (22) Ravens Creek - Harrison.
- (23) Boone Creek - Fayette and Clark.
- (24) Caney Creek - Elliott.
- (25) Greasy Creek - Leslie.
- (26) Laurel Fork Creek - Harlan.
- (27) Beaver Creek - Wayne.
- (28) Craney Creek - Rowan.
- (29) Swift Camp Creek - Wolfe.
- (30) Middle Fork - Powell and Wolfe.
- (31) War Fork - Jackson.
- (32) Indian Creek - Jackson.
- (33) Clover Bottom Creek - Jackson.
- (34) Cane Creek - Laurel.
- (35) Hawk Creek - Laurel.
- (36) Beaver Creek - McCreary.
- (37) Little South Fork - McCreary and Wayne.
- (38) Rock Creek - McCreary.
- (39) Lick Creek - McCreary.
- (40) Bark Camp Creek - Whitley.
- (41) Dogslaughter Creek - Whitley.
- (42) Laurel Creek - Elliott.
- (43) Big Double Creek - Clay.
- (44) Hood Creek - Johnson and Lawrence.
- (45) Line Fork - Letcher.

Section 6. All game fish caught by gigging or snagging, except those taken below Kentucky Dam in the Tennessee River, shall be returned to the water immediately, regardless of condition.

Section 7. The tickling and noodling (hand grabbing) season for rough fish only shall be June 10 to August 31 (all dates inclusive) during daylight hours only. Tickling and noodling shall be permitted in all waters except the North, Middle and South Forks of the Kentucky River and their tributaries. The daily creel limit for tickling and noodling shall be fifteen (15) rough fish of which not more than five (5) may be catfish.

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

APPROVED BY AGENCY: November 10, 1987

FILED WITH LRC: November 10, 1987 at 2 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1987 at 3 p.m. in the meeting room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Peter W. Pfeiffer, Director, Division of Fisheries, Department of Fish and Wildlife Resources, 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: Less than 100 anglers that gig fish in Line Fork.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:
 3. Additional factors increasing or decreasing costs:
 - (b) Reporting and paperwork requirements:
 - (3) Assessment of anticipated effect on state and local revenues: None
 - (4) Assessment of alternative methods; reasons why alternatives were rejected: None 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? Yes

TOURISM CABINET

Department of Fish & Wildlife Resources
(Proposed Amendment)

301 KAR 1:120. Live fish sales and handling; licensure.

RELATES TO: KRS 150.025, 150.175, 150.180, 150.190, 150.235, 150.485

PURSUANT TO: 13A.350, 150.025

NECESSITY AND FUNCTION: This regulation is necessary in order to control the flow of live fish from and into natural waters and commercial channels to prevent the spread of disease or undesirable species. This amendment is necessary to eliminate unnecessary and confusing wording.

Section 1. All individuals or companies who sell live fish retail or wholesale [or who place fish in a body of water for fee fishing purposes] must have a live fish and bait dealers license issued in the name of the individual or company that is transacting business in this commonwealth. This license or an exact copy thereof, must be in the possession of the persons who are transporting, selling or possessing live [these] fish for sale in Kentucky.

Section 2. Those individuals or companies transporting live fish from one (1) state to another state through Kentucky without conducting any type of business in this commonwealth are not required to have a live fish and bait dealers license, but must have a valid transportation permit.

Section 3. Valid holders of commercial propagation permits and those individuals or companies who sell [any of these] fish for food in establishments licensed by another state agency to sell retail or wholesale food stuffs are not required to have a live fish and bait dealers license.

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

APPROVED BY AGENCY: November 10, 1987

FILED WITH LRC: November 10, 1987 at 2 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1987 at 2 p.m. in the meeting room of the Arnold L. Mitchell Building, #1 Game Farm Road,

Frankfort, Kentucky. Those interested in attending this hearing shall contact: Peter W. Pfeiffer, Director, Division of Fisheries, Department of Fish and Wildlife Resources, 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 125 pay lake operators.

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

1. First year: \$3,100 (savings)
2. Continuing costs or savings: Same
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: \$3,100 (revenue loss)
2. Continuing costs or savings: Same
3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes

TOURISM CABINET

Department of Fish & Wildlife Resources
(Proposed Amendment)

301 KAR 1:145. Gear allowed for commercial fishing.

RELATES TO: KRS 150.010, 150.025, 150.120, 150.170, 150.175, 150.445, 150.450

PURSUANT TO: KRS 13A.350, 150.025

NECESSITY AND FUNCTION: It is necessary to accurately describe the gear allowed in commercial fishing so that the limitations and susceptibilities of the gear will permit the harvesting of the proper size and species of fishes, and so that the sport harvest is not affected and the fishery resources perpetuation is assured. This amendment is necessary to define the mesh size and construction of netting used as seines [as wings and leads on hoop nets and to prevent hoop nets from being set as multiple unit nets].

Section 1. The following gear is the only commercial gear that can be used in commercial waters designated in 301 KAR 1:150 and under conditions described in 301 KAR 1:155 by appropriately licensed commercial fishermen.

Section 2. Legal Commercial Gear. (1) All lines and mesh must be made of linen, cotton, or

flexible synthetic fiber only.

(2) All mesh is measured by bar measure. This measure is the length of one (1) side of the square, or as measured between two (2) knots on the same line.

(3) The functions of the various commercial fishing tags authorized under KRS 150.175 are consolidated into one (1) tag called "commercial gear tag" which shall serve as they each were designated in KRS 150.175, sections (5), (6), (7), and (8).

(4) Gear:

(a) Hoop net, wing net, straight lead net, heart lead net:

1. Must have a minimum mesh size of three (3) inches, except in the Ohio and Mississippi Rivers and those portions of the Cumberland River below Barkley Dam and the Tennessee River below Kentucky Dam that are open to commercial fishing where the minimum mesh size shall be one (1) inch.

2. Hoops may be any size or shape or material.

3. Maximum length of each lead or wing is sixty (60) feet.

4. Wings and leads must be constructed of multifilament natural or synthetic material only.

5. Netting used for wings and leads must be constructed of twine no smaller than Number six (#6) nylon or equivalent, having a breaking strength of fifty-five (55) pounds or greater.

6. Wings and leads may be of knotted or knotless construction and must have a mesh size no larger than one (1) inch.

7. Hoop nets, wing nets, straight lead nets, or heart lead nets must be fished as individual nets. Wings or leads cannot be tied together so as to become continuous multiple net units.

8. Wings and leads must be used only to lead fish into the hoop net.

9. One (1) commercial gear tag must be attached to the first hoop of each net.

(b) Gill net or trammel net:

1. Are legal gear in Ohio and Mississippi Rivers and overflow lakes directly connected with each river. Minimum mesh size is three (3) inches in the Mississippi and overflow lakes and four (4) inches in the Ohio River and its overflow lakes. Gill and trammel nets may also be authorized for other waters under certain conditions by separate regulations.

2. May be fished weighted or as a flag net.

3. Must have one (1) commercial gear tag attached to each 100 feet or part thereof.

(c) Commercial trotline:

1. Must have more than fifty (50) hooks placed no closer than eighteen (18) inches apart.

2. Must have one (1) commercial gear tag attached.

3. A commercial trotline may be no longer than 3,000 feet, including staging, and must be fished separately, not tied together in a continuous line.

(d) Seine:

1. Must have a maximum [minimum] mesh size of one (1) inch and may be of knotted or knotless construction. Knotted netting must be constructed of twine no smaller than number six (#6) nylon or equivalent having a breaking strength of fifty-five (55) pounds or greater, and knotless netting must be constructed of twine no smaller than #147 nylon or equivalent having a breaking strength of fifty (50) pounds or greater. [two (2) inches.]

2. Must be constructed of multifilament natural or synthetic material only.

3. [2.] Must have both float and lead lines.
4. [3.] Must have wood, fiberglass or metal poles or brails attached at each end.
5. [4.] When [seine is] in the water, it must be attended by persons pulling the seine through the water for the entrapment of fish.
- [5. At no time may a seine be left unattended to act as a set net or other purpose.]
6. Must have one (1) commercial gear tag attached to each 100 feet or part thereof.
- (e) Slat trap basket:
 1. No wire or other mesh may be added to any part of trap.
 2. There must be at least two (2) openings left between slats no smaller than one and one-fourth (1 1/4) inches wide in the catch portion of the trap. These openings may not be restricted by cross-bracings to a length shorter than eight (8) inches.
 3. The trap may be no larger than two (2) feet in diameter or square end measure.
 4. Must have one (1) commercial gear tag attached to opening ring or square.

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

APPROVED BY AGENCY: November 10, 1987

FILED WITH LRC: November 10, 1987 at 2 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1987 at 1 p.m. in the meeting room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Peter W. Pfeiffer, Director, Division of Fisheries, Department of Fish and Wildlife Resources, 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: Less than 10 commercial fishermen that use haul seines.

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: Improved control over the misuse of gill nets.

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None 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? Yes

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 November 13 [October 12], 1987 and hereinafter should be referred to as Kentucky State Reformatory Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

- KSR 01-00-09 Public Information and News Media Relations
- KSR 01-00-10 Entry Authorization for All Cameras and Tape Recorders Brought into the Institution
- KSR 01-00-14 Extraordinary Occurrence Report
- KSR 01-00-15 Cooperation and Coordination with Oldham County Court
- KSR 01-00-19 Personal Service Contract Personnel
- KSR 01-00-20 Consent Decree Notification to Inmates
- KSR 02-00-01 Inmate Canteen
- KSR 02-00-03 Screening Disbursements from Inmate Personal Accounts
- KSR 02-00-11 Inmate Personal Accounts
- KSR 02-00-12 Institutional Funds and Issuance of Checks
- KSR 03-00-01 Shift Assignment/Reassignment
- KSR 03-00-02 Employee Dress and Personal Appearance
- KSR 03-00-05 Intra-Agency Promotional Opportunity Announcements
- KSR 03-00-06 Employee Time and Attendance
- KSR 03-00-07 Travel Expense Reimbursement
- KSR 03-00-08 Employee Tuition Assistance Reimbursement
- KSR 03-00-10 Workers' Compensation
- KSR 03-00-14 Prohibited Employee Conduct, Disciplinary Actions, and Appeal Process
- KSR 03-00-15 Affirmative Action Program
- KSR 03-00-16 Confidentiality of Personnel Records
- KSR 03-00-19 Establishment of Personnel Records and Employee Right to Challenge Information Contained Therein
- KSR 03-00-20 Personnel Selection, Retention and Promotion
- KSR 03-00-21 Equal Employment Opportunities for Institutional Job Assignments and Job Classification Promotions
- KSR 03-00-24 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 13-00-16	Suicide Prevention and Intervention Program
KSR 05-00-02	Research Activities	KSR 14-00-01	Inmate Rights
KSR 05-00-03	Management Information Systems	KSR 14-00-02	A/C Center and Unit D Inmate Access to Legal Aide Services
KSR 06-00-01	Inmate Master File	KSR 14-00-04	Inmate Grievance Procedure
KSR 06-00-02	Records Audit	KSR 14-00-05	Inmate Marriages
KSR 06-00-03	Kentucky Open Records Law	KSR 14-00-06	Inmate Legal Aides
KSR 07-00-02	Institutional Tower Room Regulations	KSR 15-00-01	Operational Procedures and Rules and Regulations for Unit A, B, and C
KSR 07-00-04	Handling of PCB Articles and Containers	KSR 15-00-02	Regulations Prohibiting Inmate Control or Authority Over Other Inmate(s)
KSR 07-00-05	Proper Removal of Transformers	KSR 15-00-03	Governor's Meritorious Good Time Award
KSR 07-00-06	<u>Asbestos Abatement (Added 11/13/87)</u>	KSR 15-00-04	Restoration of Forfeited Good Time
KSR 08-00-07	Inmate Family Emergency - Life Threatening Illness or Death in Inmate's Immediate Family	KSR 15-00-05	Differential Status for SU (QUIT) Inmates
KSR 08-00-08	Death of an Inmate/Notification of Inmate Family in Case of Serious Injury, Critical Medical Emergency, Major Surgery	KSR 15-00-06	Inmate I.D. Cards
KSR 08-00-09	Emergency Preparedness Training	KSR 15-00-07	Inmate Rules and Discipline - Adjustment Committee Procedures
KSR 09-00-04	Horizontal Gates/Box 1 Entry and Exit Procedure	KSR 15-00-08	Firehouse Living Area
KSR 09-00-05	Gate I Entrance and Exit Procedure	KSR 16-00-01	Visiting Regulations
KSR 09-00-09	Search Policy	KSR 16-00-02	Inmate Correspondence and Mailroom Operations (<u>Amended 11/13/87</u>)
KSR 09-00-14	Use of Force	KSR 16-00-03	Inmate Access to Telephones
KSR 09-00-21	Crime Scene Camera	KSR 17-00-01	Housing Unit Assignment
KSR 09-00-22	Collection, Preservation, and Identification of Physical Evidence	KSR 17-00-03	Notifying Inmates' Families of Admission and Procedures for Mail and Visiting
KSR 09-00-23	Drug Abuse Testing	KSR 17-00-04	Assessment/Classification Center Operations, Rules and Regulations
KSR 09-00-25	Inmate Motor Vehicle Operator's License	KSR 17-00-05	Dormitory 10 Operations
KSR 09-00-26	Contraband Outside Institutional Perimeter	KSR 17-00-06	Identification Department Admission and Discharge Procedures
KSR 09-00-27	Construction Crew Entry/Exit	KSR 17-00-07	Inmate Personal Property
KSR 10-00-02	Special Management Inmates Operations, Rules and Regulations for Unit D	KSR 18-00-01	Special Management Inmates - Unit D Classification
KSR 10-00-03	Special Needs Unit	KSR 18-00-04	Returns from Other Institutions
KSR 10-00-04	Unit D Admission/Release Ticket	KSR 18-00-05	Transfer of Residents to Kentucky Correctional Psychiatric Center
KSR 11-00-01	Meal Planning for the General Population	KSR 18-00-06	Classification
KSR 11-00-02	Special Diets	KSR 18-00-07	Special Notice Form
KSR 11-00-03	Food Service Inspections	KSR 19-00-01	Inmate Work Incentives
KSR 11-00-04	Dining Room Dress Code for Inmates	KSR 19-00-02	On-the-job Training Program
KSR 11-00-06	Health Standards/Regulations for Food Service Employees	KSR 19-00-03	Safety Inspections of Inmate Work Assignment Locations
KSR 11-00-07	Early Chow Line Passes for Medically Designated Inmates	KSR 20-00-01	Vocational School Referral and Release Process
KSR 12-00-01	Inmate Summer Dress Regulations	KSR 20-00-03	Academic School Programs
KSR 12-00-02	Sanitation and General Living Conditions	KSR 20-00-04	Criteria for Participation in Jefferson Community College Program
KSR 12-00-03	State Items Issued to Inmates	KSR 20-00-08	Integration of Vocational and Academic Education Programs
KSR 12-00-07	Regulations for Inmate Barbershop	KSR 21-00-01	Legal Aide Office and Law Library Services and Supervision
KSR 13-00-01	Identification of Mentally Retarded Inmates	KSR 21-00-02	Inmate Library Services
KSR 13-00-02	Hospital Operations, Rules and Regulations	KSR 21-00-03	Library Services for Unit D
KSR 13-00-03	Medication for Inmates Leaving Institution Grounds	KSR 22-00-03	Inmate Organizations
KSR 13-00-04	Dental Care for Inmates	KSR 22-00-07	Inmate News Magazine
KSR 13-00-05	Medical and Dental Sick Call	KSR 23-00-02	Chaplain's Responsibility and Inmate Access to Religious Representatives
KSR 13-00-06	Infection Control [(Added 10/12/87)]	KSR 23-00-03	Religious Programming
KSR 13-00-07	Referral of Inmates Considered to Have Severe Emotional Disturbances	KSR 25-00-01	Discharge of Residents to Hospital or Nursing Home
KSR 13-00-08	Institutional Laboratory Procedures	KSR 25-00-02	Violations of Law or Code of Conduct by Inmates on Parole Furlough
KSR 13-00-09	Institutional Pharmacy Procedures	KSR 25-00-03	Preparole Progress Report
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		

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: November 13, 1987

FILED WITH LRC: November 13, 1987 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 21, 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: 534 employees of the Kentucky State Reformatory, 1451 inmates, and all visitors to state correctional institutions.

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

1. First year: None

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.

2. Continuing costs or savings: Same as 2(a)1.

3. Additional factors increasing or decreasing costs: Same as 2(a)1.

(b) Reporting and paperwork requirements: Monthly submission of policy revisions.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

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

CORRECTIONS CABINET (Proposed Amendment)

501 KAR 6:040. Kentucky State Penitentiary.

RELATES TO: KRS Chapters 196, 197, 439

PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on November 13 [October 12], 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
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
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 [(Amended 10/12/87)]
KSP 070000-30	Therapeutic Diets
KSP 090000-01	Inmate Work Programs (Amended 11/13/87) [(Amended 10/12/87)]
KSP 090000-03	Correctional Industries [(Amended 10/12/87)]

- KSP 100000-02 Visiting Program (Amended
11/13/87)
- KSP 100000-03 Disposition of Unauthorized
Property
- KSP 100000-04 Inmate Grooming and Dress Code
- KSP 100000-05 Procedures for Providing
Clothing, Linens and Other
Personal Items
- KSP 100000-06 Inmate Mail and Packages
- KSP 100000-07 Inmate Telephone Access
- KSP 100000-08 Behavioral Counseling Record
- KSP 100000-09 Due Process/Disciplinary
Procedures
- KSP 100000-11 Authorized and Unauthorized
Inmate Property
- KSP 100000-14 Property Room: Clothing Storage
and Inventory
- KSP 100000-15 Uniform Cell Standards for Fire
Safety, Sanitation and Security
- KSP 100000-18 Inmate Grievance Committee
Hearings
- KSP 100000-20 Legal Services Program
- KSP 100000-21 Photocopies for NonIndigent
Inmates with Special Court
Deadlines
- KSP 110000-03 Governor's Meritorious Good Time
Award Committee
- KSP 110000-04 Parole Progress Report
- KSP 110000-06 General Guidelines of the
Classification Committee
- KSP 110000-07 Statutory Good Time Restoration
- KSP 110000-08 Award of Meritorious Good Time
- KSP 110000-10 Special Needs Inmates
- KSP 110000-11 Classification Committee -
Transfer Requests
- KSP 110000-12 Classification Committee - Inmate
Work Assignments
- KSP 110000-13 Classification Document
- KSP 110000-14 Vocational School Placement
- KSP 110000-15 Transfers to Kentucky
Correctional Psychiatric Center
(KCPC)
- KSP 110000-16 Consideration of Further
Treatment Requirements for
Inmates Prior to Release
- KSP 110000-19 Custody/Security Guidelines
- KSP 120000-04 Academic Education
- KSP 120000-07 Community Center Program
- KSP 120000-08 Inmate Furloughs
- KSP 120000-11 Religious Services - Staffing
- KSP 120000-18 Religious Services - Religious
Programming
- KSP 120000-20 Marriage of Inmates
- KSP 120000-24 Muslim Services
- KSP 120000-31 Extended Furloughs
- KSP 120000-32 Discharge of Inmates by Shock
Probation
- KSP 130000-10 Execution Plan

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: November 13, 1987

FILED WITH LRC: November 13, 1987 at noon

PUBLIC HEARING SCHEDULED: A public hearing on
this regulation has been scheduled for December
21, 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: 310
employees of the Kentucky State Penitentiary,

811 inmates, and all visitors to state
correctional institutions.

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

1. First year: None

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative
body:

(a) Direct and indirect costs or savings:

1. First year: None - All of the costs
involved with the implementation of the
regulations are included in the operational
budget.

2. Continuing costs or savings: Same as
(2)(a)1.

3. Additional factors increasing or decreasing
costs: Same as (2)(a)1.

(b) Reporting and paperwork requirements:
Monthly submission of policy revisions.

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

(4) Assessment of alternative methods; reasons
why alternatives were rejected: None

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

(a) Necessity of proposed regulation if in
conflict:

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

(6) Any additional information or comments:
None

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

CORRECTIONS CABINET (Proposed Amendment)

501 KAR 6:060. Northpoint Training Center.

RELATES TO: KRS Chapters 196, 197, 439

PURSUANT TO: KRS 196.035, 197.020, 439.470,
439.590, 439.640

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

Section 1. Pursuant to the authority vested in
the Corrections Cabinet the following policies
and procedures are incorporated by reference on
November 13 [October 12], 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

NTC 01-05-01 Extraordinary Occurrence Reports

NTC 01-10-01 Legal Assistance for Staff

NTC 01-11-01 Political Activities of Merit
Employees

NTC 01-15-01 Establishment of the Warden as
Chief Executive Officer

ADMINISTRATIVE REGISTER - 1087

NTC 01-17-01	Relationships with Public, Media and Other Agencies	NTC 11-05-02	Health Standards/Regulations for Food Service Employees
NTC 02-02-02	Warden's Participation in the Agency Budgeting Process	NTC 11-06-01	Inspections and Sanitation
NTC 02-03-01	Fiscal Management: Audits	NTC 11-07-01	Purchasing, Storage and Farm Products
NTC 02-04-01	Internal Control and Monitoring of Accounting Procedures	NTC 12-01-01	Institutional Inspections
NTC 02-08-01	Inmate Canteen	NTC 12-02-01	Personal Hygiene for Inmates; Clothing and Linens
NTC 02-10-01	Insurance Coverage	NTC 12-02-02	Issuance of Personal Hygiene Products
NTC 02-12-01	Inmate Personal Accounts	NTC 13-01-01	Emergency Medical Care Plan
NTC 03-01-01	Employee Dress and Personal Appearance <u>(Amended 11/13/87)</u>	NTC 13-01-02	Emergency and Specialized Health Services
NTC 03-02-01	Prohibited Employee Conduct	NTC 13-02-01	Administration and Authority for Health Services
NTC 03-03-01	Staff Members Suspected of Being Under the Influence of Intoxicants	NTC 13-03-01	Sick Call and Pill Call
NTC 03-04-01	Shift Assignments and Transfers	NTC 13-04-01	Utilization of Pharmaceutical Products
NTC 03-06-01	Worker's Compensation	NTC 13-05-01	Dental Services
NTC 03-08-01	Procedures for New Employees Reporting for Employment	NTC 13-06-01	Licensure and Training Standards
NTC 03-09-01	Maintenance, Confidentiality and Challenge of Information Contained in Employee Personnel File	NTC 13-07-01	Provisions for Health Care Delivery
NTC 03-10-01	Employment of Ex-Offenders	NTC 13-08-01	Medical and Dental Records
NTC 03-11-01	Submission of Northpoint Training Center Staff Recommendation/Changes	NTC 13-09-01	Special Diets
NTC 03-11-02	Employee Suggestion System	NTC 13-11-01	Inmate Health Screening and Evaluation
NTC 03-13-01	Travel Reimbursement for Official Business and Professional Meetings	NTC 13-12-01	Special Health Care Programs
NTC 03-14-01	Procedures for Selection, Retention, Promotion, and Lateral Transfer of Merit System Employees	NTC 13-17-01	Inmates Assigned to Health Services
NTC 03-14-02	Procedures for Promotional Opportunities	NTC 13-19-01	Mental Health Care Program
NTC 03-15-01	Time and Attendance; Accumulation and Use of Accrued Time	NTC 13-19-03	Suicide Prevention and Intervention Program <u>[(Amended 10/12/87)]</u>
NTC 03-15-02	Procedures for Control of Excessive Leave Use	NTC 13-20-01	Infectious Disease
NTC 03-15-03	Inclement Weather and Emergency Conditions	NTC 13-21-01	Vision Care/Optomety Services
NTC 03-16-01	Affirmative Action and EEO	NTC 13-22-01	Informed Consent
NTC 03-17-01	Employee Grievance Procedure	NTC 13-23-01	Special Needs Inmates
NTC 03-18-01	Educational Assistance Program	NTC 14-01-01	Legal Services Program
NTC 03-18-02	Educational Achievement Award	NTC 14-02-01	Inmate Grievance Procedure <u>[(Amended 10/12/87)]</u>
NTC 03-19-01	Holding of Second Jobs by Employees	NTC 14-03-01	Inmate Rights and Responsibilities
NTC 03-20-01	Assistance and Counseling Services for Employees and their Families	NTC 14-03-02	Board of Claims
NTC 03-21-01	Procedures for Employee Evaluation System	NTC 14-04-01	Inmate Search Policy
NTC 04-01-01	Training and Staff Development	NTC 15-01-01	Restoration of Forfeited Good Time
NTC 04-04-01	Firearms and Chemical Agents Training	NTC 15-02-01	Due Process/Disciplinary Procedures <u>(Amended 11/13/87)</u>
NTC 06-01-01	Offender Records	NTC 15-02-02	Extra Duty Assignments
NTC 06-01-02	Records - Release of Information	NTC 15-02-03	Hearing Officer
NTC 06-01-03	Taking Offender Record Folders onto the Yard	NTC 15-03-01	Rules for Inmates Assigned to Outside Detail
NTC 06-03-01	<u>Public Advocacy Access to Psychological and Psychiatric Reports (Added 11/13/87)</u>	NTC 15-03-02	Rules and Regulations for General Population Dormitories <u>[(Amended 10/12/87)]</u>
NTC 08-05-01	The Fire and Safety Officer	NTC 15-04-01	Inmate Identification
NTC 08-05-02	Fire Procedures <u>(Amended 11/13/87)</u>	NTC 16-01-01	Mail Regulations <u>[(Amended 10/12/87)]</u>
NTC 08-05-03	Fire Prevention	NTC 16-02-01	Visiting
NTC 08-05-04	Storage of Flammables and Dangerous Chemicals and Their Use	NTC 16-02-03	Honor Dorm Visiting
NTC 08-07-01	Safety Standards	NTC 16-03-01	Inmate Furloughs <u>[(Amended 10/12/87)]</u>
NTC 10-01-01	Special Management Inmates (SMU) <u>[(Amended 10/12/87)]</u>	NTC 16-05-01	Telephone Use and Control
NTC 10-02-01	Security Guidelines for Special Management Inmates	NTC 17-01-01	Personal Property Control <u>(Amended 11/13/87)</u>
NTC 10-03-01	Protective Custody <u>[(Amended 10/12/87)]</u>	NTC 17-01-02	Authorized Inmate Personal Property <u>(Amended 11/13/87)</u>
NTC 11-03-01	Food Services: General Guidelines	NTC 17-01-03	Unauthorized Inmate Property
NTC 11-04-01	Food Service: Meals	NTC 17-01-04	Disposition of Unauthorized Property
NTC 11-04-02	Menu, Nutrition and Special Diets	NTC 17-03-01	Assessment/Orientation
		NTC 18-01-01	Preparole Progress Report <u>(Amended 11/13/87)</u>
		NTC 18-02-01	Classification <u>[(Amended 10/12/87)]</u>
		NTC 18-02-02	Classification - 48 Hour Notification
		NTC 18-03-01	Special Notice Form <u>(Amended 11/13/87)</u>
		NTC 18-05-01	Transfers of Inmates

NTC 18-05-02 Transfer of Inmates to Kentucky
Correctional Psychiatric Center
NTC 19-01-01 Inmate Work Program
NTC 19-01-03 Temporary Leave from Job Assignment
NTC 19-02-01 Correctional Industries
NTC 19-02-02 Guidelines for Correctional
Industries [(Added 10/12/87)]
NTC 20-01-01 Academic School Program
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

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: November 13, 1987

FILED WITH LRC: November 13, 1987 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 21, 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: 241 employees of the Northpoint Training Center, 721 inmates, and all visitors to state correctional institutions.

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

1. First year: None

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.

2. Continuing costs or savings: Same as (2)(a)1.

3. Additional factors increasing or decreasing costs: Same as (2)(a)1.

(b) Reporting and paperwork requirements: Monthly submission of policy revisions.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

None

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

CORRECTIONS CABINET (Proposed Amendment)

501 KAR 6:120. Blackburn Correctional Complex.

RELATES TO: KRS Chapters 196, 197, 439

PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on November 13 [September 23], 1987 and hereinafter should be referred to as Blackburn Correctional Complex and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

BCC 01-05-01 Duty Officer and Acting Warden
[(Added 9/23/87)]
BCC 01-07-01 Extraordinary Occurrence Reports
BCC 01-09-01 Legal Assistance for Staff
[(Added 9/23/87)]
BCC 01-10-01 Political Activities of Merit
Employees [(Added 9/23/87)]
BCC 01-11-01 Roles of Consultants, Contract
Employees, Volunteers and
Employees of Other Agencies
BCC 01-13-01 Relationships with Public, Media,
and Other Agencies
BCC 01-15-01 Internal Affairs Office
BCC 01-16-01 Tours of Blackburn Correctional
Complex
BCC 01-19-01 Inmate Access to BCC Staff
BCC 02-01-01 Inmate Canteen [(Amended 9/23/87)]
BCC 02-02-01 Fiscal Responsibility
BCC 02-02-02 Fiscal Management: Accounting
Procedures [(Amended 11/13/87)]
[(Amended 9/23/87)]
BCC 02-02-03 Fiscal Management: Checks
BCC 02-02-04 Fiscal Management: Budget
BCC 02-02-05 Fiscal Management: Insurance
[(Amended 9/23/87)]
BCC 02-02-06 Fiscal Management: Audits
BCC 02-04-01 Billing Method for Health
Services Staff Paid by Personal
Service Contract
BCC 02-05-01 Property Inventory
BCC 02-06-01 Purchasing
BCC 02-07-01 Inmate Personal Accounts
BCC 03-01-01 EEO - Affirmative Action [(Added
9/23/87)]
BCC 03-02-01 General Guidelines for BCC
Employees [(Added 9/23/87)]
BCC 03-02-03 Physical Examinations for New
Employees and Emergency
Notification [(Added 9/23/87)]
BCC 03-03-01 Travel Reimbursement for Official
Business and Professional
Meetings [(Added 9/23/87)]
BCC 03-04-01 Employment of Ex-Offenders
[(Added 9/23/87)]

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BCC 03-06-01	Procedures for Selection, Retention, Promotion, and Lateral Transfer of Merit System Employees [(Added 9/23/87)]	BCC 09-10-04	Governmental Services, Study Release Officer Post Orders
BCC 03-06-02	Procedures for Promotional Opportunities [(Added 9/23/87)]	BCC 09-10-05	Unit A-1 Post Orders <u>(Amended 11/13/87)</u>
BCC 03-07-01	Workers' Compensation [(Added 9/23/87)]	BCC 09-10-06	Recreation Post Orders: Observation [(Added 9/23/87)]
BCC 03-08-01	Employee Assistance Program [(Added 9/23/87)]	BCC 09-10-07	Entrance Gate Post Orders [(Added 9/23/87)]
BCC 03-09-01	Holding of Second Jobs by Employees [(Added 9/23/87)]	BCC 09-10-08	Visiting Area Post Orders [(Added 9/23/87)]
BCC 03-10-01	Student Intern (Co-Op) and Practicum Placement Procedures [(Added 9/23/87)]	BCC 09-10-09	Security Staff General Orders [(Added 9/23/87)]
BCC 03-11-01	Maintenance, Confidentiality, and Challenge of Information Contained in Employee File [(Added 9/23/87)]	BCC 09-10-10	<u>Dining Room Officer Post Orders (Added 11/13/87)</u>
BCC 03-12-01	Work Assignments for Security Staff [(Added 9/23/87)]	BCC 09-12-01	Use of Physical Force; Prohibition of Personal Abuse and Corporal Punishment
BCC 04-02-01	Firearms Training	BCC 09-13-01	Perimeter Patrol
BCC 04-03-01	Educational Assistance Program [(Added 9/23/87)]	BCC 09-14-01	Prohibiting Inmate Authority Over Other Inmates
BCC 05-01-01	Inmate Participation in Authorized Research	BCC 09-15-01	Search Policy/Disposition of Contraband
BCC 06-01-01	Storage of Expunged Records	BCC 09-16-01	Security Activity Logs
BCC 06-02-01	Records - Release of Information	BCC 09-17-01	Institutional Supervisor Inspections [(Added 9/23/87)]
BCC 06-02-02	Offender Records [(Amended 9/23/87)]	BCC 09-18-01	Use of State Vehicles and Staff Owned Vehicles
BCC 06-03-01	Reporting Inmate Misconduct Following Favorable Recommendation by the Parole Board	BCC 09-19-01	Duties and Responsibilities of the Institutional Captain
[BCC 08-01-01]	Simplified Fire Safety System (SFSS) (Deleted 11/13/87)	BCC 09-19-02	Duties and Responsibilities of the Shift Supervisor [(Amended 9/23/87)]
BCC 08-02-01	Natural Disaster Plan (Tornado)	BCC 09-20-01	Inmate Death [(Added 9/23/87)]
BCC 08-03-01	Emergency Preparedness Plan Manual [(Amended 9/23/87)]	BCC 09-21-01	Tool Control [(Added 9/23/87)]
BCC 08-04-01	Fire Safety Plan, Drills and Related Staff Duties <u>(Amended 11/13/87)</u> [(Amended 9/23/87)]	BCC 09-22-01	Emergency Communication System [(Added 9/23/87)]
BCC 08-04-02	Immediate Release of Inmates from Locked Areas [(Added 9/23/87)]	BCC 10-01-01	Special Management Inmates
BCC 08-05-01	Duties of Fire Safety Officer [(Added 9/23/87)]	BCC 11-01-01	Menu and Special Diets [(Amended 9/23/87)]
BCC 08-06-01	Storage, Control and Accountability of Flammable, Toxic, Caustic and Other Hazardous Materials [(Added 9/23/87)]	BCC 11-02-01	Food Service: Inspection, Health Protection and Sanitation <u>(Amended 11/13/87)</u> [(Amended 9/23/87)]
BCC 08-07-01	Facility Furnishings: Exit and Emergency Lights and Noncombustible Containers [(Amended 9/23/87)]	BCC 11-03-01	Food Service: Meals [(Amended 9/23/87)]
BCC 09-01-01	Inclement Weather/Emergency Condition Operation [(Added 9/23/87)]	BCC 11-04-01	Dining Room Guidelines [(Amended 9/23/87)]
BCC 09-02-01	Restricted Areas [(Amended 9/23/87)]	BCC 11-05-01	Food Service Security: Knife & Other Sharp Instrument/Utensil Control
BCC 09-02-02	Inmate Pass System to Restricted Areas	BCC 11-06-01	Purchasing, Storage and Farm Products [(Amended 9/23/87)]
BCC 09-02-03	Regulation of Inmate Movement	BCC 11-07-01	Food Service Operations Manual [(Added 9/23/87)]
BCC 09-03-01	Inmate Identification [(Amended 9/23/87)]	BCC 12-02-01	Personal Hygiene Items [(Amended 9/23/87)]
BCC 09-04-02	Complex Entry & Exit [(Amended 9/23/87)]	BCC 12-02-02	Personal Hygiene for Inmates: Clothing, Linens and Shower Facilities [(Amended 9/23/87)]
BCC 09-05-01	Key Control [(Amended 9/23/87)]	BCC 12-05-01	Barber Shop Services [(Added 9/23/87)]
BCC 09-06-02	Transportation to Courts	BCC 12-06-01	BCC Housekeeping Plan [(Added 9/23/87)]
BCC 09-07-01	Drug Abuse and Intoxicants Testing	BCC 13-01-01	Sick Call and Pill Call [(Amended 9/23/87)]
BCC 09-08-02	Use of Restraints [(Added 9/23/87)]	BCC 13-02-01	Administration and Authority for Health Services <u>(Amended 11/13/87)</u> [(Amended 9/23/87)]
BCC 09-09-01	Population Counts and Count Documentation [(Amended 9/23/87)]	BCC 13-03-01	Provisions of Health Care Delivery [(Amended 9/23/87)]
BCC 09-10-03	Development of Institutional Post Orders [(Amended 9/23/87)]	BCC 13-04-01	Licensure and Training Standards [(Amended 9/23/87)]
		BCC 13-05-01	Medical Alert System [(Amended 9/23/87)]

ADMINISTRATIVE REGISTER - 1090

BCC 13-06-01	Health Care Practices [(Amended 9/23/87)]	BCC 18-02-01	Racial Balance in Living Areas [(Added 9/23/87)]
BCC 13-07-01	Emergency Medical Care Plan [(Added 9/23/87)]	BCC 19-01-01	Inmate Work Programs [(Added 9/23/87)]
BCC 13-07-02	Emergency and Specialized Health Services [(Added 9/23/87)]	BCC 19-02-01	Classification of Inmates to Governmental Service Program <u>(Amended 11/13/87)</u> [(Added 9/23/87)]
BCC 13-07-03	Immediate Medical Treatment for Person's Injured by Weapon or Chemical Agent [(Added 9/23/87)]	BCC 19-03-01	Correctional Industries [(Added 9/23/87)]
BCC 13-08-01	Inmate Health Screening and Evaluation <u>(Amended 11/13/87)</u> [(Amended 9/23/87)]	BCC 20-01-01	Academic and Vocational School
BCC 13-09-01	Prohibition on Medical Experimentation [(Amended 9/23/87)]	BCC 20-02-01	College Programs
BCC 13-10-01	Dental Services [(Added 9/23/87)]	BCC 20-04-01	Educational Program Evaluation
BCC 13-11-01	Suicide Prevention and Intervention Program [(Added 9/23/87)]	BCC 20-05-01	Educational Program Planning <u>(Amended 11/13/87)</u>
BCC 13-12-01	Use of Pharmaceutical products [(Added 9/23/87)]	BCC 20-06-01	Academic and Vocational Curriculum
BCC 13-12-02	Parenteral Administration of Medications and Use of Psychotropic Drugs [(Added 9/23/87)]	BCC 21-01-01	Library Services <u>(Amended 11/13/87)</u> [(Amended 9/23/87)]
BCC 13-13-01	Inmate Health Education [(Added 9/23/87)]	BCC 22-01-01	Arts and Crafts/Production and Sale of Items <u>(Amended 11/13/87)</u>
BCC 13-14-01	Management of Serious and Infectious Diseases [(Added 9/23/87)]	BCC 22-02-01	Privileged Trips <u>(Amended 11/13/87)</u>
BCC 13-15-01	Informed Consent [(Added 9/23/87)]	BCC 22-03-01	Recreational Employees
BCC 13-16-01	Health Records [(Added 9/23/87)]	BCC 22-04-01	Recreation and Inmate Activities
BCC 13-17-01	Notification of Inmate Family in the Event of Serious Illness, Injury or Surgery [(Added 9/23/87)]	BCC 22-04-02	Inmate Clubs and Organizations
BCC 13-19-01	Physicians Referrals/Continuity of Care [(Added 9/23/87)]	BCC 22-04-03	Conducting Inmate Organizational Meetings and Programs [(Added 9/23/87)]
BCC 13-20-01	Chronic and Convalescent Care [(Added 9/23/87)]	BCC 22-04-04	Recreation Program Availability <u>(Amended 11/13/87)</u> [(Added 9/23/87)]
BCC 13-22-01	Psychiatric and Psychological Services, Handling of Mentally Retarded Inmates and Transfers [(Added 9/23/87)]	BCC 22-04-05	Supervision of Leisure-Time Craft Club Activities and Materials [(Added 9/23/87)]
BCC 13-23-01	First Aid Kits [(Added 9/23/87)]	BCC 22-06-01	Music Club [(Added 9/23/87)]
BCC 14-01-01	Office of Public Advocacy Attorney Visits	BCC 22-09-01	Use of Inmates in Recreation Programs [(Added 9/23/87)]
BCC 14-02-01	Law Library	BCC 23-01-01	Religious Services
BCC 14-03-01	Inmate Grievance Procedure	BCC 24-01-01	Duties and Responsibilities of Classification and Treatment Officers [(Added 9/23/87)]
BCC 14-04-01	Inmate Rights and Responsibilities <u>(Amended 11/13/87)</u> [(Amended 9/23/87)]	BCC 24-02-01	Duties and Responsibilities of the Unit Director and Assistant to Unit Director [(Added 9/23/87)]
BCC 14-05-01	Inmate Claims <u>(Amended 11/13/87)</u>	BCC 24-03-01	Social Services [(Amended 9/23/87)]
BCC 15-01-01	Authorized Inmate Personal Property [(Amended 9/23/87)]	BCC 25-01-01	Inmate Check Out Procedure [(Amended 9/23/87)]
BCC 15-02-01	Meritorious Living Unit (B-1)	BCC 25-02-02	Temporary Release/Community Center Release
BCC 15-03-01	Rules and Regulations for Dormitories [(Amended 9/23/87)]	BCC 26-01-01	Citizen Involvement and Volunteer Service Program [(Added 9/23/87)]
BCC 15-04-01	Restoration of Forfeited Good Time		
BCC 15-05-01	Extra Duty Assignments		
BCC 15-06-01	Due Process/Disciplinary Procedures [(Amended 9/23/87)]		
BCC 16-01-01	Inmate Furloughs [(Amended 9/23/87)]		
BCC 16-02-01	Visiting <u>(Amended 11/13/87)</u> [(Amended 9/23/87)]		
BCC 16-03-01	Inmate Packages [(Amended 9/23/87)]		
BCC 16-03-02	Outgoing Inmate Packages		
BCC 16-03-03	Inmate Correspondence <u>(Amended 11/13/87)</u> [(Added 9/23/87)]		
BCC 18-01-01	Classification: Institutional Classification and Reclassification <u>(Amended 11/13/87)</u> [(Added 9/23/87)]		

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: November 13, 1987

FILED WITH LRC: November 13, 1987 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 21, 1987 at 9 a.m. in the State Office Building. Those interested in attending this hearing shall notify in writing: Barbara Jones, Office of General Counsel, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Barbara W. Jones

(1) Type and number of entities affected: 82 employees of the Blackburn Correctional Complex, 334 inmates, and all visitors to state correctional institutions.

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

1. First year: None
2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. All of the costs involved with the implementation of the regulation are included in the operational budget.

2. Continuing costs or savings: Same as (2)(a)1.

3. Additional factors increasing or decreasing costs: Same as (2)(a)1.

(b) Reporting and paperwork requirements: Monthly submission of policy revisions.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

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

CORRECTIONS CABINET (Proposed Amendment)

501 KAR 6:130. Western Kentucky Farm Center.

RELATES TO: KRS Chapters 196, 197, 439

PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590 and 439.640 authorizes the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. This regulation is in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on November 13 [August 14], 1987 and hereinafter should be referred to as Western Kentucky Farm Center Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

WKFC 01-09-01 Duty Officers, External and Internal Inspections, and Staff Tours (Added 11/13/87)

WKFC 02-00-03 Invoice/Voucher Processing (Added 11/13/87)

WKFC 02-00-06 Purchasing Procedures (Added 11/13/87)

WKFC 02-01-01 Inmate Funds (Added 11/13/87)

WKFC 02-02-01 Agency Funds and Accounting Procedures (Added 11/13/87)

WKFC 02-08-01 Property Receipt and Inventory Procedures (Added 11/13/87)

WKFC 03-00-01 Fishing and Hunting on the Property of Western Kentucky Farm Center

WKFC 04-01-01 Travel Reimbursement for Official Business in Attendance at Professional Meetings (Added 11/13/87)

WKFC 04-02-01 Employee Training and Development (Amended 11/13/87)

WKFC 04-04-01 Educational Assistance Program (Added 11/13/87)

WKFC 05-01-01 Inmate Participation in Research and use of Consultants and Student Interns (Amended 11/13/87)

WKFC 06-00-01 Offender Records and Information Access (Amended 11/13/87) [(Amended 8/14/87)]

WKFC 06-00-02 Court Orders, Orders of Appearance, Warrants, Detainers, Etc. (Amended 11/13/87) [(Amended 8/14/87)]

[WKFC 08-03-01 Emergency Planning (Added 8/14/87) (Deleted 11/13/87)]

[WKFC 09-00-01 Drug Abuse Testing (Deleted 11/13/87)]

[WKFC 09-09-01 Transportation of Inmate(s) (Deleted 11/13/87)]

[WKFC 09-14-01 Count Procedure (Deleted 11/13/87)]

[WKFC 09-15-01 Institutional Entry and Exit (Added 8/14/87) (Deleted 11/13/87)]

WKFC 10-02-01 Special Management Inmate(s) (Amended 11/13/87) [(Added 8/14/87)]

WKFC 11-00-02 Food Service Inmate Work Responsibilities, Evaluations, and Health Requirements (Amended 11/13/87)

WKFC 11-00-03 Food Service Inspections, Sanitation, Purchasing, Storage, and Corrections Cabinet Farm Products (Amended 11/13/87)

WKFC 11-02-01 Food Service General Guidelines

WKFC 11-02-02 Food Service Security

WKFC 11-03-01 Food Service Meals, Menus, Nutrition and Special Diets (Amended 11/13/87)

WKFC 12-01-01 Inmate Clothing (Amended 11/13/87)

WKFC 13-00-01 Special Health Programs (Amended 11/13/87) [(Added 8/14/87)]

WKFC 13-01-01 Use of Pharmaceutical Products (Added 11/13/87)

WKFC 13-02-01 Health Care Services (Amended 11/13/87)

WKFC 14-00-01 Inmate Rights and Responsibilities (Amended 11/13/87) [(Amended 8/14/87)]

WKFC 14-04-01 Legal Services Program

WKFC 14-06-01 Inmate Grievance Procedure

WKFC 15-01-01 Hair and Grooming Standards (Amended 11/13/87)

WKFC 15-03-01 Meritorious Good Time

WKFC 15-05-01 Restoration of Forfeited Good Time

WKFC 16-01-01 Visiting Policy and Procedures (Amended 11/13/87)

WKFC 16-02-01 Inmate Correspondence (Amended 11/13/87) [(Amended 8/14/87)]

WKFC 16-03-01 Inmate Access to Telephones

WKFC 16-04-01 Inmate Packages (Amended 11/13/87) [(Amended 8/14/87)]

WKFC 17-01-01 Inmate Personal Property

WKFC 17-02-01 Inmate Reception and Orientation (Added 11/13/87)

WKFC 18-01-01 Structure, Guidelines, and Functions of the Classification Committee

WKFC 18-13-01 Meritorious Housing

WKFC 19-03-01 Inmate Wage Program
 WKFC 19-04-01 Work/Program Assignments (Amended 11/13/87)
 WKFC 20-04-01 Academic Education Program(s) (Amended 11/13/87)
 WKFC 20-03-01 Vocational Education Program(s)
 WKFC 22-00-01 Inmate Recreation and Leisure Time Activities
 WKFC 22-00-02 Inmate Clubs & Organizations
 WKFC 23-00-01 Religious Services (Amended 11/13/87)
 WKFC 25-01-01 Gratuities
 WKFC 25-02-01 Inmate Release Process (Amended 11/13/87)
 WKFC 25-03-01 Prerelease Programs
 WKFC 26-01-01 Volunteer Services Program (Amended 11/13/87) [(Added 8/14/87)]

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: November 13, 1987

FILED WITH LRC: November 13, 1987 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 21, 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: 72 employees of the Western Kentucky Farm Center, 290 inmates, and all visitors to state correctional institutions.

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

1. First year: None

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.

2. Continuing costs or savings: Same as 2(a)1.

3. Additional factors increasing or decreasing costs: Same as 2(a)1.

(b) Reporting and paperwork requirements: Monthly submission of policy revisions.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

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

CORRECTIONS CABINET (Proposed Amendment)

501 KAR 6:140. Bell County Forestry Camp.

RELATES TO: KRS Chapters 196, 197, 439

PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640

NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590 and 439.640 authorizes the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. This regulation is in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on November 13 [August 14], 1987 and hereinafter should be referred to as Bell County Forestry Camp Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

BCFC 01-02-01 Organization and Assignment of Responsibility
 BCFC 01-04-02 Extraordinary Occurrence Procedure
 BCFC 01-05-01 Procedures Office: Duties and Responsibilities
 BCFC 01-08-01 Public Information and Inmate Access to News Media
 BCFC 01-09-01 Staff Participation in Professional Organization and Conferences; Provision for Leave and Reimbursement for Expenses
 BCFC 01-11-01 Institutional Duty Officer's Responsibilities
 BCFC 02-01-02 Fiscal Management: Accounting Procedures
 BCFC 02-01-03 Fiscal Management: Agency Funds
 BCFC 02-01-04 Fiscal Management: Insurance
 BCFC 02-01-05 Fiscal Management: Budget
 BCFC 02-01-06 Fiscal Management: Audit
 BCFC 02-02-01 Inmate Accounts
 BCFC 02-02-02 Inmate Control of Personal Funds
 BCFC 02-02-03 Storage and Disposition of Inmate Monies Received on Weekends, Holidays, and Between 4 p.m. and 8 a.m. Weekdays
 BCFC 02-03-01 Purchase Orders
 BCFC 02-04-01 Processing of Invoices
 BCFC 02-05-01 BCFC Materials Receiving Procedure
 BCFC 02-06-01 Property Inventory
 BCFC 04-01-01 Employee Training and Development
 BCFC 05-01-01 Information System (Added 11/13/87)
 BCFC 06-01-01 Offender Records (Added 11/13/87)
 BCFC 06-02-01 Storage of Expunged Records (Added 11/13/87)
 BCFC 06-03-01 Court Trips (Added 11/13/87)
 BCFC 06-03-02 Receipt of Order of Appearance (Added 11/13/87)
 BCFC 08-02-01 Fire Prevention (Added 11/13/87)
 BCFC 08-03-01 Fire Procedures (Added 11/13/87)
 BCFC 08-03-02 Fire Extinguishers and Their Use (Added 11/13/87)
 BCFC 08-09-01 Guidelines for the Control and Use of Flammable, Toxic, and Caustic Substances (Added 11/13/87)
 BCFC 09-14-01 Bell County Forestry Camp - Restricted Area (Added 11/13/87)

ADMINISTRATIVE REGISTER - 1093

BCFC 09-06-01	<u>Search Policy/Disposition of Contraband (Added 11/13/87)</u>	BCFC 13-14-01	<u>Use of Pharmaceutical Products (Added 11/13/87)</u>
BCFC 11-01-01	<u>Food Services: General Guidelines (Added 11/13/87)</u>	BCFC 13-15-01	<u>Medical Restraints (Added 11/13/87)</u>
BCFC 11-02-01	<u>Food Service: Security (Added 11/13/87)</u>	BCFC 13-16-01	<u>Specialized Health Services (Added 11/13/87)</u>
BCFC 11-03-01	<u>Dining Room Guidelines (Added 11/13/87)</u>	BCFC 13-17-01	<u>Vision Care/Optomety Services (Added 11/13/87)</u>
BCFC 11-04-01	<u>Food Service: Meals (Added 11/13/87)</u>	BCFC 14-01-01	<u>Inmate Rights and Responsibilities</u>
BCFC 11-04-02	<u>Food Service: Menu, Nutrition and Special Diets (Added 11/13/87)</u>	BCFC 14-02-01	<u>Legal Services Program</u>
BCFC 11-05-02	<u>Health Requirements of Food Handlers (Added 11/13/87)</u>	BCFC 14-03-01	<u>Inmate Grievance Procedure</u>
BCFC 11-06-01	<u>Food Service: Inspection and Sanitation (Added 11/13/87)</u>	BCFC 14-04-01	<u>Inmate Participation in Authorized Research</u>
BCFC 11-07-01	<u>Food Service: Purchasing, Storage and Farm Products (Added 11/13/87)</u>	BCFC 15-01-01	<u>Due Process/Disciplinary Procedures (Added 11/13/87)</u>
BCFC 11-08-01	<u>Staff/Visitor Meals (Added 11/13/87)</u>	BCFC 16-01-01	<u>Inmate Visiting (Added 11/13/87)</u>
BCFC 12-01-01	<u>Sanitation, Living Conditions Standards, and Clothing Issues (Added 11/13/87)</u>	BCFC 16-02-01	<u>Telephone Communications (Added 11/13/87)</u>
BCFC 12-01-02	<u>Bed Areas, Assignments/Conditions Standards (Added 11/13/87)</u>	BCFC 16-03-01	<u>Mail Regulations (Added 11/13/87)</u>
BCFC 12-02-01	<u>Issuance of Clean Laundry and Receiving of Dirty Laundry (Added 11/13/87)</u>	BCFC 16-03-02	<u>Inmate Packages (Added 11/13/87)</u>
BCFC 12-03-01	<u>Personal Hygiene Items: Issuance and Placement Schedule (Added 11/13/87)</u>	BCFC 17-01-01	<u>Assessment/Orientation Procedure (Added 11/13/87)</u>
BCFC 12-03-02	<u>Barbership Services and Equipment Control (Added 11/13/87)</u>	BCFC 17-02-01	<u>Inmate Reception Process (Added 11/13/87)</u>
BCFC 12-04-01	<u>Institutional Inspections (Added 11/13/87)</u>	BCFC 17-03-01	<u>Inmate Personal Property and Property Control (Added 11/13/87)</u>
BCFC 12-05-01	<u>Fire Safety and Use of Noncombustible Receptacles (Added 11/13/87)</u>	BCFC 17-04-01	<u>Unauthorized Items (Added 11/13/87)</u>
BCFC 12-06-01	<u>Pest Control (Added 11/13/87)</u>	BCFC 17-05-01	<u>Inmate Canteen (Added 11/13/87)</u>
BCFC 13-01-01	<u>Organization of Health Services (Added 11/13/87)</u>	BCFC 18-01-01	<u>Institutional Classification Committee (Added 11/13/87)</u>
BCFC 13-02-01	<u>Health Maintenance Services: Sick Call and Pill Call (Added 11/13/87)</u>	BCFC 18-02-01	<u>Classification Document (Added 11/13/87)</u>
BCFC 13-03-01	<u>Dental Policy/Sick Call (Added 11/13/87)</u>	BCFC 18-03-01	<u>Classification Process (Added 11/13/87)</u>
BCFC 13-04-01	<u>Inmate Medical Screenings and Health Evaluations (Added 11/13/87)</u>	BCFC 18-03-02	<u>Classification Program Planning (Added 11/13/87)</u>
BCFC 13-05-01	<u>Licensure and Training Standards (Added 11/13/87)</u>	BCFC 18-03-03	<u>Population Category Status (Added 11/13/87)</u>
BCFC 13-06-01	<u>Suicide Prevention and Intervention Program (Added 11/13/87)</u>	BCFC 18-04-01	<u>Instructions for Six Month Review (Added 11/13/87)</u>
BCFC 13-06-02	<u>First Aid/CPR Training Program (Added 11/13/87)</u>	BCFC 18-05-01	<u>Transfers to Other Minimum Security Institutions (Added 11/13/87)</u>
BCFC 13-06-03	<u>Emergency Medical/Dental Care Services (Added 11/13/87)</u>	BCFC 19-01-01	<u>Job and Vocational Program Assignments (Added 11/13/87)</u>
BCFC 13-07-01	<u>Health Records (Added 11/13/87)</u>	BCFC 19-02-01	<u>Government Service Details (Added 11/13/87)</u>
BCFC 13-08-01	<u>Special Diets (Added 11/13/87)</u>	BCFC 20-01-01	<u>Academic/Vocational School (Added 11/13/87)</u>
BCFC 13-09-01	<u>Notification of Inmate, Family in the Event of Serious Illness, Surgery, or Inmate Death (Added 11/13/87)</u>	BCFC 20-01-02	<u>Testing and Verification Procedure (Added 11/13/87)</u>
BCFC 13-10-01	<u>Health Education/Special Health Programs (Added 11/13/87)</u>	BCFC 20-02-01	<u>Educational Program Planning (Added 11/13/87)</u>
BCFC 13-11-01	<u>Informed Consent (Added 11/13/87)</u>	BCFC 20-03-01	<u>Academic and Vocational Curriculum (Added 11/13/87)</u>
BCFC 13-12-01	<u>Mental Health/Provision of Psychiatric Services by KCPC (Added 11/13/87)</u>	BCFC 20-04-01	<u>Educational Personnel Practices (Added 11/13/87)</u>
BCFC 13-12-02	<u>Transfer of Inmates to Kentucky Correctional Psychiatric Center (KCPC) (Added 11/13/87)</u>	BCFC 21-01-01	<u>Library Services (Added 11/13/87)</u>
BCFC 13-13-01	<u>Identification of Special Needs Inmates (Added 11/13/87)</u>	BCFC 22-01-01	<u>Recreation and Inmate Activities (Added 11/13/87)</u>
		BCFC 22-02-01	<u>Inmate Clubs and Organizations (Added 11/13/87)</u>
		BCFC 22-02-02	<u>Conducting Inmate Organizational Meetings and Programs (Added 11/13/87)</u>
		BCFC 22-03-01	<u>Privilege Trips (Added 11/13/87)</u>
		BCFC 23-01-01	<u>Religious Service (Added 11/13/87)</u>
		BCFC 23-02-01	<u>Visitors for Religious Programs (Added 11/13/87)</u>
		BCFC 23-03-01	<u>Marriage of Inmates (Added 11/13/87)</u>
		BCFC 24-01-01	<u>Social Services and Counseling Program (Added 11/13/87)</u>
		BCFC 24-01-02	<u>Casework Services (Added 11/13/87)</u>

BCFC 25-01-01	<u>Release Preparation Program</u> <u>Description (Added 11/13/87)</u>
BCFC 25-02-01	<u>Temporary Release/Community</u> <u>Center Release (Added 11/13/87)</u>
BCFC 25-02-02	<u>Furloughs (Added 11/13/87)</u>
BCFC 25-03-01	<u>Parole Progress Report (Added</u> <u>11/13/87)</u>
BCFC 25-03-02	<u>Parole Eligibility Dates (Added</u> <u>11/13/87)</u>
BCFC 25-04-01	<u>Inmate Discharge Procedure (Added</u> <u>11/13/87)</u>
BCFC 26-01-01	<u>Citizen Involvement and Volunteer</u> <u>Services Program (Added 11/13/87)</u>

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: November 13, 1987

FILED WITH LRC: November 13, 1987 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 21, 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: 35 employees of the Bell County Forestry Camp, 105 inmates, and all visitors to state correctional institutions:

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

1. First year: None

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.

2. Continuing costs or savings: Same as 2(a)1.

3. Additional factors increasing or decreasing costs: Same as 2(a)1.

(b) Reporting and paperwork requirements: Monthly submission of policy revisions.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

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

TRANSPORTATION CABINET Department of Vehicle Regulation (Proposed Amendment)

601 KAR 1:005. Safety regulations.

RELATES TO: KRS Chapter 281

PURSUANT TO: KRS 281.600, 281.726, 281.730

NECESSITY AND FUNCTION: This regulation sets out safety procedures to be followed by motor carriers operating in the Commonwealth of Kentucky.

Section 1. (1) Motor Carrier Safety Regulations adopted and issued by the United States Department of Transportation relating to the following subjects: Title 49, Code of Federal Regulations, Part 391, dated October 1, 1983 as amended through June 12, 1986, Qualifications of Drivers; Title 49, Code of Federal Regulations, Part 392, dated October 1, 1983 as amended through August 19, 1987 [December 5, 1984], Driving of Motor Vehicles; Title 49 Code of Federal Regulations, Part 393, dated October 1, 1983 as amended through February 26, 1987 [September 28, 1984], Parts and Accessories Necessary for Safe Operation; Title 49, Code of Federal Regulations, Part 394, dated October 1, 1983 as amended through March 10, 1987 [January 1, 1986], Notification, Recording and Reporting of Accidents; Title 49, Code of Federal Regulations, Part 395, dated October 1, 1983 as amended through November 23, 1984, Hours of Service of Drivers; Title 49, Code of Federal Regulations, Part 396, dated October 1, 1983 as amended through September 28, 1984, Inspection, Repair and Maintenance; Title 49, Code of Federal Regulations, Part 397, dated October 1, 1983 as amended through September 28, 1984, Transportation of Hazardous Materials; Driving and Parking Rules; are hereby adopted and incorporated herein by reference, [insofar as they do not conflict with the laws of Kentucky,] and all commercial motor vehicles operated for-hire or in private carriage, intrastate and interstate, shall comply therewith. These regulations are not applicable to motor vehicles primarily designed for carrying passengers and having provisions for not more than eight (8) passengers and the driver, motorcycles, side car attachments and motor vehicles owned by the federal government, a state, a county, a city, or a board of education.

(2) Subject to the following exemptions and exceptions:

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

(b) Private carriers engaged exclusively in farm-to-market agricultural operation when operated during daylight hours are not required to comply with the above safety regulations relative to light fixture requirements. They are, however, required to have two (2) brake lights and mechanical turn signals as set forth in 49 CFR 393. The term "farm-to-market agricultural transportation" means the operation of a motor vehicle that is controlled and operated by a farmer who, as a private carrier is using the vehicle to transport agricultural products from his farm or to transport farm

machinery, farm supplies, or both to his farm. However, the term "farm-to-market agricultural transportation" does not include the operation of a motor vehicle transporting hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with 49 CFR 177. The term "daylight hours" means that period of time one-half (1/2) hour before sunrise through one-half (1/2) hour after sunset.

(c) Motor vehicles which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility which is located at a point not more than fifty (50) air miles from the harvest area are not required to comply with the above safety requirements relative to light fixtures when operated during daylight hours. They are, however, required to have two (2) brake lights and mechanical turn signals as set forth in 49 CFR 393.

Section 2. Title 49, Code of Federal Regulations, Part 390 dated October 1, 1983 as amended through April 14, 1986, General, is hereby adopted for the purposes of application to 49 Code Federal Regulations Section 391-397.

Section 3. A summary of the content of each federal regulation herein incorporated by reference follows:

(1) Part 390 - applicable definitions and general policy.

(2) Part 391 - qualification and disqualification criteria for drivers; background and character of drivers; required examination and tests of drivers; required physical qualification and medical examinations of drivers; driver qualification recordkeeping; and limited driver exemptions.

(3) Part 392 - vehicle operation standards including the use of alcohol and drugs by the driver; the safe operation of the vehicle; the use of lighted lamps and reflectors on the vehicle; the duties of the driver in case of an accident; fueling precautions; and prohibited practices.

(4) Part 393 - parts and accessories necessary for the safe operation of a motor vehicle including lighting devices, brakes, window construction, fuel systems, coupling devices, emergency equipment, miscellaneous parts and accessories; and protection against shifting or falling cargo.

(5) Part 394 - establishes the duties of motor carriers to make reports and keep records of accidents which occur during their operations.

(6) Part 395 - outline of the allowed hours of service of drivers.

(7) Part 396 - specifics of the inspection of a motor vehicle by the driver and federally authorized personnel and the records required to be maintained on vehicle maintenance and inspection.

(8) Part 397 - standards for the transportation of hazardous materials including driving, placarding and parking procedures.

Section 4. [3.] Buses. Buses must be maintained in a clean and sanitary condition so that the health of passengers will not be impaired. Seats must be comfortable in order that passengers will not be subjected to unreasonable discomfort which might be detrimental to their health and welfare.

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

Section 5. [4.] Overcrowding of Passenger Vehicles. No bus operated by an authorized carrier, except city or suburban buses, shall transport passengers in excess of the load limit hereinafter set forth. The load limit shall be the rated seating capacity for which the vehicle is licensed plus twenty-five (25) percent of said rated seating capacity. This load limit is subject to the provision that in no event shall any authorized carrier, including city or suburban bus operators, permit standees to occupy that space forward of a plane drawn through the rear of the driver's seat perpendicular to the longitudinal axis of the bus. This forward space shall be plainly marked with a line, or otherwise equipped with identification, so as to indicate to standees that they are prohibited from occupying it. No passenger shall be permitted to occupy the rear door-well of any bus vehicle that is equipped with such a rear door-well. Taxicabs shall not carry a number of passengers greater than the rated seating capacity of the vehicle, and in no event more than fifteen (15) passengers exclusive of the driver.

Section 6. [5.] Identification. All authorized carriers must at all times display on each side of every vehicle employed by them in their operations the name of the person conducting the said operation as it appears upon the certificate or permit authorizing the operation. An assumed or trade name may be used providing the appropriate statutes and regulations are complied with and the assumed or trade name also appears upon the certificate or permit. The letters shall be of sufficient size so as to be readily legible. The company number of the vehicle must be prominently displayed on each side of the vehicle and the cab card issued for the vehicle must at all times be prominently displayed on the inside thereof. The name of the driver operating a vehicle engaged in transportation of persons for hire shall be prominently displayed in the vehicle.

[Section 6. Rest Stops. Every regular rest stop maintained by an authorized carrier of persons must possess sufficient restaurant and rest room facilities to accommodate the driver and the number and types of passengers which may reasonably be expected to use such facilities. Rest stop establishments must have a high standard of sanitation and possess efficient equipment comparable to other restaurants or similar establishment in the area, and shall

provide janitorial services necessary to assure the maximum cleanliness at all times. Adequate, efficient, economical and courteous service must be provided, together with the quality and quantity of goods and refreshments necessary to meet the reasonable requirements of the traveling public, conforming to the standard of practices and prices customarily charged in the area. Authorized carriers of persons in selecting regular rest stops must take these factors into consideration. Each authorized carrier of persons shall have on file with the cabinet a list of all its regular rest stops.]

Section 7. Out of Service Sticker. In the event a commercial vehicle is determined to be operating either improperly registered or without registration or in violation of any safety regulation or requirement, officers of the Division of Motor Vehicle Enforcement are authorized to affix thereto a notice indicating the nature of the violation, requiring its correction before the motor vehicle is further operated. Refusal of the vehicle operator to grant permission for an officer of the Division of Motor Vehicle Enforcement to conduct a safety inspection of either the vehicle or its operator shall be cause for the officer to place the vehicle out of service until such permission is granted. Operation of such a vehicle in violation of the notice affixed thereto shall constitute a separate violation of these regulations.

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

JOHN K. PENROD, Commissioner
C. LESLIE DAWSON, Secretary

APPROVED BY AGENCY: October 30, 1987

FILED WITH LRC: November 6, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this administrative regulation on December 21, 1987 at 1 p.m., local prevailing time in the 4th Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by December 16, 1987 so notify: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen

(1) Type and number of entities affected: All vehicles operated by the 30,000 motor carriers operating in Kentucky.

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

1. First year: Cost of retrofitting brakes on all wheels not already so equipped.

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: Amendment raises the reporting threshold for property damage accidents from the present \$4200

to \$4400. Driver placed out of service for drinking must notify both his licensing state and his employers.

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Federal Highway Administration regulations were amended. Since this regulation incorporates those regulations by reference, it was necessary that the state regulation be amended.

(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: N/A

(6) Any additional information or comments: The federal regulations already apply to all motor carriers operating intrastate.

TIERING: Was tiering applied? No. Safety should be applied equally to all vehicles.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: P.L. 98-554, the Motor Carrier Safety Act of 1984, enacted 49 USC 2507. This federal statute requires that effective October 30, 1989, no state law or regulation may be in effect or enforced with respect to commercial motor vehicle safety which the U.S. Department of Transportation Secretary has determined may not be in effect or enforced. He may make such a determination if he determines that state motor carrier safety laws or regulations are in direct conflict with or less than stringent than the Federal Motor Carrier Safety laws and regulations. He may also make such a determination if the state laws or regulations are more stringent and there is no safety benefit provided or there is an undue burden placed on interstate commerce. While 49 USC 2507 is not actually a mandate that we adopt the federal regulations, the Transportation Cabinet has determined that this is the best method for compliance. However, extreme care must be taken each time a revision is made to a federal regulation to ensure that it does not conflict with state law. If such a conflict were to occur, the cabinet would be unable to adopt the federal regulation until after the legislature had amended state law. However, after October 30, 1989 the state would likely be preempted from enforcing a law which conflicted with the Federal Motor Carrier Safety regulations.

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

TRANSPORTATION CABINET
Department of Vehicle Regulation
(Proposed Amendment)

601 KAR 1:025. Transporting hazardous materials; permit.

RELATES TO: KRS 174.400 through 174.435, 174.990 [174.410(2), 174.430(1)]

PURSUANT TO: KRS 174.410(2), 174.430(1)

NECESSITY AND FUNCTION: KRS 174.410(2) provides that the Secretary of the Transportation Cabinet, in consultation with the Secretary of the Natural Resources and Environmental Protection Cabinet and the Secretary of the Cabinet for Human Resources, shall adopt by reference or in its entirety, the federal hazardous materials transportation regulations, 49 CFR (1978), as amended [in 1982], to effectively carry out the intent of KRS 174.400 through 174.435 [this Act]. KRS 174.430(1) provides that the Secretary of the Transportation Cabinet is authorized to fix a reasonable fee, by regulation, to be paid by applicants for a general permit to transport radioactive [hazardous] materials through or within the Commonwealth or to transport other hazardous materials within the Commonwealth, and for the renewal of such permit. This regulation implements the statutory provisions set out above.

Section 1. (1) Hazardous materials transportation regulations adopted and issued by the United States Department of Transportation relating to the following subjects are hereby incorporated by reference: [To effectively carry out the intent of KRS 174.400 to 174.990 the cabinet hereby adopts by reference the federal hazardous materials transportation regulation, 49 CFR (1978), as amended in 1982, in its entirety, except that the following modes of transportation and the 49 CFR parts applicable thereto are specifically excluded from this regulation in accordance with KRS 174.405(1): railways (40 CFR Parts 174, 209 thru 270, 901, 903, 905, 921, 922, 931), and pipelines (49 CFR Parts 191, 192, and 195), and waterways (49 CFR Parts 176, 420 thru 424 and 450 thru 453).]

(a) Title 49, Code of Federal Regulations, Part 171, as amended through July 1, 1987. Part 171 sets forth general information, regulations and definitions applicable to all hazardous materials transportation;

(b) Title 49, Code of Federal Regulations, Part 172, as amended through July 1, 1987. Part 172 lists and classifies those materials which the United States Department of Transportation has designated as hazardous materials for purposes of transportation and prescribes the requirements for shipping papers, package marking, labeling and transport vehicle placarding applicable to the shipment and transportation of those hazardous materials;

(c) Title 49, Code of Federal Regulations, Part 173, as amended through May 18, 1987. Part 173 sets forth the general requirements which shippers shall meet for shipments and packaging. For the purposes of this administrative regulation it is only applicable to shipment by air or highway;

(d) Title 49, Code of Federal Regulations, Part 175, as amended through April 20, 1987. Part 175 includes requirements in addition to those contained in Parts 171, 172, and 173 which

are applicable to aircraft operators transporting hazardous materials aboard, attached to or suspended from civil aircraft;

(e) Title 49, Code of Federal Regulations, Part 177, as amended through May 18, 1987. Part 177 includes requirements in addition to those contained in Parts 171, 172, and 173 which are applicable to private contract or common motor carriers transporting hazardous materials on public highways; and

(f) Title 49, Code of Federal Regulations, Part 178, as amended through May 18, 1987. Part 178 prescribes the manufacturing and testing specifications for packaging and containers used for the transportation of hazardous materials.

(2) The applicable parts of 49 CFR, as amended, are on file for public inspection in the offices of the Legislative Research Commission, New Capitol Building, Frankfort, Kentucky 40601, and in the Transportation Cabinet's Division of Motor Vehicle Enforcement, State Office Building, Frankfort, Kentucky 40622.

Section 2. Applicants for an annual general permit[, to be renewed annually,] to transport radioactive [hazardous] materials through or within the Commonwealth or to transport other hazardous materials within the Commonwealth, and for the renewal of such permit, shall pay to the Transportation Cabinet a fee of twenty-five (25) dollars. The applicant for a general permit shall submit his application to the Department of Vehicle Regulation on forms prescribed and furnished by the department.

JOHN K. PENROD, Commissioner

C. LESLIE DAWSON, Secretary

APPROVED BY AGENCY: October 30, 1987

FILED WITH LRC: November 6, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this administrative regulation on December 21, 1987 at 2 p.m., local prevailing time in the 4th Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by December 16, 1987 so notify: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, 10th Floor, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen

(1) Type and number of entities affected: Approximately 600 motor carriers transporting radioactive or hazardous materials through Kentucky.

(a) Direct and indirect costs or savings to those affected: Increased safety concerns had led to increasing requirements for the transportation of radioactive or hazardous materials. The increased costs depends upon the type of material to be transported. However, the changes have been made nationwide and are uniform which mitigates part of the cost.

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
 - (b) Reporting and paperwork requirements: None
 - (3) Assessment of anticipated effect on state and local revenues: None
 - (4) Assessment of alternative methods; reasons why alternatives were rejected: Federal regulations required by KRS 174.400 through 174.435 to be adopted by reference or in their entirety were amended. Therefore, the cabinet has no choice but to amend this 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: N/A
 - (6) Any additional information or comments: A major change in the format of this regulation was effected. Rather than listing the federal regulations not incorporated, it now lists the regulations incorporated by reference.
- TIERING: Was tiering applied? Yes.

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

601 KAR 9:074. Kentucky highway use license, records and taxes.

RELATES TO: KRS 138.655 to 138.725

PURSUANT TO: KRS 138.725

NECESSITY AND FUNCTION: KRS 138.725 makes the Department of Vehicle Regulation responsible for the application of the Kentucky motor carrier taxes [fuel use tax and weight distance tax to motor carriers] covered by KRS 138.655 to 138.725. This regulation provides procedures for licensees to follow in order to comply with the statutes.

Section 1. Application for Kentucky Highway Use License. Every motor carrier as defined in KRS 138.655(5) shall apply for and obtain on a department approved form a license before using or continuing to use the public highways in the state. The department shall issue a KYU license number to each qualified motor carrier, and the department shall cause said license number to be displayed on each motor vehicle identification card issued by it.

Section 2. Bonds-cash Deposit. [(1)] Every motor carrier and heavy equipment motor carrier, pursuant to the provisions of KRS 138.655 to 138.725 shall file with the department at the time of application for a license a corporate bond, cash bond, or security approved by the department. The applicant for the license shall be the principal obligor and the Commonwealth of Kentucky shall be the obligee. The bond will be conditioned as required in KRS 138.670, and the department shall administer the bond as provided in KRS 138.670.

[(2)] In addition to the bond imposed in subsection (1) of this section, if it appears that a person, firm, or corporation, which has been issued a transportation plan involving the reporting and payment of tonnage taxes, has no

assets in Kentucky, or has been involved in bankruptcy proceedings within seven (7) years past, or, is of doubtful financial stability, the department may require such person, firm, or corporation, to post a corporate surety bond, with a surety authorized to transact business in Kentucky, or a cash bond, equal to one (1) quarter's anticipated tonnage tax liability, as a condition precedent to the implementation and conduct of operations under the transportation plan issued to such person, firm, or corporation. The bond shall be in such form and amount as the cabinet shall prescribe and the cabinet shall administer the bond as provided in KRS 138.670.]

Section 3. Registration for Highway Use Tax. (1) For the purpose of this section registration shall mean the registration of the licensee for the purpose of a tax imposed by KRS 138.660. Such registration [and] shall be required of all motor carriers as defined in KRS 138.655(5). The current registration period shall be deemed that quarterly period for which the tax under KRS 138.660 is due or required to be reported on the quarterly return. The applicant for the license shall apply to the department for a motor vehicle identification card on forms prescribed and furnished by the department. The completion by the applicant and submittal to the department for validation shall be necessary prior to the authority of the applicant to operate a motor vehicle on the public highways of Kentucky. A motor carrier identification card shall be issued which contains the name and address of the person or company under whose authority the vehicle is being operated [owner or operator], the identification of the vehicle, and such other information as may be requested, including, but without limitation, the KYU license number issued to the applicant for the use of the public highways of Kentucky. The identification card shall show the vehicle combined license weight or the actual combined gross weight of the vehicle and any towed unit when operated on the public highways of the state during the current registration period as defined hereinabove.

(2) Definitions.

(a) "Combined license weight" shall mean the declared combined maximum gross weight of the vehicle and any towed unit for the registration purposes for the current registration period as defined hereinabove; or the highest actual combined gross weight of the vehicle and any towed unit when operated on the public highways of the state during the current registration period as defined herein.

(b) "Declared gross weight" shall mean the same as paragraph (a) of this subsection.

(c) "Gross weight" shall mean the unloaded weight of the vehicle plus the maximum load to be carried by it on the highways of the Commonwealth of Kentucky.

(3) The identification card shall be displayed in the cab of the vehicle at all times. Failure to display the identification card shall constitute a violation of KRS 138.665.

Section 4. Communications, Business Names and License Address. All licensees shall [must] immediately report any change in principal business address, legal status or business name to the department. All motor carrier operations shall [must] be conducted in the name in which

the license and the identification card is issued or the duly assumed business name of the licensee, as it appears on the license. All licensees are required to use the name utilized in the application for the license in all documents relating to their operations and in all correspondence with the department. All correspondence with the department shall be addressed as follows: Kentucky Department of Vehicle Regulation, Division of Motor Carriers, Post Office Box 2007, Frankfort, Kentucky 40602.

Section 5. Instruments Filed Become Permanent Records. All bonds filed with the department as required by statute are permanent records and cannot be returned to licensee or removed from the custody of the department as long as the licensee is subject to the Kentucky Statutes.

Section 6. Kentucky Highway Use License for Leased Vehicles. (1) Any person leasing or renting a commercial motor vehicle to a lessee who is engaged in private carriage, where the operator of such vehicle is required to have a Kentucky Highway Use License may obtain the license by making application to the department and complying with the appropriate administrative regulations. Any lessor with a Kentucky Highway Use License may [The licensee shall] entitle the lessee to operate the leased or rented vehicle under the lessor's license.

[(2)] If the lessor allows the lessee to operate under the lessor's license the lease shall be carried in the vehicle and the required motor vehicle identification card shall be in the lessor's name and the lessor shall make the required quarterly reports and pay all taxes which may become due by virtue of the operation of the motor vehicle.

[(3)] A certificated carrier leasing a motor vehicle will be required to have the Kentucky Highway Use License and the lessee shall be responsible for the payment of any tax which may become due.]

[(4)] A lessor of motor vehicle equipment who makes an application for a license under this section shall furnish the department a copy of the standard lease or rental agreement as well as the address of the place of business where the lessor's records are maintained. A current list of all lessees who lease equipment from the lessor and who will use the lessor's Kentucky Highway Use License shall be filed with the department. This list shall contain the name of the lessee, the lessee's address, the number of vehicles leased to each lessee and other pertinent information which the department may require. The list required herein shall be updated and kept current on a semiannual basis by the lessor.

(2) A carrier or motor carrier as defined in KRS 281.011 leasing a motor vehicle shall be required to obtain the Kentucky Highway Use License and the lessee shall be responsible to make the required quarterly reports and to pay any tax which may become due.

Section 7. Authorized Deductions on Quarterly Returns. Every person licensed as a motor carrier may deduct on his quarterly tax return the amount of tax paid on fuel at the time of purchase, provided the purchase is made in Kentucky and the Kentucky motor fuel tax has been paid and provided the fuel is used to propel a vehicle subject to the provisions of

KRS 138.660. The tax credits, and tax refunds, authorized by KRS 138.695 to be granted to a taxpayer eligible therefor shall not exceed in amount the actual amount of the subject taxes paid by said taxpayer, exclusive of any applicable interest thereon due the taxpayer by operation of law. A valid receipt shall [must] be obtained as evidence of purchase from the person making the sale or delivery.

(1) [To be] A valid receipt shall [one (1) must] meet the following criteria:

(a) The purchase receipt shall be the original prepared by a station or vendor located in the Commonwealth [state] of Kentucky and shall have an imprinted Kentucky address. Receipts that have an imprinted Kentucky address, but include other station locations outside of Kentucky are invalid.

(b) The following shall be [is] included on the receipt:

1. Name and station location of the vendor;
2. Date of purchase;
3. Number of gallons purchased;
4. Type of fuel purchased;
5. Company unit number of vehicle or registration number of unit; and
6. Licensee's name.

(c) The name and address of the vendor shall be preprinted or imprinted, which includes, but is not restricted to, credit card machines. Station receipts that are identified only by impressed rubber stamp markers or handwritten are not valid.

(2) Other documents such as computer records, ledgers, and journals may be accepted as evidence of valid fuel purchase receipts, if such records contain the same information as required in subsection (1) of this section, provided such records meet acceptable auditing tests.

(3) Bulk or storage purchasers of fuel shall maintain a withdrawal or disbursement record when such fuel is used in taxable highway or road units. This record shall be kept on all units fueling from this tank showing the unit fueled, gallons withdrawn, and the date of withdrawal. Tax on bulk purchases shall be paid at the time of purchase in accordance with KRS 138.220, 138.565, and 234.320. If a motor carrier uses tax free bulk storage fuel to fuel taxable units (highway units), tax will be levied on total fuel purchased for bulk storage.

(a) Any use of fuel from a tax-free storage tank without adequate records to prove no on-highway use of the fuel shall be taxable. Approved location of tax-free storage shall be issued by the Revenue Cabinet before tax-free fuel is purchased.

(b) Credit for fuel purchase receipts other than for the taxable units shall not be allowed.

(4) In instances where fuel is purchased by trip-leased units and the lessee is responsible for the Kentucky highway tax, all receipts shall be made in the name of the lessee. Receipts made out in the name other than the person or company responsible for the fuel tax shall be invalid.

(5) Certain motor vehicles including, but not limited to, mixers, pumps, load lifts, refrigeration equipment, utilize power takeoff equipment and similar devices which involve consumption of fuel from the same tanks that serve to power the operation of the vehicles upon the highways. Operators of those types of vehicles utilizing such equipment, may adjust the miles per gallon entry on their Kentucky

highway use tax returns to reflect fuel actually consumed by such power takeoff equipment in operations over the highway, provided, however, that any adjustment claimed therefor must be substantiated by adequate records, and is subject to audit by the Transportation Cabinet. Nothing herein contained shall be construed as authorizing a taxpayer to claim tax credit in respect to taxes paid on fuels which are actually consumed on off-highway operations.

Section 8. Cancellation of License. If a motor carrier fails to comply with the terms of KRS 138.655 to 138.725, or these regulations, its Kentucky Highway Use Tax License may be cancelled. Reasons for cancellation include, but are not limited to, the following:

(1) Failure to file tax return thirty (30) days after the due date. The licensee will be mailed a second notice or reminder and be given fifteen (15) days to file the return if he has not filed his tax return within thirty (30) days after the due date. If the licensee fails to comply with the second notice, the license will be subject to cancellation.

(2) Failure to pay additional taxes assessed by the department.

(3) Failure by a licensee to produce [such] records after written demand for such may result in cancellation of the license and any other penalties applicable by law. Each succeeding day shall constitute a separate violation until the records are produced at the place stated in the demand.

Section 9. Procedure upon Cancellation of License. (1) Upon cancellation of Kentucky Highway Use License in accordance with the provisions of KRS 138.675 and after notice to the carrier by mailing the same to the address on file in the department, the carrier shall immediately return to the department the license and all motor vehicle identification cards issued to such carrier.

(2) Failure to return the license and cards or the operation of a motor vehicle displaying a motor vehicle identification card after notice of revocation of the highway use license shown thereon, shall be a violation of KRS 138.675 [this regulation].

[Section 10. Coal Shippers License and Tax Status Changes of All Motor Carriers. (1) All persons liable or responsible for payment of ton tax or payments due to cooperative agreements and transporting coal over the state maintained highways system by motor vehicles exceeding the gross weights or gross axle weights prescribed by the Secretary of Transportation pursuant to KRS 189.222 shall obtain an approved tax reporting license from the Department of Vehicle Regulation. Prior to the issuance of the tax reporting license, the licensee must obtain a certified transportation plan from the Department of Vehicle Regulation in accordance with 601 KAR 35:020. The Department shall assign each taxpayer a license number.]

[(2) Licensees referenced in subsection (1) of this section that have an approved cooperative agreement shall pay their tax in accordance with the terms of the cooperative agreement.]

[(3) Licensees referenced in subsection (1) of this section that do not have a cooperative agreement shall report and pay their coal ton tax as follows:]

[(a) The coal ton tax shall be reported on the requisite forms as prescribed by the Transportation Cabinet.]

[(b) The coal ton tax shall be reported and paid monthly.]

[(c) The coal ton tax returns are due within twenty (20) days following the close of each monthly period.]

[(4) The exempt and/or nonexempt status of each vehicle in regard to Kentucky motor fuel surtax or weight distance tax may be changed only once during each quarter, (January 1 through March 31; April 1 through June 30; July 1 through September 30; October 1 through December 31). A tax liability shall not change because of a status change, until the first day of the next succeeding quarter after the status is changed. The change from nonexempt status to exempt status requires that an application be filed with the Transportation Cabinet.]

Section 10. [11.] Tax Liability and Protest Procedures. (1) The licensee shall [will] be mailed a supplemental tax statement, if additional tax is found to be owed as the result of an audit or found as the result of an examination of licensee's tax return. The licensee has thirty (30) days to pay or protest to the department per KRS 131.110 in writing any assessment or tax liability imposed by the department. A protest shall [must] be accompanied by a supporting statement identifying specific adjustments being protested and setting forth the reasons upon which the protest is being made.

(2) If the licensee so desires, he may, within thirty (30) days, protest directly to the Kentucky Board of Tax Appeals.

(3) The department shall [will] acknowledge receipt of the protest and if protest is acceptable, a tax conference shall [will] be set between the department and licensee within sixty (60) days of the protest. The department shall [will] notify the licensee within thirty (30) days its decision to deny or accept the reasons of the protest. If denied, the licensee may protest to the Kentucky Board of Tax Appeals.

(4) If the licensee fails to pay [does not acknowledge] the tax statement or file a protest with the Kentucky Board of Tax Appeals within thirty (30) days, a reminder shall [will] be sent to licensee demanding payment within fifteen (15) days. If within fifteen (15) days, the taxes have not been remitted to the department, a demand shall [will] be made against the licensee's surety bond. Any balance of unpaid taxes shall [will] be submitted to the Transportation Cabinet's legal section for collection.

Section 11. [12.] Penalties. In addition to any other penalties which may be imposed under KRS 138.990 and any other applicable laws, the licensee shall be subject to the civil penalties provided for in KRS 138.715 [138.775].

Section 12. [13.] Inspection. Any highway enforcement officer or state police officer may inspect the vehicle identification card, license registration, driver's log, lease, trip sheet or shipping document to determine if the vehicle is qualified to operate on the highways of the Commonwealth [state] of Kentucky. The law enforcement officer may also weigh vehicles to determine if the gross weight conforms to the

licensed weight on the vehicle identification card.

Section 13. [14.] Records Disposition. The department shall [will] retain the active file of KYU tax returns for at least five (5) years. An inactive KYU license shall [will] be retained two (2) years after cancellation.

Section 14. [15.] Reinstatement of License. If the carrier desires to be reinstated after cancellation, the carrier shall [must]:

(1) Prove to the department that sufficient records are being and will be maintained to file accurate Kentucky Highway Use Tax returns.

(2) Submit quarterly returns for all missed periods.

(3) Pay all taxes for missed returns plus penalties and interest.

(4) Provide a replacement bond if its previous bond has been cancelled.

(5) Provide evidence of insurance, operating authority, and other items required by KRS Chapter 281, if applicable to the carrier.

[Section 16. Licensee taxpayers, for purposes of ease in tax reporting compliance, and department administration and audit convenience, may, upon written request to the department and receipt of written permission from the department, report miles operated upon Kentucky highways on the basis of the current Household Goods Bureau mileage guide, and supplements thereto, in lieu of reporting on the basis of actual miles operated, provided, however, that such mileages are reported in respect to movements between the points and over the routes actually operated, and provided that such mileages would not result in a consistent understatement of actual miles operated on Kentucky highways.]

Section 15. [17.] Maintenance of Records. (1) Every motor carrier [Licensees] reporting and paying taxes under a [the] cooperative agreement entered into pursuant to KRS 177.979 [, certified transportation plan, or ton tax provision] shall keep and maintain records of all coal shipments over the state maintained public highways.

[(2)] Each licensee shall also maintain weight tickets, bona fide third party documents or other documents to accurately verify tonnage that will reflect the true tonnage transported over said highways and the distance that such tonnage was transported over such highway.

[(3)] The weight ticket or third party document shall include but not be limited to the following:

(a) Name and identification number of the mine owner, severer, processor, broker or shipper.

(b) Name and KYU number of person transporting coal.

(c) Transporter's assigned unit vehicle number.

(d) Points of origin and destination.

(2) Every motor carrier required to report and pay taxes under the provisions of KRS 138.660 shall keep and maintain records on each motor vehicle operated on Kentucky highways. The records shall include vehicle type, declared gross weight, actual weight, number of axles, mileage operated in Kentucky as reported on trip sheets and driver logs, fuel purchases, and use and other disposition of gasoline and special fuels.

(3) [(4)] All records shall be maintained for five (5) years for audit and tax purposes.

[(5)] Other documents such as computer records, ledgers, and journals may be accepted as evidence of valid fuel purchase receipts, if such records contain the same information as required in subsection (1) of this section, provided such records meet acceptable auditing tests.]

JOHN PENROD, Commissioner

C. LESLIE DAWSON, Secretary

APPROVED BY AGENCY: October 23, 1987

FILED WITH LRC: October 28, 1987 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this proposed amended administrative regulation at 10 a.m. local prevailing time on December 21, 1987. The hearing will be held in the Fourth Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets in Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by December 16, 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 carriers operating in Kentucky.

(a) Direct and indirect costs or savings to those affected: None, the changes in the regulation just clarify existing policy of the Transportation Cabinet and amend coal transporters recordkeeping requirements to comply with the provisions of HB 978 passed by the 1986 General Assembly.

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: Sets forth specific records the companies are required to maintain.

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: There existed some confusion about the meaning of Section 6. It was amended to eliminate the confusion. The changes relating to coal transportation needed to be amended since the authorizing statutes had been amended. Recent court cases dictated that specific records to be maintained be set forth in the regulations.

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(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 3:030. Special instructional service units.

RELATES TO: KRS 157.360

PURSUANT TO: KRS 156.070, 157.320 [156.160]

NECESSITY AND FUNCTION: KRS 157.360 provides for the allocation of classroom units for administrators and for special instructional service personnel. This regulation is to furnish superintendents and boards of education with the minimum requirements for approval of specific types of such special units.

Section 1. For the allocation of classroom units for administrative and special instructional services identified in 704 KAR 3:010 the local board of education shall be responsible for observing the following criteria:

(1) Personnel shall hold the appropriate teacher certification corresponding to the specific position or shall hold approval as otherwise described in Section 2 of this regulation.

(2) A program of services shall be developed which is appropriate to the position.

(3) Supporting instructional materials, equipment, and physical facilities shall be provided.

Section 2. (1) The Superintendent of Public Instruction will approve the employment of an assistant superintendent on an internship basis under the following conditions:

(a) The request shall be made by the local school superintendent and approved by the local board of education.

(b) The prospective assistant superintendent shall have been admitted to the program of preparation-certification for the school superintendency by the teacher education institution and shall lack no more than fifteen (15) semester hours graduate credit for the completion of the total program.

(c) The internship program shall be planned jointly by the teacher education institution and the local school superintendent and shall include provisions for completing the academic requirements within a two (2) year maximum period with at least nine (9) semester hours progress the first year.

(2) The Superintendent of Public Instruction will approve the employment of an assistant principal on an internship basis under the following conditions:

(a) The request shall be made by the local school superintendent and approved by the local board of education.

(b) The prospective assistant principal shall have been admitted to the program of preparation-certification for the school principalship by the teacher education institution and shall lack no more than nine (9) semester hours graduate credit for the completion of the total program.

(c) The internship program shall be planned jointly by the teacher education institution and the local school superintendent and must include provisions for completing certification requirements for principalship before September 1 of the following school year.

(3) The instructional coordinator shall hold the same type of certification required for a supervisor of instruction or for a school principal at the appropriate level.

(4) Personnel qualified to serve in an approved unit for school health coordinator shall hold a teaching or administrative certificate valid for serving as a teacher at the high school and/or elementary level based on a minimum of a baccalaureate degree and meet the standards by one (1) of the following plans:

(a) Have preparation in a recognized area in health, physical education, and recreation or an area in home economics or a major or minor in one (1) of the following: health, health-physical education, biology, home economics.

(b) Have a total of twelve (12) semester hours consisting of six (6) semester hours natural science, three (3) semester hours in nutrition, health or physical education, and three (3) semester hours in human growth and development.

(5) The local director of vocational education shall have a master's degree and professional preparation in an approved curriculum of vocational education, three (3) years of progressively responsible experience working in vocational education programs, and shall hold the certificate designated for this position.

(6) If a fully certified person is not available for the position of school media librarian as attested by the local school superintendent, the superintendent on behalf of the local board of education, may request a one (1) year approval for the assignment of a classroom teacher who is certified for the same grade levels as the anticipated school media librarian position and who has completed at least eight (8) semester hours credit from the endorsement program for school media librarians. Once assigned to the position the teacher may be reapproved on an annual basis upon completion of an additional eight (8) semester hours each year until the total endorsement program is completed. A letter of request for such approval shall be submitted by the local school superintendent to the Division of Teacher Education and Certification.

(7) A school psychologist legally certified or licensed for the position of school psychologist and employed within a local school district for the position during the 1978-79 school term shall have continuing approval for serving in the position of school psychologist so long as such legal certification or licensure is kept valid.

(8) The special education work study program coordinator shall hold certification valid as a teacher of special education.

(9) Personnel assigned to the position of instructional television coordinator shall hold a certificate valid for classroom teaching.

(10) Personnel assigned to a consultant position for elementary education or in an academic subject field shall have the master's degree, or have a completed a Rank II nondegree planned fifth-year program, certification in the appropriate subject field or service area and at least three (3) years experience in the same teaching or service field.

(11) [Effective with the 1980-81 school year new] Personnel serving in the unit of reading program consultant shall hold certification as reading specialist valid for the same grade levels as the assignment.

(12) Personnel assigned to the position of gifted education coordinator shall have a current certificate valid for teaching gifted education, a master's degree or a Rank II nondegree planned fifth-year program, and at least three (3) years of teaching experience.

(13) A school business administrator may qualify for the position by holding either a certificate for school business administrator or a certificate for school superintendent

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: November 5, 1987

FILED WITH LRC: November 12, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, December 22, 1987 at 10 a.m., Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its November 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 December 17, 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: Margaret McClain

(1) Type and number of entities affected: Approximately 100 individuals in 180 school districts.

(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: PSD forms submitted by local districts.

(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: 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:

TIERING: Was tiering applied? No. Regulation defines qualifications of certain administrative/instructional personnel in local districts. The regulation must apply uniformly to all individuals/local school districts effected.

EDUCATION AND HUMANITIES CABINET

Department of Education
Office of Instruction
(Proposed Amendment)

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

RELATES TO: KRS 156.160

PURSUANT TO: KRS 156.070, 156.160

NECESSITY AND FUNCTION: KRS 156.160 requires the State Board of Education to adopt rules and regulations relating to grading, classifying, and accrediting all common schools, and further allows private, parochial, and church schools to voluntarily comply with accreditation standards and to be so certified by the state board. This regulation implements this duty by prescribing general standards to be used in evaluation of public elementary, middle and secondary schools, and of those nonpublic schools voluntarily seeking an accreditation evaluation.

Section 1. (1) Pursuant to the authority vested in the Kentucky State Board of Education by KRS 156.070 and 156.160, the Kentucky Standards for Grading, Classifying and Accrediting Elementary, Middle and Secondary Schools, as amended on November 5 [January 7], 1987, are presented herewith for filing with the Legislative Research Commission, and incorporated by reference.

(2) "Procedures for Kentucky Accreditation Program," April, 1985, as revised on September 10, 1985, is presented herewith for filing with the Legislative Research Commission and incorporated by reference.

Section 2. Pursuant to the authority vested in the Kentucky State Board of Education by KRS 156.160(2), nonpublic schools which voluntarily request accreditation shall be in compliance with all standards and indicators included in the Kentucky Standards for Grading, Classifying and Accrediting Elementary, Middle and Secondary Schools limited to curriculum, textbooks, and staff certification. Schools will address all standards and indicators except those marked "N/A" (not applicable). These Voluntary Nonpublic School Accreditation Standards, May, 1986, are presented herewith for filing with the Legislative Research Commission and incorporated herein by reference.

Section 3. The procedures for the voluntary accreditation of individual nonpublic schools or related groups of such schools under common management and control shall be as follows:

(1) All nonpublic schools or groups of schools which voluntarily request accreditation shall notify the Division of Accreditation by letter of their intentions.

(2) An Instructional Services Advisor (I.S.A.) shall be assigned to a school and shall be the liaison between the school and the Department of Education. The I.S.A. shall provide the school with the department's self-study guide and provide technical assistance as needed.

(3) An on-site team will visit each school to validate the school's self-study. This team shall be appointed by the Department of Education and shall consist of at least three (3) persons - an I.S.A., a local nonpublic school official and another Department of Education staff member.

(4) An additional team member shall be appointed for each additional five (5) faculty members beyond fifteen (15).

(5) A report shall be generated by the on-site team and a copy presented to the school or related group of schools. The school or related group of schools shall prepare a three (3) year plan of action to correct all noncompliance. The plan shall be monitored annually to assure that the plan of action is being implemented.

(6) The school or related group of schools shall then be placed on a five (5) year accreditation cycle. The first year shall be the self-study and the on-site visit followed by a three (3) year plan of action, and the last year shall be devoted to updating the self-study.

(7) State funds may not be used for the accreditation of nonpublic schools. Such schools shall reimburse the Department of Education the total costs of accreditation certification, including necessary follow-up, either from their own funds or from any appropriate federal grants.

Section 4. "The Merit Rating Procedural Information and General Criteria for Guidance Programs," March, 1985, and "Merit Rating Guidelines for Kentucky Schools," as amended on July 1, 1987, are presented herewith for filing with the Legislative Research Commission and incorporated by reference.

Section 5. Any school or institution whose primary mission is to serve a student clientele (K-12) with unique needs that are outside the generally accepted operational range of students who attend public schools shall be classified and accredited under the category of Special School Accreditation.

Section 6. A copy of all documents incorporated in this regulation may be obtained from the Office of Instruction, Department of Education.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: November 5, 1987

FILED WITH LRC: November 12, 1987 at 10 a.m.

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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Margaret McClain

(1) Type and number of entities affected: All 178 school districts.

(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): Does not apply.

(b) Reporting and paperwork requirements: No

new paperwork required.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: 3.1 million.

2. Continuing costs or savings: 13 million annually.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Continued review.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Does not apply.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Does not apply.

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Need for uniformity among districts.

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

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

RELATES TO: KRS 161.025, 161.030

PURSUANT TO: KRS 156.070, 161.030 [156.160]

NECESSITY AND FUNCTION: KRS 161.025 and

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

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

Section 2. [(2)] As a condition for approval, the proposed experimental, innovative, or demonstration program proposal shall include the rationale for the design of the program, a description of the deviation from the usual standards, and a plan of evaluation of the program and of the program graduates.

Section 3. (1) Candidates enrolled in approved experimental teacher preparation programs leading to initial certification may be issued an experimental teaching certificate, provided:

(a) The experimental teacher preparation program contains classroom teaching as a central component of the professional preparation curriculum;

(b) The candidate has a baccalaureate degree from a standard college or university as defined in KRS 161.010; and

(c) The candidate is recommended by the institution of higher education at which the program is offered and the cooperating local district.

(2) Such experimental teaching certificates shall be valid for a period of one (1) year, shall be nonrenewable, and teachers possessing such shall be classified in Rank IV for purposes of the foundation program.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: November 5, 1987

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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Margaret McClain

(1) Type and number of entities affected: Approximately 4 institutions of higher education and varying number of candidates enrolled in experimental preparation program.

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

1. First year: No cost impact on those affected.

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: Applications to be made by IHE's/LEA's on behalf of candidates.

(2) Effects on the promulgating administrative body: Processing of applications/issuance of one year certificates.

(a) Direct and indirect costs or savings:

1. First year: No additional costs.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Issuance of one year certificates.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Certification requirements must be applied uniformly.

EDUCATION AND HUMANITIES CABINET

Department of Education

Office of Instruction

(Proposed Amendment)

704 KAR 20:215. Vocational education administrators.

RELATES TO: KRS 161.020, 161.025, 161.027, 161.030

PURSUANT TO: KRS 156.070, 161.030 [156.160]

NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education; furthermore, the teacher education institutions are required to be approved for offering the preparation programs corresponding to particular certificates on the basis of standards and procedures recommended by the council and approved by the state board. KRS 161.027 moreover, mandates testing and internship requirements for principals. This regulation establishes [an] appropriate certificate conditions for their issuance and renewal, and relates to the corresponding standards and procedures for program approval as included in the Kentucky Standards for [State Plan for the Approval of] Preparation-Certification [Programs for the Certification] of Professional School Personnel for vocational education administrators.

Section 1. (1) The certificate for administration, supervision, and coordination of vocational education shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has at least two (2) years of teaching experience in a vocational education teaching assignment and who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards [State Plan] for [the Approval of] Preparation-Certification [Programs for the Certification] of Professional School Personnel, as incorporated by reference in 704 KAR 20:005.

(2) The certificate for administration, supervision, and coordination of vocational education does not of itself qualify the holder for any vocational education position but rather it is designated as one of the several requirements for certain positions of administration, supervision, and coordination as identified in the Kentucky State Plan for Vocational Education, as incorporated by reference in 705 KAR 1:010.

(3) The duration of the certificate for administration, supervision, and coordination of

vocational education shall be for continuing service.

(4) The certificate for administration, supervision, and coordination of vocational education programs may be issued for an initial period of one (1) year upon completion of eight (8) semester hours credit selected from the prescribed curriculum and upon completion of the other nonacademic prerequisites. The remaining curriculum requirements shall be completed by September 1 of the calendar year following the year of initial issuance. The certificate may then be renewed for continuing service.

(5) When a qualified person is not available for a critical administrative position, the Superintendent of Public Instruction may approve a one (1) year endorsement of a vocational teaching certificate for the administration, supervision, and coordination of vocational education, provided the application includes a plan of in-service growth and development showing how the applicant and his employer will work toward meeting the full requirements.

(6) The provisions of this section shall expire on December 31, 1987; instead, new candidates may qualify for the certificate for vocational school principal outlined in Section 2 of this regulation or the certificate for vocational education supervision and coordination outlined in Section 3 of this regulation.

Section 2. (1) The certificate for vocational school principal shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has at least two (2) years of teaching experience in a vocational education teaching assignment and who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel, 704 KAR 20:005, TEC 90.0.

(2) The certificate shall be issued and renewed in accordance with the testing and internship provisions of KRS 161.027 and related regulations.

(3)(a) The initial certificate for vocational school principal shall be issued for a duration period of one (1) year upon successful completion of the approved curriculum and the tests prescribed under KRS 161.027 and upon obtaining employment for an internship position as principal or assistant principal of a vocational school. During the period of validity of the one (1) year certificate the internship program for vocational school principals as outlined in KRS 161.027 shall be completed. Upon successful completion of the internship, the certificate shall be extended for four (4) years.

(b) The certificate shall be renewed subsequently for five (5) year periods. Each five (5) year renewal thereafter shall require the completion of two (2) years of experience as a vocational school principal, or three (3) semester hours of additional graduate credit related to the position of vocational school principal, or forty-two (42) hours of approved training selected from programs approved for the Kentucky Effective Instructional Leadership Training Program.

(4) In compliance with KRS 161.027, persons applying for the certificate for vocational

school principal who satisfy the curriculum requirements and all other prerequisites, and who have completed at least two (2) years of successful full-time experience, including at least 140 days per year, as a vocational school principal, within a ten (10) year period prior to making application, will be exempt from the internship requirements for vocational school principal, but shall be required to pass the written examinations required by KRS 161.027.

Section 3. (1) The certificate for vocational education supervision and coordination shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who has at least two (2) years of teaching experience in a vocational education teaching assignment and who has completed the approved program of preparation which corresponds to the certificate at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel, 704 KAR 20:005, TEC 90.0.

(2) The certificate for vocational education supervision and coordination shall be issued for a duration period of five (5) years and shall be renewed subsequently for five (5) year periods. Each five (5) year renewal shall require the completion of two (2) years of experience as a supervisor or coordinator of vocational education, or three (3) semester hours of additional graduate credit related to the position of supervisor or coordinator of vocational education, or forty-two (42) hours of approved training selected from programs approved for the Kentucky Effective Instructional Leadership Training Program.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: November 5, 1987

FILED WITH LRC: November 12, 1987 at 10 a.m.

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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Margaret McClain

(1) Type and number of entities affected: Approximately 50 applicants per year.

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

1. First year: Costs: \$100 per applicant.

2. Continuing costs or savings: Same as 1.

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

(b) Reporting and paperwork requirements: Applicants will have to report scores on qualifying exams.

(2) Effects on the promulgating administrative body: Recording and reviewing scores on exams. Administration of Kentucky specialty exam.

- (a) Direct and indirect costs or savings:
 1. First year: Costs: Approximately \$100 per applicant.
 2. Continuing costs or savings: Costs: Same as above.
 3. Additional factors increasing or decreasing costs:
- (b) Reporting and paperwork requirements:
- (3) Assessment of anticipated effect on state and local revenues: Approximately \$5,000 per year.
- (4) Assessment of alternative methods; reasons why alternatives were rejected: Testing of prospective vocational principal candidates mandated by KRS 161.027.
- (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:
 - (a) Necessity of proposed regulation if in conflict: None
 - (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None
- (6) Any additional information or comments:

TIERING: Was tiering applied? No.

Certification requirements are applied uniformly to all candidates applying for such.

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

705 KAR 4:210. Diploma requirements for postsecondary students.

RELATES TO: KRS 163.030

PURSUANT TO: KRS 156.070, 163.030

NECESSITY AND FUNCTION: KRS 163.030 gives the State Board of Education all necessary power and authority in administering the state's vocational education programs. This regulation is necessary in order to set a statewide standard for awarding diplomas to postsecondary students in the state's vocational-technical schools.

Section 1. The following requirements shall be met before a diploma is awarded to a postsecondary vocational education student. Each applicant must:

- (1) Hold a high school diploma or meet GED requirements;
- (2) Meet the exit test score on the [academic requirements as measured by the Comprehensive Test of Basic Skills or] Test of Adult Basic Education as specified in 709 KAR 1:070; or, for deaf and/or hearing impaired students, an achievement test that is normed for the deaf and/or hearing impaired.
- (3) Complete one (1) course each in the areas of study skills, computer literacy, economics, and employability skills, or test out [have demonstrated competence in each such area];
- (4) Complete the tasks for a major set forth on the Dictionary of Occupational Titles, provided such is designated as a diploma exit point in one of the postsecondary vocational programs as defined in the "Office of Education DOT Cross Reference" prepared by the Program Services Division and distributed on November 21, 1984. Said document is hereby incorporated by reference, and a copy of such may be obtained from the Occupational Management Information

Unit in the Office of Vocational Education; and

(5) Pass a written occupational achievement test prepared by the Office of Vocational Education and validated by Kentucky vocational teachers for the particular occupational program. The test shall be normed using scores from Kentucky students.

Section 2. Students may take the occupational achievement test after verification by the instructor that the student has successfully demonstrated shop or laboratory performance, technical knowledge, attitude and conduct. Students who fail to pass the occupational achievement test may retake the test at the next testing period, remain enrolled for additional instruction, or terminate enrollment and accept a certificate of completion. Students who elect to retake the test may only be retested one (1) time without additional instruction or related work experience.

Section 3. Students who fail to meet the exit requirements on TABE, Level D, will be provided additional instruction. When the students are ready to retest, they will be provided an alternate form of the TABE.

Section 4. [3.] Clear and specific notice of diploma requirements and of levels of satisfactory achievement shall be disseminated to each student upon entrance into a vocational program.

[Section 4. These regulations shall apply to postsecondary students entering vocational programs August 1, 1985, and thereafter.]

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: November 5, 1987

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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Dr. Ann S. Bardwell

(1) Type and number of entities affected: 79 SVTS/AVEC's operated by the State Department of Education which offer programs for adult students.

(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: No additional requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: N/A

1. First year:

2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
 - (b) Reporting and paperwork requirements: No additional requirements.
 - (3) Assessment of anticipated effect on state and local revenues: N/A
 - (4) Assessment of alternative methods; reasons why alternatives were rejected: These regulations as proposed appear to be consistent with other operating policies.
 - (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.

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

709 KAR 1:070. Minimum standards of admission for long-term adult students in vocational programs.

RELATES TO: KRS 163.030

PURSUANT TO: KRS 156.070, 163.030

NECESSITY AND FUNCTION: KRS 163.030 vests the State Board of Education with authority to carry out the purposes of the state's vocational education program and adopted federal acts relative thereto. The purpose of this regulation is to establish minimum entrance requirements for students entering vocational programs, to establish a base for determining if students may receive advanced placement, to assist in developing remedial plans for students who need help in meeting minimum admission requirements, and to determine if a student needs additional assessment.

Section 1. The following minimum requirements shall apply to those schools offering training to students who have graduated or left high school and are enrolled in an occupational preparation program of 500 hours or more in length that does not lead to an associate degree:

(1) Students enrolling in a vocational school postsecondary program must be sixteen (16) years of age or older;

(2) Students enrolling must have successfully completed requirements for a high school diploma or its equivalent. Students who do not possess a high school diploma or its equivalent may be admitted with special status provided the student agrees to pursue the high school equivalency certificate;

(3) Students enrolling must complete an application form and provide a transcript of previous school work completed, including scale scores on the Comprehensive Test of Basic Skills (CTBS) if taken in the last three (3) years or the Kentucky Essential Skills Test (KEST);

(4) Students enrolling who do not have a transcript and/or CTBS scale scores or KEST scale scores must take the Test of Adult Basic Education (TABE). Students not having acceptable CTBS or KEST scale scores for program admission

may take the TABE;

(5) Students may be admitted to the school upon completion of application, required records, and test results and may pursue instruction in a basic academic skills program, career exploration, core elective courses, and modified/special programs for handicapped; and

(6) The Kentucky Department of Education does not discriminate on the basis of race, color, national origin, marital status, age, sex, or handicap.

Section 2. Students who have been admitted to the school must meet admission standards for the occupational program. The following minimum requirements shall apply to all students:

(1) Scale scores from California Test of Basic Skills (CTBS), Form U, Kentucky Essential Skills Test (KEST) or Test of Adult Basic Education (TABE), Level [Form] D, will be used in program placement and in developing a plan for students who need help in remedial work to meet minimum program admission requirements.

(2) Students must have the following scale scores for admission to a vocational program not otherwise mentioned:

	KEST/ CTBS	TABE (Forms 3 & 4)	TABE (Forms 5 & 6)
Reading	725	479	735
Math	717	504	756

Students who score below said minimum will be referred to a remediation program prior to admission to the occupational program. Students achieving the minimum basic skills in the remediation program will be admitted to the occupational program when a work station is available. Students pursuing the diploma will be required to continue to improve their reading and math scores after program enrollment until the highest reading and math scores indicated in subsection (3) of this section are met.

(3) Students who have the following scale scores must be enrolled in math and reading programs to improve their skills. Enrollment may be concurrent with or prior to enrollment in the program.

	KEST/ CTBS	TABE (Forms 3 & 4)	TABE (Forms 5 & 6)
Reading	725 to 770	479 to 574	735-770
Math	717 to 732	504 to 581	756-784

(4) Students enrolling in Air Craft Mechanics, Biomedical Technician, Electronics, Instrumentation, Medical Laboratory Technician, Practical Nursing, Radiologic Technology, Respiratory Therapy, Surgical Technology, Civil Highway Technology, Advanced Technology Center Program and Drafting must have the following scale scores to be admitted to the program:

	KEST/ CTBS	TABE (Forms 3 & 4)	TABE (Forms 5 & 6)
Reading	770	574	770
Math	732	581	784

	[CTBS]	TABE
Reading	753	542
Math	726	544]

[(5) Students enrolling in Practical Nursing, Radiologic Technology, Respiratory Therapy,

Surgical Technology, and Civil and Highway Technology must have the following scale scores to be admitted to the program:]

	[CTBS	TABE
Reading	770	574
Math	732	581]

(5) [(6)] Students enrolling in Biomedical Equipment Technician, Medical Assistant, Mine Maintenance, Practical Nurse, Radiologic Technology, Respiratory Therapy, and Surgical Technology must be seventeen (17) years of age or older.

(6) [(7)] Students enrolling in Heavy Equipment Operator, Heavy Equipment Maintenance, and Mine Equipment Operator must be eighteen (18) years of age or older.

(7) [(8)] Students enrolling in Mine Equipment Operator must complete forty-eight (48) hour Mine Safety Training Program before entering the simulated mine.

(8) [(9)] Students enrolling in Heavy Equipment Operator and Heavy Equipment Maintenance must have a valid driver's license.

Section 3. The following minimum requirements shall apply to those students requesting to transfer credit and be admitted with advanced standing from other vocational schools or other institutions accredited by an educational agency recognized by the Kentucky Department of Education:

(1) The student must supply the name and address of all previous institutions that provided vocational training;

(2) The student must provide a record of competencies achieved, length of training, date of enrollment, and date of termination from each institution. The receiving school may validate competencies through testing and interviewing and/or school admission requirements; and

(3) The student must provide all records and reports which are required by the state boards and/or licensing agencies in a given vocational program.

Section 4. This regulation shall be implemented in all state vocational-technical schools and health facilities, except correctional institutions[, in the 1985-86 school year and thereafter, and, with the cooperation of state and regional vocational advisory committees, piloted in 1985-86 in a minimum of five (5) area vocational education centers serving postsecondary students.]

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: November 5, 1987

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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Dr. Ann S. Bardwell

(1) Type and number of entities affected: 79 SVTS/AVEC's operated by the State Department of Education which offer programs for adult students.

(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: No additional requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: N/A

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No additional requirements.

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: These regulations as proposed appear to be consistent with other operating policies.

(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.

PUBLIC PROTECTION AND REGULATION CABINET

Public Service Commission

(Proposed Amendment)

807 KAR 5:008. Winter hardship reconnection of residential electric and gas service.

RELATES TO: KRS Chapter 278

PURSUANT TO: KRS 278.280(2)

NECESSITY AND FUNCTION: KRS 278.280(2) provides that the commission shall prescribe rules for the performance of any service or the furnishing of any commodity by any utility. This regulation establishes a reconnection rule which applies to electric and gas utility service during the winter months in hardship situations.

Section 1. Notwithstanding the provision of 807 KAR 5:006, Section 11(5) to the contrary, an electric or gas utility shall reconnect service to a residential customer who has been previously disconnected for nonpayment of bills [during the fifteen (15) months] prior to application for reconnection pursuant to 807 KAR 5:006, Section 11(2)(a) and who applies for such reconnection of service during the months from November through March when the customer or his or her agent:

(1) Presents a certificate of need from the Department for Social Insurance including a certification that a referral for weatherization services has been made in accordance with Section 3 of this regulation;

(2) Pays one-third (1/3) of his or her outstanding bill or \$200, whichever is less; and

(3) Agrees to a repayment schedule which would permit the customer to become current in the payment of his or her electric or gas bill as soon as possible but no later than October 15 provided, however, that if, at the time of application for reconnection, the customer has an outstanding bill in excess of \$600 and agrees to a repayment plan that would pay current charges and makes a good faith reduction in the outstanding bill consistent with his or her ability to pay, then such plan shall be accepted. In addition to payment of current charges, repayment schedules shall provide an option to the customer to select either one (1) payment of arrearages per month or more than one (1) payment of arrearages per month.

Section 2. Certificate of Need for Reconnection. Federal and statewide energy assistance programs are administered by the Kentucky Cabinet for Human Resources, Department for Social Insurance. A customer who is eligible for energy assistance under the department's guidelines or is certified as being in genuine financial need, defined as any household with gross income at or below 130 percent of the poverty level, may obtain a certificate of need from the department to be used in obtaining a service reconnection from the utility.

Section 3. Weatherization Program. Customers obtaining a certificate of need under this regulation shall agree to accept referral to and utilize weatherization services which are administered by the Kentucky Cabinet for Human Resources [Department for Manpower Services]. The provision and acceptance of weatherization services is contingent on the availability of funds and other program guidelines. Weatherization services include, but are not limited to, weather stripping, insulation and caulking.

Section 4. Customers who are current in their payment plans under Section 1(3) of this regulation shall not be disconnected.

Section 5. Utility Personnel Training. The chief operating officer of each utility subject to this regulation shall be required to certify each year the training of utility personnel assigned to counsel persons presenting themselves for utility service under the provisions of this section. Training is hereby defined as an annual review of commission regulations and policies regarding winter hardship and disconnect regulations. Cabinet for Human Resources policy and programs for issuing certificates of need, and company policies regarding collection, arrears repayment plans, budget billing procedures, and weather/health disconnect policies. Certification is defined as written notice to the commission by no later than October 31 of each year identifying the personnel trained, the date training occurred, and that the training met the requirements of this section.

RICHARD D. HEMAN, JR., Chairman

ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: October 29, 1987

FILED WITH LRC: October 29, 1987 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on

this proposed amendment has been scheduled to take place on Monday, December 21, 1987 at 9:30 a.m. (EST) in the hearing room at the Commission's office at 730 Schenkel Lane, Frankfort, Kentucky. Persons interested in attending this hearing should submit written notification of such by December 16, 1987. If a written notice of intent to testify is not received on or before this deadline, the hearing will be cancelled. To assure an accurate record, the commission requests that each person who testifies at the hearing provide the commission with a written copy of his or her testimony. Written comments on the proposed amendment may be submitted at any time prior to the hearing. Written comments and written requests to attend or testify at the hearing must be submitted to: Forest M. Skaggs, Executive Director, Public Service Commission, 730 Schenkel Lane, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Forest M. Skaggs

(1) Type and number of entities affected: Electric and gas utilities under commission jurisdiction and potentially each of their residential customers.

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

1. First year: N/A

2. Continuing costs or savings: N/A

3. Additional factors increasing or decreasing costs (note any effects upon competition): No significant costs or savings expected since the regulation is now in existence and the revisions are intended to clarify existing conditions.

(b) Reporting and paperwork requirements: Annual letter from utility to commission certifying that employee training has occurred.

(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: Any additional costs to review annual letter are expected to be minimal.

(b) Reporting and paperwork requirements: Minimal filing annual letters.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None considered.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: 807 KAR 5:006 also contains general cutoff/reconnect provisions.

(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: Regulations are not in conflict.

TIERING: Was tiering applied? No. No significant cost impact on users expected. Beneficiaries must be equally treated regardless of utility size.

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

815 KAR 7:013. Kentucky building code plan review fees.

RELATES TO: KRS Chapter 198B

PURSUANT TO: KRS 198B.050(5), 198B.060(10)

NECESSITY AND FUNCTION: KRS 198B.050(5) authorizes the Board of Housing, Buildings and Construction to issue regulations which are necessary to implement the Kentucky Building Code, and KRS 198B.060(10) authorizes the department to create a schedule of fees to fully cover the cost of the services performed under the code. The fees set forth herein are identical to the fee schedule used by the department since December of 1982.

Section 1. Submission of Plans and Fees. (1) All plans and specifications required to be submitted to the department under the Kentucky Building Code shall be accompanied by the applicable fee as set forth in this regulation, rounded to the nearest dollar.

(2) All fees required herein shall be in check form payable to the Kentucky State Treasurer.

(3) No approval for construction shall be issued by the department until all required fees have been paid.

(4) The plan review fees required by this regulation are intended to cover the cost of corresponding inspections for compliance with such plans.

Section 2. New Construction. (1) Departmental plan review fees for new buildings shall be calculated by multiplying the total square footage times the cost per square foot of each occupancy type as listed in the following table. Total square footage will be determined by the outside dimensions of the building. Minimum fee for review of plans under this section will be fifty (50) dollars.

Occupancy Type	Cost per Square Foot
Residential (excluding single family dwellings and duplexes)	2 cents
Assembly Occupancies	
Nightclub/restaurants	3.5 cents
All other assembly	3 cents
Educational	2 cents
Day care centers	2 cents
Business	2 cents
Mercantile	2 cents
Industrial factories	2 cents
Warehouses	1.5 cents
Institutional	2.5 cents
Frozen food plants	2 cents
High hazard	3 cents
All other nonresidential	2 cents

(2) Plan review fees for additions to existing buildings, which do not require the entire building to conform to the Kentucky Building Code, shall be calculated in accordance with subsection (1) of this section by the measurement of the square footage of the addition, only, as determined by the outside dimensions of the addition. Minimum fee for review of plans under this section will be fifty (50) dollars.

(3) Plan review fees for existing buildings in which the use group or occupancy type is changed shall be calculated in accordance with subsection (1) of this section by using the total square footage of the entire building or structure under the new occupancy type as determined by the outside dimensions. Minimum fee for review of plans under this section will be fifty (50) dollars.

(4) Plan review fees for alternations and repairs not otherwise covered by this section shall be calculated by multiplying the cost for the repairs by .001. Minimum fee for review of plans under this section will be fifty (50) dollars.

Section 3. Specialized Fees. In addition to the fees required by Section 2 of this regulation, the following fees must be paid for the specialized plan reviews listed:

(1) Sprinkler fees.

Automatic Sprinkler Review Fee Table

Sprinkler Heads	Plan Review Fee
4-200	\$50
201-300	60
301-400	80
401-750	100
over 750	\$100 plus 10 cents per sprinkler over 750

(2) Fire detection system review fee: ten (10) dollars per 5,000 square feet up to 70,000 square feet; over 70,000 square feet - \$140 plus fifteen (15) dollars per each additional 20,000 square feet.

(3) Standpipe plan review fee: thirty (30) dollars (Combination standpipe and riser plans will be reviewed under automatic sprinkler review fee schedule.)

(4) Carbon dioxide suppression system review fee: 1 to 200 pounds of agent - fifty (50) dollars; over 200 pounds of agent - fifty (50) dollars plus two (2) cents per pound in excess of 200 pounds.

(5) Halon suppression system review fee: Up to thirty-five (35) pounds of agent - fifty (50) dollars; over thirty-five (35) pounds - fifty (50) dollars plus five (5) cents per pound in excess of thirty-five (35) pounds.

(6) Foam suppression system review fee: one (1) dollar per gallon of foam concentrate. The fee for review of plans under this section shall not be less than fifty (50) dollars or more than \$1,000.

(7) Commercial range hood review fee: twenty (20) dollars per hood.

(8) Dry chemical systems review fee (except range hoods): 1 to 30 pounds of agent - thirty (30) dollars; over thirty (30) pounds of agent - thirty (30) dollars plus twenty (20) cents per pound in excess of thirty (30) pounds.

(9) Flammable liquid or pressure tank fee: twenty-five (25) dollars for the first tank and five (5) dollars for each additional tank.

CHARLES A. COTTON, Commissioner

ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: October 15, 1987

FILED WITH LRC: November 4, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1987 at 10 a.m. in the Office of the Department of Housing, Buildings and Construction, U.S. 127

South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by December 17, 1987, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

*This does not reflect a new fee or increase but for clarification only.

(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 Building Codes Enforcement
(Proposed Amendment)

815 KAR 7:020. Building code.

RELATES TO: KRS Chapter 198B

PURSUANT TO: KRS 198B.040(7), 198B.050

NECESSITY AND FUNCTION: The Kentucky Board of Housing, Buildings and Construction is required by KRS 198B.040(7) to adopt and promulgate a mandatory uniform state building code, which establishes standards for construction of buildings in the state. This regulation establishes the Kentucky Building Code basic provisions relating to new construction, including general building limitations, special use and occupancy, light, ventilation and sound transmission control, means of egress, structural and foundation loads and stresses, acceptable materials and tests, fire resistive construction and fire protection systems, safety during building operations, mechanical systems, energy conservation and electrical systems.

Section 1. The Kentucky Building Code shall include the National Electrical Code, 1987

Edition, N.F.P.A. #70, published by and copies available from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269. The National Electrical Code is hereby adopted by reference.

Section 2. The Kentucky Building Code shall include the "BOCA National Building Code/1987," Tenth Edition, published by and copies available from Building Officials and Code Administrators International, Inc., 4051 W. Flossmoor Road, Country Club Hills, Illinois 60477. That code, including all standards listed in Appendices A through D are hereby adopted by reference on June 18, 1987, with the following additions, exceptions and deletions:

(1) Delete Article 1 in its entirety. All requirements for the administration and enforcement of this regulation are set forth in 815 KAR 7:010 with fees established by 815 KAR 7:013.

(2) Change subsection 201.0 to include the following additional definitions:

(a) "Construction: The erection, fabrication, reconstruction, substantial alteration or conversion of a building, or the installation of equipment therein."

(b) "Equipment: Facilities or installations including but not limited to, heating, electrical, ventilating, air-conditioning, and refrigerating facilities or installations."

(c) "Reconstruction: The process of reproducing by new construction the exact form and detail of a vanished building, structure or object or a part thereof as it appeared at a specific period of time."

(d) "Rehabilitation: The process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use of while preserving those portions or features of the property which are significant to historical, architectural and cultural values."

(e) "Restoration: The process of accurately recovering the form and details of the property and its setting as it appeared at a particular period of time by means of the removal of later work or by the replacement of missing earlier work."

(f) "Stabilization: The process of applying measures designed to reestablish a weather-resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists."

(3) Change subsection 201.0 definitions to read as follows:

(a) "Basement: That portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling, ventilating facilities, but which is not ordinarily used for purposes of general household habitation." (See "Story Above Grade.")

(b) "Story: That part of the building comprised between a floor and the floor or roof next above which is not a basement or an attic."

(4) Change subsection 309.5 to read as follows: "309.5 Use group R-4 Structures: This use group shall include all detached one (1) or two (2) family dwellings not more than three (3) stories in height, and their accessory structures as indicated in the Appendix B

Standard, One (1) and Two (2) family Dwelling Code. All such structures shall be designed and built in accordance with the requirements of this code for use group R-3 structures or shall be designed and built in accordance with all the requirements of the one (1) and two (2) family dwelling code as listed in Appendix B, except that the requirements of the state plumbing code (Article 28) shall supersede those conflicting requirements of the one (1) and two (2) family dwelling code. This choice shall be made by the builder at the time of plans submission. Nevertheless, any builder may use exception #3 of Section 809.4 to determine minimum size of egress windows."

(5) Change subsection 505.1 to read as follows: "505.1 Alteration Limitations: These provisions shall not be deemed to prohibit alterations within the limitations of Sections 106 and 505.2 provided an unlawful change of use is not involved."

(6) Delete Sections 512.1 through 512.4.1 and substitute the following: "512.1" Requirements for accessibility of the handicapped: Please see 815 KAR 7:060 for construction requirements providing accessibility to the handicapped, Article 33 of this Code.

(7) Delete Section 513.1 in its entirety.

(8) Change Section 600.8.2 by creating a new subsection which shall read as follows: "600.8.2 Housekeeping: Periodic inspections of existing uses and occupancies shall be made by the appropriate fire and health officials to insure maintenance of good housekeeping conditions."

(9) Change Section 608.1 to read as follows: "Private garages located beneath rooms in buildings of Use Groups R-1, R-2, R-3 or I-1 shall have walls, partitions, floors and ceilings separating the garage space from the adjacent interior spaces constructed of not less than one (1) hour fire-resistance rating. Attached private garages shall be completely separated from the adjacent interior spaces and the attic area by means of one-half (1/2) inch gypsum board or equivalent applied to the garage side. The sills of all door openings between the garage and adjacent interior spaces shall be raised not less than four (4) inches (102 mm) above the garage floor. The door opening protectives shall be one and three-fourths (1 3/4) inch solid core wood doors or approved equivalent. In lieu of the required one and three quarter (1 3/4) or twenty (20) minute door, an approved automatic sprinkler head located directly above the door in the garage and properly connected to the domestic water system or an approved automatic detector located directly above the door in the garage shall be acceptable."

(10) Delete Section 702 and Section 804 in their entirety.

(11) Change Section 900.0 by creating a new subsection which shall read as follows: "900.2.1 Certificate of Compliance: the provisions of this article may be deemed to have been satisfied when certification of an architect or engineer registered in Kentucky to that effect is placed on drawings submitted to the building official."

(12) Delete subsections 904.4.2, 904.4.3, 904.4.4 in their entirety.

(13) Change subsection 2500.2 to read as follows: "2500.2 Boilers: All boilers and associated pressure piping shall meet the standards for construction, installation and

inspection as set forth in Title 815, Chapter 15, Kentucky Administrative Regulations."

(14) Add two (2) new subsections to Section 2500.0 which shall read as follows:

(a) "2500.3 Unfired Pressure Vessels. All unfired pressure vessels shall meet the standards set forth in Section VIII of the 1983 Edition of the ASME Boiler and Pressure Vessel Code, ANSI/ASME BPV-VIII-1."

(b) "2500.4 Mechanical Code: All mechanical equipment and systems not covered by 2500.2 or 2500.3 but which are required by other provisions of this code to be installed in accordance with the mechanical code listed in Appendix A, shall be constructed, installed and maintained in conformity with the BOCA Basic Mechanical Code/1987 including all applicable standards listed within Appendix A."

(15) Delete Article 29 in its entirety.

(16) Amend Article 27 by changing, creating or deleting certain portions thereof, as follows:

(a) Create a new subsection 2700.5 which shall read as follows: "2700.5 Electrical Inspections: Inspections conducted to determine compliance with the National Electrical Code shall be conducted by a certified electrical inspector in accordance with 815 KAR 35:015."

(b) Delete Subsections 2701.3, 2704.3, and 2704.4.

(c) In Subsections 2702.1, 2702.3 and 2703.1 change the words "Building Official" to "Certified Electrical Inspector."

(17) Delete subsections 2800.1 through 2807.1 in their entirety and substitute the following: "2800.1 Scope: The design and installation of all plumbing systems, including sanitary and storm water sewage disposal in buildings shall comply with the requirements of Chapter 318 of the Kentucky Revised Statutes and the Kentucky State Plumbing Code as set out in Title 815, Chapter 20, Kentucky Administrative Regulations."

(18) Change subsection 809.4 to read as follows:

"809.4 Emergency escape: Every sleeping room below the fourth story in buildings of Use Group R and I-1 shall have at least one (1) operable window or exterior door approved for emergency egress or rescue. The units must be operable from the inside to a full clear opening without the use of separate tools. Where windows are provided as a means of egress or rescue, they shall have a sill height not more than forty-four (44) inches (1118 mm) above the floor. All egress or rescue windows from sleeping rooms must have a minimum net clear opening of five and seven-tenths (5.7) square feet (0.532). The minimum net clear opening height dimension shall be twenty-four (24) inches (610 mm). The minimum net clear opening width dimension shall be twenty (20) inches (508 mm).

Bars, grilles or screens placed over emergency escape windows shall be releasable or removable from the inside without the use of a key, tool or excessive force."

EXCEPTIONS

1. Grade floor windows may have a minimum net clear opening of five (5) square feet (0.47 m2).

2. In buildings [of Use Group R-3,] where the sleeping room is provided with a door to a corridor having access to two (2) remote exits in opposite directions, then an outside window or an exterior door for emergency escape from each such sleeping room is not required.

3. Buildings equipped throughout with a complete automatic fire suppression system.

4. [3.] Egress windows located on the first and second stories in multiple family dwellings (R-2 and R-3 use groups) and one (1) and two (2) family dwellings, may have a minimum net clear opening height dimension of twenty-two (22) inches and a minimum width dimension of twenty (20) inches; and the net clear opening area may be reduced to no less than four (4) square feet. The minimum total glazed area must be five (5) square feet in the case of a ground floor window and not less than five and seven-tenths (5.7) square feet in the case of a second story window. (This exception applies only if the sash frames can be readily broken or removed.)

Section 3. Elevator, Dumbwaiter and Conveyor Equipment, Installation and Maintenance. The following subsections of Article 26 of the BOCA Basic Building Code are deleted or changed to read as follows:

(1) Change Subsection 2603.4 of Article 26 to read as follows: "2603.4 Posting certificates of compliance: The owner or lessee shall post the last issued certificate of compliance in a conspicuous place on the elevator, available to the building official."

(2) Change Subsection 2602.4.1 of Article 26 to read as follows: "2602.4.1 Periodic Inspection Intervals: Periodic inspections shall hereafter be made at intervals of not more than twelve (12) months for all passenger elevators, manlifts and escalators."

(3) Change Subsection 2610.1 of Article 26 to read as follows: "2610.1 General: The construction of machine rooms and related construction for passenger and freight elevators and dumbwaiters shall be protected from the weather, and shall be enclosed with fire resistive enclosures. Enclosures and access doors thereto shall have a fire endurance at least equal to that required for the hoistway enclosure in Table 401."

Section 4. Elevators. On page 485 of Appendix A of the BOCA National Building Code under "Elevators, Escalators and Moving Walks," add the following citations: "A17.1B-1985; A17.1C-1986, with the exception of rules 102.2(c)(4) and 700.4b, 700.5, 700.7b, 700.10b, 707.4."

Section 5. Amend Article 3 of the 1987 Edition of the BOCA National Building Code adding a new section to read as follows: "310.4 Tobacco auction warehouses: Warehouses, for the sale of tobacco only, of Type 1, Type 2, or Type 3 construction, may be constructed without a sprinkler system when all the following requirements have been met:

(1) The initial submission of plans to the Department of Housing, Buildings and Construction shall include a signed certificate by the owner that the warehouse will be used solely for the sale of tobacco on a seasonal basis or for the storage of noncombustibles.

(2) A manual fire alarm and smoke detection system with notification to the local fire service shall be provided with installation in accordance with Section 1017 of this code.

(3) An eighteen (18) foot paved and posted fire lane surrounding the entire perimeter of the building shall be provided and be accessible from a public street.

(4) A fifty (50) foot fire separation shall be maintained between the warehouse and the lot line and the warehouse and the nearest building."

Section 6. Amend the 1987 Edition of the BOCA National Building Code as follows:

(1) Amend Article 5 as follows:

(a) In subsection 505.1, change the number, "103.0," to read "106.0."

(b) In subsection 511.1, change the number, "124.0," to read "123.0."

(2) Delete the reference to the BOCA Fire Prevention Code listed in Appendix A and install in its place the following: "The Kentucky Fire Safety Standards (815 KAR 10:020 - Fire Safety Standards) shall be used as the fire prevention code."

(3) Amend Figure 1113.1 of Article 11 by adding the following list of 120 Kentucky counties showing the assigned earthquake risk zone for each. The risk zone assigned herein shall supersede any general area designations as shown upon the face of the map.

Earthquake Risk Zone #1

Adair	Elliott	Laurel	Oldham
Allen	Estill	Lawrence	Owen
Anderson	Fayette	Lee	Owsley
Barren	Fleming	Leslie	Pendleton
Bath	Floyd	Letcher	Perry
Bell	Franklin	Lewis	Pike
Boone	Gallatin	Lincoln	Powell
Bourbon	Garrard	Logan	Pulaski
Boyd	Grant	Madison	Robertson
Boyle	Grayson	Magoffin	Rockcastle
Bracken	Greene	Marion	Rowan
Breathitt	Greenup	Martin	Russell
Breckinridge	Hancock	Mason	Scott
Bullitt	Hardin	Meade	Shelby
Butler	Harlan	Menifee	Simpson
Campbell	Harrison	Mercer	Spencer
Carroll	Hart	Metcalfe	Taylor
Carter	Henry	Monroe	Todd
Casey	Jackson	Montgomery	Trimble
Christian	Jefferson	Morgan	Warren
Clark	Jessamine	Muhlenberg	Washington
Clay	Johnson	McCreary	Wayne
Clinton	Kenton	McLean	Whitley
Cumberland	Knott	Nelson	Wolfe
Daviess	Knox	Nicholas	Woodford
Edmonson	Larue	Ohio	

Earthquake Risk

Zone #2

Caldwell
Calloway
Crittenden
Henderson
Hopkins
Lyon
Trigg
Union
Webster

Earthquake Risk

Zone #3

Ballard
Carlisle
Fulton
Graves
Hickman
Livingston
Marshall
McCracken

(4) Change subsection 2203.2.1.7 to read as follows: "Glazing in fixed panels having a glazed area in excess of nine (9) square feet (0.84 m²) with the lowest edge less than eighteen (18) inches (457 mm) above the finish floor level or walking surface within thirty-six (36) inches (914 mm) of such glazing, and the finish floor or walking surface are extended on both sides of said glazing. In lieu of safety glazing, such glazed panels may be protected with a horizontal member not less than one and

one-half (1 1/2) inches (38 mm) in width when located between twenty-four (24) inches (610 mm) and thirty-six (36) inches (914 mm) above the walking surface."

(5) Change section 2203 by adding a new subsection 2203.3 which shall read as follows:

(a) "2203.3 Labeling requirements:

1. Each light of safety glazing material manufactured, distributed, imported, or sold for use in hazardous locations or installed in such a location within the Commonwealth of Kentucky shall be permanently labeled by such means as etching, sandblasting or firing ceramic material on the safety glazing material. The label shall identify the labeler, whether manufacturer, fabricator or installer, and the nominal thickness and the type of safety glazing material and the fact that said material meets the test requirements of ANSI Standard Z-97.1 and Z-97.1a listed in Appendix A and such further requirements as may be adopted by the Department of Housing, Buildings and Construction. The label must be legible and visible after installation. Such safety glazing labeling shall not be used on other than safety glazing materials."

(6) Change subsection 915.4 and the exceptions thereto to read as follows: "915.4 Duct and pipe shafts: In all buildings other than buildings of Use Group R-2, vertical pipes arranged in groups of two (2) or more which penetrate two (2) or more floors and occupy an area of more than one (1) square foot (0.093 m²), and vertical ducts which penetrate two (2) or more floors, shall be enclosed by construction of not less than one (1) hour fire-resistance rating to comply with this section. All combustible ducts connecting two (2) or more stories shall be enclosed as indicated herein.

Exceptions:

1. In all buildings of Use Group R-2, vertical noncombustible ducts shall not be required to have a one (1) hour enclosure provided:

(a) the cross sectional area does not exceed thirty-five (35) square inches;

(b) the duct does not penetrate more than three (3) floors;

(c) the duct serves no more than one (1) dwelling unit and shall not join other ducts except above the top level for the purpose of utilizing a single roof penetration; and

(d) these ducts are restricted for use as a bathroom or kitchen exhaust, and combustion air supply and relief.

(7) Add the following language and NFPA Standards to Appendix A on page 496:

"These NFPA Standards are to be used for fire suppression requirements and design only, where referenced in a specific code requirement in the body of the Code."

BOCA Guide for Suppression Requirements for Specific Occupations

Installation of Sprinkler Systems NFPA 13-87

Standard for Installation for
Private Fire Service Mains and
their Appurtenances

Aircraft Hangars	NFPA 24-1984
Pyroxylin Plastics	NFPA 409
Flammable Liquids	NFPA 40C
Laboratories	NFPA 36
Fireworks	NFPA 45
Gaseous Oxidizing Materials	NFPA 44A
L.P. Gas Storage	NFPA 43C
	NFPA 58

Local Protective Signaling

Systems

High Piled Storage in Excess of
12 ft. in height
Rubber Tire Storage
Baled Cotton Storage
Rolled Paper Storage
Rangehoods
Computer Rooms
Archives and Record Centers
L.P. Gas Storage and Handling
Explosion Prevention Systems
Fur Storage
Cooling Towers
Marinas and Boatyards
Library Stacks

NFPA 72A-87

NFPA 231
NFPA 231D
NFPA 231E
NFPA 231F
NFPA 96
NFPA 75
NFPA 232AM
NFPA 59A
NFPA 69
NFPA 81
NFPA 214
NFPA 303
NFPA 910

(8) Amend Article 30 as follows:

In subsection 3005.2, change the words, "Section 2805.4 through 2805.4.3" to read "Article 28, 815 KAR 20:090."

(9) Delete Article 28 in its entirety and substitute the following reference: "2800.1 General: See Kentucky State Plumbing Code for all the requirements for plumbing installations as set forth in Chapter 20, Title 815 of Kentucky Administrative Regulations. Informational copies are available from the Kentucky Division of Plumbing, U.S. 127 South, Frankfort, Kentucky 40601."

Section 7. Amend section 812 of the 1987 Edition of the BOCA National Building Code.

(1) Amend the first sentence of subsection 812.4.2 to read as follows: All doors equipped with latching or locking devices in buildings of Use Groups A and E or portions of buildings used for assembly or educational purposes and serving rooms or spaces with an occupant load greater than 100 shall be equipped with approved panic hardware."

(2) Create an exception to subsection 812.4.2 to read as follows: "Exception: Panic hardware for Use Group A3 is not required for the principal entrance/exit doors if (1) they are free-swinging; and (2) the calculated occupant load does not exceed 150; and (3) the latch/lock device is a thumb latch/lock or a key operated lock device in which the key cannot be removed from the side from which egress is to be made when it is locked."

Section 8. Amend Section 1016.1 to read as follows: "1016.1 Fire hydrants: Fire hydrants installed on private property as a part of a private fire protection system shall be located so as to meet the requirements of NFPA 24. Yard hydrant installation shall be coordinated with the responsible fire officials who shall not make recommendations which exceed the requirements of NFPA 24. Hydrants not addressed by NFPA 24 shall conform to the standards of the administrative authority of the jurisdiction and the fire department. Hydrants shall not be installed on a water main less than six (6) inches in diameter."

Section 9. Amend Article 9 of the 1987 Edition of the BOCA National Building Code by creating certain portions thereof as follows:

(1) Create a new subsection 905.4 which shall read as follows: "905.4 Combustible Pipe: Combustible Pipe shall be permitted in all use groups and construction types where approved by Article 28 of this Code and the Kentucky State

Plumbing Code."

(2) Create a new subsection 905.4.1 which shall read as follows: "905.4.1 Vertical Combustible Pipes: Vertical Combustible Pipes shall comply with Sections 905.4.2 and 915.4."

(3) Create a new subsection 905.4.2 which shall read as follows: "905.4.2 Combustible Pipe Penetrations: Combustible pipe penetrations of fire-resistance rated assemblies shall be acceptable when installed in accordance with an approved tested assembly utilizing combustible pipe penetrations. If there is no approved tested assembly with combustible pipe penetrations, noncombustible fittings shall be required where combustible pipe penetrations enter into or exit from the fire-resistance rated assembly."

Section 10. Create a new Section 2511 of the 1987 BOCA National Building Code entitled "Rangehoods" to read as follows: "2511 Rangehoods. Rangehoods in kitchen exhaust systems shall comply with the requirements of the Mechanical Code listed in Appendix A. The bottom edge of the hood shall be located at a height of not more than four feet (4') above the cooking surface."

Section 11. Amend subsection 625.1 by adding a sentence to read as follows: "625.1.1 The Cabinet for Human Resources, Department for Health Services shall regulate the design and construction of new facilities as related to water distribution and treatment systems for public swimming pools and the proper operation and maintenance of all such facilities. Their regulation is 902 KAR 10:120 and is titled 'Kentucky Public Swimming and Bathing Facilities Regulation'."

Section 12. Amend Appendix A, page 492 of the 1987 BOCA National Building Code under CABO by adding a reference to CABO-1987 Supplement.

Section 13. Amend Section 1012.2.9, Use Group S, by adding an Exception to read as follows: "Use Group S: In all buildings or structures or portions thereof of Use Group S, other than public garages which shall conform to Section 1012.2.11, when:

(1) Three (3) or more stories in height, of Use Group S-1, and more than 3,000 square feet (279 m²) in area per floor; or

(2) Three (3) or more stories in height, of Use Group S-2, and more than 10,000 square feet (930 m²) in area per floor; or

(3) Four (4) or more stories in height of Use Group S-1 or S-2 regardless of the area per floor.

EXCEPTION: For open parking structures, the required standpipe may be a dry without making a connection to the permanent water supply."

CHARLES A. COTTON, Commissioner

ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: October 15, 1987

FILED WITH LRC: November 4, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1987 at 10 a.m. in the Office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127

Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by December 17, 1987, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected: N/A

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? N/A

PUBLIC PROTECTION AND REGULATION CABINET Department of Housing, Buildings & Construction Division of Plumbing (Proposed Amendment)

815 KAR 20:010. Definitions.

RELATES TO: KRS Chapter 318

PURSUANT TO: KRS 318.130

NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to the definitions needed to interpret other sections of the subsequent regulations or comprising the State Plumbing Code.

Section 1. Definition of Terms. (1) Administrative authority. The Department of Housing, Buildings and Construction or any person or agency authorized by the department to administer and enforce the provisions of the state plumbing code.

(2) [(1)] Air break (drainage system). A piping arrangement in which a drain from a fixture, appliance, or device discharges indirectly into another fixture, receptacle, or interceptor at a point below the flood level rim.

(3) [(2)] Air gap (drainage system). The unobstructed vertical distance through the free atmosphere between the outlet of waste pipe and the flood level rim of the receptacle into which it is discharging.

(4) [(3)] Air gap (water distribution system).

The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture or other device and the flood level rim of the receptacle.

(5) [(4)] Anchors. (See supports.)

(6) [(5)] Apprentice plumber. (See plumber's apprentice.)

(7) [(6)] Approved. Accepted or acceptable under an applicable specification state or cited in this code.

(8) [(7)] Area drain. A receptacle designed to collect surface or storm water from an open area.

(9) [(8)] Aspirator. A fitting or device supplied with water or other fluid under positive pressure which passes through an integral orifice or "constriction" causing a vacuum. Aspirators are often referred to as "suction" apparatus, and are similar in operation to an ejector.

(10) [(9)] Autopsy table. A fixture or table used for postmortem examination of a body.

(11) [(10)] Backflow. The flow of water or other liquids, mixtures, or substances into the distributing pipes of a potable supply of water from any source or sources other than its intended source. Back siphonage is one type of backflow.

(12) [(11)] Backflow connection. Any arrangement whereby backflow can occur (see cross connection).

(13) [(12)] Backflow preventer. A device or means to prevent backflow.

(14) [(13)] Backflow preventer, reduced pressure zone type. An assembly of differential valves and check valves including an automatically opened spillage port to the atmosphere.

(15) [(14)] Back siphonage. The flowing back of used, contaminated, or polluted water from a plumbing fixture or vessel or other sources into a potable water supply pipe due to a negative pressure in such pipe.

(16) [(15)](a) Basement. The basement is the lowest level of a dwelling unit which is wholly or partly below the ground level in which the entrance and exit is made by use of a stairway or other mechanical means and which may or may not have an entrance and exit at the basement floor level.

(b) Basement floor drains. A basement floor drain is a drain placed in the basement floor of a residence which may or may not receive sanitary waste water.

(17) [(16)] Battery of fixtures. Any group of two (2) or more similar adjacent fixtures which discharge into a common horizontal waste or soil branch.

(18) [(17)] Bedpan hopper (see clinical sink).

(19) [(18)] Bedpan steamer or boiler. A fixture used for scalding bedpans or urinals by direct application of steam of boiling water.

(20) [(19)] Bedpan unit. A small workroom in the nursing area designed and equipped for emptying, cleaning, and sometimes for steaming bedpans, and for no other purposes.

(21) [(20)] Bedpan washer and sterilizer. A fixture designed to wash bedpans and to flush the contents into the sanitary drainage system. It may also provide for disinfecting utensils by scalding with steam or hot water.

(22) [(21)] Bedpan washer hose. A device supplied with hot and cold water and located adjacent to a water closet or clinical sink to be used for cleaning bedpans.

(23) [(22)] Boiler blow-off. An outlet on a boiler to permit emptying or discharge of sediment.

(24) [(23)] Boiler blow-off tank. A vessel designed to receive the discharge from a boiler blow-off outlet and to cool the discharge to a temperature which permits its safe discharge to the drainage system.

(25) [(24)] Branch. The branch of any system of piping is that part of the system which extends horizontally, at a slight grade, with or without lateral or vertical extensions or vertical arms, from the main to receive fixture outlets not directly connected to the main.

(26) [(25)] Branch, fixture (see fixture branch).

(27) [(26)] Branch interval. A distance along a soil or waste stack corresponding in general to a story height, but in no case less than eight (8) feet, within which the horizontal branches from one (1) floor or story of a building are connected to the stack.

(28) [(27)] Branch vent. A vent connecting one (1) or more individual vents with a vent stack or stack vent.

(29) [(28)] Building. A structure having walls and a roof designed and used for the housing, shelter, enclosure, or support of persons, animals or property.

(30) [(29)] Building classification. The arrangement of buildings in classes according to occupancy.

(31) [(30)] Building drain. That part of the lowest piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer beginning two (2) feet outside the building wall.

(32) [(31)] Building drain; combined. A building drain which conveys both sewage and storm water or other drainage.

(33) [(32)] Building drain; sanitary. A building drain which conveys sewage only.

(34) [(33)] Building drain; storm. A building drain which conveys storm water or other drainage but not sewage.

(35) [(34)] Building gravity drainage system. A drainage system which drains by gravity into the building sewer.

(36) [(35)] Building sewer. That part of the drainage system which extends from the end of the building drain and conveys its discharge to a public sewer, private sewer, individual sewage-disposal system, or other point of disposal.

(37) [(36)] Building sewer; combined. A building sewer which conveys both sewage and storm water or other drainage.

(38) [(37)] Building sewer; sanitary. A building sewer which conveys sewage only.

(39) [(38)] Building sewer; storm. A building sewer which conveys storm water or other drainage but no sewage.

(40) [(39)] Building subdrain. That portion of a drainage system which does not drain by gravity into the building sewer.

(41) [(40)] Cesspools. A lined and covered excavation in the ground which receives a discharge of domestic sewage or other organic wastes from a drainage system, so designed as to retain the organic matter and solids, but permitting the liquids to seep through the bottom and sides.

(42) [(41)] Circuit vent. A branch vent that serves two (2) or more traps and extends from

the downstream side of the highest fixture connection of a horizontal branch to the vent stack.

(43) [(42)] Clinical sink (bedpan hopper). A fixture for the rinsing of bedpans and soiled linens. Such fixture shall have a trap size on not less than three (3) inches.

(44) [(43)] Code. Means the State Plumbing Code.

(45) [(44)] Combination fixture. A fixture combining one (1) sink and laundry tray or a two (2) or three (3) compartment sink or laundry tray in one (1) unit.

(46) [(45)] Combined building drain (see building drain; combined).

(47) [(46)] Combined building sewer (see building sewer; combined).

(48) [(47)] Combination waste and vent system. A specially designed system of waste piping embodying the horizontal wet venting of one (1) or more sinks or floor drains by means of a common waste and vent pipe adequately sized to provide free movement of air above the free water surface in the drain.

(49) [(48)] Common vent. A vent connecting at the junction of two (2) fixture drains and serving as a vent for both fixture drains.

(50) [(49)] Conductor. A pipe inside the building which conveys storm water from the roof to a storm or combined building drain.

(51) [(50)] Continuous vent. A vertical vent that is a continuation of the drain to which it connects.

(52) [(51)] Continuous waste. A drain from two (2) or more fixtures connected to a single trap.

(53) [(52)] Cross connection. Any physical connection or arrangement between two (2) otherwise separate piping systems, one (1) of which contains potable water and the other either water of unknown or questionable safety or steam, gas, or chemical whereby there may be a flow from one (1) system to the other, the direction of flow depending on the pressure differential between the two (2) systems. (See backflow and back siphonage.)

(54) [(53)] Dead end. A branch leading from a soil, waste or vent pipe, building drain, or building sewer, and terminating at a developed length of two (2) feet or more by means of a plug, cap, or other closed fitting.

(55) [(54)] Developed length. The length of a pipe line measured along the center line of the pipe and fittings.

(56) [(55)] Diameter. The nominal diameter as designated commercially.

(57) [(56)] Domestic sewage. The waterborne wastes derived from ordinary living processes.

(58) [(57)] Double offset. Two (2) changes of direction installed in succession or series in a continuous pipe.

(59) [(58)] Downspout (see leader).

(60) [(59)] Drain. Any pipe which carries waste water or waterborne wastes in a building drainage system.

(61) [(60)] Drainage pipe (see drainage system).

(62) [(61)] Drainage system. Includes all the piping, within public or private premises, which conveys sewage, rain water, or other liquid wastes to a point of disposal. It does not include the mains of a public sewer system or private or public sewage-treatment or disposal plant. Neither does this apply to plumbing appliances.

(63) [(62)] Drainage system (building

gravity). A drainage system which drains by gravity into the building sewer.

(64) [(63)] Drainage system (subbuilding). (See building subdrain.)

(65) [(64)] Dry well (see leaching well).

(66) [(65)] Dual vent (see common vent).

(67) [(66)] Durham system. A term used to describe soil or waste systems where all piping is of threaded pipe, tube, or other such rigid construction, using recessed drainage fittings to correspond to the types of piping.

(68) [(67)] Dwelling unit. One (1) or more rooms with provision for living, sanitary and sleeping facilities arranged for the use of one (1) family or individual.

(69) DWV. An abbreviated term for drain, waste and vent piping as used in common plumbing practice.

(70) [(68)] Effective opening. The minimum cross-sectional area at the point of water supply discharge, measured or expressed in terms of (i) diameter of a circle, or (ii) if the opening is not circular, the diameter of a circle of equivalent cross-sectional area.

(71) [(69)] Ejector (see aspirator).

(72) [(70)] Existing work. A plumbing system or any part thereof installed prior to the effective date of this code.

(73) [(71)] Farmstead. As defined in KRS 318.010(8) is determined by the following:

(a) The property shall consist of at least ten (10) acres; and

(b) The property shall have a dwelling together with other buildings and structures incident to the operation and maintenance of the farm; and

(c) The property shall have a bona fide farm use either agricultural or horticultural in nature as defined by KRS 132.010(9) and (10), qualified by and registered with the PVA in that county; and

(d) The property shall be outside the corporate limits of a municipality.

(74) [(72)] Fire line. A system of pipes and equipment used exclusively to supply water for extinguishing fires.

(75) [(73)] Fixture (see plumbing fixture).

(76) [(74)] Fixture branch. A fixture branch is the piping distance between a soil, waste and vent stack and the fixture trap.

(77) [(75)] Fixture drain. The drain from the trap of a fixture to the junction of that drain with any other drain pipe.

(78) [(76)] Fixture supply. The water supply pipe connecting a fixture to a branch water supply pipe or directly to a main water supply pipe.

(79) [(77)] Fixture unit, drainage (d.f.u.). A measure of the probable discharge into the drainage system by various types of plumbing fixtures. The drainage fixture-unit value [valve] for a particular fixture depends on its volume rate of drainage discharge, on the time duration of a single drainage operation, and on the average time between successive operations. (Note: In general, on small systems, one (1) drainage fixture unit approximates one (1) cubic foot per minute.)

(80) [(78)] Fixture unit, supply (s.f.u.). A measure of the probable hydraulic demand on the water supply by various types of plumbing fixtures. The supply fixture-unit value for a particular fixture depends on its volume rate of supply, on the time duration of a single supply operation, and on the average time between

successive operations.

(81) [(79)] Flood level (see flood level rim).

(82) [(80)] Flood level rim. The edge of the receptacle from which water overflows.

(83) [(81)] Flooded. The condition which results when the liquid in a container or receptacle rises to the flood-level rim.

(84) [(82)] Floor drain. A floor drain is a drain placed in the floor of a building for the purpose of receiving sanitary waste water.

(85) [(83)] Floor pantry. A workroom in the nursing area designed and equipped to prepare supplemental diets or beverages, and to assemble food trays at meal times if used in conjunction with decentralized food service.

(86) [(84)] Flow pressure. The pressure in the water supply pipe near the faucet or water outlet while the faucet or water outlet is wide-open and flowing.

(87) [(85)] Flush valve. A device located at the bottom of a tank for slushing water closets and similar fixtures.

(88) [(86)] Flushing type flood drain. A drain which is equipped with an integral water supply enabling flushing of the drain receptor and trap.

(89) [(87)] Flushometer valve. A device which discharges a predetermined quantity of water to fixtures for flushing purposes and is closed by direct water pressure.

(90) [(88)] Frost-proof closet. A hopper with no water in the bowl and with the trap and water supply control valve located below frost line.

(91) [(89)] Grade. The fall (slope) of a line of pipe in reference to a horizontal plane. In drainage it is usually expressed as the fall in a fraction of an inch per foot length of pipe.

(92) [(90)] Grease interceptor (see interceptor).

(93) [(91)] Grease trap (see interceptor).

(94) [(92)] Hangers (see supports).

(95) [(93)] Horizontal branch drain. A drain branch pipe extending laterally from a soil or waste stack or building drain, with or without vertical sections or branches, which receives the discharge from one (1) or more fixture drains and conducts it to the soil or waste stack or to the building drain.

(96) [(94)] Horizontal pipe. Any pipe or fitting which makes an angle of less than forty-five (45) degrees with the horizontal.

(97) Hose bibb. A sill cock, wall hydrant, or similar faucet with a downward angled threaded nozzle.

(98) [(95)] Hot water. Water at a temperature of not less than 120 degrees Fahrenheit.

(99) [(96)] House drain (see building drain).

(100) [(97)] House sewer (see building sewer).

(101) [(98)] Individual sewage disposal system. A system for disposal of domestic sewage by means of a septic tank, cesspool or mechanical treatment, designed for use apart from a public sewer to serve a single establishment or building.

(102) [(99)] Indirect waste pipe. A waste pipe which does not connect directly with the drainage system, but which discharges into the drainage system through an air break or air gap into a trap, fixture, receptor or interceptor.

(103) [(100)] Individual vent. A pipe installed to vent a fixture drain. It connects with the vent system above the fixture served or terminates outside the building into the open air.

(104) [(101)] Individual water supply. A supply other than an approved public water

supply which serves one (1) or more families.

(105) [(102)] Industrial floor drain. An industrial floor drain is a drain placed in the floor of a building other than in a toilet room or shower room to receive waste water.

(106) [(103)] Industrial wastes. Liquid wastes resulting from the processes employed in industrial and commercial establishments.

(107) [(104)] Insanitary. Contrary to sanitary principles; injurious to health.

(108) [(105)] Interceptor. A device designed and installed so as to separate and retain deleterious, hazardous, or undesirable matter from normal wastes while permitting normal sewage or liquid wastes to discharge into the drainage system by gravity.

(109) [(106)] Installed. Altered, changed or a new installation.

(110) [(107)] Invert. The lowest portion of the inside of any horizontal pipe.

(111) [(108)] Kitchen sink unit. A kitchen sink unit is defined as a sink, double or single compartment, food waste disposer, and dishwasher placed in a unit so arranged that the dishwasher abuts the sink.

(112) Lavatory. A hand basin such as in a bathroom.

(113) [(109)] Leaching well or pit. A pit or receptacle having porous walls which permit the contents to seep into the ground.

(114) [(110)] Leader. An exterior drainage pipe for conveying storm water from roof or gutter drains.

(115) [(111)] Liquid waste. The discharge from any fixture, appliance, area or appurtenance, which does not contain fecal matter.

(116) [(112)] Load factor. The percentage of the total connected fixture unit flow which is likely to occur at any point in the drainage system.

(117) [(113)] Local vent stack. A vertical pipe to which connections are made from the fixture side of traps and through which vapor and/or foul air may be removed from the fixture or device used on bedpan washers.

(118) [(114)] Local ventilating pipe. A local ventilating pipe is a pipe through which foul air is removed from a room or fixture.

(119) [(115)] Loop vent. A circuit vent which loops back to connect with a stack vent instead of a vent stack.

(120) [(116)] Main. The main of any plumbing system is that part of such system of horizontal, vertical or continuous piping which receives the waste, soil, main or individual vents from fixture outlets, or traps, directly or through branch pipes.

(121) [(117)] Main sewer (see public sewer).

(122) [(118)] Main vent. The principal artery of the venting system to which vent branches may be connected. (Manufacturer's Floor Drain. See industrial floor drain.)

(123) [(119)] Multiple dwelling. Building containing more than two (2) dwelling units.

(124) [(120)] Nominal pipe size. A standard expression in inches and fractions thereof to designate the approximate inside diameter of a pipe, conduit or tube.

(125) [(121)] Nonpotable water. Water not safe for drinking, personal or culinary use.

(126) [(122)] Nuisance. Public nuisance is known in common law or in equity jurisprudence; whatever is dangerous to human life or detrimental to health; whatever building, structure, or premise is not sufficiently

ventilated, sewered, drained, cleaned or lighted, in reference to its intended or actual use; and whatever renders the air or human food or drink or water supply unwholesome.

(127) [(123)] Nurses' station. An area in the nursing unit separated from the corridor by counter or desk, designed to permit nurses to record and file each patient's history and progress, observation and control of corridor, preparation of medicines and maintain contact with patients, the hospital and the outside by local and public means of communication.

(128) [(124)] Offset. A combination of elbows or bends which bring one (1) section of the pipe out of line but into a line parallel with the other section.

(129) [(125)] Oil interceptor (see interceptor).

(130) [(126)] Person. A natural person, his heirs, executors, administrators or assigns; and includes a firm, partnership or corporation, its or their successors or assigns. Singular includes plural; male includes female.

(131) [(127)] Pitch (see grade).

(132) [(128)] Plumber's apprentice. A plumber's apprentice is any person other than a journeyman or master plumber, who, as his principal occupation, is engaged in working as an employee of a master plumber under the immediate and personal supervision of either a master or journeyman plumber in learning and assisting in the installation of plumbing.

(133) [(129)] Plumbing. Plumbing means the art of installing in buildings the pipes for distributing the water supply, the fixtures for using water and drainage pipes for removing waste water and sewage, together with fittings, appurtenances, and appliances of various kinds, all within or adjacent to the building. It shall not include the installation of on-site sewage disposal systems, except for the piping, fixtures, or other appurtenances needed within the building. It shall include:

(a) The water service pipe which forms the connection between the property line and the building other than piping serving fire fighting equipment;

(b) Private water supply systems;

(c) House sewers which convey the waste water and sewage from the building to the property line or other points of disposal but not including sewers located between manholes and sewers extending five (5) feet from a main or manhole on private property; and

(d) Storm sewers and rain water piping located within a building to a point two (2) feet outside of the building [and private sewage disposal systems] other than those which have a treated effluent.

(134) [(130)] Plumbing appliance. Any one (1) of a special class of plumbing fixture which is intended to perform a special function. Its operation and/or control may be dependent upon one (1) or more energized components, such as motors, controls, heating elements, or pressure or temperature-sensing elements. Such fixtures may operate automatically through one (1) or more of the following actions: a time cycle, a temperature range, a pressure range, a measured volume or weight; or the fixture may be manually adjusted or controlled by the user or operator.

(135) [(131)] Plumbing appurtenance. A manufactured device, or a prefabricated assembly of component parts, and which is an adjunct to the basic piping system and plumbing fixtures.

An appurtenance demands no additional water supply, nor does it add any discharge load to a fixture or the drainage system. It is presumed that it performs some useful function in the operation, maintenance, servicing, economy, or safety of the plumbing system.

(136) [(132)] Plumbing fixture. A receptacle or device which is either permanently or temporarily connected to the water distribution system of the premises, and demands a supply of water therefrom, or it discharges used water, liquid-borne waste materials, or sewage either directly or indirectly to the drainage system of the premises, or which requires both a water supply connection and a discharge to the drainage system of the premises. Plumbing appliances as a special class of fixture are further defined.

(137) [(133)] Plumbing inspector. A duly authorized employee or agent of the Department of Housing, Buildings and Construction who is charged with the responsibility of inspecting plumbing installations and with the enforcement of the state plumbing laws and code.

(138) [(134)] Plumbing repair. As used in the code to mean replacing a part or putting together that which is torn or broken.

(139) [(135)] Plumbing system. The plumbing system of a building includes: appliances and water heaters; the water supply distributing pipes; the fixtures and fixture traps; the soil, waste and vent pipes; the house drain and house sewer; the storm water drainage within a building with their devices, appurtenances and connections all within and adjacent to the building.

(140) [(136)] Pool (see swimming pool).

(141) [(137)] Potable water. Water free from impurities present in amounts sufficient to cause disease or harmful physiological effects and conforming in its bacteriological and chemical quality to the requirements of the Public Health Service Drinking Water Standards or the regulations of the Department of Housing, Buildings and Construction.

(142) [(138)] Private or private use. In the classification of plumbing fixtures, private applies to fixtures in residences and apartments and to fixtures in private bathrooms of hotels as well as similar installations in other buildings where the fixtures are intended for the use of a family or an individual.

(143) [(139)] Private sewer. A sewer, serving two (2) or more buildings, privately owned, and not directly controlled by public authority.

(144) [(140)] Public or public use. In the classification of plumbing fixtures, public applies to fixtures in general toilet rooms of schools, gymnasiums, hotels, railroad stations, public buildings, bars, public comfort stations, and other installations (whether pay or free) where a number of fixtures are installed so that their use is similarly unrestricted.

(145) [(141)] Public sewer. A common sewer directly controlled by public authority.

(146) [(142)] Public water main. A water supply pipe for public use controlled by public authority.

(147) [(143)] Receptor. A fixture or device which receives the discharge from indirect waste pipes.

(148) [(144)] Relief vent. An auxiliary vent which permits additional circulation of air in or between drainage and vent systems.

(149) [(145)] Replace. To put something new or

rebuilt in the place of.

(150) [(146)] Return offset. A double offset installed so as to return the pipe to its original alignment.

(151) [(147)] Revent pipe (see individual vent).

(152) [(148)] Rim. An unobstructed open edge of a fixture.

(153) [(149)] Riser. A water supply pipe which extends vertically one (1) full story or more to convey water to branches or to a group of fixtures.

(154) [(150)] Roof drain. A drain installed to receive water collecting on the surface of a roof and to discharge it into a leader or a conductor.

(155) [(151)] Roughing-in. The installation of all parts of the plumbing system which can be completed prior to the installation of fixtures. This includes drainage, water supply, and vent piping, and the necessary fixture supports.

(156) [(152)] Safe waste (see indirect waste).

(157) [(153)] Sand interceptor (see interceptor).

(158) [(154)] Sand trap (see interceptor).

(159) [(155)] Sanitary sewer. A sewer which carries sewage and excludes storm, surface, and ground water.

(160) [(156)] Scrub sink. A device usually located in the operating suite to enable operating personnel to scrub their hands prior to operating procedures. The hot and cold water supply is activated by a knee-action mixing valve or by wrist or pedal control.

(161) [(157)] Seepage well or pit. A covered pit with open-jointed lining into which septic tank effluent is received that will seep or leach into the surrounding porous soil.

(162) [(158)] Separator (see interceptor).

(163) [(159)] Setic tank. A watertight receptacle which receives the discharge of a building sanitary drainage system or part thereof, and is designed and constructed so as to digest organic matter through a period of detention and allow the liquids to discharge into the soil outside of the tank through a system of open joint or perforated piping, or a seepage pit.

(164) [(160)] Sewage. Any liquid waste containing animal or vegetable matter in suspension or solution, and may include liquids containing chemicals in solution.

(165) [(161)] Sewage ejectors. A device for lifting sewage by entraining it in a high velocity jet of steam air or water.

(166) [(162)] Side vent. A vent connecting to the drain pipe through a fitting at an angle not greater than forty-five (45) degrees to the vertical.

(167) [(163)] Size of pipe and tubing (see diameter).

(168) [(164)] Slope (see grade).

(169) [(165)] Soil pipe. A soil pipe is any pipe which conveys the discharge of water closets or similar fixtures, with or without the discharges from other fixtures, to the house drain.

(170) [(166)] Soil vent (see stack vent).

(171) [(167)] Special wastes. Wastes which require special treatment before entry into the normal plumbing system.

(172) [(168)] Special waste pipe. Pipes which convey special wastes.

(173) [(169)] Stack. A general term for any vertical line of soil, waste or vent piping.

(174) [(170)] Stack group. A group of fixtures located adjacent to the stack so that by means of proper fittings, vents may be reduced to a minimum.

(175) [(171)] Stack vent. The extension of a soil or waste stack above the highest horizontal drain connected to the stack.

(176) [(172)] Stack venting. A method of venting a fixture or fixtures through the soil or waste stack.

(177) [(173)] Sterilizer, boiling type. A boiling type "sterilizer" is a fixture (nonpressure type), used for boiling instruments, utensils, and/or other equipment (used for disinfection). Some devices are portable, others are connected to the plumbing system.

(178) [(174)] Sterilizer, instrument. A device for the sterilization of various instruments.

(179) [(175)] Sterilizer, pressure instrument washer-sterilizer. A pressure instrument washer-sterilizer is a fixture (pressure vessel) designed to both wash and sterilize instruments during the operating cycle of the fixture.

(180) [(176)] Sterilizer, pressure (autoclave). A fixture (pressure vessel) designed to use steam under pressure for sterilizing. Also called an autoclave.

(181) [(177)] Sterilizer, utensil. A device for the sterilization of utensils as used in hospital services.

(182) [(178)] Sterilizer vent. A separate pipe or stack, indirectly connected to the building drainage system at the lower terminal, which receives the vapors from nonpressure sterilizers, or the exhaust vapors from the pressure sterilizers, and conducts the vapors directly to the outer air. Sometimes called vapor, steam, atmospheric, or exhaust vent.

(183) [(179)] Sterilizer, water. A water sterilizer is a device for sterilizing water and storing sterile water.

(184) [(180)] Still. A device used in distilling liquids.

(185) [(181)] Storm drain (see building storm drain).

(186) [(182)] Storm sewer. A sewer used for conveying rain water, surface water, condensate, cooling water, or similar liquid wastes.

(187) [(183)] Subsoil drain. A drain which collects subsurface water and conveys it to a place of disposal.

(188) [(184)] Sump. A tank or pit, which receives sewage or liquid waste, located below the normal grade of the gravity system and which must be emptied by mechanical means.

(189) [(185)] Sump pump. A mechanical device other than an ejector or bucket for removing sewage or liquid waste from a sump.

(190) [(186)] Supports. Devices for supporting and securing pipe, fixtures, and equipment.

(191) [(187)] Swimming pool. Any structure, basin, chamber, or tank containing any artificial body of water for swimming, diving, wading or recreational bathing.

(192) [(188)] Trap. A fitting or device which provides a liquid seal to prevent the emission of sewer gases without materially affecting the flow of sewage or [of] waste water through it.

(193) Trap arm. That portion of a fixture drain between a trap and its vent.

(194) Trap primer. A device or system of piping to maintain a water seal in a trap, typically installed where infrequent use of the trap would result in evaporation of the trap

seal, such as floor drains.

(195) [(189)] Trap seal. The vertical distance between the crown weir and the top of the dip of the trap.

(196) [(190)] Utility room. A workroom in the patient nursing area, designed and equipped to facilitate preparation, cleaning and incidental sterilizing of the various supplies, instruments, utensils, etc., involved in nursing treatment and care, exclusive of medications handled in nurses' stations and bedpan cleaning and sterilizing.

(197) [(191)] Vacuum. Any pressure less than exerted by the atmosphere.

(198) [(192)] Vacuum breaker (see backflow preventer).

(199) [(193)] Vacuum breaker, nonpressure type (atmospheric). A vacuum breaker which is not designed to be subjected to static line pressure.

(200) [(194)] Vacuum breaker, pressure type. A vacuum breaker designed to operate under conditions of static line pressure.

(201) [(195)] Vent pipe. A vent pipe is any pipe provided to ventilate a house drainage system and to prevent tray siphonage and back pressure.

(202) [(196)] Vent system. A pipe or pipes installed to provide a flow of air to or from a drainage system or to provide a circulation of air within such system to protect trap seals from siphonage and back pressure.

(203) [(197)] Vertical pipe. Any pipe or fitting which makes an angle of forty-five (45) degrees or less with the vertical.

(204) [(198)] Wall hung water closet. A wall mounted water closet installed in such a way that no part of the water closet touches the floor.

(205) [(199)] Waste pipe and special waste. A waste pipe is any pipe which receives the discharge of any fixture (except water closets or similar fixtures) and discharges to the house drain, soil or waste stacks. When such pipe does not connect directly with a house drain, waste or soil stack, it is termed a special waste.

(206) [(200)] Water distributing pipe. A pipe within the building or on the premises which conveys water from the water-service pipe or meter to the point of usage.

(207) [(201)] Water lifts (see sewage ejector).

(208) [(202)] Water outlet. A discharge opening through which water is supplied to a fixture, into the atmosphere (except into an open tank which is part of the water supply), to a boiler or heating system, to any devices or equipment requiring water to operate but which are not part of the plumbing system.

(209) [(203)] Water riser pipe (see riser).

(210) [(204)] Water service pipe. The pipe from the water main or other source of potable water supply to the water distributing system of the building served.

(211) [(205)] Water supply stub. A vertical pipe less than one (1) story in height supplying one (1) or more fixtures.

(212) [(206)] Water supply system. The water service pipe, the water-distributing pipes, and the necessary connecting pipes, fittings, control valves, and all appurtenances in or adjacent to the building or premises.

(213) [(207)] Well, bored. A well constructed

by boring a hole in the ground with an auger and installing a casing.

(214) [(208)] Well, drilled. A well constructed by making a hole in the ground with a drilling machine of any type and installing casing and screen.

(215) [(209)] Well, driven. A well constructed by driving a pipe in the ground. The drive pipe is usually fitted with a well point and screen.

(216) [(210)] Well, dug. A well constructed by excavating a large diameter shaft and installing a casing.

(217) [(211)] Wet vent. A vent which receives the discharge of wastes other than from water closets.

(218) [(212)] Yoke vent. A pipe connecting upward from a soil or waste stack to a vent stack for the purpose of preventing pressure changes in the stack.

CHARLES A. COTTON, Commissioner

ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: October 15, 1987

FILED WITH LRC: November 4, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1987 at 10 a.m. in the Office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by December 17, 1987, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected: N/A

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? N/A

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings & Construction
Division of Plumbing
(Proposed Amendment)

815 KAR 20:020. Parts and materials list.

RELATES TO: KRS Chapter 318
 PURSUANT TO: KRS 13.080(3)(b), 13.082

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 will allow the department to permit the use of new parts and materials without amending specific regulations for each new item. This regulation will eliminate the repetitious amending of the Plumbing Code now required to include new materials item by item.

Section 1. Definitions as used in this regulation. (1) "APML" shall mean the "Approved Parts or Materials List."

(2) "Parts or materials" shall mean all types of fittings and piping used in the soil, waste and vent systems, house sewers, potable water supply, plumbing fixtures, appurtenances, and mechanical sewage systems in plumbing systems [private residences].

(3) "Committee" shall mean the State Plumbing Code Committee.

(4) "Code" shall mean the State Plumbing Code.

(5) "Department" shall mean the Department of Housing, Buildings and Construction.

(6) "Person" shall mean any individual, public or private corporation, political subdivision, government agency, municipality, copartnership, association, firm, trust, estate, or other entity whatsoever.

Section 2. Approved Parts and Materials List (APML). The use of any part or material in any drainage or plumbing system or section thereof, other than those currently authorized by the code, is prohibited unless the use of such part or material has been considered by the committee and approved by the department for inclusion in the APML. The APML may also specify methods of installation and/or restrictions applicable to a particular part or material.

Section 3. Amending the APML. (1) A person desiring to have the APML amended shall petition, in writing, for an opportunity to be heard by the committee no later than fourteen (14) days prior to the next scheduled meeting of the committee. Such request shall include a description of the part or material for which approval is sought, available technical data, and a listing of other authorities which have the use of the part or material, and any other pertinent information requested by the committee.

(2) The committee will consider all parts or materials for which approval is sought and will forward thirty (30) days thereafter its recommended disposition to the department. Provided, however, that a hearing will be held before the committee if requested, within thirty (30) days following the determination of the committee, by a person having an interest in the subject matter. Upon adoption of a recommendation by the department, the APML will be amended as necessary, and filed by reference in accordance with 1 KAR 1:010.

Section 4. Custody of the APML. It shall be the responsibility of the Director, Division of Plumbing, to maintain an up-to-date APML and to make it available for inspection during regular office hours. Copies of the APML may be obtained by mailing a self-addressed stamped envelope to the Division of Plumbing, Department of Housing, Buildings and Construction, Frankfort, Kentucky 40601. The cost of reproduction shall not exceed ten (10) cents per page.

CHARLES A. COTTON, Commissioner

ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: October 30, 1987

FILED WITH LRC: November 4, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1987 at 10 a.m. in the Office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by December 17, 1987, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected: N/A

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? N/A

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings & Construction
Division of Plumbing
(Proposed Amendment)

815 KAR 20:060. Quality and weight of materials.

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 quality and weights of materials that will be used in the installation of plumbing systems.

Section 1. Materials, Quality of. All materials used in any drainage or plumbing system or part thereof, shall be free of defects.

Section 2. Label, Cast or Stamped. Each length of pipe, fitting, trap, fixture and device used in a plumbing or drainage system shall be stamped or indelibly marked with the weight or quality thereof, and, with the maker's mark or name.

Section 3. Vitrified Clay Pipe, [Cement Asbestos Pipe,] Concrete Pipe, Truss Pipe, Extra Heavy SDR 35 Sewer Piping, Polyethylene Sewer Piping, Polyethylene and Corrugated Polyethylene Subsoil Drainage Tubing.

(1) Vitrified clay pipe shall conform to ASTM Standard Specifications C-200.

[(2) Cement asbestos pipe shall conform to ASTM Standard Specifications C-428.]

(2) [(3)] Concrete pipe shall conform to ASTM Standard Specifications C-14.

(3) [(4)] Truss pipe shall conform to ASTM Standard Specifications D-2680-74. (Solid wall shall conform to ASTM Standard Specifications D-2751-74.)

(4) [(5)] Extra heavy SDR 35 sewer piping shall conform to ASTM Standard Specifications D-3033-74 and D-3034-74.

(5) [(6)] Polyethylene sewer piping shall conform to ASTM D-3350 and is limited for use between a septic tank and a distribution box or boxes.

(6) [(7)] Polyethylene and corrugated polyethylene subsoil drainage tubing shall conform to ASTM Standard Specifications F-405-74 and shall bear the NSF seal of approval. No pipe or fittings shall be used unless the manufacturer of such material submits to the department a sample of the pipe and fittings that will be used along with an analysis of the material from a private testing laboratory approved by the department. Such a report must be submitted to the department on an annual basis as of July 1, of each year. Polyvinyl Chloride subsoil drainage tubing shall conform to ASTM D-2729. They shall have two (2) rows of three-fourths (3/4) inch holes within an arch of 120 degrees of circumference of the piping and shall be on four (4) inch centers. Such tubing shall be visibly marked with the name of the manufacturer and the commercial standard number at ten (10) feet intervals.

Section 4. Cast-iron Pipe. (Hub and Spigot and No-hub). (1) Extra heavy. Extra heavy cast-iron pipe and fittings shall conform to ASTM A74-82 [CS 188-59 and A74-69].

(2) Service-weight. Service-weight cast-iron pipe and fittings shall conform to ASTM A74-82 [A74-69, or 301-72].

(3) Coating. Cast-iron pipe and fittings for underground use shall be coated with asphaltum, coal tar pitch or using a coating conforming to ASTM A-174

Section 5. Wrought-iron Pipe. All wrought-iron pipe shall conform to the latest ASTM "standard

specifications for welded wrought iron pipe."

Section 6. Mild-steel Pipe. All steel pipe shall conform to the latest ASTM "standard specifications for welded and seamless steel pipe."

Section 7. Brass pipe; Copper Pipe; and Brass Tubing. Brass pipe, copper pipe and brass tubing shall conform respectively to the latest standard specifications of ASTM for "brass pipe, copper pipe, and brass tubing, standard sizes."

Section 8. Aluminum DWV Pipe with End Cap Components. All aluminum, drain, waste and vent pipe with end cap adapters shall conform to the requirements of American Society of Sanitary Engineering (ASSE) Standard No. 1045.

Section 9. [8.] Borosilicate Pipe. (1) Borosilicate pipe shall conform to the latest ASTM standards.

(2) Plastic pipe. All plastic piping used in a drainage, waste and vent system shall be schedule 40 or 80, Type 1, Grade 1, polyvinyl chloride compounds as defined and described in tentative specifications for rigid polyvinyl chloride (PVC) (ASTM Designation: D 1784-75), or Schedule 40 or 80 acrylonitrile-butadiene-styrene compound as defined and described in standard specification for acrylonitrile-butadiene-styrene (ABS) (ASTM Designation: D 1788-73). Pipe and fittings shall be produced and labeled in accordance with the provisions of Commercial Standard ASTM-D-2665-76, as amended, for PVC and ASTM-D-2661-76 for ABS, and both shall bear the NSF seal of approval. All pipe and fittings shall bear the ASTM designation together with the NSF seal, the manufacturer's identification and the size. The use of plastic pipe and fittings (PVC or ABS) as outlined herein shall be restricted to buildings where the soil and/or waste and vent stack do not exceed forty-five (45) feet in height, the vertical distance from the base of the stack to its terminus through the roof of the building.

(3) Stainless steel tubing. Stainless steel tubing for hot and cold water piping must be Grade H conforming to ASTM [CS] A268-68. Stainless steel tubing for the soil, waste and vent system must be either Grade G or H conforming to ASTM [CS] A-268-68.

(4) Polyethylene pipe. Polyethylene pipe used in acid waste systems shall conform to ASTM D-1204-62T.

(5) Polypropylene pipe. Polypropylene pipe used in acid waste systems shall conform to ASTM D-2146-65T.

Section 10. [9.] Lead Pipe, Diameter, Weights. (1) Lead soil, waste and vent pipes shall be in accordance with the standards of the Lead Industries Association and Federal Specifications WW-P-325, which are identical in substance, and shall not be lighter than the following weights:

Size Inside Diameter Inches	Commercial Designa- tion "D" or "XL"		Wall Thick- ness Inches	Weight Pounds	Per Foot Ounces
1 1/2	D	XL	0.138	3	8
2	D	XL	0.142	4	12
3	D	XL	0.125	6	0
4	D	XL	0.125	8	0

(2) All lead bends and lead traps shall be of the weight known as extra heavy (XH) and shall have at least one-eighth (1/8) inch wall thickness. Weights for lead water service or supply pipes shall be according to the maximum working pressure in pounds per square inch as given in federal specifications WW-P-325.

Section 11. [10.] Sheet Lead. Sheet lead for shower pans shall weigh not less than four (4) lbs. per sq. ft. and shall weigh not less than three (3) lbs. per sq. ft. for vent pipe flashings.

Section 12. [11.] Sheet Copper or Brass. Sheet copper or brass shall not be lighter than No. 18 B. & S. gauge, except that for local and interior ventilating pipe it shall not be lighter than No. 26 B. & S. gauge.

Section 13. [12.] Threaded Fittings. (1) Plain screwed fittings shall be either cast-iron, malleable iron, or brass of standard weight and dimensions.

(2) Drainage fittings shall be either cast-iron, malleable iron, or brass, with smooth interior waterway, with threads tapped out of solid metal.

(3) All cast-iron fittings used in a water supply distribution shall be galvanized.

(4) All malleable iron fittings shall be galvanized.

Section 14. [13.] Caulking Ferrules. Caulking ferrules shall be of red brass and shall be in accordance with the following table:

Pipe Sizes Inches	Inside Diameter Inches	Length Inches	Minimum Weight Each
2	2 1/4	2 1/2	1 lb. 0 oz.
3	3 1/4	4 1/2	1 lb. 12 oz.
4	4 1/4	4 1/2	2 lb. 8 oz.

Section 15. [14.] Soldering Nipples. Soldering nipples shall be recessed red cast brass, iron pipe size. When cast, they shall be full bore and of minimum weight.

Section 16. [15.] Floor Flanges for Water Closets and Service Sinks or Similar Fixtures. Floor flanges shall either be hard lead, brass, cast iron, galvanized malleable iron, ABS or PVC. Hard lead and brass flanges shall be not less than one-eighth (1/8) inch thick. Cast iron and galvanized malleable iron shall be not less than one-fourth (1/4) inch thick and shall have a two (2) inch caulking depth.

Section 17. The use of lead (defined as solders and flux containing more than two-tenths (0.2) percent lead, and pipes and pipe fittings containing more than eight (8.0) percent lead) in the installation or repair of any public or

private water system providing potable water for human consumption shall not be used.

Section 18. [16.] New Materials. Any material other than that specified in this code is prohibited unless such material is specifically approved by the State Plumbing Code Committee and the Department of Housing, Buildings and Construction as being equal to or better than the material specified herein. It shall be the responsibility of any person or company seeking the approval of a material not included in this code to prove to the satisfaction of such agencies that the material is equal to or better than the material for which it is intended to replace.

CHARLES A. COTTON, Commissioner
ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: October 15, 1987

FILED WITH LRC: November 4, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1987 at 10 a.m. in the Office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by December 17, 1987, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected: N/A

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? N/A

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings & Construction
Division of Plumbing
(Proposed Amendment)

815 KAR 20:073. Installation standards for water and waste piping material of types K, L, M and DWV copper; types R-K, R-L, R-DWV brass tubing and seamless stainless steel tubing, G or H.

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 proper installation of copper pipe and fittings.

Section 1. The installation of copper, brass and seamless stainless steel tubing water and waste piping should be made according to recommended procedures, since care taken in installing will assure the satisfactory performance of the plumbing water distribution and drainage systems.

Section 2. Cutting, Reaming and Sizing. (1) Tube should be cut to exact length with a square cut using tube cutters, hacksaw blade or abrasive saw.

(2) Tube shall have burrs and slivers removed by using a reamer or other appropriate tool.

(3) Tube shall be brought to true dimensions and roundness by using a sizing tool which consists of a plug and ring.

Section 3. Cleaning. Surfaces to be joined must be clean and free from oil, grease and heavy oxides. Clean the end of the tube a distance slightly more than is required to enter the socket of the fitting with fine sand cloth or special wire brushes.

Section 4. Jointing Techniques. (1) Soldered joints. After cleaning, cover the surfaces with a thin film of mildly corrosive liquid or petroleum based pastes that contain chlorides of zinc and ammonium. No "so-called" self-cleaning flux is to be used in lieu of cleaning pipe as outlined in Section 3 of this regulation. Wipe off excess flux in fitting socket. Insert tube end into socket, making sure the tube is firmly seated against the end of the socket. Remove excess flux with a rag. Apply heat to the fitting and then move in order to heat as large an area as possible. Do not overheat. When the joint is hot enough the solder will melt on contact with the pipe and will flow by capillary attraction into joint. Remove heat and allow to cool before moving (refer to 815 KAR 20:060, Section 16).

(2) Brazed joints. After cleaning, cover the surface of the tube end and the fitting socket with a thin film of flux in accordance with the recommendations of the manufacturer of the brazing filler metal being used. Avoid getting flux inside the tube itself. Flux may be omitted when joining copper tube to wrought copper fittings with copper-phosphorus alloys (B-cup Series) which are self fluxing on copper. Insert tube end into socket hard against the stop and turn if possible. Apply heat to parts to be joined, heating the tube first, then the fitting

at the base of the cup. Apply brazing wire, rod or strip where tube enters the socket of the fitting. Remove heat and allow to cool.

(3) Flared joints; impact tools.

(a) See Sections 2 and 3 of this regulation.

(b) Slip the coupling nut over the end of the tube.

(c) Insert flaring tool into the tube end and drive the flaring tool by hammer strokes expanding the end of the tube to the desired flare.

(d) Place the fitting squarely against the flare. Engage the coupling nut with the fitting threads. Tighten with two (2) wrenches, one (1) on the nut and one (1) on the fitting.

(4) Screw type flaring block.

(a) Follow subsection 3(a) and (b) of this section for impact flaring.

(b) Clamp the tube in the flaring block so that the tube is slightly above the block. Place the yoke of the flaring tool on the block so that the beveled end of the compression cone is over the tube end. Turn the compressor screw down firmly, forming the flare between the chamber in the flaring block and the beveled compressor cone. Remove the flaring tool and assemble as in subsection (3)(d) of this section.

(5) Mechanically formed tee connection.

(a) For use in domestic hot and cold water distribution systems above ground only.

(b) Mechanically extracted collars shall be formed in a continuous operation consisting of drilling a pilot hole and drawing out the tube surface to form a collar having a height of not less than three (3) times the thickness of the tube wall. The collaring device shall be fully adjustable so to insure proper tolerance and complete uniformity of the joint.

(c) The joining branch tube shall be no less than one (1) pipe size smaller than the main and shall be notched and dimpled in a single process so as to set the proper penetration of the branch tube into the fitting to assure a free flow joint.

(d) All joints shall be brazed in accordance with subsection (2) of this section and the Copper Development Association Copper Tube Handbook using B-cup filler metal. **NOTE:** Soldered joints will not be permitted.

Section 5. Hangers and Supports. Hangers, anchors and supports shall be of material of sufficient strength to support the piping and its contents. Hangers, anchors and supports shall be securely attached to the building construction at sufficiently close intervals to support the piping and its contents. Provisions shall be made to allow for expansion, contraction, structural settlement and vibrations.

(1) Vertical piping. Copper tubing shall be supported at each story for piping one and one-half (1 1/2) inches and larger in diameter. For piping one and one-quarter (1 1/4) inches and smaller in diameter, it shall be supported at each story and not more than ten (10) foot intervals. Supports shall be of copper material of sufficient strength which will not adversely react with the piping material.

(2) Horizontal piping. Copper tubing shall be supported at six (6) foot intervals for one (1) inch and smaller in diameter and ten (10) foot intervals for one and one-quarter (1 1/4) inch and larger. Supports shall be of copper material of sufficient strength which will not adversely

react with the piping material.

CHARLES A. COTTON, Commissioner
ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: October 15, 1987

FILED WITH LRC: November 4, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1987 at 10 a.m. in the Office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by December 17, 1987, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected: N/A

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? N/A

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings & Construction
Division of Plumbing
(Proposed Amendment)

815 KAR 20:075. Installation recommendations for polybutylene tubing for hot and cold water distribution systems.

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 shall govern the installation of polybutylene (PB) tubing in potable hot and cold water distribution systems within buildings. Installation, materials and inspections shall comply with the current edition of the Kentucky

State Plumbing Code and with this standard.

Section 1. Definitions. (1) ASTM - American Society of Testing Materials.

(2) KSPCC - Kentucky State Plumbing Code Committee.

(3) NSF - National Sanitation Foundation.

(4) PB - polybutylene.

(5) SDR - standard dimension ratio.

(6) Approved - by the Commonwealth of Kentucky, Division of Plumbing.

Section 2. (1) Material. Tubing is [in] polybutylene (PB).

(2) Tubing shall conform to ASTM D-3309-85b.

(3) Fittings shall be metal or plastic compression or insert type.

(a) Compression fittings shall utilize brass nuts and be approved for use with PB tubing.

(b) Insert fittings. Refer to 815 KAR 20:120, Section 9, Water Supply Pipes and Materials.

NOTE 1. Manufacturers of fittings shall recommend assembly procedures.

NOTE 2. Manufacturers shall provide test data from an independent testing laboratory acceptable to the KSPCC, that their PB system or their PB tubing, together with recommended fittings, has a short term working pressure and temperature rating (STWP) or 150 psi (1033 kPa) at 210 degrees Fahrenheit (410 degrees Centigrade) for forty-eight (48) hours or more.

Section 3. Markings. (1) Tubing. Tubing shall be legibly marked at intervals of not more than five (5) feet (1.5m) with at least the following:

(a) Manufacturer's name or trademark.

(b) ASTM D3309.

(c) Tube size, "tubing" or "CTS".

(d) PB 2110.

(e) SDR 11.

(f) Pressure rating, 100 psi, at 180 degrees Fahrenheit (690 Mpa at eighty-two (82) degrees Centigrade).

(g) NSF seal or marking or other KSPCC acceptable agency.

(h) Manufacturer's date and material code.

(2) Fittings. Fittings shall be marked with at least the following:

(a) Manufacturer's name or trademark or other acceptable markings.

(b) Plastic fittings shall be labeled with the NSF seal or marking of other KSPCC acceptable agency.

(3) Position of markings. When practical, markings shall be visible for inspection.

Section 4. Protection of Tubing. (1) Abrasion. Tubing passing through drilled metal [or notched] studs, joists, or hollow masonry walls shall be protected from abrasion or sharp edges by elastomeric or plastic sleeves, grommets or other approved means.

EXCEPTION: Straight runs may have protection only at beginning and end at maximum three (3) feet (0.9m) intervals.

(2) Puncture. Steel plate protection shall be installed when required by the administrative authority.

(3) Exposed tubing.

(a) Attic opening. Tubing closer than six (6) feet (1.83m) to an attic opening shall be protected.

(b) General. Exposed tubing shall be protected from mechanical damage.

(4) Freezing. In areas where PB must be

drained to protect the system from freezing, horizontal tubing shall be graded to drain.

(5) Storage. Tubing shall be stored in a way to protect the system from mechanical damage (slitting, puncturing, etc.). Tubing should be stored undercover to keep it clean and avoid long term exposure to sunlight. Exposure to sunlight during normal construction periods is not harmful.

(6) Thermal expansion. General. The linear expansion rate for PB is approximately ten (10) inches (600 mm) per 100 feet (10,000 mm) of tube per 100 degrees Fahrenheit (fifty (50) degrees Centigrade) change in temperature. When installing runs of tubing, one-eighth (1/8) inch (three (3) mm) longitudinal clearance per foot (300 mm) of run shall be provided to accommodate thermal expansion. A vertical branch being connected to a horizontal main shall be made by loop, or a twelve (12) inch (300 mm) minimum horizontal offset to allow for expansion and construction in both sections of the tubing. Examples of expansion methods are shown in Figure 1.

NOTE: Radius of bends shall comply with Section 10(1) of this regulation.

NOTE: Expansion rate is independent of size of tube.

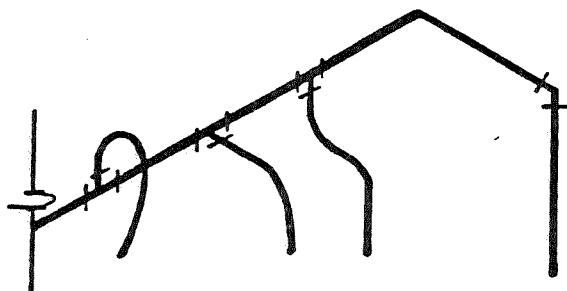


Figure 1

(7) Clearance. Adequate clearance shall be provided between tubing and structure (such as bored holes and sleeves) to allow free longitudinal movement.

Section 5. Hangers and Supports. (1) Vertical tubing. Vertical tubing shall be supported at each floor. Tubing shall have a midstory guide.

(2) Horizontal tubing. Horizontal tubing shall be supported at maximum thirty-two (32) inches (810 mm) intervals. If continuously supported, hangers or supports may be placed at six (6) feet (1800 mm) intervals.

(3) Hangers and anchors. Tubing shall not be anchored rigidly to a support; but shall be secured with smooth hangers or straps that provide for a degree of movement and that prevents damage to the tubing. Do not use hangers or straps with sharp or abrasive edges. Do not use hangers that pinch the tubing. Metal hangers or straps shall be insulated to prevent abrasion.

Section 6. Joints and Connections. (1) Procedure. Tubing should be cut with a tubing cutter, equipped with a thin cutting wheel designed specifically for plastics. Tubing shall be cut square, i.e., perpendicular to the length. If other cutting methods are used, care must be taken to remove any excess material, flashing or burrs.

(2) Tools.

(a) Compression fittings. Follow manufacturers recommendations.

(b) Insert fittings - only approved crimping tools should be used with PB insert fitting systems. Tools shall be calibrated three (3) times daily and used in conjunction with approved insert fittings. Crimp rings shall be of wrought copper only. For specific crimping procedures, follow manufacturer's recommendations.

(c) Socket-fused joints.

1. Cut pipe or tubing end square.

2. Chamfer the outside corner of the pipe end for pipe one and one-fourth inch (1 1/4") IPS and larger with proper chamfering tool.

3. Clean pipe or tubing end. (Pipe must be free of dirt or grease.)

4. Place depth gauge on pipe or tubing end. This prevents pipe from bottoming out on the fitting.

5. Clamp cold ring around pipe with one (1) side contacting the depth gauge. (Cold ring rounds the pipe end, and limits the depth that the heater face and socket fitting slide over pipe end.)

6. With one-half inch (1/2") and three-fourths inch (3/4") pipe, use insert stiffener to insure pipe or tubing roundness.

7. Clean fitting. (Socket must be free of dirt or grease.)

8. Heating tool should be cleaned after each fusion.

9. Place pipe or tubing end and fitting adjacent to heater elements.

10. Temperature of heating tool shall be no less than 500 degrees Fahrenheit nor shall it exceed 526 degrees Fahrenheit.

11. Push pipe or tubing end, heater and fitting together with an even pressure.

12. Use the following chart or manufacturer's recommendations for heating and cooling times.

Size	Heating Time	Cooling Time
1/2"	5 - 7 Seconds	20 Sec. Minimum
3/4"	7 - 9 Seconds	20 Sec. Minimum
1"	8 - 10 Seconds	20 Sec. Minimum
1 1/4"	10 - 12 Seconds	20 Sec. Minimum
1 1/2"	10 - 12 Seconds	20 Sec. Minimum
2"	12 - 15 Seconds	30 Sec. Minimum

13. Make certain that joint is intact and formed properly.

Section 7. Transition Joints. (1) Fittings. Transitions for PB tubing to metal piping valves shall be made only with approved transition fittings intended to this purpose.

(2) Threaded joints. Female threaded plastic fittings shall not be installed unless specifically approved for this purpose. Only approved thread tape or thread lubricant intended for use with plastic fittings shall be used. Conventional pipe thread compounds, putty, mineral oil, linseed oil base products, and unknown mixtures shall not be used. DO NOT OVERTIGHTEN.

Section 8. Materials. Location. Fittings shall NOT be installed in or under a concrete floor slab resting on the ground within a building or structure or parts thereof. The term "building or structure or part thereof" shall include structures such as porches and steps, roofed

porte-cocheres, roofed patios, carports, covered driveways, and similar structures or appurtenances.

Section 9. Pressure Relief Drains. Drain lines. Tubing shall not be used as a pressure relief valve drain pipe.

Section 10. Installation. (1) Bends. Tubing shall be installed using bends with a minimum radius of twelve (12) times the nominal tubing diameter.

(2) Damage. Kinked or buckled tubing shall be removed.

(3) Finished nipples. It is permissible to stub through a finished wall, floor or ceiling surface with nipples connected to drip ear elbows or other fittings designed to be fastened to structure to prevent rotation. Finish nipples shall be of conventional metallic materials or be nonmetallic code approved nipples.

(4) Hose bibbs. Hose bibbs shall not be directly connected to PB tubing. The metal piping directly connected to any hose bibb shall be anchored so that the loads on the hose bibb will not strain the PB tubing.

(5) Recess light fixtures. PB tubing shall not be installed within twelve (12) inches (.30m) of a recessed light fixture.

(6) PB tubing installed in fire resistive construction. Where tubing is installed and penetrates required fire resistive construction, the fire resistive integrity of the construction shall be maintained. Methods for maintaining the integrity of the fire resistive construction shall be as required by the building code; or where not established by the building code, by qualified testing methods approved by the Plumbing and Building Department. Approval shall be obtained prior to installing any such tubing.

(7) Heated joints. Brazed, soldered or welded joints within eighteen (18) inches (500 mm) of PB tubing shall be made before connecting to PB tubing. DO NOT apply flame to tubing.

(8) Vents. Tubing shall not be installed within six (6) inches (fifteen and one-tenth (15.1) mm) of a gas appliance single wall vent connector or within a confined space (such as stud cavity) containing any appliance vent.

(9) Working pressure and temperature. Working pressure shall not exceed eighty (80) psi (552 kPa) and working temperature shall not exceed 180 degrees Fahrenheit (eighty-two (82) degrees Centigrade).

(10) Exposure to sunlight. PB tubing shall not be installed so as to be subjected to direct sunlight after installation, and shall not be installed on the surface of the building.

(11) Water heaters. Tubing shall not be installed downstream from any instantaneous type (coil or immersion) water heater or closer than six (6) inches (fifteen (15) mm) developed length upstream. It shall not be installed in the vertical runs of a water heater and downstream six (6) inches horizontally.

(12) Identification. A permanent sign with the legible words "This building has nonmetallic interior water piping" may be fastened on or inside the main electric service panel.

(13) Water hammer arresters. A PB hot water system will withstand repeated pressure surges, well in excess of its rated pressure, but water hammer arresters may be advisable when solenoid valves or other quick closing devices are used in the system. In designing for such situations

it is advisable to consult the pipe or fitting manufacturer for recommended surge pressure limits.

(14) Only approved metal fittings shall be used in hot water circulating lines.

(15) The system shall be tested in accordance with the Kentucky Plumbing Code. A PB distribution system can be pressure tested immediately after installation.

CHARLES A. COTTON, Commissioner

ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: October 15, 1987

FILED WITH LRC: November 4, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1987 at 10 a.m. in the Office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by December 17, 1987, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected: N/A

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? N/A

PUBLIC PROTECTION AND REGULATION CABINET
Department of Housing, Buildings & Construction
Division of Plumbing
(Proposed Amendment)

815 KAR 20:090. Soil, waste and vent systems.

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 material and the design of the soil, waste and vent systems that will be used in all types of plumbing systems that are constructed throughout the Commonwealth.

Section 1. Grades and Supports of Horizontal Piping. All horizontal pipings shall be run in practical alignment and at a uniform grade of not less than one-eighth (1/8) inch per foot, and shall be supported or anchored in accordance with the manufacturer's recommendations but in no instance to exceed ten (10) feet in length. All stacks shall be supported at their bases and all pipes shall be rigidly secured. No-hub pipe and fittings shall be supported at each joint of pipe and fittings. Polyvinyl chloride and acrylonitrile-butadiene-styrene schedule forty (40) horizontal piping shall be supported at intervals not to exceed four (4) [five (5)] feet and at the base of all vertical stacks and at all trap branches as close to the trap as possible. Polyethylene pipe and fittings must be continuously supported with a V channel. Stacks must be rigidly supported at their bases and at each floor level.

Section 2. Change in Direction. All changes in direction shall be made by the appropriate use of forty-five (45) degree wyes, half-ways, quarter, sixth, eighth or sixteenth bends, except that a single sanitary tee may be used in a vertical stack, or a sanitary tee may be turned on its back or side at an angle of not more than forty-five (45) degrees.

Section 3. Prohibited Fittings. No double hub bend or double hub tee or inverted hubs shall be used on sewers, soil or waste line. The drilling and tapping of house sewers or house drains, soil, waste or vent pipes, and the use of saddle hubs and bands is prohibited. Double sanitary tees may be used on vertical soil, waste and vent lines. All pipes shall be installed without hubs or restrictions that would reduce the area or capacity of the pipe.

Section 4. Dead Ends. In the installation of any drainage system, dead ends shall be avoided.

Section 5. Protection of Material. All pipes passing under or through walls shall be protected from breakage. All pipes passing through, or under cinder, concrete, or other corrosive material shall be protected against external corrosion.

Section 6. Materials. All main or branch soil, waste and vent pipes and fittings within or underneath a building shall be hub and spigot extra heavy or service weight cast iron, no-hub service weight cast iron, aluminum, galvanized steel, galvanized wrought iron, lead, brass, Types K, L, M, DWV copper, standard high frequency welded tubing conforming to ASTM B-586-73, Types R-K, R-L, R-DWV brass tubing, DWV brass tubing conforming to ASTM B-587-73, seamless stainless steel tubing, Grade G or H conforming to CS-268-68, polyvinyl chloride schedule 40 or 80 conforming to ASTM D-2665-76 and D-1784-75, acrylonitrile-butadiene-styrene schedule 40 or 80 conforming to ASTM D-2661-76 and D-1788-73, silicon iron or borosilicate. All mains or branch soil waste and vent pipe and fittings underground shall either be hub and

spigot extra heavy or service weight cast iron, No-hub service weight cast iron, aluminum, Type K or L copper pipe, Type R-K, R-L brass tubing, lead, silicon iron or borosilicate pipe and fittings or plastics DWV listed above.

Section 7. Size of Waste Pipe per Fixture Unit on any One Stack. The following table, based on the rate of discharge from a lavatory as a unit, shall be employed to determine fixture equivalents:

Pipe Size (In Inches)	Maximum Developed Length	Fixture Units
1 1/4	25 ft.	1
1 1/2	30 ft.	2
2	50 ft.	6
2 1/2	100 ft.	12
3	225 ft.	30
4		96
5		180
6		420
8		1200
10		2400
12		4200

Section 8. Size of Combined Soil and Waste Pipe per Fixture Unit on any One Stack. The following table, based on the rate of discharge from a lavatory as the unit, shall be employed to determine fixture equivalents:

Pipe Size (In Inches)	(Maximum Developed Length of Combined Soil and Waste and Vent)	Fixture Units
*3	100 ft.	24
4		96
5		180
6		420
8		1200
10		2400
12		4200

* Not more than two (2) water closets or two (2) bathroom groups.

Section 9. Soil and Waste Branch Interval. The total number of fixture units installed on any soil or waste branch interval shall not exceed one-half (1/2) of the fixture units set forth in the table in Section 8, of this regulation.

Section 10. Soil, and Vent Stacks. Every building in which plumbing fixtures are installed shall have a soil, waste and/or vent stack, or stacks extending full size through the roof, except as otherwise provided for in Sections 7 or 8 of this regulation. Soil, waste and/or vent stacks shall be as direct as possible and free from sharp bends or turns. The required size of the soil, waste and/or vent stack shall be determined from the total of all fixture units connected to the stack in accordance with Section 7 or 8 of this regulation except that no more than two (2) water closets shall discharge into a three (3) inch stack.

Section 11. Future Openings. All openings left or installed in a plumbing system for future openings shall be complete with its soil and/or waste and vent piping and shall comply with all

other sections of this code.

Section 12. House Drain. When a three (3) inch house drain enters a building it shall be provided with a three (3) inch stack. One (1) floor drain may be added to the house drain with a three (3) inch trap provided that it conforms with the requirements of Sections 26 and 30 of this regulation, without counting toward the fixture units of the system. Eight and one-half (8 1/2) fixture units may be added to the three (3) inch house drain if an additional two (2) inch stack is provided, the fixtures are vented in accordance with Section 23 of this regulation, the center of the last fixture opening does not exceed ten (10) feet (horizontal measures) from the center line of the house drain and these fixtures are installed on a lower level than the other fixtures in the system.

Section 13. Soil and Waste Stacks, Fixture Connections. All soil and waste stacks and branches shall be provided with correctly faced inlets for fixture connections. Each fixture shall be independently connected to the soil and/or waste system. Fixture connections to water closets, floor outlet pedestal sinks, pedestal urinals, or other similar plumbing fixtures shall be made by either cast iron, lead, brass, copper, or plastic closet bends. All three (3) inch closet bends shall have a four (4) inch by three (3) inch flange.

Section 14. Changing Soil and Vent Pipes. In an existing building where the soil, waste and vent piping is not extended undiminished through the roof or where there is a sheet metal soil or waste piping, such piping shall be replaced with appropriate sizes and materials as prescribed for new work when a fixture or fixtures are changed or replaced.

Section 15. Prohibited Connections. No fixture connection shall be made to a lead bend or a branch of a water closet or a similar fixture. Vent pipes above the highest installed fixture on a branch or main shall not be used as a soil or waste pipe.

Section 16. Soil, Waste and Vent Pipe Protected. No soil, waste, or vent pipe shall be installed or permitted outside a building unless adequate provision is made to protect it from frost. The piping must be wrapped with one (1) layer of heavy hair felt and at least two (2) layers of two (2) ply tar paper, all properly bound with copper wire or in lieu thereof, the vent shall be increased to full size, the size of the increaser required as if it were passing through the roof.

Section 17. Roof Extensions. All roof extensions of soil and waste stacks shall be run full size at least one (1) foot above the roof, and when the roof is used for other purposes than weather protection, such extensions shall not be less than five (5) feet above the roof. All stacks less than three (3) inches in diameter shall be increased to a minimum of three (3) inches in diameter before passing through a roof. When a change in diameter is made, the fitting must be placed at least one (1) foot below the roof.

Section 18. Terminals. If a roof terminus of any stack or vent is within ten (10) feet of the top, bottom, face or side edge of any door, window, scuttle, or air shaft, and not screened from such an opening by a projecting roof or building wall, it shall be extended at least two (2) feet above the top edge of the window or opening.

Section 19. Terminals Adjoining High Buildings. No soil, waste or vent pipe extension of any new or existing building shall be run or placed on the outside of a wall, but shall be carried up in the inside of the building unless the piping is protected from freezing. In the event, the new building is built higher than the existing building, the owner of the new building shall not locate windows within ten (10) feet of any existing vent stack on the lower building.

Section 20. Traps, Protected; Vents. Every fixture trap shall be protected against siphonage and backpressure. Air circulation shall be assured by means of an individual vent. Crown vents are not permitted.

Section 21. Distance of Trap from Vent. (1) The distance between the vent and the fixture trap shall be measured along the center line of the waste or soil pipe from the vertical inlet of the trap to the vent opening. The fixture trap vent, except for water closets and similar fixtures, shall not be below the dip of the trap, and all ninety (90) degree turns in the water line of the main waste, soil, or vent pipes shall be washed. Each fixture trap shall have a vent located with a developed length not greater than that set forth in the table below:

Size of Fixture Drain (In Inches)	Distance Trap to Vent
1 1/4	2 ft. 6 in.
1 1/2	3 ft. 6 in.
2	5 ft.
3	6 ft.
4	10 ft.

(2) A fixture branch on a water closet shall not be more than three (3) feet.

Section 22. Main Vents to Connect at Base. When a main vent or vent stack is used, it shall connect full size at the base of the main soil or waste pipe at or below the lowest fixture branch and shall extend undiminished in size through the roof or shall be reconnected with the main soil or vent stack at least six (6) inches above the rim of the highest fixture. This section shall not apply to one (1) and two (2) story installations. When it becomes necessary to increase a vertical vent stack it then becomes a main vent and must comply with other sections of this code.

Section 23. Vents; Required Sizes. (1) The required size of a vent or vent stacks shall be determined by the total number of fixture units it serves and the developed length of the vent, in accordance with the following table, interpolating, when necessary, between permissible length of vent given in the following table:

MAXIMUM PERMISSIBLE LENGTHS OF VENTS

Pipe Size (In Inches)	Maximum Length (In Feet)	Fixture Units
1 1/4	30	2
1 1/2	150	8
2	200	18
2 1/2	250	36
3	300	72
4	400	240
5	600	420
6	800	720

(2) If a fixture opening is installed more than twenty-five (25) feet of developed length from the point where it is connected to the main soil or waste systems, or, if more than ten (10) feet of vertical piping is used, the vent shall be continued full size through the roof or returned full size to the main vent.

Section 24. Branch and Individual Vents. In no instance shall a branch or individual vent be less than one and one-fourth (1 1/4) inches in diameter and shall not exceed the maximum length permitted for a main vent.

Section 25. Vent Pipes Grades and Connections. All vent and branch vent pipes shall be free from drops or sags and be so graded and connected as to drip back to the soil or waste pipe by gravity. Where vent pipes connect to a horizontal soil or waste pipe, the vent branch shall be taken off above the center line of the pipe, and the vent pipe must rise vertically at an angle of forty-five (45) degrees to the vertical, to a point six (6) inches above the fixture it is venting before offsetting horizontally or connecting to the branch, main, waste, soil or vent.

Section 26. Vents not Required. Vents will not be required on a backwater trap, or a subsoil catch basin trap, or a basement floor drain provided that the basement floor drain is the first opening on the house drain and that the basement floor drain branches into the house drain so that measuring along the flow line from the center of the stack, the floor drain shall not be closer than five (5) feet to the stack, nor farther than twenty (20) feet. The floor drain line shall be four (4) inches above the house drain. All floor drains on a house drain in between stacks shall be vented. All floor drains shall be the caulk-on-type.

Section 27. When Common Vent Permissible. Where two (2) water closets, two (2) lavatories or two (2) of any fixtures of identical purpose are located on opposite sides of a wall or partition, or directly adjacent to each other within the prescribed distance as set forth in Section 21 of this regulation measured along the center line of the flow of water, the fixtures may have a common soil or waste pipe and a common vent. It shall be vented in accordance with the other sections of this code.

Section 28. Floor Drain Individual Vent not Required. Manufacturers' floor drains do not require individual vents when they are placed on a waste line for floor drains only within the prescribed distance of ten (10) feet from the main waste line, or stack, provided the base of

the stack is washed and the stack or stacks are undiminished through the roof, or connected to a main vent stack.

Section 29. Floor drains and service sinks installed on the operational floor level of sewage and water treatment plant facilities which discharge into an open sump and are not connected directly to the sanitary sewage system are not required to be trapped or vented.

Section 30. A Basement Floor Drain does not require an Individual Vent. A basement floor drain does not require an individual vent if it conforms to Section 26 of this regulation, or if it is the first floor drain on the main and is ahead of all sanitary openings and is not farther than five (5) feet from the main.

Section 31. House Drain Material. House drains shall be either extra heavy cast iron, service weight cast iron, brass Type (K) or (L) copper, lead, ABS or PVC plastic, or duriron.

Section 32. Indirect Waste Connections. Waste pipe from a refrigerator drain or any other receptacle where food is stored or waste water from a water cooled compressor, shall connect indirectly with the house drain, soil or waste pipe. The drain shall be vented to the outside air. Such waste pipes shall discharge into an open sink or another approved open receptacle that is properly supplied with water in accordance with other sections of this code. Such connections shall not be located in an inaccessible or unventilated area.

Section 33. Bar and Soda Fountain Wastes. Bar and soda fountain wastes, sinks and receptacles shall have a one and one-half (1 1/2) inch P trap and branches. The main shall not be less than two (2) inches. The fresh air pipe shall not be less than one and one-half (1 1/2) inches. The main waste line shall discharge into a properly vented and trapped open receptacle inside or outside a building. Food storage compartment drains shall be indirectly connected through a trapped receptacle whose upper edge is raised at least one (1) inch above the finished floor line.

Section 34. Open Receptacles. Soil or waste piping receiving the discharge from an open receptacle shall be at least six (6) inches above the surface of the ground when it discharges into a septic system.

Section 35. Refrigerator Wastes. Refrigerator waste pipes shall not be less than one and one-half (1 1/2) inches for one (1) to three (3) openings, and at least two (2) inches for four (4) to eight (8) openings. Each opening shall be trapped. Such waste piping shall be provided with sufficient clean-outs to allow for thorough cleaning.

Section 36. Overflow Pipes. Waste from a water supply tank or exhaust from a water lift shall not directly connect to a house drain, soil, or waste pipe. Such waste pipe shall discharge upon a roof or into a trapped open receptacle.

Section 37. Acid and Chemical Wastes. Except as provided herein, no corrosive liquids shall be permitted to discharge into the soil, waste

or sewer system. Such waste shall be thoroughly diluted or neutralized by passing through a properly constructed and acceptable dilution or neutralizing pit before entering the house sewer.

Section 38. Laboratory Waste Piping. Laboratory waste piping shall be sized in accordance with the other sections of this code. Each fixture shall be individually trapped. A continuous waste and vent pipe system may be used, provided the waste discharges into a vented dilution pit outside the building with a vent equal to the size of the drain. The vent may be eliminated when a pit has a ventilated cover. If under certain conditions a dilution pit is not required and is not used, each fixture shall be individually vented. If construction conditions permit, the base of the stack of the continuous waste and vent system shall be washed by the last fixture opening, and continue full size independently through the roof. All fixture branches exceeding more than the distance specified in the table in Section 21 of this regulation from the main shall be revented. The distance shall be measured from the center of the main to the center of the vertical riser. Fixture connections shall rise vertically to a height so that the trap will not be lower than twelve (12) inches from the bottom of the sink. Two (2) or more sinks may be connected into a common waste before entering the riser of the continuous waste and vent system, provided the fixtures are not more than five (5) feet from the center of one (1) fixture to the center of the other.

Section 39. Acid Waste Piping. Underground piping for acid wastes shall be extra heavy salt glazed vitrified pipe, silicon iron, lead, polyethylene pipe and fittings conforming to ASTM D-1204-62T [PS 10-69, PS 11-69, and PS 12-69], polypropylene pipe conforming to ASTM D-4101-85 [2581-73], or other materials approved by the department. Piping for acid wastes and vents above ground shall be of silicon iron, lead, borosilicate, or polyethylene pipe conforming to ASTM D-1204-62T [PS 10-69, PS 11-69, and PS 12-69], polypropylene pipe conforming to ASTM D-4101-85 [2581-73], or filament-wound reinforced thermosetting resin pipe conforming to ASTM D-2996 (green or poly thread).

Section 40. Special Vents. Flat or wet vents serving a plumbing fixture may be constructed only with special permission when a plumbing system is being remodeled or when additions are added to an original system.

CHARLES A. COTTON, Commissioner
ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: October 15, 1987

FILED WITH LRC: November 4, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1987 at 10 a.m. in the Office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by December 17, 1987, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected: N/A

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? N/A

PUBLIC PROTECTION AND REGULATION CABINET

Department of Housing, Buildings & Construction
Division of Plumbing
(Proposed Amendment)

815 KAR 20:100. Joints and connections.

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 methods that must be used in joining certain types of piping materials together as well as denoting the methods that must be used in securing plumbing fixtures to waste piping outlets.

Section 1. Water and Airtight Joints. All joints and connections shall be made permanently gas and water tight.

Section 2. Vitrified Pipe Joints; Concrete Pipe Joints; House Sewers - Combined Sewers. Joints in vitrified clay pipe shall conform to ASTM specification C-425. Joints in concrete pipe shall conform to ASTM specifications [commercial standard] C-443. When it is necessary to use piping in other than standard lengths hot poured joints may be used. Joints between cast iron pipe and vitrified clay pipe or concrete pipe shall be made either of hot poured bitumastic compound or by a preformed elastomeric ring. The ring shall completely fill the annular space between the cast iron spigot and the vitrified clay or concrete pipe hub. Joints in pipe and fittings of not more than two (2) pipe sizes between vitrified clay, [asbestos

cement,] acrylonitrile-butadiene-styrene or polyvinyl chloride to cast iron pipe and fittings or the joining of either material to the other may be made with proper fittings by the use of a dispersion grade polyvinyl chloride ring conforming to ASTM C-443, C-425, C-594, C-564 and D-1829 or elastomeric polyvinyl chloride coupling.

Section 3. Caulked Joints. All caulk joints shall be firmly packed with oakum or hemp and shall have at least one (1) inch of pure lead properly caulked. No paint, varnish or putty will be permitted until tests have been performed.

Section 4. (1) Screw joints. All screw joints shall be American Standard screw joints and all burrs or cuttings shall be removed.

(2) Mechanical joint couplings for hot and cold water. Mechanical joint couplings for hot and cold water may be used above ground provided the couplings are galvanized and the gaskets conform to ASTM D-735-61, grade N-R-615 BZ.

(3) Mechanical joint couplings for storm water piping. Mechanical joint couplings for storm water piping may be used above ground provided the couplings are either black iron or galvanized and the gaskets conform to ASTM D-735-61, grade N-R-615 BZ.

(4) Joints in PVC and ABS Schedule 40 or 80 pipe and fittings. Joints in polyvinyl chloride schedule 40 or 80 pipe and fittings shall be solvent welded joints and shall conform to ASTM D-2665-69. Joints in acrylonitrile-butadiene-styrene pipe and fittings shall be solvent welded joints and shall conform to ASTM D-2661-69. Acrylonitrile-butadiene-styrene and polyvinyl chloride sewer piping that conforms to ASTM 3033 and 3034 shall be joined by solvent cement conforming to ASTM D-2661 [C-2665]-69 for acrylonitrile-butadiene-styrene and ASTM D-2665 [2661]-69 for polyvinyl chloride or with an elastomeric joint conforming to ASTM D-3212-73.

(5) Copper pipe, brass and stainless steel yubing joints. Copper pipe, brass and stainless steel tubing joints shall be soldered joints.

(6) Expansion. Every expansion joint shall be of approved type and its material shall conform with the type of piping in which it is installed.

(7) Brazed joints. Brazed joints shall be made by first cleaning the surfaces to be joined down to the base metal, applying flux approved for such joints and for the filler metal to be used, and making the joint by heating to a temperature sufficient to melt the approved brazing filler metal on contact.

(8) Elastomeric polyvinyl chloride coupling. Elastomeric polyvinyl chloride couplings may be used for connecting cast iron, vitrified clay, concrete, [cement asbestos] or plastic pipe or the combination of these pipe materials. This coupling shall be provided with #305 stainless steel clamps.

(9) Joints in corrugated polyethylene subsoil drainage tubing. Joints in corrugated polyethylene subsoil drainage tubing shall be made by slip joints using appropriate fittings.

(10) Joints in aluminum pipe shall be made by use of an adaptor ring (complete with mastic seal) over the cut end of the pipe and the use of an approved elastomeric sealing sleeve with a corrosion resistant clamping device.

Section 5. Cast Iron Soil Pipe Joints. (1) Joints in cast iron shall either be caulked, screwed, or joints made with the use of neoprene gaskets. Neoprene gaskets shall conform to either ASTM C-564-70 or CS 301-72. Joints that conform to commercial standard 301-69T shall have a stainless steel clamp.

(2) Cast iron coupling for joining hubless cast iron pipe shall consist of neoprene gasket conforming to ASTM C-564, cast iron clamps conforming to ASTM A-48 and stainless steel bolts and nuts conforming to ANSI B-18.2.1 and ANSI B-18.2.2.

Section 6. Borosilicate Joints. Joints and gaskets used for borosilicate pipe shall be made in a manner approved by the department.

Section 7. (1) Steel, brass and copper connections to cast iron pipe. Steel, brass and copper joints when connected to cast iron pipe shall be either screwed or caulked joints. All caulked joints shall be made by the use of a caulking spigot.

(2) PVC and ABS pipe and fitting connections to steel, brass, copper and cast iron pipe. Polyvinyl chloride and acrylonitrile-butadiene-styrene pipe and fitting connections to steel, brass, copper or cast iron pipe shall either be a screwed or caulk joint. Joints between Schedule 40 PVC or ABS pipe and cast iron pipe may be made by the use of a neoprene gasket conforming to ASTM C-564-70. All caulk joints shall be made with the use of either a polyvinyl chloride or acrylonitrile-butadiene-styrene or cast iron caulking spigot.

(3) Stainless steel tubing to cast iron pipe to galvanized steel pipe and to copper tubing. Stainless steel tubing to cast iron pipe shall be made by caulking spigot. Stainless steel tubing to galvanized steel pipe or copper pipe shall be made by the use of an adaptor.

(4) Joints in acid waste piping. Joints in vitreous glazed piping shall be made in a manner and of a material approved by the department. Joints in polyethylene and polypropylene piping must be made by the heat fusion process. Joints in polypropylene may also be made with a union joint. Joints in borosilicate pipe may be a stainless steel mechanical joint. Joints between silicon iron pipe may be either caulk joint or stainless steel mechanical joint.

Section 8. Lead Pipe. Joints in lead pipe or between lead pipe and brass or copper pipes, ferrules, soldering nipples, or trap, shall be full-wiped joints, with an exposed surface of the solder at each side of the joint of not less than three-quarters (3/4) of an inch. The minimum thickness of the thickest part of the joint shall be at least as thick as the material being used. In the event lead pipe is used for acid waste lines the pipe may be joined by burning.

Section 9. Lead Pipe to Cast Iron, Steel, or Wrought Iron Pipe. The joints between lead to cast iron, steel or wrought iron shall be made by means of a caulking ferrule or a soldering nipple.

Section 10. Wall or Floor Flange Joints. Wall or floor flange joints shall be made by using a lead ring or brass flange and shall be properly

soldered.

Section 11. Soil Pipe, Iron Pipe, Copper Pipe; Tubular Trap Joints. Joints between soil pipe, iron pipe, copper pipe and tubular traps shall be made by the use of a heavy red cast brass adaptor. Tubular traps shall be soldered to the adaptor in a manner approved by the department.

Section 12. Slip Joints. Slip joints shall be permitted only on the inlet side of a trap.

Section 13. Unions. Unions shall be ground faced and shall not be concealed or enclosed.

Section 14. Roof Joints. The joint of the roof shall be made water-tight by use of copper, lead or other approved flashing or flashing material. It shall extend not less than six (6) inches from the pipe in all directions and shall extend upward twelve (12) or more inches and turn down into the pipe. A hub flashing may be used provided it is constructed so it can be caulked into a hub above the roof.

Section 15. Increasers and Reducers. When different size pipes or pipes and fittings are to be concealed, the proper size increaser or reducer pitched at an angle of forty-five (45) degrees between the two (2) sizes, shall be used.

Section 16. Prohibited Joints and Connections. Any fitting or connection which has an enlargement chamber, or recess with a ledge shoulder, or reduction of the pipe area in the direction of the flow is prohibited.

Section 17. Hangers and Supports. All piping and fixtures shall be adequately supported by hangers or anchors securely attached to the building construction.

Section 18. Welded Pipe for Soil, Waste and Vent Systems. Mild steel pipe may be welded for a soil waste and vent system provided the welds are mechanically sound and the bore of the piping is smooth throughout its length. The welded piping shall be covered with a metallic continuous coating. Written permission shall be secured from the department for such a system.

CHARLES A. COTTON, Commissioner
ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: October 15, 1987

FILED WITH LRC: November 4, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1987 at 10 a.m. in the Office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by December 17, 1987, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected: N/A

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

1. First year:

2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
- (b) Reporting and paperwork requirements:
- (2) Effects on the promulgating administrative body: N/A
- (a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
- (b) Reporting and paperwork requirements:
- (3) Assessment of anticipated effect on state and local revenues: N/A
- (4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
- (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
- (a) Necessity of proposed regulation if in conflict:
- (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
- (6) Any additional information or comments:

None

TIERING: Was tiering applied? N/A

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	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 cutoff 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 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

Type of Connection	Degree of Hazard				Acceptable Protection			
	Severe	Moderate	Minor	Air Gap	Backflow	Back siphonage		
					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 nontoxic 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 shut-off 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 N Sizes 3/4" - 10" 0
(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.	N A.S.S.E. No. 1024 T Sizes 3/4" & 1" 0 X I C
(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 back pressure 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.	Postmix 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 back pressure 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)
(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 manufacturers 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 ASTM B-587-73, seamless stainless steel tubing, Grade H conforming to ASTM [CS] A-268-68, filament-wound 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 (PE) plastic pipe conforming to ASTM D-2239-69, Poly(vinyl chloride) (PVC) plastic pipe conforming to ASTM D-1785-69, Chlorinated Poly(vinyl chloride) [and] (CPVC) plastic pipe conforming to ASTM [CS] D-2846-70, Poly(vinyl chloride) (PVC) standard dimensional ratio (SDR) 21 and (SDR) 26 conforming to ASTM D-2241-84, polybutylene (PB) plastic 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 Polyethylene, PVC or CPVC be used below ground under any house or building (refer also to 815 KAR 20:060, Section 16 and 815 KAR 30:073).

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 (2) 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 (see Section 16).

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 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 LRC: October 15, 1987

FILED WITH LRC: November 4, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1987 at 10 a.m. in the Office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by December 17, 1987, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected: N/A

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? N/A

PUBLIC PROTECTION AND REGULATION CABINET

Department of Housing, Buildings and Construction
Division of Plumbing
(Proposed Amendment)

815 KAR 20:130. House sewers and storm water piping; methods of installation.

RELATES TO: KRS Chapter 318

PURSUANT TO: KAR 318.130

NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation relates to outlining the materials that may be used in the construction of house sewers, storm water piping as well as the methods of installation.

Section 1. Independent System. The drainage and plumbing system of each new building and of new work installed in an existing building shall

be separate from, and independent of, that of any other building except as provided below, and every building shall have an independent connection with either a public or private sewer or sewer system.

Section 2. Exception. Where a building stands in the rear of another building or on an interior lot, and a sewer connection cannot be made available to the rear building through an adjoining alley, court, yard or driveway, the sewer from the front building may be extended to the rear building and it will be considered as one (1) sewer. This exception does not apply to corner lots where a sewer connection is available from the street or alley nor to a new or existing building which abuts a street or alley.

Section 3. Connection with Private Sewage Disposal System. When a sewer is not available, the house drain from a building shall connect with an approved private sewage disposal system.

Section 4. Excavations. All excavations made for the installations of a house sewer shall be open trench work. All such trenches shall be kept open until the piping has been inspected and/or tested and approved.

Section 5. Depth of Sewer at the Property Line. (1) Where possible the sewer at the property line shall be at a sufficient depth to properly serve any plumbing connection that may be installed in the basement of any building unless restricted by another's authority.

(2) House sewers shall be laid on a grade of not less than one-eighth (1/8) inch nor more than one-fourth (1/4) inch per foot. All sewers must have at least an eighteen (18) inch cover. Sewer piping under a superimposed load condition shall have at least three (3) feet cover unless constructed of cast iron piping. Unless there is a three (3) foot cover provided, other piping shall be encased in a minimum of six (6) inches of concrete on all sides and the top. Sewers shall be backfilled by hand and tamped six (6) inches above the piping, or in lieu thereof may be filled with six (6) inches grillage above the piping. All joints in cast iron and [,] vitrified clay pipe [and cement asbestos pipe] shall be made in a manner to conform to other sections of this code.

(3) For purposes of this section, "superimposed load" means to lay over, put on, stack over or subject to vehicular traffic.

Section 6. New House Sewer Connections. House sewers installed where a private sewerage system has been discarded may connect to the house drain, provided in the opinion of the department the existing plumbing system meets this code or a previous one.

Section 7. Materials for House Sewers. House sewers or combined sewers, beginning two (2) feet outside the foundation wall of a building shall be made of either extra heavy cast iron pipe, service weight cast iron, aluminum, vitrified clay, concrete, [cement asbestos,] PVC or ABS plastic pipe schedules 40 and 80, truss

pipe and extra heavy SDR 35 pipe and Type PS-46, Poly(Vinyl Chloride) (PVC) in sizes four (4) inches thru fifteen (15) inches conforming to ASTM F 789-82.

Section 8. Material for Storm Sewers Inside Buildings. Material for storm sewers inside of buildings to a point two (2) feet outside a building in sizes eight (8) inches and smaller shall be cast iron pipe, aluminum or Schedule 40 ABS or PVC DWV pipe. Storm sewers in sizes of ten (10) inches and larger may be either cast iron, aluminum, vitrified clay or concrete conforming to appropriate commercial standards with approved joints.

Section 9. Change of Direction. Change in direction of a sewer shall be made with long curves, one-eighth (1/8) bends or Y's.

Section 10. Size of House Sewers and Horizontal Branches. The minimum size of a house sewer shall not be less than four (4) inches nor less than that of the house drain. House sewers receiving branches shall be sized in the same manner as house drains (see 815 KAR 20:090).

Section 11. Size of Storm Systems. The required sizes of storm sewers shall be determined on the basis of the total drained areas in horizontal projection in accordance with the following table. No storm sewer shall be laid parallel to or within two (2) feet of any bearing wall. The storm sewer shall be laid at a sufficient depth to protect it from freezing.

Diameter of pipe - inches	Maximum drained roof area square feet*	
	Slope 1/8 in. fall to 1 ft.	Slope 1/4 in. fall to 1 ft.
3		1,160
4	1,880	2,650
5	3,340	4,720
6	5,350	7,550
8	11,500	16,300
10	20,700	29,200
12	33,300	47,000
15	59,500	84,000

*The calculations in this table are based on a rate of rainfall of four (4) inches per hour.

Section 12. Combined Storm and Sanitary Sewer System. Whenever a combined sewer system is used, the required size of the house drain or house sewer shall be determined by multiplying the total number of fixture units carried by the drain or sewer by the conversion factor corresponding to the drained area and the total fixture units, adding the product to the drained area and applying the sum of the preceding table for storm water sewers. No combined house drain or house sewer shall be less than five (5) inches in diameter, and no combined house drain or house sewer shall be smaller in size than that required for the same number of fixture units or for the same roof area in separate systems.

CONVERSION FACTORS FOR COMBINED STORM
AND SANITARY SYSTEM

Number of fixture units on sanitary system

Drained roof area in square feet	Up to	7 to	19 to	37 to	61 to	97 to	145 to	217 to
	6	18	36	60	96	144	216	324
Up to 120	180	105	60	45	30	22	18	15
121 to 240	160	98	57	43	29	21	17.6	14.7
241 to 480	120	75	50	39	27	20	16.9	14.3
481 to 720	75	62	42	35	24	18	15.4	13.2
721 to 1,080	54	42	33	29	20	15	13.6	12.1
1,081 to 1,620	30	18	16	15	12	11.5	11.1	10.4
1,621 to 2,430	15	12	11	10.5	9.1	8.8	8.6	8.3
2,431 to 3,645	7.5	7.2	7.0	6.9	6.6	6.5	6.4	6.3
3,646 to 5,460	2.0	2.4	3.0	3.3	4.1	4.2	4.3	4.4
5,461 to 8,190	0	2.0	2.1	2.2	2.3	2.4	2.5	2.6
8,191 to 12,285	0	0	2.0	2.1	2.1	2.2	2.3	2.3
12,286 to 18,420	0	0	0	2.1	2.1	2.1	2.2	2.2
18,421 to 27,630	0	0	0	0	2.0	2.1	2.2	2.2
27,631 to 40,945	0	0	0	0	0	2.0	2.1	2.2
40,946 to 61,520	0	0	0	0	0	0	2.0	2.1
Over 61,520	0	0	0	0	0	0	0	2.0

Number of fixture units on sanitary system

Drained roof area in square feet	325 to	487 to	733 to	1,099 to	1,645 to	2,467 to	3,703 to	Over
	486	732	1,098	1,644	2,466	3,702	5,556	5,556
Up to 120	12	10.2	9.2	8.4	8.2	8.0	7.9	7.8
121 to 240	11.8	9.9	9.1	8.3	8.1	8.0	7.9	7.8
241 to 480	11.5	9.7	8.8	8.2	8.0	7.9	7.8	7.7
481 to 720	10.8	9.2	8.6	8.1	7.9	7.9	7.8	7.7
721 to 1,080	10.1	8.7	8.3	8.0	7.8	7.8	7.7	7.6
1,081 to 1,620	9.8	8.4	8.1	7.9	7.7	7.7	7.6	7.5
1,621 to 2,430	8.0	7.9	7.8	7.7	7.6	7.5	7.4	7.4
2,431 to 3,645	6.2	6.3	6.4	6.4	6.8	7.0	7.1	7.2
3,646 to 5,460	4.5	4.7	5.0	5.1	6.1	6.4	6.9	6.9
5,461 to 8,190	2.8	3.2	3.7	4.6	5.0	5.6	6.2	6.4
8,191 to 12,285	2.4	2.5	2.6	2.7	3.5	4.5	5.2	5.6
12,286 to 18,420	2.3	2.3	2.4	2.4	2.6	3.2	4.2	4.7
18,421 to 27,630	2.2	2.3	2.3	2.3	2.4	2.5	2.8	3.1
27,631 to 40,945	2.2	2.2	2.2	2.2	2.2	2.2	2.3	2.4
40,946 to 61,520	2.1	2.1	2.1	2.1	2.1	2.1	2.1	2.1
Over 61,520	2.0	2.0	2.0	2.0	2.0	2.0	2.0	2.0

Section 13. House Sewer in Undisturbed or Made Ground. House sewers laid in undisturbed ground must be laid on at least four (4) inches of pea gravel, sand or other approved grillage. House sewers laid in made or filled ground shall be embedded to the lower quadrant with at least a four (4) inch concrete pad below the invert, or other support that may be approved by the department. Supports in filled or made ground shall be on ten (10) feet centers to a solid footing, either undisturbed earth or rock. House sewers constructed of flexible thermoplastic sewer piping must be installed with at least six (6) inches of gravel on the bottom, top and sides of the piping.

Section 14. Storm Sewers in Undisturbed or Made Ground. Storm sewers laid in undisturbed ground will not require grillage. Storm sewers laid in made or filled grounds shall be embedded to the lower quadrant with at least a four (4) inch concrete pad below the invert or other support that may be approved by the department. Supports in filled or made ground shall be on ten (10) feet centers to a solid footing, either undisturbed earth or rock.

Section 15. Drainage Below Sewer Level. In buildings, in which the whole or part of the house drain and plumbing system thereof lies below the level of the main sewer, sewage and waste shall be lifted by an approved artificial means and discharged into the house sewer.

Section 16. Drainage Below Sewer Level (Residential). In homes where the house sewer level is above the basement floor, waste water shall be lifted by means of an approved sump pump. The sump pit shall be constructed of either poured or precast concrete, approved fiberglass or polyethylene material with a tight fitting cover. The sump pit shall be provided with a two (2) inch vent which may also act as a waste and vent for a laundry tray. The pump discharge piping shall discharge into a two (2) inch waste pipe extended inside the building to a height at least twelve (12) inches above the outside grade. The sump well shall be provided with a tight-fitting concrete cover. On the outside of the building this waste piping shall connect into a four (4) inch by two (2) inch sanitary tee which shall connect into a four (4) inch P trap and then into the sanitary sewer.

The four (4) inch by two (2) inch sanitary tee shall be extended at least two (2) inches above the finished grade and shall be provided with a ventilated cap.

Section 17. Sumps and Receiving Tanks. All subsoil drains shall discharge into an air tight sump or receiving tank so located as to receive the sewage by gravity. The sewage shall be lifted and discharged into the house sewer by a pump, ejector or any equally efficient method. Such sumps shall automatically discharge.

Section 18. Ejectors, Vented. All ejectors shall be vented with a three (3) inch vent. Fixtures or appliances connected thereto shall be vented in accordance with other sections of this code.

Section 19. Ejector Power: Motors, Compressors, Etc. All motors, air compressors and air tanks shall be located where they are open for inspection and repair at all times. The air tanks shall be proportioned so as to furnish sufficient air at suitable pressure to the ejector to completely empty the sump or storage tank with the compressor not operating. The end pressure in the tank shall be not less than two (2) pounds for each foot of height through which sewage is raised.

Section 20. Ejectors for Subsoil Drainage. When subsoil catch basins are installed below the sewer level, automatic ejectors, or an approved type, may be used. Such ejectors or any device raising subsoil water shall discharge into a properly trapped fixture or into a storm-water drain.

Section 21. Drainage of Yards, Areas and Roofs. All roofs, paved areas, courts, and courtyards shall be drained into a storm water system or a combined sewerage system, but not into sewers intended for sewage only. When drains are connected to a combined sewerage system, they shall be trapped. If roof leaders, conductors, or gutter openings are located more than ten (10) feet from a window, scuttle, or air shaft, a trap shall not be required. Traps shall be set below the frost line or on the inside of the building. Where there is a storm or combined sewer available, it may discharge into a drainage area unless otherwise prohibited by the proper authorities. When such drains are not connected to a combined sewer a trap is not required.

Section 22. Size of Rain Water Leader. No inside leader shall be less size than the following:

Area of Roof (In Square Feet)	Leader, Diameter (Inches)
Up to 90	1 1/2
91 to 270	2
271 to 810	3
811 to 1,800	3 1/2
1,801 to 3,600	4
3,601 to 5,500	5
5,501 to 9,600	6

Section 23. Inside Conductors or Roof Leaders. When conductors and roof leaders are placed within the walls of any building, or in an

interior court or ventilating pipe shaft, they shall be constructed of cast iron pipe, galvanized wrought iron, galvanized steel, copper, aluminum, schedule 40 ABS/PVC DMV pipe or reinforced thermosetting resin pipe conforming to ASTM D-2996 (red and silver thread). The vertical distance of PVC or ABS conductors shall not exceed thirty (30) feet from the base through the terminus through the roof.

Section 24. Outside Conductors. When outside sheet metal conductors or downspouts are connected to a house drain, they shall be connected by means of a cast iron pipe extending vertically at least one (1) foot above the grade line. Along public driveways, without side walks, they shall be placed in niches in the walls, protected by wheel guards, or enter the building through the wall at a forty-five (45) degree slope at least twelve (12) inches above the grade.

Section 25. Defective Conductor Pipes. When an existing sheet metal conductor pipe within the walls of any building becomes defective, such a conductor shall be replaced by one which conforms to this code.

Section 26. Vent Connections with Conductors Prohibited. A conductor pipe shall not be used as a soil, waste or vent pipe, nor shall any soil, waste, or vent pipe be used as a conductor.

Section 27. Overflow Pipes. Overflow pipes from cisterns, supply tanks, expansion tanks, or drip pans shall connect only indirectly with any house sewer, house drain, soil or waste pipe.

Section 28. Subsoil Drains, Below Sewer Level. Subsoil drains shall discharge into a sump or receiving tank. It shall be automatically lifted and discharged into the storm drainage system or upon the ground outside the building that it serves.

CHARLES A. COTTON, Commissioner

ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: October 15, 1987.

FILED WITH LRC: November 4, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1987 at 10 a.m. in the Office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by December 17, 1987, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected: N/A

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative

body: N/A

- (a) Direct and indirect costs or savings:
 - 1. First year:
 - 2. Continuing costs or savings:
 - 3. Additional factors increasing or decreasing costs:
- (b) Reporting and paperwork requirements:
- (3) Assessment of anticipated effect on state and local revenues: N/A
- (4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
- (5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
- (a) Necessity of proposed regulation if in conflict:
- (b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
- (6) Any additional information or comments: None

TIERING: Was tiering applied? N/A

PUBLIC PROTECTION AND REGULATION CABINET
 Department of Housing, Buildings & Construction
 Division of Plumbing
 (Proposed Amendment)

815 KAR 20:191. Minimum fixture requirements.

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 incorporates many of the provisions which have been in effect for some time with regard to residential and public buildings. The department has revised the old regulation to make it easier to interpret. This regulation includes the requirements of the Department for Natural Resources and Environmental Protection as well as the Department for Human Resources and the Department of Justice. These inclusions simplify the plan process.

Section 1. (1) In buildings accommodating males and females it shall be presumed that the occupants will be equally divided between males and females unless otherwise denoted.

(2) The occupancy load factor used to determine the number of plumbing fixtures required shall be that denoted by Article 8, Section 806 of the 1988 [1983] edition of the Kentucky Building Code unless otherwise denoted.

Section 2. All types of buildings shall be provided with toilet rooms on each level or floor; however, where the department determines that separate facilities on each level or floor are unnecessary, toilet rooms on every other level or floor shall be sufficient.

Section 3. Toilet rooms for males and females shall be clearly marked.

Section 4. Toilet Floor Construction Requirements. Toilet room floors in all public buildings and places of employment shall be constructed of nonabsorbent materials. When more than one (1) water closet and one (1) lavatory is installed, such a toilet room shall have at least one (1) floor drain and one (1) accessible

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Section 5. Theatres, Assembly Halls, Libraries, Museums and Art Galleries. (1) A separate water closet and lavatory shall be provided for males and females in the stage area.

(2) A drinking fountain shall be provided in the stage and auditorium area and a drinking fountain shall be provided on each floor for each 500 persons or fraction thereof.

(3) Separate toilet rooms for males and females shall be provided as indicated in Section 2 of this regulation, as follows:

(a) One (1) water closet for each 100 males or females or fraction thereof; two (2) water closets for 101 to 200 males or females or fraction thereof; three (3) water closets for 201 to 400 males or females or fraction thereof; over 400 add one (1) water closet for each additional 500 males and one (1) for each additional 300 females.

(b) One (1) urinal for eleven (11) to 200 males; two (2) urinals for 201 to 400; three (3) urinals for 401 to 600; add one (1) urinal for each additional 300 males or fraction thereof.

(c) One (1) lavatory for up to 100 males or females; two (2) lavatories for 101 to 200; three (3) lavatories for 201 to 400; four (4) lavatories for 401 to 750; add one (1) lavatory for each additional 500 or less over 750.

(d) One (1) service sink or slop sink on each floor.

(e) The number of fixtures shall be based upon the maximum seating capacity or fixed seats. If fixed seats are not provided the basis for determining the capacity shall be one (1) person per each fifteen (15) square feet of area.

(4) In libraries, museums and art galleries separate toilet facilities for males and females shall be provided as indicated in Section 2, as follows:

(a) One (1) water closet and one (1) lavatory for each 100 females or fraction thereof.

(b) One (1) water closet and one (1) lavatory for each 200 males or fraction thereof.

(c) One (1) urinal for eleven (11) to 200 males; two (2) urinals for 201 to 400; 33 urinals for 401 to 600; add one (1) urinal for each additional 300 males or fraction thereof.

(d) One (1) service sink or slop sink on each floor.

(e) A drinking fountain shall be provided for each 500 persons or fraction thereof.

(f) The above number of fixtures shall be based upon the actual number of persons that can be accommodated.

(5) Urinals may be substituted for water closets for males, not to exceed one-third (1/3) of the required total number of water closets but in all cases the minimum number of urinals must be installed.

(6) Water closets in public restrooms shall be of the elongated bowl type with a split open front seat.

Section 6. School Buildings (relates also to 702 KAR 4:070 and 702 KAR 4:080). (1) A drinking fountain shall be provided on each floor and/or wing of a building and an additional drinking fountain shall be provided for each seventy-five (75) pupils or fraction thereof. The fountains shall be equipped with a protective cowl and the orifice shall be one (1) inch above the overflow rim of the fountain.

(2) Elementary through secondary level school

buildings shall be provided with the following:

(a) Water closets for males shall be installed in the following proportions:

1. One (1) water closet for up to twenty-five (25) pupils.
2. Two (2) water closets for twenty-six (26) to 100 pupils.
3. One (1) water closet for each 100 pupils or fraction thereof in excess of 100.

(b) Urinals for males shall be installed in the following proportions:

1. One (1) urinal for up to twenty-five (25) pupils.
2. Two (2) urinals for twenty-six (26) to fifty (50) pupils.
3. Four (4) urinals for fifty-one (51) to 100 pupils.
4. Six (6) urinals for 101 to 200 pupils.
5. Eight (8) urinals for 201 to 300 pupils.
6. Ten (10) urinals for 301 to 400 pupils.
7. Twelve (12) urinals for 401 to 500 pupils.
8. One (1) urinal for each fifty (50) pupils or fraction thereof in excess of 500.

(c) Water closets for females shall be installed in the following proportions:

1. Two (2) water closets for up to twenty-five (25) pupils.
 2. Three (3) water closets for twenty-six (26) to fifty (50) pupils.
 3. Six (6) water closets for fifty-one (51) to 100 pupils.
 4. Eight (8) water closets for 101 to 200 pupils.
 5. Ten (10) water closets for 201 to 300 pupils.
 6. Twelve (12) water closets for 301 to 400 pupils.
 7. Fourteen (14) water closets for 401 to 500 pupils.
 8. One (1) water closet for each forty (40) pupils or fraction thereof in excess of 500.
- (d) Lavatories for male and female pupils shall be installed in the following proportions:
1. One (1) lavatory for each twenty-five (25) pupils or fraction thereof.
 2. Two (2) lavatories for each fifty (50) pupils or fraction thereof.
 3. One (1) lavatory for each fifty (50) pupils or fraction thereof over fifty (50).
 4. Twenty-four (24) inches of sink or eighteen (18) inches of circular basin when provided with water outlet for each space, shall be considered equivalent to one (1) lavatory.

(3) One (1) service sink or slop sink shall be installed on each floor of a building.

(4) When detached relocatable classrooms are used, sanitary facilities will not be required, provided it is within a distance not to exceed thirty-five (35) feet from the main structure and there are sufficient fixtures in the main structure to serve the entire capacity of the school including the relocatable classrooms.

(5) Water closets for use in the above facilities shall be of the elongated bowl type with a split open front seat.

Section 7. Schools of Higher Education and Similar Educational Facilities. In schools of higher education and similar institutions there shall be installed:

(1) One (1) water closet for each fifty (50) males or one (1) water closet for each twenty-five (25) females or fraction thereof.

(2) One (1) lavatory for each fifty (50) males or females or fraction thereof.

(3) One (1) drinking fountain for each seventy-five (75) persons or fraction thereof.

(4) One (1) urinal shall be provided for each thirty (30) males or fraction thereof. One (1) water closet less than the number specified may be provided for each urinal installed except that the number of water closets in such cases shall not be reduced to less than two-thirds (2/3) of the minimum specified.

(5) Water closets for use in above facilities shall be of the elongated bowl type with a split open front seat.

Section 8. Public Garages and Service Stations. Separate toilet rooms with at least a water closet and lavatory for females and a water closet, lavatory and urinal for males shall be provided. Water closets shall be of the elongated bowl type with a split open front seat.

Section 9. Churches. Sanitary facilities shall be provided in churches as follows:

(1) One (1) drinking fountain for each 400 persons or fraction thereof.

(2) One (1) water closet for each 150 females or fraction thereof.

(3) One (1) water closet for each 300 males or fraction thereof.

(4) One (1) urinal for each 150 males or fraction thereof.

(5) One (1) lavatory for each 150 persons or fraction thereof.

Section 10. Transient Facilities (relates also to 902 KAR 10:010). (1) Hotels and motels with private rooms shall have one (1) water closet, one (1) lavatory and one (1) bathtub or shower per room.

(2) In the public and service areas there shall be:

(a) One (1) water closet for each twenty-five (25) males or fraction thereof.

(b) One (1) water closet for each fifteen (15) females or fraction thereof.

(c) One (1) lavatory for each twenty-five (25) males or females or fraction thereof.

(d) One (1) urinal for eleven (11) to 100 males then one (1) for each additional fifty (50) or fraction thereof.

(e) One (1) bathtub or shower, if needed, for each ten (10) males or females or fraction thereof.

(f) One (1) drinking fountain for each seventy-five (75) or fraction thereof on each floor.

(g) One (1) service sink or slop sink on each floor.

(3) In residential-type buildings there shall be one (1) water closet, one (1) lavatory and one (1) bathtub or shower for each ten (10) males and each ten (10) females or fraction thereof.

(4) In rooming houses with private baths, they shall have one (1) water closet, one (1) lavatory and one (1) bathtub or shower per room.

(5) In rooming houses without private baths, there shall be:

(a) One (1) water closet for one (1) to ten (10) males and one (1) for each additional twenty-five (25) or fraction thereof.

(b) One (1) water closet for one (1) to eight (8) females and one (1) for each additional twenty (20) or fraction thereof.

(c) One (1) urinal for eleven (11) to 100 males, then one (1) for each additional fifty

(50) or fraction thereof.

(d) One (1) lavatory for each ten (10) males or females or fraction thereof.

(e) One (1) bathtub or shower for each ten (10) males or females or fraction thereof.

Section 11. Dormitories: School, Labor or Institutional (relates also to 902 KAR 10:040). In dormitories there shall be installed:

(1) One (1) water closet for up to ten (10) males or one (1) water closet for up to eight (8) females; add one (1) water closet for each additional twenty-five (25) males or fraction thereof and one (1) water closet for each additional twenty (20) females or fraction thereof.

(2)(a) One (1) urinal for each twenty-five (25) males or fraction thereof. Over 150 males add one (1) fixture for each additional fifty (50) males or fraction thereof.

(b) Where urinals are provided for women, the same number shall be provided as for men.

(c) Where urinals are provided, they may be substituted for water closets, not to exceed one-third (1/3) of the required total number of water closets.

(d) Trough urinals shall be figured on the basis of one (1) urinal for each twenty-four (24) inches of length.

(3)(a) One (1) lavatory for one (1) to twelve (12) persons. Add one (1) lavatory for each twenty (20) males and each fifteen (15) females.

(b) Separate dental lavatories should be provided in community toilet rooms. A ratio of one (1) dental lavatory to each fifty (50) persons.

(4) One (1) bathtub or shower for each eight (8) persons. Over 150 persons add one (1) fixture for each twenty (20) persons. For womens' dormitories, there shall be installed additional bathtubs at the ratio of one (1) for each thirty (30) women.

(5) One (1) drinking fountain for each seventy-five (75) persons.

(6) One (1) laundry tray or clothes washer for each fifty (50) persons.

(7) One (1) service sink or slop sink for each 100 persons.

Section 12. Hospitals, Nursing Homes and Institutions (relates also to 902 KAR 20:031, 902 KAR 20:046, 902 KAR 20:056, 902 KAR 9:010). Sanitary facilities shall be provided on each floor level and shall conform to the following:

(1) Hospitals.

(a) Wards.

1. One (1) water closet for each ten (10) patients.

2. One (1) lavatory for each ten (10) patients.

3. One (1) tub/shower for each fifteen (15) patients.

4. One (1) drinking fountain for each 100 patients.

(b) Individual rooms: one (1) water closet, one (1) lavatory and one (1) tub/shower.

(c) Waiting rooms: one (1) water closet and one (1) lavatory.

(2) Nursing homes and institutions (other than penal).

(a) One (1) water closet for each twenty-five (25) males or fraction thereof.

(b) One (1) water closet for each twenty (20) females or fraction thereof.

(c) One (1) lavatory for each ten (10) persons or fraction thereof.

(d) One (1) urinal for each fifty (50) males.

(e) One (1) tub or shower for each fifteen (15) persons or fraction thereof.

(f) One (1) drinking fountain on each floor.

(g) One (1) service sink or slop sink on each floor.

(3) Institutions, penal.

(a) Cell.

1. One (1) prison type water closet.

2. One (1) prison type lavatory.

(b) Day rooms and dormitories.

1. One (1) water closet for each eight (8) inmates or fraction thereof.

2. One (1) lavatory for each eight (8) inmates or fraction thereof.

3. One (1) shower for each fifteen (15) inmates or fraction thereof.

4. One (1) urinal may be substituted for each water closet but in no instance shall the water closets be reduced to less than one-half (1/2) the number required.

5. One (1) drinking fountain per floor.

6. One (1) service sink or slop sink per floor.

(c) Toilet facilities for employees shall be located in separate rooms from those in which fixtures for the use of inmates or patients are located.

(d) One (1) drinking fountain on each floor.

(e) One (1) service sink or slop sink per floor.

Section 13. Workshops, Factories, Mercantile and Office Buildings. Separate toilet facilities shall be provided for males and females on each floor unless otherwise denoted.

(1) Workshops and factories: Sanitary facilities shall conform to the following:

(a) One (1) water closet for each twenty-five (25) males or fraction thereof, up to 100.

(b) One (1) lavatory for each twenty-five (25) males or fraction thereof, up to 100.

(c) One (1) urinal for eleven (11) to fifty (50) employees.

(d) Two (2) urinals for fifty-one (51) to 100 employees.

(e) One (1) lavatory for each twenty-five (25) females or fraction thereof, up to 100.

(f) One (1) water closet for each fifteen (15) females or fraction thereof up to 100.

(g) When in excess of 100 there shall be an additional water closet for each thirty (30) males and each thirty (30) females or fraction thereof; one (1) lavatory for each additional fifty (50) males and females or fraction thereof; one (1) urinal for each 100 males or fraction thereof.

(h) One (1) shower for each fifteen (15) persons exposed to skin contamination from irritating, infectious or poisonous materials.

(i) One (1) drinking fountain on each floor for each fifty (50) employees. In excess of 100 employees there shall be an additional drinking fountain on each floor for each additional seventy-five (75) persons.

(j) One (1) service sink or slop sink per floor.

(k) Individual sinks or wash troughs may be used in lieu of lavatories. Twenty-four (24) inches of sink or trough, when provided with water or eighteen (18) inches of circular basin shall be deemed the equivalent of one (1) lavatory.

(2) Mercantile.

(a) Sanitary facilities within each store shall be provided for employees and when more

than five (5) persons are employed, separate facilities for each sex must be provided. EXCEPTION: For stores containing no more than 3,000 square feet of total gross floor area, employee facilities are provided within a centralized toilet room area or areas having a travel distance of no more than 500 feet.

(b) Sanitary facilities shall be provided for customers when the building contains 5,000 square feet or more. In malls and/or shopping centers, the required facilities, based on one (1) person per 100 square feet of total area, may be installed in individual stores or in a central toilet room area or areas, if the distance from the main entrance of any store does not exceed 500 feet and if accessible to physically disabled persons.

(c) Sanitary facilities shall be provided as stated in this section and shall conform as follows:

1. One (1) water closet for one (1) to 100 persons.
2. Two (2) water closets for 101 to 200 persons.
3. Three (3) water closets for 201 to 400 persons.
4. One (1) water closet for each 500 males, or 300 females, in excess of 400.
5. One (1) urinal for one (1) to 200 males.
6. Two (2) urinals for 201 to 400 males.
7. Three (3) urinals for 401 to 600 males.
8. One (1) urinal for each 300 males, or fraction thereof, over 600.
9. One (1) lavatory for one (1) to 200 persons.
10. Two (2) lavatories for 201 to 400 persons.
11. Three (3) lavatories for 401 to 700 persons.
12. One (1) lavatory for each 500 persons, or fraction thereof, in excess of 700.
13. One (1) drinking fountain on each floor for each 500 persons or fraction thereof.
14. One (1) service sink or slop sink per floor.

(3) Office buildings.

(a) Sanitary facilities within office buildings shall be provided for employees and when more than five (5) persons are employed, separate facilities for each sex must be provided. EXCEPTION: For office buildings containing no more than 3,000 square feet of total gross floor area, employee facilities are not required if adequate interior facilities are provided within a centralized toilet room area or areas having a travel distance of no more than 500 feet.

(b) Sanitary facilities shall be provided for customers when the office building or space contains 5,000 square feet or more. In office buildings, the required facilities, based on one (1) person per 100 square feet of total area, may be installed within the individual shops, or in a central toilet room area or areas if the distance from the main entrance of any office does not exceed 500 feet and if accessible to physically disabled persons.

(c) Sanitary facilities shall be provided as stated in this section and shall conform as follows:

1. One (1) water closet for one (1) to fifteen (15) persons.
2. Two (2) water closets for sixteen (16) to thirty-five (35) persons.
3. Three (3) water closets for thirty-six (36) to fifty-five (55) persons.
4. Four (4) water closets for fifty-six (56)

to eighty (80) persons.

5. Five (5) water closets for eighty-one (81) to 110 persons.

6. Six (6) water closets for 111 to 150 persons.

7. One (1) water closet for each forty (40) additional persons.

8. One (1) lavatory for one (1) to fifteen (15) persons.

9. Two (2) lavatories for sixteen (16) to thirty-five (35) persons.

10. Three (3) lavatories for thirty-six (36) to sixty (60) persons.

11. Four (4) lavatories for sixty-one (61) to ninety (90) persons.

12. Five (5) lavatories for ninety-one (91) to 125 persons.

13. One (1) lavatory for each forty-five (45) additional persons.

14. Whenever urinals are provided, one (1) water closet less than the number specified may be provided for each urinal installed except that the number of water closets in such cases shall not be reduced to less than seventy (70) percent of the minimum specified.

15. One (1) drinking fountain for each seventy-five (75) persons or fraction thereof.

Section 14. Swimming Pool Bathhouses (relates also to 401 KAR 6:030). (1) Bathhouses for public swimming pools shall be divided into two (2) parts separated by a tight partition, each designated for "Males" or "Men" and the other "Females" or "Women."

(2) Sanitary facilities shall be provided in each bathhouse to serve the anticipated bather loading, as defined in 401 KAR 6:030, Section 7(5), and shall conform to the following:

(a) One (1) water closet for each seventy-five (75) males or fraction thereof.

(b) One (1) water closet for each fifty (50) females or fraction thereof.

(c) One (1) urinal for each seventy-five (75) males or fraction thereof.

(d) One (1) lavatory for each 100 persons or fraction thereof.

(e) One (1) shower per each fifty (50) persons or fraction thereof.

(f) One (1) drinking fountain per each 200 persons or fraction thereof.

(3) Fixture schedules shall be increased for pools at schools or similar locations where bather loads may reach peaks due to schedules of use. Pools used by groups or classes on regular time schedules of one (1) hour or less shall have one (1) shower for each six (6) swimmers, or one (1) shower for each ten (10) swimmers if the period is two (2) hours.

(4) Satisfactorily designed and located shower facilities, including warm water and soap, shall be provided for each sex. Showers shall be supplied with water at a temperature of no less than ninety (90) degrees Fahrenheit, and at a flow rate of at least three (3) gallons per minute. Thermostatic, tempering or mixing valves shall be installed to prevent scalding of the bathers.

(5) The requirement relating to bathhouse toilet room and shower facilities may be waived when such facilities are conveniently available to pool patrons within 150 feet from the pool.

Section 15. Park Service Buildings or Bathhouses (relates to 902 KAR 15:020). (1) Except for self-contained recreational vehicle

parks, each park shall provide one (1) or more central service buildings containing the necessary toilet and other plumbing fixtures specified.

(2) Except for self-contained recreational vehicle parks, sanitary facilities shall be provided as follows:

(a) One (1) to fifteen (15) vehicle spaces.

1. Males. One (1) water closet, one (1) urinal, one (1) lavatory and one (1) shower.

2. Females. One (1) water closet, one (1) lavatory and one (1) shower.

(b) Sixteen (16) to thirty (30) vehicle spaces.

1. Males. One (1) water closet, one (1) urinal, two (2) lavatories and two (2) showers.

2. Females. Two (2) water closets, two (2) lavatories and two (2) showers.

(c) Thirty-one (31) to forty-five (45) vehicle spaces.

1. Males. Two (2) water closets, one (1) urinal, three (3) lavatories and three (3) showers.

2. Females. Two (2) water closets, three (3) lavatories and three (3) showers.

(d) Forty-six (46) to sixty (60) vehicle spaces.

1. Males. Two (2) water closets, two (2) urinals, three (3) lavatories and three (3) showers.

2. Females. Three (3) water closets, three (3) lavatories and three (3) showers.

(e) Sixty-one (61) to eighty (80) vehicle spaces.

1. Males. Three (3) water closets, two (2) urinals, four (4) lavatories and four (4) showers.

2. Females. Four (4) water closets, four (4) lavatories and four (4) showers.

(f) Eighty-one (81) to 100 vehicle spaces.

1. Males. Four (4) water closets, two (2) urinals, five (5) lavatories and five (5) showers.

2. Females. Five (5) water closets, five (5) lavatories and five (5) showers.

(g) When over 100 vehicle spaces are provided there shall be one (1) additional water closet and one (1) additional lavatory for each sex per additional thirty (30) spaces or fraction thereof; one (1) additional shower for each sex per additional forty (40) vehicle spaces or fraction thereof; and one (1) additional urinal for males per additional 100 vehicle spaces.

Section 16. Residential and Day Camp Sites (relates to 902 KAR 10:040). (1) Each residential and day camp site shall be provided with sanitary facilities for each sex as specified.

(2) Sanitary facilities shall be provided as listed below, except, however, day camps shall not be required to provide shower facilities.

(a) One (1) to eighteen (18) persons served.

1. Males. One (1) water closet, one (1) urinal, one (1) lavatory and one (1) shower.

2. Females. Two (2) water closets, one (1) lavatory and one (1) shower.

(b) Nineteen (19) to thirty-three (33) persons served.

1. Males. Two (2) water closets, one (1) urinal, two (2) lavatories and two (2) showers.

2. Females. Two (2) water closets, two lavatories and two showers.

(c) Thirty-four (34) to forty-eight (48) persons served.

1. Males. Two (2) water closets, two (2)

urinals, two (2) lavatories and three (3) showers.

2. Females. Three (3) water closets, two (2) lavatories and three (3) showers.

(d) Forty-nine (49) to sixty-three (63) persons served.

1. Males. Three (3) water closets, two (2) urinals, three (3) lavatories and four (4) showers.

2. Females. Four (4) water closets, three (3) lavatories and four (4) showers.

(e) Sixty-four (64) to seventy-nine (79) persons served.

1. Males. Three (3) water closets, three (3) urinals, three (3) lavatories and five (5) showers.

2. Females. Five (5) water closets, three (3) lavatories and five (5) showers.

(f) Eighty (80) to ninety-five (95) persons served.

1. Males. Four (4) water closets, three (3) urinals, four (4) lavatories and six (6) showers.

2. Females. Six (6) water closets, four (4) lavatories, and six (6) showers.

(g) When over ninety-five (95) persons are served, there shall be provided: One (1) additional water closet and one (1) additional lavatory for each twenty-five (25) persons or fraction thereof served; one (1) additional shower for each twenty (20) persons, or fraction thereof, served; one (1) urinal per fifty (50) additional males or fraction thereof.

(h) Water closets may be substituted for urinals when facilities may be used by both sexes.

Section 17. Retail Food Stores and Restaurants. Sanitary facilities shall be provided for employees. (relates to 902 KAR 10:020 and 902 KAR 45:005).

(1) Food stores.

(a) When in excess of five (5) persons of different sex are employed, separate facilities must be provided for the employees.

(b) Sanitary facilities shall be provided for customers when the building contains 5,000 square feet or more. In malls and/or shopping centers, the required facilities, based on one (1) person per fifty (50) square feet, may be installed in individual stores or in a central toilet room area or areas, if the distance from the main entrance of any store does not exceed 500 feet.

(c) 1. One (1) water closet for one (1) to 100 persons.

2. Two (2) water closets for 101 to 200 persons.

3. Three (3) water closets for 201 to 400 persons.

4. One (1) water closet for each 500 males or 300 females in excess of 400.

5. One (1) urinal for eleven (11) to 200 males.

6. Two (2) urinals for 201 to 400 males.

7. Three (3) urinals for 401 to 600 males.

8. One (1) urinal for each 300 males or fraction thereof, over 600.

9. One (1) lavatory for one (1) to 200 persons.

10. Two (2) lavatories for 201 to 400 persons.

11. Three (3) lavatories for 401 to 700 persons.

12. One (1) lavatory for each 500 persons or fraction thereof in excess of 700.

13. One (1) drinking fountain on each floor for each 500 persons or fraction thereof.

14. One (1) service sink, utility sink or

curbed mop basin per floor as required.

(2) Restaurants.

(a) When in excess of five (5) persons of different sex are employed, separate facilities must be provided for the employees.

(b) In new establishments or establishments that are extensively altered or changed from another type occupancy to a restaurant, toilet facilities for each sex shall be provided and readily accessible for the use of both patrons and employees; provided, that carryout type food service operations shall be exempted from providing toilet facilities for the use of their patrons.

(c) 1. Two (2) water closets for one (1) to 100 persons.

2. Three (3) water closets for 101 to 200 persons.

3. Four (4) water closets for 201 to 300 persons.

4. One (1) water closet for each additional 200 persons or fraction thereof over 300.

(d) 1. One (1) urinal for eleven (11) to 200 males.

2. One (1) urinal for each additional 150 males or fraction thereof over 150.

(e) 1. One (1) lavatory for one (1) to 200 persons.

2. Two (2) lavatories for 201 to 400 persons.

3. Three (3) lavatories for 401 to 600 persons.

4. One (1) lavatory for each additional 200 persons or fraction thereof over 600.

(f) 1. One (1) drinking fountain for one (1) to 100 persons.

2. Two (2) drinking fountains for 101 to 500 persons or fraction thereof.

(g) When food is consumed indoors on premises, water stations may be substituted for drinking fountains.

(h) One (1) service sink, utility sink or curbed mop basin on each floor as required.

(i) Lavatories for hand washing shall be provided in the kitchen area, readily accessible to the employees. However, if the service or utility sink is placed in a location readily accessible to the employees as determined by the Cabinet for Human Resources, it may substitute for the lavatory.

Section 18. Temporary Facilities for Construction Projects. Separate sanitary fixtures shall be provided as scheduled below for both males and females:

(1) One (1) water closet per thirty (30) males or fraction thereof.

(2) One (1) urinal per thirty (30) males or fraction thereof.

(3) One (1) lavatory per thirty (30) males or fraction thereof.

(4) One (1) water closet per twenty (20) females or fraction thereof.

(5) One (1) lavatory per twenty (20) females or fraction thereof.

(6) One (1) drinking fountain per 100 persons or fraction thereof.

Section 19. The fixture requirements of this regulation are also compiled in table form which is available from the Division of Plumbing, Department of Housing, Buildings and Construction, The 127 Building, Frankfort, Kentucky 40601.

CHARLES A. COTTON, Commissioner
ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: October 30, 1987

FILED WITH LRC: November 4, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1987 at 10 a.m. in the Office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by December 17, 1987, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected: N/A

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? N/A

CABINET FOR HUMAN RESOURCES
Department for Health Services
(Proposed Amendment)

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

RELATES TO: KRS Chapter 212

PURSUANT TO: KRS 194.050, 211.090, 211.170, 211.180, 213.410

NECESSITY AND FUNCTION: KRS 211.170 directs the Cabinet for Human Resources to establish policies governing the activities of local health departments. This regulation adopts various manuals setting policies and standards for health departments.

Section 1. Local Health Policy Manual. The policies complete to October 15, 1986, of the "Local Health Policy Manual" governing the maintenance and operation of local health departments are hereby adopted by reference.

Section 2. Financial Management Manual. The

policies complete to December [July] 1, 1987 of the "Financial Management Manual" governing the operation of the financial management systems used by local health departments are hereby adopted by reference.

Section 3. Patient Services Reporting System Manual. The policies set forth in the May 1, 1984, edition of the "Patient Services Reporting System Manual" governing the collection of patient health/medical services delivered by local health departments are hereby adopted by reference.

Section 4. Medical Records System Policy and Procedure Manual for Local Health Departments in Kentucky. The policies and procedures set forth in the May 1, 1984, edition of the "Medical Records System Policy and Procedure Manual for Local Health Departments in Kentucky" governing the development and maintenance of medical records in local health departments are hereby adopted by reference.

Section 5. Planning Manual for Local Health Departments. The policies complete to July, 1987, [set forth in the July, 1986, edition] of the "Planning Manual for Local Health Departments" governing the annual program planning process and procedures of local health departments are hereby adopted by reference.

Section 6. Standards Manual for Local Health Departments. The policies complete to July, 1987, [set forth in the July, 1986, edition] of the "Standards Manual for Local Health Departments" governing the programmatic operations of local health departments are hereby adopted by reference.

Section 7. Local Health Department Environmental Data System Operational Procedures for Weekly Environmental Activity Report, Sanitation Programs Information Formulator, and Local Health Annual Data Report. The policies set forth in the September, 1982, edition of the "Local Health Department Environmental Data System Operational Procedures for Weekly Environmental Activity Report, Sanitation Programs Information Formulator, and Local Health Annual Data Report" are hereby adopted by reference.

Section 8. On-Line Environmental Health Management Information System. The policies set forth in the February 14, 1984, edition of the "On-Line Environmental Health Management Information System" manual are hereby adopted by reference.

Section 9. MCH Maternity Manual. The policies set forth in the July 1, 1985, edition of the "MCH Maternity Manual" governing the operation of the prenatal program conducted by local health departments are hereby adopted by reference.

Section 10. Sudden Infant Death Syndrome Program. The policies complete to October 15, 1986, of the "Sudden Infant Death Syndrome Program" manual governing the operation of the Sudden Infant Death Syndrome Program conducted by local health departments are hereby adopted by reference.

Section 11. Standards for Genetic Disease Testing, Counseling and Education Services Program. The policies set forth in the October 15, 1985, edition of the "Standards for Genetic Disease Testing, Counseling and Education Services Program" manual governing the operation of genetic disease testing and counseling clinics conducted by local health departments are hereby adopted by reference.

Section 12. Standards for Regional Pediatric Clinics. The policies set forth in the October 15, 1985, edition of the "Standards for Regional Pediatric Clinics" manual governing the operation of regional pediatric programs conducted by local health departments are hereby adopted by reference.

Section 13. Standards for Preventive Health Care in Children. The policies set forth in the December 15, 1985, edition of the "Standards for Preventive Health Care in Children" manual governing the operation of well child programs conducted by local health departments are hereby adopted by reference.

Section 14. Standards for Child Restraint Program. The policy set forth in the January 1, 1986, edition of the "Standards for the Child Restraint Program" manual governing the operation of safety seat loan programs conducted by local health departments are hereby adopted by reference.

Section 15. Location of Manuals Referenced in this Regulation. A copy of each manual referenced in this regulation is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky, and is open to public inspection.

Section 16. Summary of Amendment. (1) In relation to Section 2 of this regulation relating to the Financial Management Manual, the Manual is being revised effective December 1, 1987, to update, expand upon, and clarify the department's policies for local health departments relative to financial management reporting requirements; allowable expenditures; contracting for services; addition/deletions to the Chart of Accounts; and application of the Uniform Percentage Payment Schedule. [July 1, 1987, to reflect an increase in the central administrative charge assessed against Medicare and Medicaid receipts received by local health department home health agencies. No central administrative charge will be made against Medicaid receipts received for waiver services.]

(2) In relation to Section 5 of this regulation relating to the Planning Manual for Local Health Departments, the manual is being revised effective July, 1987, to simplify the program planning process for local health departments by requiring that a comprehensive plan is to be submitted to the department only for new or demonstration programs and special projects and that an abbreviated plan is to be submitted on continuation programs.

(3) In relation to Section 6 of this regulation relating to the Standards Manual for Local Health Departments, the manual is being revised effective July, 1987, to reflect: changes in the state of the art in public health programs; modifications in the patient services reporting systems; and the department's emphasis

on service integration in local health departments.

C. HERNANDEZ, Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: November 4, 1987

FILED WITH LRC: November 9, 1987 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 1987, at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by December 17, 1987, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Phillip R. Spangler

(1) Type and number of entities affected: 47 local health departments.

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

1. First year: Minimal

2. Continuing costs or savings: Minimal

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

(b) Reporting and paperwork requirements: This regulation imposes no significant overall change in reporting or paperwork requirements. In some areas (e.g., financial management) the requirements are strengthened; in other areas (e.g., planning for continuation programs) the requirements are reduced.

(2) Effects on the promulgating administrative body: No significant effect.

(a) Direct and indirect costs or savings: Minimal

1. First year: Minimal

2. Continuing costs or savings: Minimal

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

(b) Reporting and paperwork requirements: No additional.

(3) Assessment of anticipated effect on state and local revenues: No significant effect.

(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: None

(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. N/A

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: Policies contained in the financial management, planning, and standards manuals for local health departments are designed to comply with all federal program agency requirements for grantees of federal funds.

2. Does the proposed regulation impose

stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

CABINET FOR HUMAN RESOURCES
Department for Mental Health and
Mental Retardation Services
(Proposed Amendment)

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

RELATES TO: KRS Chapter 210

PURSUANT TO: KRS 210.010

NECESSITY AND FUNCTION: KRS 210.010 directs the Secretary of the Cabinet for Human Resources to prescribe regulations for the institutions under the control of the cabinet. The function of this regulation is to adopt policies and procedures for such institutions.

Section 1. Oakwood Policy Manual. The policies set forth in the November [September] 15, 1987, 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 November 15, 1987 [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 November 15, 1987 [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 November [October] 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 November [October] 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 November [October] 15, 1987, edition of the "Western State Hospital Policy Manual" consisting of thirty-three (33) 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

November 15, 1987 [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 November 15, 1987 [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 November 15, 1987 [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 November [October] 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

VOL A1 DST 07 #34 (4) - add the words "or fine" after "suspension" under "4th or 5th offense".

Section 2 - Hazelwood Policy Manual

A new policy book has been developed, with the two volumes being condensed into one. The policies included in this current manual are those which still remain from the former, two volumes. There are four new policies.

Policy #D-7.1 Normalization.

Type change: This policy is submitted as required by the accreditation body, ACDD, and explains our overall approach toward normalizing resident care.

Policy #E-14.2 Pastoral Services Advisory Council.

Type change: New policy. This establishes an advisory council composed of local ministers, parents, and residents, and promotes direction in community involvement in the provision of residential religious services.

Policy #G-1 Risk Management.

Type change: New policy. The risk management program for the facility is designed to reduce chances of accidents for employees and residents, thus preventing

environmental dangers.

Policy #H-2

Type change: Linen and Clothing Exchange. New policy in order to more clearly provide residents with their daily linen needs by authorizing daily allotments to staff. The new procedure will reduce the consumption of linen and provide more efficient distribution.

The above policies are new to the facility, and result from the updating of the previous policy manual.

Section 3 - Central State Hospital/ICF-MR Policy Manual

Vol C1, Series 4-17, #25 (4) - add the words "or fine" after "suspension" under "4th or 5th offense".

Section 4 - Eastern State Hospital Policy Manual

Vol D2 Section II, #16 (4) - add the words "or fine" after "suspension" under "4th or 5th offense".

Vol E Section 2, pg. 45 - New policy outlines who is to use the park and the restrictions that have been agreed upon by the Executive Committee.

Section 5 - Central State Hospital Policy Manual

Volume E1

Section B No. 26 - Hospital Environment - revised to add under Procedure No. 6 (third paragraph "Cameras") to read "Photographs of patients are prohibited by anyone."

Section C No. 1 - Fire and Safety - the entire Fire and Safety Manual revised to correspond with the new facility and to make the necessary procedures and responsibilities for the safe operation of Central State Hospital.

Section Y No. 2 - Hours of Operation - Pharmacy & Central Supply revised to change Procedure 2(a) to include the emergency night cabinet (Documed) and give its location in the new hospital building.

Section HH No. 2.10 - Revised policy to change in the Subject on Line 2 to delete "involuntary" and add "KRS 202A" Procedure No. 3 - substitute "social worker" for "care manager". Procedure No. 4 - delete "see procedure for patients taken out of hospital by visitors".

Section HH No. 2.32 - Revised to substitute social worker for care manager in Paragraphs 1 and 2; and deleting in Paragraph 3 "the case manager" and starting the sentence with "Any staff".

Section HH No. 2.40 - Revised to include in the policy section line 2, "including self care such as eating or taking fluids", and to add in line 3 "KRS 202A".

Procedure No. 2 - second and third sentences deleted. Procedure No. 4 was added to the procedures. Procedure No. 8 was added to the procedures.

Section HH No. 2.60 - revised in the Policy section to change "case manager" to "designated staff member".

Procedure No. 1 - changed "case Manager" to read "staff member".

Procedure No. 3 - "case manager" to read "staff member".

Procedure No. 4 - second line changed "case manager" to "staff member".

Section HH No. 2.70 - revised policy for minor clarifications.

Section HH No. 3.20 - revised policy to add under Procedure No. 7 (a) added Switchboard operator and deleted (8 a.m. to 4:30 p.m.) in (g.) by the Hospital Chaplain.

Section HH No. 4.45 - revised policy - under Procedure No. 2 (g) the words "with patient's consent for release of information" was added.

Section HH No. 8.30 - revised policy - Subject - "Ward" was changed to "Patient". Under policy word "ward" was deleted. Procedure (1) "ward" was changed to read "unit" and No. 8 was deleted.

Section HH No. 11.50 - revised policy.

E-16 - Psychology Department Manual

1. Psychological Services - was changed to reflect new organization found in the new hospital.
2. The Psychologist as Consultant to Treatment Team - subject was changed to reflect role as consultants to the treatment team rather than members.
3. Psychological Assessment - description of charting was changed to coincide with new procedure.
4. Individual Psychotherapy - minor changes made in referral section to reflect current policy.
5. Group Psychotherapy - minor changes made in documentation section to conform with new procedures.
6. Supervision - changed to reflect supervision for staff and students.
7. Quality Assurance Program for Psychology - changed to conform with recent changes in Quality Assurance standards.
8. Privileging for Psychology Staff - new policy to describe privileging for psychology staff.

Vol E1 Section X #19 (4) - add the words "or fine" after "suspension" under "4th or 5th offense".

Section 6 - Western State Hospital Policy Manual

Vol F 33 Infection Control Policy

- #7 - Disposal of Hospital Waste - New policy in response to treatment need.
- #8 - Body Substance Precautions - New policy in response to treatment need.
- #9 - Cleaning and Monitoring of ward Refrigerators - New policy in response to treatment need.

Vol F14, #38 (4) - add the words "or fine" after "suspension" under "4th or 5th offense".

Section 7 - Glasgow ICF Policy Manual

Vol G12, PG. 12b (4) - add the words "or fine" after "suspension" under "4th or 5th offense".

Section 8 - Western State Hospital ICF Policy Manual

Vol H1, #XXVIII (4) - add the words "or fine" after "suspension" under "4th or 5th offense".

Section 9 - Volta Policy Manual

Vol I Personnel I (4) - add the words "or fine" after "suspension" under "4th or 5th offense".

Section 10 - Kentucky Correctional Psychiatric Center

J-5/A14 This policy was revised to include the duties of the 5-A Officer during meals.

Vol J1, A45 (D) - add the words "or fine" after "suspension" under "4th or 5th offense".

[Section 4 - Eastern State Hospital Policy Manual

Vol D 1 - Sec 1, P. 26. Unusual Occurrence
This is a revision to send a copy of the report to the Risk Manager, and to delete the section signed by the physician.

Sec 2, P-10 Town Pass/Leave Pass. This is revised so that patients returning from pass may be monitored for safety precautions.

P 36 - Patients Returning From Leave. This is revised so that patients returning from leave may be monitored for safety precautions.

Section 5 - Central State Hospital Policy Manual

Vol E1 - Section B #2 - Smoking Policy is repealed.

Vol E1 - Section G No. 1 - Nursing Service - revised policy - under the policy the last four sentences were added. Under Procedure - No. 1, 2, 4 and 10 were added as these revisions are to reflect that responsibility and accountability are major components in the every day operation of the Nursing Department and statements were also added to indicate that the nursing process is utilized and that a sufficient number of qualified registered nurses are on duty at all times.

Section G No. 2 - Registered Nurse Coverage - revised policy - Under Procedure No. 2 the wording "PRN Pool" was added to the sentence. Under Procedure No. 3 in sentence No. 1 the wording "has followed the minimal staffing guidelines" was added. Also under Procedure 3 (B) Nursing Administrator was deleted. These revisions were made to reflect a change in the minimum number of Registered Nurses that is to be assigned to the shift at all times. A statement was also added to indicate that a Registered Nurse from the PRN pool may be requested to assist with coverage.

Section G No. 5 - License to Practice Nursing - revised policy - under policy in the second sentence the wording "current temporary license or temporary work permit" was added. Procedure #2 is a new procedure and in procedure #3 in the

first sentence the words (RN or LPN) were added. This policy revision was made to reflect that the nurse must show her/his actual nursing license to the Charge Nurse or Supervisor for accuracy.

Section G No. 9 - Documented - new policy to be added. The Documented is a cabinet that was purchased to meet the needs for pharmacy control after hours. The new policy was written as a procedural guideline for nursing staff.

Section 6 - Western State Hospital Policy Manual

Vol F 29 - Recreation Therapy Manual

A complete manual is submitted with minor revisions in a few places to coincide with guidelines for Individual Treatment Planning, a new summer schedule, and to meet the needs of Learning and Habilitation patients more accurately.

Vol F 33 - Employee Health Policies

#8 - A new policy on Infection Control in Hospital Personnel.

Section 10 - Kentucky Correction Psychiatric Center Policy Manual

Vol J1, Sec B #39 - A new policy on death of a patient.

Vol J4 #1A - Is repealed.]

DENNIS D. BOYD, Commissioner

E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: November 2, 1987

FILED WITH LRC: November 9, 1987 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 1987, at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by December 17, 1987 of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Verna Fairchild

(1) Type and number of entities affected: This regulation with the attached reference material is the ongoing policy and procedure manual of the state facilities for the treatment of patients with mental illness and mental retardation. These facilities function with 2,880 staff members serving 1,850 residents.

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: This regulation usually does not affect the fiscal operation of these state facilities significantly. It affects the care and treatment of patients, compliance with JCAH standards, and Kentucky licensure regulations. The work environment of the staff is frequently the

subject of this regulation also, along with the orderly management of the various programs.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues:

(4) Assessment of alternative methods; reasons why alternatives were rejected: Present procedure not previously adopted by regulation.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? Yes

CABINET FOR HUMAN RESOURCES Department for Social Insurance Division of Management & Development (Proposed Amendment)

904 KAR 2:006. Technical requirements; AFDC.

RELATES TO: KRS 205.010, 205.200(2), (3)

PURSUANT TO: KRS 194.050

NECESSITY AND FUNCTION: The Cabinet for Human Resources has the responsibility under the provisions of KRS Chapter 205 to administer the assistance program of Aid to Families with Dependent Children, hereinafter referred to as AFDC, in accordance with Title IV-A of the Social Security Act. KRS 205.200(2) requires that the conditions of eligibility to receive AFDC money grants be prescribed by regulations in conformity with the Social Security Act and federal regulations. This regulation sets forth the technical requirements of residence, deprivation, living with a relative, age, one (1) category of assistance, work registration, cooperation in child support activities and potential entitlement for other programs for eligibility for AFDC.

Section 1. Residence and Citizenship. Residence is determined in accordance with 45 CFR 233.40 which, in summary, provides that a resident is anyone who is living in the state, entered the state with a job commitment or seeking employment, and is not receiving AFDC benefits from another state. Citizenship is determined in accordance with 45 CFR 233.50 which states that AFDC can be provided only to citizens or aliens lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

Section 2. Deprivation. (1) To be eligible for AFDC, a child must be in need and must be deprived of parental support or care due to the death, continued absence from the home or physical or mental incapacity of a natural or adoptive parent. A married child living with her/his spouse in the home of her/his parents is not deprived of parental support or care. A married child living in the home of her/his parents but divorced or legally separated from

her/his spouse is deprived of parental support if she/he is dependent on the parent and a parent is dead, incapacitated or continually absent from the home.

(2) Continued absence from the home. To be eligible for AFDC, a needy child must be physically separated from the parent and the nature of the absence of the parent is such as either to interrupt or terminate the parent's functioning as a provider of maintenance, physical care, or guidance for the child, and the known or indefinite duration of absence precludes counting on the parent's performance of his/her function in planning for the present support or care of the child. Absence may be voluntary or involuntary. Voluntary absence includes divorce, legal separation, marriage annulment, desertion of thirty (30) days or more, forced separation of seven (7) days or more, or birth out-of-wedlock. Involuntary absence includes commitment to a penal institution for thirty (30) days or more, long term hospitalization, deportation or single parent adoption. A parent who is a convicted offender but is permitted to live at home while serving a court-imposed sentence by performing unpaid public work or unpaid community service during the workday is considered absent from the home.

(3) Incapacity. All determinations regarding whether a child has been deprived of parental support or care by reason of the physical and/or mental incapacity of a natural or [,] adoptive parent [, or stepparent] shall be in conformance with federal regulations found at 45 CFR §233.90(c)(1)(iv) and the criteria set forth in this subsection. Each determination shall be based on a full consideration and assessment of all medical, social, and economic factors involving a particular claimant. Should a verified medical condition exist, then all relevant social and economic factors will be considered to determine whether the parent's condition is the cause of and results in a parent's inability to support or care for the child(ren).

(a) Incapacity exists in each case when the following criteria are met:

1. It is medically determined that one (1) parent has a physical and/or mental defect, illness or impairment which was present at the time of application and which has continued or is expected to last for a period of at least thirty (30) calendar days, including a period, if any, in which the claimant is undergoing planned diagnostic studies and/or evaluation of rehabilitation potential; and

2. It is determined by nonmedical evaluation that such defect, illness or impairment is of such debilitating nature as to reduce substantially or eliminate the parent's ability to support or care for an otherwise eligible child.

(b) Factors to be considered in making the medical determination shall include:

1. The claimant's medical history and subjective complaints regarding an alleged physical and/or mental defect, illness or impairment; and

2. Competent medical testimony relevant to:

a. Whether a physical or mental defect, illness or impairment exists;

b. Whether the defect, illness or impairment is enough to reduce the parent's ability to support or care for a child; and

c. Whether the defect, illness or impairment is likely to last thirty (30) days. The thirty (30) days is not intended to be a "waiting period." Rather, expected duration is substantial and pertinent to causal relationship [and substantially].

(c) Factors to be considered in making the nonmedical evaluation shall include:

1. The claimant's age, employment history, vocational training, educational background, and subjective complaints regarding the alleged effect of the physical or mental condition on his/her ability to support or care for the child; and

2. The extent and accessibility of employment opportunities available in the claimant's area of residence.

(d) In determining the extent and accessibility of available employment opportunities, the limited employment opportunities of handicapped individuals shall be taken into account; and

1. Available printed materials that provide information regarding available employment opportunities shall be researched;

2. The local Department for Employment Service (DES) office shall be contacted regarding accessible employment opportunities within the claimant's area of residence; and

3. The claimant shall be referred, if necessary, for further appraisal of his/her abilities.

(e) A written report shall be made of the determination under this subsection.

(f) Each claimant shall be provided timely and adequate notice of and an opportunity for a fair hearing in accordance with federal regulations found at 45 CFR §205.10.

Section 3. Living with a Specified Relative. To be eligible for AFDC a needy child must be living in the home of a relative as specified in the Social Security Act and interpreted as follows:

(1) A blood relative, including father, mother, grandfather, grandmother, brother, sister, uncle, aunt, nephew, niece, first cousin.

(2) Also relatives of the half-blood and preceding generations as denoted by prefixes of grand, great or great-great; a stepfather, stepmother, stepbrother, stepsister.

(3) Any person listed above if parent has had paternity established through the administrative determination process. An administrative determination of paternity is limited to situations in which the following types of evidence are present:

(a) A birth certificate listing the alleged parent; or

(b) Legal documents such as hospital records, juvenile court records, wills, and other court records which clearly indicate the relationship of the alleged parent or relative; or

(c) Receipt of statutory benefits as a result of the alleged parent's circumstances; or

(d) A sworn statement or affidavit of either parent acknowledging paternity plus one (1) of the following:

1. School records;
2. Bible records;
3. Immigration records;
4. Naturalization records;
5. Church documents, such as baptismal certificates;
6. Passport;

7. Military records;
 8. U.S. Census records; or
 9. Sworn statement or affidavit from an individual having specific knowledge about the relationship between the alleged parent and child.

(e) Effective April 1, 1987, in cases in which the parent or, in the absence of the parent, the caretaker relative alleges the evidence present in paragraphs (a) or (b) of this subsection is erroneous and provides substantiation of the erroneous information, the parent/caretaker relative shall provide a sworn statement or affidavit acknowledging the erroneous information and containing the correct information on the actual alleged parent. Presence of the sworn statement or affidavit will serve as rebuttal to the evidence present in paragraphs (a) or (b) of this subsection and a determination of paternity will not be acknowledged.

(4) Adoptive parents as well as the natural and other legally adopted children and other relatives of such parents.

(5) Husband or wife of any persons listed above even if the marriage may have terminated, providing termination occurred after the birth of the child.

(6) A child is considered as living in the home even when temporarily absent for medical care, attendance at boarding school, college or vocational school, emergency foster care or short visits with friends or relatives, if the parent continues to exercise control over the child.

Section 4. Age and School Attendance. A child may be eligible for AFDC from birth to age eighteen (18), or to age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program prior to or during the month of their 19th birthday. Full- and part-time is defined in 904 KAR 2:016, standards for need and amount; AFDC. A child is considered in regular attendance in months in which he/she is not attending because of official school or training program vacation, illness, convalescence or family emergency unless he/she has indicated an intention not to reenter school.

Section 5. One Category of Assistance. A child or adult relative shall not be eligible for AFDC if receiving supplemental security income.

Section 6. Strikers. (1) A family shall be ineligible for benefits for any month in which the natural or adoptive parent, with whom the child is living is, on the last day of such month, participating in a strike; and

(2) No individual shall be considered eligible for benefits for any month if, on the last day of such month, such individual is participating in a strike.

(3) Strike shall be defined to include a strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.

Section 7. Work Registration. (1) Unless exempt under the criteria specified in Title IV of the Social Security Act and 45 CFR Section

224.20(b), an individual who has applied for or is receiving AFDC shall be ineligible for benefits if he/she refuses to register for the Work Incentive Program, (WIN) or if registered, refuses to participate without good cause. Participation in a strike shall not constitute good cause.

(2) Individuals exempt from WIN registration pursuant to 45 CFR 224.20(b) are as follows:

(a) An individual under age sixteen (16);

(b) A child age sixteen (16) to age eighteen (18), if enrolled as a full-time student; or to age nineteen (19), if a full-time student who meets the requirements set forth in Section 4 of this regulation;

(c) An individual who has a medically determined temporary illness or injury with recovery anticipated within ninety (90) days;

(d) An individual who has a medically determined physical or mental incapacity which is expected to exist longer than ninety (90) days;

(e) An individual age sixty-five (65) or over;

(f) An individual whose presence is required in the home to care for another member of the household who has been medically determined to be precluded from self-care and for whom alternate care arrangements are not feasible;

(g) A parent or other relative who cares for a child under six (6), and who personally provides full-time care of the child with only very brief and infrequent absences from the child. Brief and infrequent absences are defined as:

1. Employment by the caretaker relative of less than thirty (30) hours per week;

2. Less than full-time school attendance as specified in 904 KAR 2:016 by the caretaker relative;

3. Less than full-time attendance as specified in 904 KAR 2:016 and less than fifteen (15) hours per week employment by the caretaker relative;

4. Less than full-time attendance by the under six (6) year old child in a school or preschool;

5. Attendance by the under six (6) year old child in kindergarten;

6. Additionally, brief and infrequent absences include:

a. Visits by the under six (6) year old child with relatives, friends, the absent parent, neighbors, etc.;

b. Visits by the caretaker relative with relatives, friends, neighbors, etc.;

c. Routine shopping and errands;

d. Doctor's visits; and

e. Short-term hospitalization (less than thirty (30) days).

7. If a parent or other caretaker relative is absent from the child for reasons other than these listed, the absence is not considered brief and infrequent.

(h) A person so far remote from a work incentive project that his/her effective participation is precluded;

(i) An individual who is employed not less than thirty (30) hours per week, in unsubsidized employment expected to last a minimum of thirty (30) days, except when there is a temporary break in such employment expected to last longer than ten (10) days;

(j) A woman who has been medically verified to be in the third trimester of pregnancy.

Section 8. Cooperation in Child Support Activities. (1) Inclusion of a specified

relative in the AFDC budget is dependent upon his/her cooperation in child support activities pursuant to 45 CFR 232.12 and refusal, except for "good cause," results in ineligibility of the relative with AFDC payments on behalf of the child(ren) made to a protective payee.

(2) If, after exclusion from the grant for failure to cooperate, the individual states that he/she is willing to cooperate and wishes to be reinstated, a supplemental application must be completed. If eligibility criteria are met, the individual will be added to the grant effective with the month of application and the protective payee will be removed.

(3) Pursuant to 45 CFR Part 232.40, the Cabinet for Human Resources will provide written notice to the applicant or recipient that he/she may claim good cause for refusing to cooperate.

(4) The applicant or recipient will be determined to have "good cause" for failing to cooperate only when one (1) or more of the following criteria is met:

(a) The applicant or recipient's cooperation is reasonably anticipated to result in physical or emotional harm of a serious nature to the child; or

(b) The applicant or recipient's cooperation is reasonably anticipated to result in physical or emotional harm of a serious nature to himself/herself to such an extent that it would reduce his/her capacity to care for the child(ren) adequately; or

(c) The child was conceived as a result of incest or forcible rape and the department believes it would be detrimental to the child to require the applicant's/recipient's cooperation; or

(d) Legal proceedings for adoption of the child by a specific family are pending before a court of competent jurisdiction; and the department believes it would be detrimental to the child to require the applicant's/recipient's cooperation; or

(e) The applicant/recipient is being assisted by a public or licensed private social agency to resolve whether to keep the child or release him/her for adoption and discussion has not gone on for more than three (3) months and the cabinet believes it would be detrimental to the child to require the applicant's/recipient's cooperation.

(5) Specific requirements in determining the existence of good cause and the time limits for providing substantiation of claims are made pursuant to the regulation at 45 CFR 232.42 and 45 CFR 232.43.

Section 9. Potential Entitlement for other Programs. All applicants/recipients must apply for any benefit(s) if potential entitlement exists. Failure to apply results in ineligibility for AFDC.

Section 10. Furnishing of Social Security Account Numbers. All applicants/recipients must furnish social security account numbers pursuant to 45 CFR 232.10.

Section 11. Assignment of Rights to Support. Pursuant to KRS 205.720, by accepting assistance for or on behalf of a child, a recipient is deemed to have made an assignment to the Cabinet for Human Resources of any child support owed for the child not to exceed the amount of AFDC payments made to the recipient.

Section 12. Assignment of Rights to Medical Support. By accepting assistance for or on behalf of a child, a recipient is deemed to have made an assignment to the Cabinet for Human Resources of any medical support owed for the child not to exceed the amount of medical assistance payments made on behalf of the recipient.

E. AUSTIN, JR., Secretary

MIKE ROBINSON, Commissioner

APPROVED BY AGENCY: October 27, 1987

FILED WITH LRC: November 2, 1987 at 2 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 1987 at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by December 17, 1987 of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James E. Randall

(1) Type and number of entities affected: Negligible number of persons applying to include a stepparent in the AFDC grant due to his incapacity.

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

1. First year: Minimal

2. Continuing costs or savings: Minimal

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: Minimal direct savings.

1. First year: Minimal

2. Continuing costs or savings: Minimal

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: N/A
TIERING: Was tiering applied? No. Not applicable to AFDC program.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Department of Management & Development
(Proposed Amendment)

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

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

PURSUANT TO: KRS 205.200(2)

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

Section 1. Definitions. (1) "Assistance group" is composed of one (1) or more children and may include as specified relative any person specified in 904 KAR 2:006, Section 3. The assistance group shall include the dependent child, child's eligible parent(s), and all eligible siblings living in the home with the needy child. Additionally, if the dependent child's parent is a minor living in the home with his/her eligible parent(s), the minor's parent(s) shall also be included in the assistance group if the minor's parent applied for assistance. The incapacitated natural or adoptive parent of the child(ren) who is living in the home shall be included as second parent if the technical eligibility factors are met.

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

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

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

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

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

(a) The number of hours required by the individual program for participation in a General Educational Development (GED) program; or

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

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

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

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

attendance."

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

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

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

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

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

Section 2. Resource Limitations. Real and personal property owned in whole or in part by an applicant or recipient including sanctioned individual(s) and his/her parent(s), even if the parent(s) is not an applicant or recipient, if the applicant/recipient is a dependent child living in the home of said parent, shall be considered. The amount that can be reserved by each assistance group shall not be in excess of \$1,000 equity value excluding those items specifically listed in subsection (1) of this section as follows:

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

(a) One (1) owner-occupied home;

(b) Home furnishings, including all appliances;

(c) Clothing;

(d) One (1) motor vehicle, not to exceed \$1,500 equity value;

(e) Farm machinery, livestock or other inventory, and tools and equipment other than farm, used in a self-employment enterprise;

(f) Items valued at less than fifty (50) dollars each;

(g) One (1) burial plot/space per family member;

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

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

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

(2) Disposition of resources. An applicant/recipient must not have transferred or otherwise divested himself/herself of property without fair compensation in order to qualify for assistance. If the transfer was made expressly for the purpose of qualifying for assistance and if the uncompensated equity value

of the transferred property, when added to total resources, exceeds the resource limitation, the household's application shall be denied, or assistance discontinued. The time period of ineligibility shall be based on the resulting amount of excess resources and begins with the month of transfer. If the amount of excess transferred resources does not exceed \$500, the period of ineligibility shall be one (1) month; the period of ineligibility shall be increased one (1) month for every \$500 increment up to a maximum of twenty-four (24) months.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Nonemergency medical transportation payments;

(j) Principal of loans;

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

(l) Highway relocation assistance;

(m) Urban renewal assistance;

(n) Federal disaster assistance and state disaster grants;

(o) Home produce utilized for household consumption;

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

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

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

(s) Benefits received under Title VII,

Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended;

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

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

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

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

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

(y) The first fifty (50) dollars of child support payments collected in a month which represents the current month's support obligation and is returned to the assistance group;

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

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

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

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

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

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

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

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

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

(b) First thirty (30) dollars and one-third (1/3) of the remainder of each individual's earned income not already disregarded, if that individual's needs are considered in determining the benefit amount. The one-third (1/3) portion of this disregard shall not be applied to an individual after the fourth consecutive month it

has been applied to his/her earned income. The thirty (30) dollar portion of this disregard shall be applied concurrently with the one-third (1/3) disregard, however, it shall be extended for an additional eight (8) months following the four (4) months referenced in the preceding sentence. These disregards shall be applied in accordance with 45 CFR 233.20(a)(11)(i)(D) and 45 CFR 233.20(a)(11)(ii)(B) and shall not be available to the individual until he/she has not been a recipient for twelve (12) consecutive months; and

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

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

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

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

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

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

4. A bona fide offer of employment at a minimum wage customary for such work in the community was not made.

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

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

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

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

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

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

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

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

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

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

(b) An amount equal to the AFDC assistance standard for the appropriate family size, for the support of the stepparent or parent(s)/legal

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

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

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

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

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

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

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

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

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

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

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

(d) Actual payments of alimony or child support paid to nonhousehold members; and

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

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

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

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

Number of Eligible Persons	Monthly Standard
1 Child	\$147 [140]
2 Persons	\$179 [170]
3 Persons	\$207 [197]
4 Persons	\$259 [246]
5 Persons	\$303 [288]
6 Persons	\$342 [325]
7 or more Persons	\$381 [362]

Section 9. Educational Allowance. An educational allowance shall be included in the assistance standard each month at the request of the caretaker relative, if the criteria in subsection (1) of this section are met and verified for said month(s) and funds are available. Households receiving the educational allowance shall be subject to time frames, procedures, and penalties established for households required to report monthly.

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

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

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

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

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

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

	1 Child		2 or More Children	
	Full-Time	Part-Time	Full-Time	Part-Time
Literacy	\$ 20	-	\$ 25	-
GED	\$ 94	-	\$117	-
Elementary School/				
Junior High	\$174	=	\$218	=
High School	\$174	=	\$218	=
Vocational School	\$174	=	\$218	=
College/University	\$174	\$103	\$218	\$129
[High School, Vocational School, or College/University	\$174	\$103	\$218	\$129]

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

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

(b) High school level.

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

Type of Program	Maximums
General Educational Development (GED)	16 months
High School (includes primary and secondary)	27 months

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

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

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

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

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

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

(a) The overpaid assistance unit;

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

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

(3) Overpayments shall be recovered through:

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

(b) Reduction of future AFDC benefits, which shall result in the assistance group retaining, for the payment month, family income and liquid resources of not less than ninety (90) percent

of the amount of assistance paid to a like size family with no income in accordance with Section 8; and/or

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

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

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

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

Section 11. Provisions contained in this regulation shall become effective December 1, 1987.

E. AUSTIN, JR., Secretary

MIKE ROBINSON, Commissioner

APPROVED BY AGENCY: October 27, 1987

FILED WITH LRC: November 2, 1987 at 2 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 1987 at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by December 17, 1987 of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James E. Randall

(1) Type and number of entities affected: All AFDC families (average monthly number of 59,754). The increase in the standards of assistance results in a corresponding increase in the Gross Income Scale, thus making more people eligible. It is estimated that an additional 1,600 people will be eligible in the remainder of state fiscal year 1988 and 3,200 the following year.

(a) Direct and indirect costs or savings to those affected: This will amount to an increase in standard available to each family in the following amount:

Size of Family	Amount of Monthly Increased Standard
1	\$ 7
2	9
3	10
4	13
5	15
6	17
7 or more	19

1. First year:

Size of Family	Amount of Yearly Increased Standard
1	\$ 84
2	108
3	120
4	156
5	180
6	204
7 or more	228

2. Continuing costs or savings: Similar to the 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:

(a) Direct and indirect costs or savings:

1. First year: Direct costs of the 5% increase - \$1,232,300 in state funds and \$2,980,600 in federal funds for the remainder of state fiscal year 1988.

2. Continuing costs or savings: \$2,595,300 in state funds and \$6,277,400 in federal funds.

3. Additional factors increasing or decreasing costs: The increase in the standard of assistance results in a corresponding increase in the gross income scale, thus making more people eligible. This has been included in the costs.

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: N/A

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

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Not applicable to the AFDC program.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Division of Management & Development
(Proposed Amendment)

904 KAR 2:020. Child support.

RELATES TO: KRS 205.795

PURSUANT TO: KRS 205.795

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility for administering the Child Support Program in accordance with Title IV-D of the Social Security Act and KRS 205.710 to 205.800 and 205.992. The cabinet is required by the Social Security Act to make efforts to establish paternity and/or secure support from absent parents of children receiving public assistance as a result of desertion or abandonment or due to birth out-of-wedlock and for other children on application. KRS 205.795 empowers the secretary to adopt regulations pertaining to the administration of the Child Support Program. This regulation specifies the procedure for the operation of the program.

Section 1. Compliance with Federal Regulations. The cabinet shall administer the Kentucky Child Support Program in accordance with Title IV-D of the Social Security Act and Title 45 CFR Sections 301, 302, 303, 304, 305, 306 and 307.

Section 2. Relation to Title IV-A Program. The cabinet shall administer the Kentucky Child Support Program, as the program relates to Title IV-A recipients, in accordance with regulations

cited in Section 1 of this regulation and Title 45 CFR Sections 205, 232, 233, 234, and 235.

Section 3. Relation to Title IV-E Program. The cabinet shall administer the Kentucky Child Support Program, as it relates to Title IV-E recipients, in accordance with regulations cited in Section 1 of this regulation and Title 45 CFR Section 1356.

Section 4. Definitions. (1) "Cabinet" shall mean the Cabinet for Human Resources.

(2) "Secretary" shall mean Secretary of the Cabinet for Human Resources or his designee.

(3) "Court order" shall mean any judgment, decree, or order of the courts of this or any other state.

(4) "Dependent child" or "needy dependent child" shall mean any person under age eighteen (18) who is not otherwise emancipated, self-supporting, married or a member of the Armed Forces of the United States and is a recipient of or an applicant for public assistance or who has applied for child support services in accordance with Title IV-D of the Social Security Act.

(5) "Duty of support" shall mean any obligation of support imposed or imposable by law or by court order, decree, or judgment whether interlocutory or final, and includes the duty to pay arrearages of support past due in addition to medical support whenever health care coverage is available at a reasonable cost.

(6) "Parent" shall mean the natural or adoptive parent of a child and includes the father of a child born out-of-wedlock if paternity has been established in a judicial proceeding or in any manner consistent with the laws of this state.

(7) "AFDC recipient" shall mean a child or caretaker relative who is receiving AFDC as prescribed by Title IV-A of the Social Security Act.

(8) "Cooperation" shall mean the act of providing to the IV-D agency or the responsible local official any verbal or written information or documentation needed by the IV-D agency or local official for child support activities, and otherwise complying with the requirements of the Child Support Program.

(9) "Good cause" shall mean that the public assistance recipient has a valid and acceptable reason (as determined by the cabinet) for failing to cooperate in activities related to the Child Support Program.

(10) "Nonpublic assistance recipient" shall mean any child or family who does not receive public assistance, but does receive child support services based on an application filed with the IV-D agency or with a responsible local official who has entered into a written agreement with the IV-D agency.

(11) "Responsible local official" shall mean the elected or appointed official in a political subdivision who is legally responsible for law enforcement activities and has entered into a written agreement with the IV-D agency.

(12) "Title IV-D agency" shall mean the organizational unit in the state that has responsibility for administering the Title IV-D (Child Support) Program.

(13) "Title IV-A agency" shall mean the organizational unit in the state that has responsibility for administering the Title IV-A (AFDC) program.

(14) "Title IV-E agency" shall mean the organizational unit in the state that has responsibility for administering the Title IV-E (foster care maintenance and adoption assistance) program.

(15) "Paternity blood tests" shall mean those tests used in contested paternity actions including, but not limited to, ABO and human leucocyte antigen (HLA) tests administered by qualified laboratories or medical personnel.

(16) "Public assistance" shall mean money grants, assistance in kind or services to or for the benefit of needy aged, needy blind, needy permanently and totally disabled persons, needy children or persons with whom a needy child lives, or a family containing a combination of these categories.

(17) "Consumer reporting agency" shall mean any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

Section 5. Initiation of Support Action. Support activity shall be initiated upon referral of forms from the Title IV-A or Title IV-E agency or upon application of a nonpublic assistance recipient to the IV-D agency or its authorized representative.

Section 6. Safeguarding Information. Pursuant to 45 CFR 303.21 and consistent with KRS 205.175 and 205.990, the cabinet will disclose information regarding recipients of child support services only to public officials or the recognized persons, such as private attorneys, acting on behalf of the recipients of child support services, who require the information for their official duties and to other persons and agencies involved with the administration of the Child Support Program or other federally assisted programs which provide cash benefits or services to needy individuals.

(1) Pursuant to 45 CFR 303.21(b), the IV-D agency may not disclose to any committee or legislative body any information that identifies by name or address any applicant or recipient.

(2) Pursuant to 45 CFR 303.105 and consistent with KRS Chapter 205, the cabinet shall disclose arrearage information to consumer reporting agencies in cases where the overdue support is greater than \$1,000. The cabinet may release arrearage information when the amount owed is less than \$1,000.

(a) The consumer reporting agency must submit a written request for such information to the cabinet.

(b) The cabinet may charge the consumer reporting agency a fee which may not exceed the cabinet's cost of providing the information.

(c) Within twenty (20) calendar days of receipt of such request, the cabinet shall notify the parent owing the support of the proposed release of information. The notification must inform the parent of the methods available to contest the accuracy of the information.

(d) The parent shall be given a minimum of twenty (20) days from [contact the cabinet within twenty (20) days of] the date of the

above notice to contest the accuracy of the information.

Section 7. Establishing Paternity. In establishing paternity for children in the Child Support Program pursuant to the Social Security Act, the cabinet may utilize any of the provisions which are contained in Kentucky Revised Statutes related to paternity.

Section 8. Securing and Enforcing Support. In securing or enforcing support for children in the Child Support Program pursuant to the Social Security Act, the cabinet may utilize any of the provisions which are contained in Kentucky Revised Statutes related to support.

Section 9. Assignment of Support to IV-D Agency. (1) By accepting public assistance for or on behalf of a needy dependent child, a public assistance recipient assigns to the cabinet the right to all past due and future child support including any voluntary contributions made by the absent parent. Any support income received by AFDC recipients must be forwarded to the cabinet no later than the tenth day of the month following receipt.

(2) Nonpublic assistance recipients may assign their support rights to the cabinet, but these recipients are not required to make such an assignment.

Section 10. Agency Receipt of Support Payments. (1) When the support payment is made payable to the cabinet, money received is credited to the account of the noncustodial or absent parent.

(2) If the amount of the current month's support collection or the court ordered amount, whichever is lower, exceeds the AFDC grant by fifty (50) dollars or more, the IV-D agency will notify the IV-A agency, as required by 45 CFR 302.32.

Section 11. Nonpublic Assistance Recipients. The IV-D agency will provide all services to individuals who are not recipients of public assistance benefits as provided in 45 CFR 302.33(a). Pursuant to KRS 205.721, the cabinet shall continue to provide IV-D services for the period of not less than five (5) months after the family's AFDC benefits have been discontinued. These services shall be continued indefinitely unless the client requests discontinuance of IV-D services.

(1) An application fee for these services must be paid in accordance with 45 CFR 302.33 and KRS 205.721.

(2) In addition to the fees provided for in 42 U.S.C. 453(e)(2) and 463 regarding the federal parent locator service, the state may charge a fee for federal income tax refund intercept services in accordance with 45 CFR 303.72. Additionally, any other fee which must be paid to the federal government for services will be collected by the IV-D agency from the applicant.

Section 12. Cooperative Agreements. Pursuant to 45 CFR 302.34, 42 USC 654(7) and KRS 205.800, all eligible local officials may enter into a written agreement with the cabinet to cooperate in activities relative to the Child Support Program when approved by the cabinet. When officials enter into an agreement with the cabinet, federal financial participation (FFP)

for child support activities will be provided pursuant to federal laws and regulations when billing is submitted in accordance with procedures established by the cabinet. The officials shall provide the cabinet in timely fashion such statistical information concerning IV-D activities as prescribed by the cabinet in the manner and form prescribed by the cabinet. If no agreement is executed, referrals for child support activities may be made to local law enforcement officials in accordance with the official's statutory obligations, but the officials will not be eligible for reimbursement as specified above.

Section 13. Distribution of Support Payments. Distribution of support payments received by the cabinet are made in accordance with 45 CFR 302.32, 302.38, 302.51, and 302.52. The first fifty (50) dollars, up to the obligation amount, of all child support collected in a month by the cabinet for an AFDC assistance unit which represents the current month's support obligation shall be returned to the assistance unit. Rights related to hearings as written in 904 KAR 2:055 do not apply to payment of the pass-through of support collected by the IV-D agency.

Section 14. Good Cause for Refusal to Cooperate. (1) The IV-D agency or its authorized representative must immediately notify the IV-A or IV-E agency at such time as the recipient refuses to cooperate in support enforcement efforts. If the IV-A or IV-E agency should determine, pursuant to laws and regulations, that the recipient has a good cause for failing to cooperate and that pursuit of support action would be detrimental to the best interests of the child, the IV-D agency will not pursue any action in the child's behalf.

(2) If the agency determines that the recipient has good cause for not cooperating but that additional support action would not harm the child, the IV-D agency may proceed in the name of the cabinet for the use of and in behalf of the minor dependent child pursuant to federal laws and regulations.

Section 15. Parent Locator Service. The cabinet shall use available resources to locate absent parents for children in the Child Support Program in accordance with Kentucky Revised Statutes and applicable federal laws and regulations.

Section 16. Paternity Blood Testing. Pursuant to 45 CFR 303.5(c) the IV-D agency shall identify laboratories within the state which perform legally and medically acceptable blood tests, including ABO and HLA tests, which tend to include or exclude an alleged father in paternity proceedings under KRS Chapter 406. The IV-D agency shall make a list of such laboratories available upon request. In addition, the cabinet shall provide a list of all such laboratories to the Kentucky Bar Association and to the Administrative Office of the Courts for distribution to appropriate agencies and individuals on an annual basis.

MIKE ROBINSON, Commissioner
E. AUSTIN, JR., Secretary

APPROVED BY AGENCY: October 20, 1987

FILED WITH LRC: October 23, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on

this regulation has been scheduled for December 22, 1987 at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by December 17, 1987 of their desire to appear and testify at the hearing: Rayan 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: 20,000 - 25,000 absent parents first year.

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: As well as sharing our information regarding the credit risk of absent parents, the department will be obtaining information that will enhance location efforts.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Not applicable.

CABINET FOR HUMAN RESOURCES Department for Social Services Division of Family Services (Proposed Amendment)

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

RELATES TO: KRS 194.060, 199.420 to 199.990, 200.080 to 200.120, 205.201 to 205.204, 205.455 to 205.465, Chapters 208, 209, and 600 to 645

PURSUANT TO: KRS 194.050, 199.420, 200.080, 209.030, 605.150, 615.050, 620.180, 625.120, 630.140, 635.100, 640.120, 645.250

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

The function of this manual is to implement a statewide social services program.

Section 1. DSS Policies and Procedures Manual. For the purpose of implementing and enforcing those sections of the Kentucky Revised Statutes relating to social service programs for children and adults that apply to the Department for Social Services, the Secretary of the Cabinet for Human Resources hereby adopts, by reference, the Department for Social Services' Policy and Procedural Manual as revised through November 6 [April 7], 1987, as the current policies and procedures of that department. The manual contains policies and procedures relating to management procedures, adult services, support services, family and children's services, and youth services. The Department for Social Services' Policy and Procedures Manual may be reviewed in any departmental field office located in each of the 120 counties or at the Office of the Commissioner, Department for Social Services, 275 East Main Street, Frankfort, Kentucky, during regular working hours.

Section 2. Summary of Amendment. In Chapter I, Management Procedures, strike the entire Section A.5, Fair Hearing, pages 1 through 13 dated 7/87, and substitute in lieu thereof Section A.5, Fair Hearing, pages 1 through 13 dated 11/87. The revised Section A.5 transmits revisions dealing with clarifying when services should be continued, giving adequate notice to clients, requesting a hearing, adding a definition for "affecting," and changing the definition of "hearing officer." [Strike the entire manual as revised through October 15, 1986, and substitute in lieu thereof the entire revised manual dated April, 1987, which transmits revised material as related to the Unified Juvenile Code.]

E. AUSTIN, JR., Secretary
ANNA GRACE DAY, Commissioner

APPROVED BY AGENCY: November 9, 1987

FILED WITH LRC: November 9, 1987 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 1987 at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by December 17, 1987 of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Eugenia Jump

(1) Type and number of entities affected: Statewide

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

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

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

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Applies statewide.

CABINET FOR HUMAN RESOURCES Department for Medicaid Services (Proposed Amendment)

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

RELATES TO: KRS 205.550, 205.560

PURSUANT TO: KRS 194.050

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

Section 1. Amount of Payment. Payment for covered services rendered to eligible medical assistance recipients is based on the physicians' usual, customary, reasonable and prevailing charges.

Section 2. Definitions. For purposes of determination of payment:

(1) Usual and customary charge refers to the uniform amount the individual physician charges in the majority of cases for a specific medical procedure or service.

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

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

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

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

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

(5) Percentile:

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

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

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

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

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

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

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

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

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

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

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

(2) Payments for specified obstetrical services provided on or after November 1, 1987 [October 1, 1986], shall be at the lower of the actual billed charge or the following flat rates: for board certified obstetricians, normal delivery and cesarean section, \$650; for all other physicians, normal delivery, and cesarean section, \$550 [normal delivery, \$250; classic cesarean section, \$300; low cervical cesarean section, \$320; cesarean and hysterectomy, \$350; and extraperitoneal cesarean section, \$200].

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

E. AUSTIN, JR., Secretary

R. HUGHES WALKER, Commissioner

APPROVED BY AGENCY: October 29, 1987

FILED WITH LRC: November 2, 1987 at 2 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for December 22, 1987 at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by December 17, 1987 of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: R. Hughes Walker

(1) Type and number of entities affected: All physicians performing deliveries under the Medicaid program; potentially any Medicaid recipient who is pregnant.

(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: \$6.5 million to \$8.0 million (costs).

2. Continuing costs or savings: \$6.5 million to \$8.0 million (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 minimum 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 NOVEMBER 15

GENERAL GOVERNMENT CABINET
Board of Registration for Professional
Engineers and Land Surveyors

201 KAR 18:170. Compensation of board members.

RELATES TO: KRS 322.270

PURSUANT TO: KRS 322.270

NECESSITY AND FUNCTION: KRS 322.270 states that "when attending to the work of the board, each member shall receive compensation as established by regulation of the board and approved by the appropriate legislative body."

Section 1. Each member of the board shall receive \$100 per day when actually attending to the work of the board or any of its committees.

LARRY S. PERKINS, Executive Director

APPROVED BY AGENCY: October 15, 1987

FILED WITH LRC: November 9, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on Friday, December 21, 1987 at 1:30 p.m. at the Kentucky Engineering Center, Millville Road, Frankfort, Kentucky 40601. Persons interested in attending should contact: Larry S. Perkins, Executive Director, Route 3, Millville Road, Kentucky Engineering Center, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Larry S. Perkins

(1) Type and number of entities affected: Board members - 9.

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

1. First year: N/A

2. Continuing costs or savings: N/A

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Costs - approximately \$3,600.

2. Continuing costs or savings: Same

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

(b) Reporting and paperwork requirements: N/A

(3) Assessment of anticipated effect on state and local revenues: N/A

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: 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.

TOURISM CABINET
Department of Fish & Wildlife Resources

301 KAR 1:200. Seasons and limits for angling.

RELATES TO: KRS 150.010, 150.025, 150.470, 150.990

PURSUANT TO: KRS 13A.350, 150.025

NECESSITY AND FUNCTION: In order to insure the continuance of viable and desirable populations of fish, it is necessary to govern the size and numbers anglers can harvest.

Section 1. The statewide season, creel limits and size limits for taking fish by angling shall be as follows, except as specified in Section 2 of this regulation for specific bodies of water and as provided in 301 KAR 1:180, Fisheries management permit for private waters:

	Size Limit Inches	Daily Creel Limit	Possession Limit
Black bass:*			
Largemouth	12)	10	20
Smallmouth	12)	Singly	Singly
Kentucky (spotted)	None)	or in	or in
Coosa	12)	Aggregate	Aggregate
Rock bass (goggle eye or redeye)	None	15	30
Walleye and their hybrids	15	10	20
Sauger	None	10	20
Muskellunge and their hybrids	30	2	2
Northern pike	None	5	10
Chain pickerel	None	5	10
White bass and yellow bass	None	60	60
Striped bass (rock- fish) and their hybrids	15	5	5
Crappie	None	60	60
Trout (all species)	None	8	8

Seasons for all species is year around.

*For size limit purposes, any black bass, with the exception of the smallmouth, with a patch of teeth on its tongue is considered to be a Kentucky bass.

Section 2. The following special limits apply. All other angling limits and seasons apply as set forth in Section 1 of this regulation.

(1) The impounded waters of Grayson Lake. The size limit on largemouth bass and smallmouth bass is fifteen (15) inches. There are no daily creel or possession limits on crappie.

(2) The impounded and flowing waters of Dix River and its tributaries upstream from Herrington Lake Dam:

	Size Limit Inches	Daily Creel Limit	Possession Limit
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White bass, striped
bass (rockfish) and
their hybrids

*	20	40
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*No more than five (5) fish of a daily limit or ten (10) fish of a possession limit may be fifteen (15) inches or longer.

(3) The impounded waters of Taylorsville Lake. The size limit for largemouth bass and smallmouth bass is fifteen (15) inches.

(4) The impounded waters of Kentucky and Barkley Lakes, including the connecting canal. The size limit for largemouth bass and smallmouth bass is fourteen (14) inches, except that the daily limit may include no more than one (1) and the possession limit no more than two (2) less than fourteen (14) inches in length.

(5) The impounded waters of Cave Run and Dewey Lakes. The size limit for largemouth bass and smallmouth bass is fifteen (15) inches.

(6) The impounded and flowing waters of Barren River and its tributaries upstream from Barren River Lake Dam.

	Size Limit Inches	Daily Creel Limit	Possession Limit
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Crappie	10	25	50
White bass, striped bass (rockfish) and their hybrids	*	20	40

*No more than five (5) fish of a daily limit or ten (10) fish of a possession limit may be fifteen (15) inches or longer.

Section 3. Measure all fish from the end of the lower jaw to the tip of the tail with fish laid flat on rule, mouth closed and tail lobes squeezed together. All fish caught that are smaller than those prescribed minimum lengths must be returned immediately to the waters from which they were taken in the best physical condition possible. Under no circumstances may a fisherman remove the head or the tail or part thereof of any of the above-named fish while in the field and before he has completed fishing for the day.

Section 4. 301 KAR 1:055 Angling; limits and seasons, is hereby repealed.

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

APPROVED BY AGENCY: November 10, 1987

FILED WITH LRC: November 10, 1987 at 2 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1987 at 11 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: Bass anglers throughout the state and those anglers that fish for crappie at Barren Lake.

(a) Direct and indirect costs or savings to those affected: None

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: None 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? Yes

JUSTICE CABINET

500 KAR 6:200. Physical plant.

RELATES TO: KRS 15A.210

PURSUANT TO: KRS 15A.160, 15A.210

NECESSITY AND FUNCTION: KRS 15A.210 mandates that the Justice Cabinet issue administrative regulations governing juvenile detention centers.

Section 1. (1) The facility shall conform to all applicable zoning ordinances or, through legal means, is attempting to comply with or change such laws, codes or zoning ordinances.

(2) The facility shall conform to all applicable state building codes.

(3) If the facility is on the grounds of any other type of corrections facility, it shall be a separate, self-contained unit.

(4) After July 1, 1988, all new construction of secure juvenile detention facilities, here defined as a separate building and separate staff pursuant to existing statute, are required to construct single cell sleeping quarters in these facilities.

(5) When the population exceeds the rated capacity, the chief district judge, the district judge with jurisdiction for the juvenile matters, and the county judge executive shall be notified.

(6) The facility shall be utilized so that juveniles can be grouped in accordance with a classification plan.

(7) When seriously ill, mentally disordered, injured or nonambulatory juveniles are held in the facility, there shall be at least one (1) single-occupancy cell or room for them that

provides for continuing staff observation.

(8) The facility shall have exits that are properly positioned, clear, and distinctly and permanently marked in order to ensure the timely evacuation of juveniles and staff in the event of fire or other emergency. All housing areas, and places of assembly for fifty (50) or more persons, shall have two (2) exits.

(9) The facility perimeter shall be secured in such a way that juveniles remain within the perimeter and that access by the general public is denied without proper authorization.

(10) The facility shall be operated with day rooms of no more than twenty-five (25) juveniles each. This section applies to facilities in operation before July 1, 1987.

(11) All new facilities opened on or after July 1, 1987 shall have living units of no more than twelve (12) juveniles.

(12) All housing areas shall provide for, at a minimum:

(a) Lighting as determined by the tasks to be performed;

(b) One (1) toilet and one (1) wash basin for every five (5) juveniles;

(c) Showers accessible to juveniles;

(d) A heating and ventilation and acoustical system to ensure healthful and comfortable living and working conditions for juveniles and staff; and

(e) Access to a drinking fountain.

(13) If the facility houses male and female juveniles, space is provided for cocorrectional activities.

(14) Space shall be provided for the secure storage of chemical agents, restraining devices and related security equipment, and the equipment shall be located in an area that is readily accessible to authorized persons only.

(15) Water for showers shall be temperature-controlled.

(16) Single sleeping rooms shall have at least seventy (70) square feet of floor space and juveniles shall be provided activities and services outside their rooms at least twelve (12) hours a day.

(17) All sleeping rooms in detention facilities shall have, at a minimum:

(a) Access to the following approved penal sanitation facilities:

1. Toilet above floor level which is available for use without staff assistance twenty-four (24) hours a day;

2. Wash basin and drinking water;

3. Hot and cold running water;

(b) An approved penal bed at above floor level and storage space; and

(c) Natural light. Facilities existing and operating on July 1, 1987 shall be exempt from the requirement that each sleeping room have natural light.

(18) At least thirty-five (35) square feet of floor space per juvenile shall be provided in the day room on each living unit.

(19) Male and female juveniles shall not occupy the same sleeping room.

(20) Ventilation shall be available in the event of a power failure.

(21) The total indoor activity area outside the sleeping area shall provide space of at least 100 square feet per juvenile.

(22) There shall be at least fifteen (15) square feet of floor space per person for those occupying the dining room or dining area.

(23) When the facility provides food service,

the kitchen shall have at least 200 square feet of floor space.

(24) School classrooms shall be designed in conformity with local or state educational requirements except that all juvenile detention facilities shall be exempt from the requirement to have operable windows for rescue and ventilation.

(25) There shall be a visiting area that allows for privacy during visits.

(26) There shall be a well-drained outdoor recreation area for all new and renovated facilities. All existing facilities shall comply with this regulation by January 1, 1990.

(27) Space shall be available for religious services.

(28) The facility shall have a central medical room with medical examination facilities.

(29) When there is a confinement room separate from the living unit, it shall be equipped with plumbing and security furniture.

(30) There shall be interview space available in or near the living unit.

(31) The office in each housing unit shall have a telephone and enable supervision of the general living area; it shall be used for communications, staff conferences and storage of unit records.

(32) There shall be secure storage space provided for storage of juveniles' property and personal belongings.

(33) There shall be storage rooms for clothing, bedding and facility supplies.

(34) Closets for storage of cleaning supplies and equipment shall be located in each principal area and shall be well ventilated.

(35) Separate and adequate space shall be provided for mechanical equipment.

(36) There shall be a written plan for preventive maintenance of the physical plant with provisions for emergency repairs or replacement of equipment. This plan shall be reviewed annually and updated if needed.

(37) There shall be documentation by an independent, qualified source that the interior finishing material in juvenile living areas, exit areas and places of public assembly are in accordance with recognized national fire safety codes.

(38) The facility shall adopt and enforce written policy and procedure which provide that a new detention facility shall be built or the existing facility expanded only after a needs evaluation study has been prepared by the agency in conjunction with the juvenile court and the Justice Cabinet.

(39) Prior to plans development for newly planned facilities, a written program philosophy shall be developed for the facility, which includes, but is not limited to:

(a) Statement of general goals and purposes of the facility;

(b) Description of the facility, including statutory authority and services to be provided;

(c) Analysis of projected work load, staffing, programs and operating and capital budgets;

(d) Assessment of the impact of the facility on overall operation of the parent agency;

(e) Justification for the facility;

(f) Analysis of alternative means for achieving the same goals;

(g) Description of space requirements;

(h) Outline of budget and time restrictions; and

(i) Study of alternate ways of satisfying

space requirements, including leasing renovation and new construction.

(40) Each living unit shall be designed so that individual rooms, day rooms and program staff offices are in close proximity to juveniles for purposes of communication and interaction.

(41) Handicapped juveniles shall be housed in a manner that provides for their safety and security. Cells or housing units used by them shall be designed for their use, and provide the maximum possible integration with the general population. Appropriate institution programs and activities shall be accessible to handicapped juveniles confined in the facility.

(42) All parts of the facility that are accessible to the public shall be accessible to and usable by handicapped staff and visitors.

(43) There shall be a day room for each housing unit or detention room cluster. The room shall have a minimum of thirty-five (35) square feet of floor space per juvenile and shall be separate and distinct from the sleeping area, which is immediately adjacent and accessible.

NORMA C. MILLER, Secretary

APPROVED BY AGENCY: November 13, 1987

FILED WITH LRC: November 13, 1987 at noon

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled on December 21, 1987 at 10 a.m. EDT at 417 High Street, Commonwealth Credit Union Building, 3rd Floor, Conference Room, Frankfort, Kentucky. Anyone interested in attending this hearing shall notify, in writing at least five days before the hearing, the following individual: Cathy Cravens Snell, Justice Cabinet, 3rd Floor, Commonwealth Credit Union Building, 417 High Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Cathy Cravens Snell or Coleman Gilbert

(1) Type and number of entities affected: Three

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

1. First year: Three facilities will be affected: Jefferson County, Fayette County, and Floyd County. There will be no physical plant costs associated with Jefferson and Fayette Counties. First year costs for Floyd County are estimated at approximately \$50,000. This covers installation of plumbing, fixtures, the creation of a room for a seriously ill, mentally disordered, injured or nonambulatory child, and minor renovations.

2. Continuing costs or savings: Proper design and construction of the physical plant will save costs associated with staffing patterns in the future.

3. Additional factors increasing or decreasing costs (note any effects upon competition): The utilization of accepted security equipment will realize a reduction in maintenance costs and repairs.

(b) Reporting and paperwork requirements: Plans are required to be filed with the Justice Cabinet.

(2) Effects on the promulgating administrative body: The Justice Cabinet will be required to inspect plans and physical plants.

(a) Direct and indirect costs or savings: The Justice Cabinet will have to obtain the services of an inspector either through hiring a new

employee, or negotiating a personal service contract or through interaccounting with another state agency.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: This is contingent on the acceptance of the statewide plan.

(4) Assessment of alternative methods; reasons why alternatives were rejected: This is a new program enacted by the Juvenile Code. Regulations are mandated.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: This regulation was drafted by a subcommittee on Juvenile Detention of the Kentucky Crime Commission.

TIERING: Was tiering applied? No. All are treated equally.

LOCAL MANDATE IMPACT STATEMENT

SUBJECT/TITLE: Juvenile detention center - physical plant.

SPONSOR: Justice Cabinet

NOTE SUMMARY

LOCAL GOVERNMENT MANDATE: Yes. A county will be required to follow this regulation only if it has a juvenile detention center.

TYPE OF MANDATE: Juvenile detention centers.

LEVEL(S) OF IMPACT: County, urban-county government.

BUDGET UNIT(S) IMPACT: County juvenile detention centers. Three currently exist: Fayette County, Floyd County, Jefferson County. See KRS 600.020(33).

FISCAL SUMMARY: Revenues - The Justice Cabinet has made a \$100,000 appropriation from federal money available for transportation of juveniles. Expenditures - It is estimated that it will cost \$75 to \$100 a day to house one juvenile under the regulations in Title 500, Chapter 6 of the administrative regulations. These regulations become effective on July 1, 1988.

MEASURE'S PURPOSE: To create administrative regulations for juvenile detention centers as required by KRS 15A.210.

PROVISION/MECHANICS:

FISCAL EXPLANATION: These regulations will result in increased expenditures. However, these amounts will be lessened because the intake criteria developed by the Administrative Office of the Courts is diverting many juveniles to less secure forms of confinement. According to data collected by AOC there has been a 90% reduction in the number of children referred for formal court action and eligible for detention. Second, the Juvenile Long-Range Planning Subcommittee of the Kentucky Crime Commission is making recommendations for an overall plan for juvenile detention.

DATA SOURCE: Earl Dunlap, Director, Jefferson County Youth Center; Coleman Gilbert, Justice Cabinet; Kentucky Youth Advocates.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction

704 KAR 20:460. Examination prerequisites for principal certification.

RELATES TO: KRS 161.020, 161.027, 161.030
PURSUANT TO: KRS 156.070, 161.027

NECESSITY AND FUNCTION: KRS 161.020 requires a certificate of legal credentials for any public school position for which a certificate is issued. KRS 161.027 requires the State Board of Education to develop or select appropriate tests, establish minimum scores for successful completion, and establish a reasonable fee to be charged for actual cost of administration of the tests, for applicants seeking certification as principal, and further requires that effective July 1, 1988, all applicants for certification as school principal with less than two (2) years of appropriate experience complete a one (1) year internship program developed by the State Board of Education; and KRS 161.030 rests certification with the State Board of Education. This regulation specifies the prerequisite tests, minimum scores for successful completion, and establishes a reasonable fee for administration of the prerequisite tests for certification as principal required under KRS 161.027.

Section 1. (1) Effective January 1, 1988, all new applicants for certification as a school principal, including vocational school principal, shall successfully complete prerequisite tests specified in Section 2 of this regulation prior to certification as a school principal.

(2) Beginning July 1, 1988, all applicants for certification shall be required to successfully complete both the prerequisite examination specified in Section 2 of this regulation and a one (1) year internship program.

Section 2. In order to satisfy the prerequisites for principal certification, each applicant for certification as principal shall complete the following tests and attain the minimum score specified for each test:

- (1) NTE Core Battery Tests.
 - (a) Communication skills: 643.
 - (b) General knowledge: 637.

(2) NTE Specialty Test of Educational Administration and Supervision: 540.

(3) Kentucky Specialty Test of Instructional and Administrative Practices. (A minimum score will not be required prior to July 1, 1988. The State Board of Education shall establish the minimum passing score which will be required beginning July 1, 1988.)

Section 3. Initial applicants for principal certification who have within the four (4) years immediately preceding the date of application attained the minimum score required by this regulation on the NTE Core Battery for communication skills or general knowledge or for the NTE Specialty Test of Educational Administration and Supervision may meet requirements for such test(s) by:

- (1) Having scores previously recorded at the Kentucky Department of Education for other professional certifications; or
- (2) Having the Educational Testing Service

(ETS) furnish score reports to the Kentucky Department of Education. Requests for such score reports must comply with all policies and procedures of the ETS.

Section 4. (1) Applicants for certification as principal may take the required NTE tests on any of the dates established by the ETS. Applicants must authorize that test results be forwarded to the Kentucky Department of Education by the ETS.

(2) Applicants for certification as principal may take the Kentucky Specialty Test of Instructional and Administrative Practices on any of the dates established by the Kentucky Department of Education. Scoring and reporting of scores shall be the responsibility of the Kentucky Department of Education or its designated agent.

(3) Public announcement of testing dates and locations shall be issued sufficiently in advance to permit registration as required by the ETS and the Kentucky Department of Education.

(4) It shall be the responsibility of each applicant to seek information regarding the dates and location of the tests and to make application for the appropriate examinations prior to the deadlines established and sufficiently in advance of anticipated employment to permit test results to be received by the Department of Education and processed in the normal certification cycle.

Section 5. (1) For the required NTE tests, the applicant shall pay all fees assessed by the ETS.

(2) Applicants shall not be assessed a fee for taking the Kentucky Specialty Test of Instructional and Administrative Practices.

Section 6. Applicants who fail to achieve a minimum score on any of the required tests as specified in Section 2 of this regulation shall be permitted to retake the test or tests during any regularly-scheduled test administration.

Section 7. (1) For the period beginning January 1, 1988, and ending June 30, 1988, applicants who attain the minimum passing score on all of the prerequisite examinations as specified in Section 2 of this regulation shall be issued the initial professional certificate for instructional leadership.

(2) Beginning July 1, 1988, applicants who attain the minimum passing score on all of the prerequisite examinations shall be issued a statement of eligibility for internship by the Superintendent of Public Instruction. This statement of eligibility for internship shall be valid for a four (4) year period.

(3) Applicants who do not participate in the required one (1) year internship within the period of eligibility shall reestablish eligibility by repeating and successfully completing all prerequisite examinations in effect at the time of reapplication.

Section 8. (1) To provide for confidentiality of information, the Kentucky Department of Education shall report individual scores on the Kentucky Specialty Test of Instructional and Administrative Practices to the individual applicant only. Such scores will not be released to other individuals or agencies. In accordance with published policy, the ETS will release scores on the NTE only to recipients designated in writing by applicants.

(2) No scores shall be used by the Kentucky Department of Education in an individually identifiable form other than for purposes of determining eligibility for certification as school principal.

Section 9. The Kentucky Department of Education shall collect and analyze data which permit evaluation of the examination prerequisites covered by this regulation on an annual or biennial basis.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: November 5, 1987

FILED WITH LRC: November 12, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, December 22, 1987 at 10 a.m., Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its November 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 December 17, 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: Margaret McClain

(1) Type and number of entities affected: Costs: approximately \$250/year applicants for principalship certification.

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

1. First year: Costs: approximately \$100 per applicant for taking qualifying exams.

2. Continuing costs or savings: Same as above.

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

(b) Reporting and paperwork requirements: Scores on qualifying exams to be reported to Division of Certification for issuance of certificate/statement of eligibility.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: Costs: additional recordkeeping and verification of scores reported. Administration of Kentucky Specialty Exam.

1. First year: Costs: Approximately \$100 per applicant.

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs: Additional paperwork.

(b) Reporting and paperwork requirements: Issuance of statements of eligibility valid for four years.

(3) Assessment of anticipated effect on state and local revenues: Additional administrative costs: \$25,000 per annum.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Testing of prospective principals mandated by KRS 160.027.

(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: No conflict.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No conflict.

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Certification requirements are applied uniformly to all candidates applying for such.

EDUCATION AND HUMANITIES CABINET

Department of Education
Office of Vocational Education

705 KAR 5:130. Attendance policies for long-term adults in state-operated vocational schools.

RELATES TO: KRS 163.030

PURSUANT TO: KRS 156.070, 163.030

NECESSITY AND FUNCTION: KRS 163.030 provides that the State Board of Education has all necessary power and authority in administering vocational education. The State Board of Education finds it necessary to establish attendance policies for adults sixteen (16) years of age and older who are enrolled in a vocational education program of 500 hours or more.

Section 1. Students shall be treated uniformly in terms of their attendance in all state-operated vocational schools. Each school shall maintain a uniform attendance accounting procedure.

Section 2. The teacher or school principal shall determine when an absence from a scheduled class is excused or unexcused.

Section 3. Excused absences are those due to personal illness, injury, or accident; serious illness of family members; death of spouse, brother or sister, children including stepchildren, foster children, parents or spouse's parents, or grandparents or spouse's grandparents; requirements to appear in court; military assignments; and other compelling circumstances making it unwise or inadvisable to attend class. In the event of illness, a student may be requested to present a medical statement.

Section 4. Regardless of whether a student believes an absence(s) to be excused or unexcused, the student shall notify the teacher or an appropriate administrator of the absence(s) and the reason therefor either prior to the absence(s) or as soon thereafter as practicable.

Section 5. If an excused absence requires the student to be absent for more than ten (10) consecutive days, serious consideration will be given to interrupting the student's training and then enrolling him or her when the cause of the absence has been eliminated. Students who are enrolled in a clinical or cooperative education component and must miss more than five (5) consecutive days shall have training formally interrupted. Students who are receiving veterans' benefits shall adhere to federal requirements for requesting interruptions.

Section 6. If a student has more than one (1) unexcused absence in a calendar month, the student shall be placed on probation from the date of notification of probationary status for a period of ninety (90) days, and shall be referred to a guidance counselor for guidance

and counseling services. If the student has one (1) additional unexcused absence during the probationary period, the student shall be subject to suspension or expulsion as prescribed in 705 KAR 5:080.

Section 7. Three (3) instances of tardiness or leaving early shall constitute either an excused or unexcused absence for reasons described in preceding sections of this regulation. Students who habitually arrive late or leave early shall be counseled; and if the problem continues, the student shall be placed on probation on the same basis as described in Section 6 of this regulation. If the terms of probation are violated, the student shall be subject to suspension or expulsion, as prescribed in 705 KAR 5:080.

Section 8. When school administrators feel expulsion is appropriate, a hearing shall be requested of the regional director. The hearing shall be in compliance with 705 KAR 5:080, and any reinstatement after expulsion shall be in accordance with said regulation.

Section 9. This regulation shall be effective for the 1988-89 school year and thereafter until such time as it shall be formally amended.

ALICE McDONALD, Superintendent

APPROVED BY AGENCY: November 5, 1987

FILED WITH LRC: November 12, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on Tuesday, December 22, 1987 at 10 a.m., Eastern Standard Time, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board of Education at its November 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 December 17, 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. Ann S. Bardwell

(1) Type and number of entities affected: 79 SVTS/AVEC's operated by the State Department of Education which offer programs for adult students.

(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: No additional requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: N/A

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No additional requirements.

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons

why alternatives were rejected: These regulations as proposed appear to be consistent with other operating policies.

(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.

PUBLIC PROTECTION AND REGULATION CABINET Department of Housing, Buildings & Construction Division of Plumbing

815 KAR 20:076. Installation recommendations for polybutylene (PB) cold water building supply, yard piping and tubing.

RELATES TO: KRS Chapter 318

PURSUANT TO: KRS Chapter 13A, 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 shall govern the installation of polybutylene (PB) pipe and tubing in cold water building supply and yard systems. Installation, materials and inspections shall comply with the current edition of the Kentucky State Plumbing Code and with this standard.

Section 1. Definitions. (1) ASTM. For the purpose of this regulation, means "American Society of Testing Materials."

(2) KSPCC. For the purpose of this regulation, means "Kentucky State Plumbing Code Committee."

(3) NSF. For the purpose of this regulation, means "National Sanitation Foundation."

(4) PB. For the purpose of this regulation, means "polybutylene."

(5) SDR. For the purpose of this regulation, means "Standard Dimension Ratio."

(6) Approved. For the purpose of this regulation, means approval received from the Kentucky Department of Housing, Buildings and Construction, Division of Plumbing.

Section 2. (1) Material. Tubing is polybutylene (PB).

(2)(a) Tubing shall conform to ASTM D-2666.

(b) Pipe shall conform to ASTM D-2662.

NOTE: Pipe is usually black or blue.

(3) Fittings shall be metal or plastic compression, flare or insert type. (Refer to 815 KAR 20:120, Section 9, Water supply pipes and materials.)

NOTE 1. Manufacturers of fittings shall recommend assembly procedures.

NOTE 2. Manufacturers shall provide test data from an independent testing laboratory, acceptable to the KSPCC, that their PB system or their PB tubing, together with recommended fittings, has a short term working pressure and temperature rating (STWP) or 160 psi at 210°F for forty-eight (48) hours or more.

Section 3. Markings. (1) Tubing. Tubing shall be legibly marked at intervals of not more than five (5) feet with at least the following:

(a) Manufacturers name or trademark.

- (b) ASTM D-2662 (pipe) or ASTM D-2666 (tubing).
- (c) Size.
- (d) PB 2110.
- (e) Pressure rating, 160 psi.
- (f) NSF seal or marking or other KSPCC acceptable agency.
- (g) Manufacturers date and material code.
- (2) Fittings. Fittings shall be marked with at least the following:
 - (a) Manufacturers name or trademark or other acceptable markings.
 - (b) Plastic fittings shall be labeled with the NSF seal or marking of other KSPCC acceptable agency.
 - (3) Bands shall be marked with at least the following:
 - (a) Manufacturers name or trademark.
 - (b) Model.
 - (c) Stainless steel series (300).
 - (4) Position of Markings. Identifying markings shall be visible for inspection without moving materials unless otherwise acceptable to the administrative authority.

Section 4. Protection of Piping. (1) Exposed piping. Vertical piping may extend a maximum of twenty-four (24) inches above grade when located on the exterior of the building or structure and protected from mechanical damage to the satisfaction of the administrative authority. Where exposed to sunlight, the pipe shall be wrapped with at least 0.040 inches of tape.

(2) Protection from damage. Piping coils, as supplied by the manufacturer, shall be adequately protected against damage in shipment. A prominent label shall contain at least the information required in Section 3(1) of this regulation.

(3) Storage. Piping shall be stored in a way to protect it from mechanical damage (slitting, puncturing, etc.). Tubing should be stored under cover to keep it clean and to avoid long-term exposure to direct sunlight. Exposure to sunlight during normal construction periods is not harmful.

(4) Thermal expansion.

(a) Snaking. Piping shall be "snaked" in the trench bottom with enough slack, at least six (6) inches per 100 feet, to compensate for thermal expansion and contraction before stabilizing piping.

(b) Stabilizing. Stabilize piping by bringing it approximately to operating temperature before testing and backfilling by one of the following methods:

1. Shade backfill. Leave all joints exposed so that they can be examined during pressure test.
2. Fill with water at operating temperature.
3. Allow to stand overnight.

Section 5. Trenching, Cover and Backfill. (1) Trenching and cover. Trench bottoms shall be uniformly graded and shall be of either undisturbed soil or shall consist of a layer or layers of compacted backfill so that minimum settlement will take place.

(2) Backfill. Selected backfill shall be used. Tamp the backfill around the pipe so as to provide firm continuous support and proper compaction. Backfill at least twelve (12) inches over pipes, except that joints shall be left exposed. After inspection and pressure test, complete backfill.

Section 6. Joints. Joints shall be made as

follows:

(1) Barbed insert fittings. Procedure (pipe only).

Step 1. Cut pipe square.

Step 2. Remove all burrs.

Step 3. Place two (2) strap-type stainless steel clamps over the pipe (see Section 3(3) of this regulation).

Step 4. Check that fittings are properly sized for pipe.

Step 5. Force the end of the pipe over the barbed insert fitting, making contact with the fitting shoulder (the end of the pipe may be softened by placing in hot water.)

Step 6. Position the clamps 180 degrees apart and tighten evenly to seal joint.

(2) Flared joints, procedure (pipe and tubing).

Step 1. Cut pipe or tubing square.

Step 2. Remove all burrs.

Step 3. Place nut over end of piping.

Step 4. Lubricate the point of the flaring tool and the tubing to be flared. Use nontoxic liquid soap or other lubricant recommended by the manufacturer.

Step 5. Flare piping with a listed tool according to the tool manufacturers recommendations.

Step 6. Assemble the joint.

Step 7. Tighten flare nuts according to manufacturers recommendation. DO NOT OVERTIGHTEN.

(3) Mechanical compression joints, procedure (pipe and tubing).

Step 1. Cut piping square.

Step 2. Remove all burrs.

Step 3. Follow manufacturer's recommended procedure.

(4) Prohibited joints. Piping shall not be threaded.

Section 7. Materials. Location. PB piping shall be installed only outside the foundation of any building or structure or parts thereof. It shall be buried in the ground for its entire length except vertical piping may be extended above grade per Section 4(1) of this regulation. It shall not be installed within or under any building or structure or mobile home or commercial coach or parts thereof. The term "building or structure or parts thereof" shall include structures such as porches and steps, whether covered or uncovered, roofed porte-cocheres, roofed patios, carports, covered walks, covered driveways and similar structures or appurtenances.

Section 8. Installation. (1) Bends. Piping may be bent at a radius of not less than twelve (12) times the nominal diameter.

(2) Identification. A label shall be fastened to the main electrical meter panel stating "This structure has a nonmetallic water service."

(3) Working pressure. Working pressure shall not exceed 160 psi.

Section 9. Sizing. Piping shall be sized in accordance with 815 KAR 20:120.

CHARLES A. COTTON, Commissioner

ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: October 15, 1987

FILED WITH LRC: November 4, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1987 at 10 a.m. in the Office of the Department of Housing, Buildings and Construction, U.S. 127

South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by December 17, 1987, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected: N/A

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? N/A

PUBLIC PROTECTION AND REGULATION CABINET

Department of Housing, Buildings & Construction
Division of Plumbing

815 KAR 20:077. Storage and installation of aluminum soil, waste vent and storm water piping and fittings.

RELATES TO: KRS Chapter 318

PURSUANT TO: KRS Chapter 13A, 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 storm handling and installation of aluminum soil, waste, vent and storm drain pipe and fittings.

Section 1. All aluminum pipe and fittings shall conform to American Society of Sanitary Engineering (ASSE) Standard #1045, performance standard and installation procedures for aluminum drain, waste and vent pipe with end cap components.

Section 2. General. (1) The installation of aluminum drain, waste, and vent (DWV) with end cap components for both sanitary and storm use shall be installed as per these requirements.

(2) Handling instructions, installation

instructions, special environmental conditions, workmanship, and assembly for aluminum DWV systems, as defined, shall be followed by the installer.

Section 3. Shipping, Storage and Handling. (1) Pipe shall be shipped and stored on a flat, clean surface, free of nails, rocks, or other sharp objects which could potentially damage the pipe or coating (if supplied) or both. Pipe shall not be stacked more than ten (10) pieces high, unless strapped in bundles as received from the supplier, nor shall one (1) pipe rest unwrapped within another, which is not a recommended practice for any lined material. Pipe shall be supported on flat supports having a bearing face approximately four (4) inches wide, at intervals not greater than five (5) feet and at each end of the pipe.

(2) Unless suitably crated, mechanical handling of pipe and accessories shall not be performed. Manual handling shall be used on all sizes of pipe.

(3) All pipe and joint components shall be stored away from extreme heat and from the danger of mechanical damage.

(4) Strict attention shall be paid to all safety regulations for handling and storage of pipe, fittings and accessories.

Section 4. Installation. (1) Before starting the installation, all pipe, fittings, and joint components shall be examined. Any materials that are bent, crushed, severely dented, or otherwise damaged shall not be used.

(2) Pipe shall be cut square and all ragged or burred edges, inside and out should be removed taking care not to disturb neither the alcladding nor the internal lining. Pipe should be cut with a circular saw equipped with a mitre box or guide to ensure a square cut. A twelve (12) or fourteen (14) inch diameter, semi or high speed steel, fine toothed, hollow ground, metal cutting blade will be satisfactory. Tungsten carbide tipped blades that give a longer blade life are available. A solid or liquid blade lubricant should be used.

(3) Assembly procedure.

(a) Slip the Alcan Adapter Ring (complete with mastic seal) over the cut end of the Alcan Aluminum DWV Pipe.

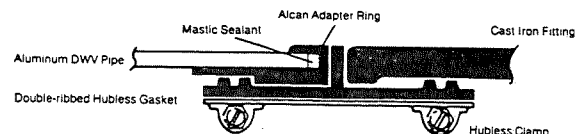
(b) Slip the hubless clamp over the aluminum pipe and out of the way until required.

(c) Insert the aluminum DWV pipe with adapter ring into the double-ribbed gasket.

(d) Insert the cast iron fitting into the other end of the double-ribbed hubless gasket.

(e) Slide the hubless clamp over the gasket. Torque the screws alternately to sixty (60) in./lb.

(f) The joint is now complete.



(4) Open clearance. Opening through walls, partitions, and floors shall be sufficient in size to allow free passage of pipe, fittings, and joint components. Openings shall be smooth and free of harmful surfaces and projections.

(5) Sealed. If openings through walls, partitions, and floors require sealing, they may

be sealed with mortar, concrete, or other sealants compatible with aluminum. Care shall be taken to ensure that aluminum DWV pipe is not in contact with reinforcing steel embedded in concrete. If required by regulations or deemed necessary, the pipe may be wrapped in suitable plastic or rubber tape over the area passing through the wall or floor, or coated with good quality bituminous paint.

NOTE: If a sealant containing magnesium oxychloride is used, the pipe shall be provided with additional protection.

(6) Service penetration firestops. Service penetration firestop assemblies shall be in accordance with local fire or building codes.

Section 5. Joints. (1) Coupled. Joints shall be made in accordance with the manufacturer's instructions, including end cap protection and other component details.

(2) Transition to other piping. Adapter fittings are available for joining aluminum DWV pipe to other types of pipe. Only adapter fittings approved for the specific transition shall be used.

Section 6. Supports. (1) Hangers. Where a hanger or support for aluminum DWV pipe is of a metal other than aluminum and where chlorides or other electrolytes are present or likely to be present, the hanger should be suitably separated and electrically isolated from the pipe. Supports and hangers should have a broad support base and should be free of burrs and rough edges to prevent abrasion of the pipe.

(2) Spacing. Horizontal pipe should be supported at intervals not greater than ten (10) feet, at all joints, at all branch ends, and at all points where there is a change in direction. Trap arms should be supported as close to the trap as possible. Vertical pipe should be supported at intervals not greater than ten (10) feet.

Section 7. Buried Pipe. Only aluminum DWV pipe having a factory-applied external coating and marked "UGRD" shall be used underground. Joints shall be protected from corrosion by applying a tape wrap or shrink sleeve. The pipe shall be protected from mechanical damage by suitable structural shielding, if deemed necessary.

Section 8. DWV Systems Subject to Freezing. In servicing an aluminum DWV system to protect trap and fixtures from freezing, a glycol-water solution made up of sixty (60) percent by mass

of glycol mixed in water shall be used. Alcohol antifreeze shall not be used, as the alcohol will evaporate and lose its effectiveness.

CHARLES A. COTTON, Commissioner
ROBERT M. DAVIS, Secretary

APPROVED BY AGENCY: October 15, 1987

FILED WITH LRC: November 4, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on December 22, 1987 at 10 a.m. in the Office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by December 17, 1987, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected: N/A
(a) Direct and indirect costs or savings to those affected:

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements:
(2) Effects on the promulgating administrative body: N/A

(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: N/A

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:
None

TIERING: Was tiering applied? N/A

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

Minutes of the November 5 and 6, 1987 Meeting

The November meeting of the Administrative Regulation Review Subcommittee was held on Thursday, November 5, 1987 at 2 p.m. and on Friday, November 6, 1987 at 10 a.m. in Room 110. Representative Mark D. O'Brien, Chairman, called the meeting to order, and the secretary called the roll. On motion of Representative Meyer, seconded by Senator McCuiston, the minutes of the October 1 and 2, 1987 meeting were approved.

Present November 5, 1987 were:

Members: Representative Mark D. O'Brien, Chairman; Senators Pat McCuiston and Bill

Quinlan; Representatives Jim Bruce, Ronny Layman and Joe Meyer.

Guests: Representative Marshall Long; Carroll Roberts, Board of Hairdressers & Cosmetologists; Larry S. Perkins, Board of Registration for Professional Engineers & Land Surveyors; Alta P. Haunsz, Carol A. McGuire, Bill Shouse, Bernadette M. Sutherland, Board of Nursing; Ted Crowell, Lauren Schaaf, Thomas A. Young, Department of Fish and Wildlife Resources; J. Alex Barber, George F. Gilbert, Kay Harker, Guy Hart, Shelby C. Jett, Charles W.

Kurtz, Anna M. Martin, Brack Marquette, Art Williams, Natural Resources & Environmental Protection Cabinet; Michael Bradley, Corrections Cabinet; Mike Fulkerson, State Racing Commission; Norman Copley, 210 Productions, Inc. Sanitation; Paul Allgeier, American Homes Sanitation (KY Waste Hauler); David Chambers, Gateway Service Corp.; David Hyman, KY Chapter NSWMA; Tommy Turner, LaRue Fiscal Court; Kent Riggs, NSR; Michael DeSanto, National Solid Wastes Management Assn.; Jack F. Couch, Trimble County Fiscal Court; Dallas W. Moore, Trimble County; Bobby True, Trimble County Attorney; Virgie Walty, Trimble County Fiscal Court; Robert E. Lee, Jack Underwood, Waste Management, Inc.; Dr. Penny Sanders, Residents living near Valley View Landfill (Henry-Trimble Counties).
LRC Staff: Susan Wunderlich, Joe Hood, Gregory Karambellas, Donna Pierce & Carla Arnold.

On November 5, 1987, the following action was taken:

The Subcommittee determined that the following regulations do not comply with KRS Chapter 13A and attached a statement of objection:

Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Division of Waste Management: Solid Waste Facilities

Representatives from Trimble County Local Government and a concerned citizens group appeared before the Subcommittee to speak in favor of the regulations. Representatives from the waste management industry spoke against the regulation. Subcommittee members raised several questions, including: 1) the authority of county government to assess fees on private landfills; 2) volume limits necessary for staying within the ten-year expectation; 3) the impact on intrastate competition and economic growth; 4) the interference with internal production capacity; 5) areas from which waste comes and repermitting for new areas. After considerable discussion, the Subcommittee unanimously approved a motion that the following statement of objection be attached to these regulations: "The Subcommittee determines that: 1) the agency's use of the waste management plan as interpreted through these regulations exceeds statutory authority (KRS Chapter 109); 2) these regulations are in violation of KRS 13A.120(e) because they reiterate the statutes; 3) that 401 KAR 49:050 grants a fee exclusion that has no statutory basis; 4) that the cabinet's interpretation concerning this exclusion violates the intent of the General Assembly. The Subcommittee requests that the Legislative Research Commission refer these regulations to the committee of appropriate jurisdiction for further study."

401 KAR 47:040 (Sanitary landfills.)

Solid Waste Planning

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

401 KAR 49:050 (Establishment of fees.)

The Subcommittee determined that the following regulations, as amended, complied with KRS Chapter 13A:

General Government Cabinet: Board of Hairdressers & Cosmetologists

201 KAR 12:170 (Complaints and

investigations.) The board agreed to amend this regulation as follows: (1) In Section 2, to make it clear that a citation of the statute allegedly violated was required only if known to the complainant, and that a complaint would not be dismissed for failure to cite the statute; (2) In various sections, to correct grammar and to clarify whether conditions were alternative or inclusive; and, (3) In various sections, to substitute "shall" for "will" when the requirement was mandatory.

The Subcommittee was satisfied that no separate regulation relating to hearings was required since such a regulation would violate the prohibition in KRS 317A.070 against reiteration of statutory language, and that the language relating to confidentiality did not apply to log entries of complaints which are open to public inspection.

Board of Registration for Professional Engineers & Land Surveyors

201 KAR 18:050 (Branches of professional engineering.) Chairman O'Brien asked whether the specialty of an engineer was stated on his license. Board personnel stated that it would no longer be stated, and that a majority of states do not state the specialty. In response to further questions, Board personnel stated that an engineer make practice in an area in which he had gained experience, even though it was not the area in which he had specialized education, and did not have to be tested in this specialty. The board agreed to amend this regulation to delete the reservation of the right to change the number of branches of engineering in which applicants could be tested. Chairman O'Brien pointed out the statement was redundant since the board had such authority under the statutes.

Board of Nursing

201 KAR 20:070 (Licensure by examination.) Section 3(2)(b) was amended to make it clear that an applicant did not need to have taken an examination available in English, but that an English translation had to be made available to the board for it to determine it was equivalent to examinations given in Kentucky. A question had been raised regarding the deletion of the citizenship requirements of Section 1. Board personnel cited U.S. Supreme Court cases that held the only permissible requirements of foreign nationals were legal presence in the U.S. and completion of required training.

201 KAR 20:095 (Inactive nurse licensure status.) Section 5 was amended to (1) provide definite requirements for restoration to active status; and, (2) to delete language that would appear to allow the board unlimited discretion as to such requirements. (3) Additional amendments were made to various sections to correct grammar and to use proper terminology to express mandatory requirements.

201 KAR 20:110 (Licensure by endorsement.) This regulation was amended (1) to make it clear that an applicant did not need to have taken an examination available in English, but that an English translation had to be made available to the board for it to determine it was equivalent to examinations given in Kentucky; (2) to provide definite requirements for restoration to active status, and to delete language that would appear to allow the board unlimited discretion as to such requirements. (3) Additional amendments were made to various sections to correct grammar and to use proper terminology to express mandatory requirements; and, (4) to

various sections to correct grammar and to use proper terminology to express mandatory requirements. (5) The tiering statement was amended to specify the reasons tiering was not required.

201 KAR 20:161 (Investigation and disposition of complaints.) (1) Amendments were made to various sections to correct grammar and to use proper terminology to express mandatory requirements. (2) The tiering statement was amended to specify the reasons tiering was not required. (3) Section 2 was amended to delete the reference to a designee of the executive director of the board since KRS 314.091 grants the authority to issue subpoenas only to the director. (4) Section 2 also was amended to make it clear that if a licensee or applicant waived her right to a hearing, the board could issue a consent decree imposing a fine rather than other disciplinary action. (5) The tiering statement was amended to state the specific reasons tiering was not required.

201 KAR 20:162 (Procedures for disciplinary hearings pursuant to KRS 314.091.) This regulation was amended (1) to provide that the board, in cases of financial hardship, could waive fees for hearings requested by those seeking restoration of license; (2) to correct grammar; (3) to make it clear that inspection and copying of documents relevant to a hearing was permitted; and, (4) to provide for inspection of relevant documents that federal or state law did not permit to be copied.

201 KAR 20:210 (Standards for a program of continuing education.) This regulation was amended (1) to correct grammar; and, (2) to clarify whether conditions were alternative or inclusive.

201 KAR 20:225 (Reinstatement of license.) This regulation was amended to change language that would appear to allow the board unlimited discretion as to such requirements.

201 KAR 20:240 (Fees for applications and for services.) This regulation was amended to correct grammar.

201 KAR 20:370 (Applications for licensure and registration.) This regulation was amended to correct grammar.

201 KAR 20:380 (Standards for refresher course approval.) This regulation was amended to correct grammar.

The Subcommittee determined that the following regulations complied with KRS Chapter 13A:

General Government Cabinet: Board of Nursing

201 KAR 20:090 (Temporary work permit.)

201 KAR 20:115 (Limited licensure.)

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

201 KAR 20:215 (Contact hours.)

201 KAR 20:220 (Provider approval.)

201 KAR 20:230 (Renewal of licenses.)

201 KAR 20:270 (Programs of nursing surveys.)

201 KAR 20:290 (Standards for prelicensure registered nurse and practical nurse extension programs.)

201 KAR 20:310 (Faculty for prelicensure registered nurse and practical nurse programs.)

201 KAR 20:320 (Standards for curriculum of prelicensure registered nurse programs.)

201 KAR 20:330 (Standards for curriculum of prelicensure practical nurse programs.)

201 KAR 20:360 (Evaluation of prelicensure

registered nurse and practical nurse programs.)

Tourism Cabinet: Department of Fish and Wildlife Resources: Fish

301 KAR 1:190 (Special restrictions on the sale of musseling licenses.) The Subcommittee raised objection to the method used for determining applicants who receive musseling licenses. A motion was approved to request the Fish and Wildlife Commission reconsider this method and determine a more appropriate method. Commission representatives agreed to reconsider this matter and file additional amendments at a later date.

Game

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

Wildlife

301 KAR 4:050 (Swan Lake Wildlife Management Area restrictions.)

Corrections Cabinet: Office of the Secretary

501 KAR 6:030 (Kentucky State Reformatory.)

Public Protection & Regulation Cabinet: State Racing Commission: Thoroughbred Racing Rules

810 KAR 1:011 (Pari-mutuel wagering.)

810 KAR 1:013 (Entries, subscriptions and declarations.)

The Subcommittee deferred the following regulations at the agencies' request:

General Government Cabinet: Board of Dentistry

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

Board of Podiatry

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

201 KAR 25:012 (Licensing examinations.)

Kentucky Athletic Commission

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

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

Commerce Cabinet: Department of Agriculture: Kentucky Grain Insurance and Grain Dealers

302 KAR 34:050 (Grain dealer licensing of federal warehouses.)

The Subcommittee had no objections to emergency regulations which had been filed.

The Subcommittee had no objections to emergency regulations which had been filed.

The Subcommittee recessed at 3:15 p.m. until November 6, 1987.

Present November 6, 1987 were:

Members: Representative Mark D. O'Brien, Chairman; Senators Pat McCuiston and Bill Quinlan; Representatives Jim Bruce, Ronny Layman and Joe Meyer.

Guests: Millie Ellis, Martha L. Hall, Kenneth M. Hines, Roger McCann, Hisham Saaid, Natural Resources & Environmental Protection Cabinet; Gary M. Godby, Justice Cabinet; Bill Debord, Sandra G. Pullen, Transportation Cabinet; J. Gary Bale, Edwin Smith, Akeel Zaheer, Department of Education; Bill Pettus, Harness Racing Commission; Judith Walden, Department of Housing, Buildings & Construction;

Barbara Coleman, Ked Fitzpatrick, Anne Hager, N. Clifton Howard, Clifford Jennings, R. Hughes Walker, Cabinet for Human Resources.

LRC Staff: Susan Wunderlich, Joe Hood, Gregory Karambellas, Donna Pierce & Carla Arnold.

On November 6, 1987, the following action was taken:

The Subcommittee determined that the following regulation does not comply with KRS Chapter 13A and attached a statement of objection:

Education and Humanities Cabinet: Department of Education: Office of Local Services: School District Finance

702 KAR 3:190 (Maximum class sizes.) Representative Meyer stated that the exclusion of up to five students after September 15, 1987 in excess of the class size cap for as much as three weeks does not comply with KRS 157.580 which expressly permits no more than two students above the class maximum for any reason except space limitations. The Subcommittee agreed with the agency that the provisions of this regulation could be an agreeable solution; however, the statute specifically limits the class size and should be amended. The Subcommittee approved a motion to attach a statement of objection that this regulation exceeds statutory authority and to request the Legislative Research Commission to refer this subject matter to a committee of appropriate jurisdiction for further study and statute recommendations.

The Subcommittee determined that the following regulations, as amended, complied with KRS Chapter 13A:

Public Protection & Regulation Cabinet: Department of Housing, Buildings & Construction: Standards of Safety

815 KAR 10:020 (Fire safety standards.) This regulation was amended to comply with the requirements in 1 KAR 1:010 dealing with material incorporated by reference.

The Subcommittee determined that the following regulations complied with KRS Chapter 13A:

Natural Resources & Environmental Protection Cabinet: Department for Environmental Protection: Division for Air Quality: General Standards of Performance

401 KAR 63:042 (Requirements for asbestos abatement entities.) Chairman O'Brien questioned the exemption granted in Section 4 to asbestos abatement entities which work on projects in which the entity is the owner of a manufacturing or industrial facility and where all work is performed exclusively by employees of that entity. Agency personnel responded that although these entities are not required to follow federal OSHA guidelines, all removal projects must be reported to the state and the state does monitor these projects. The Subcommittee approved a motion to request that the Legislative Research Commission refer this regulation to the committee of appropriate jurisdiction for further study.

Justice Cabinet: Department of State Police: Polygraph

502 KAR 20:020 (Examiners.)

Transportation Cabinet: Department of Vehicle Regulation: Division of Motor Carriers

601 KAR 1:020 (Permit for hauling industrial materials; fee; bond.)

Motor Vehicle Tax

601 KAR 9:125 (Dealer plates.)

Motor Vehicle Commission

605 KAR 1:160 (Motor vehicle component manufacturers.)

Education and Humanities Cabinet: Department of Education: Office of Instruction: Teacher Certification

704 KAR 20:005 (Kentucky standards for preparation-certification of professional school personnel program approval.)

704 KAR 20:280 (Endorsement for teachers of gifted education.)

Office of Vocational Rehabilitation: Administration

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

Public Protection & Regulation Cabinet: Harness Racing Commission: Harness Racing Rules

811 KAR 1:105 (Review and appeal.)

811 KAR 1:215 (Kentucky standardbred development fund.)

Department of Housing, Buildings & Construction: Kentucky Building Code

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

Plumbing

815 KAR 20:120 (Water supply and distribution.)

Cabinet for Human Resources: Department for Health Services: Hospitalization of Mentally Ill and Mentally Retarded

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

Department for Social Insurance: Public Assistance

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

Food Stamp Program

904 KAR 3:020 (Eligibility requirements.)

Department for Medicaid Services: Medicaid Services

907 KAR 1:026 (Dental services.)

907 KAR 1:027 (Payments for dental services.)

The Subcommittee deferred the following regulations at the agencies' request:

Justice Cabinet: Department of Criminal Justice Training: Law Enforcement Foundation Program Fund

503 KAR 5:090 (Participation: requirements; application; withdrawal.)

Transportation Cabinet: Administration

600 KAR 1:050 (Employee conduct and working hours.)

Department of Vehicle Regulation: Division of Motor Carriers

601 KAR 1:115 (Taxicabs.) (Agency requests deferral)

Education and Humanities Cabinet: Department of
Education: Office of Vocational Rehabilitation:
Administration

706 KAR 1:020 (Independent living
rehabilitaion services state plan.)

Public Protection & Regulation Cabinet:
Department of Housing, Buildings & Construction:
Boilers and Pressure Vessels

815 KAR 15:010 (Definitions.)

Other Business:

Department of Vehicle Regulation: Division of
Motor Carriers

600 KAR 1:050 (Employee conduct and working
hours.) Chairman O'Brien pointed out that this
regulation was one of a number relating to
personnel matters that agencies, rather than the

Personnel Department, had promulgated. He added
that previously, the Subcommittee had reminded
these agencies that KRS Chapter 18A authorizes
only the Personnel Board and the Department of
Personnel to promulgate regulations governing
personnel matters, and that it requires uniform
regulations. suggested that the Personnel
Department and agencies that felt they needed
certain regulatory matters included in
regulations meet with Subcommittee staff.
Chairman O'Brien directed staff to contact
relevant agency personnel and the Commissioner
of Personnel regarding this situation.

The Subcommittee had no objections to
emergency regulations which had been filed.

The Subcommittee adjourned at 10:35 a.m.
until December 10, 1987.

REPRINT

See following pages to replace SALES AND USE TAX; SERVICE, PROFESSION OCCUPATIONS,
Title 103, Chapter 26, in Volume 1, 1987 Kentucky Administrative Regulations Service.

SALES AND USE TAX; SERVICE, PROFESSIONAL OCCUPATIONS - TITLE 103, CHAPTER 26

COMPILER'S NOTE: Please replace Title 103, Chapter 26 in Volume 1 of the 1987 Kentucky Administrative Regulations Service with these pages due to omission of 103 KAR 26:080 in the original publication.

CHAPTER 26
SALES AND USE TAX;
SERVICE AND PROFESSIONAL OCCUPATIONS

- 010. Service enterprises in general.
- 020. Physicians and surgeons.
- 030. Optometrists, oculists and opticians.
- 040. Morticians, undertakers and funeral directors.
- 050. Common carriers.
- 060. Painters and finishers.
- 070. Construction contractors.
- 080. Dentists and dental laboratories.
- 090. Veterinarians.
- 100. Towel and linen service.

103 KAR 26:010. Service enterprises in general.

RELATES TO: KRS 139.110

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: This regulation interprets the sales and use tax law as it applies to service enterprises in general.

Section 1. Persons engaged in the business of rendering service are consumers, not retailers, of the tangible personal property which they use incidentally in rendering the service. Tax, accordingly, applies to the sale of the property to them. Examples of service enterprises may include, but are not limited to, the following: banks, advertising agencies, launderers, cleaners, barbers, beauty shop operators, tire repairers, taxidermists, shoe repairmen, bootblacks, and similar enterprises.

Section 2. Persons rendering professional services are consumers, not retailers, of the tangible personal property which they use incidentally in rendering their services. Examples of such persons would be lawyers, architects, engineers, and accountants.

Section 3. If any of the above persons or enterprises, in addition to using property incidentally in connection with rendering services, are regularly engaged in selling tangible personal property to consumers, they are retailers with respect to such sales, and they must obtain permits, file returns and remit tax measured by such sales. (SU-21-2; 1 Ky.R. 144; eff. 12-11-74.)

103 KAR 26:020. Physicians and surgeons.

RELATES TO: KRS 139.050, 139.100, 139.110, 139.120, 139.130, 139.472

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: This regulation defines and clarifies the sales and use tax law as it applies to sales to and by physicians and surgeons.

Section 1. Physicians and surgeons are the consumers of the materials, supplies, or other items of tangible personal property which they use in performing their services. The tax accordingly applies to the sale of the tangible personal property to them. Drugs, medicines and other tangible personal property which are

personally administered by a physician or surgeon or by an assistant under his direction during treatment of a patient are not the subject of a "retail sale." Likewise, drugs and medicines and other tangible personal property which can only be compounded by a physician or surgeon or by an assistant under his direction are not the subject of a retail sale whether or not they are personally administered by such physician or surgeon or by an assistant under his direction.

Section 2. A physician or surgeon who supplies or dispenses medicine and drugs for a separate retail price will be considered to be dispensing prescription medicine exempt from the sales and use tax if such medicines or drugs would require a prescription is sold by a pharmacist. Records of sales for which an exemption is claimed must be kept in a manner permitting ready inspection by the Revenue Cabinet. (SU-18-1; 1 Ky.R. 144; eff. 12-11-74.)

103 KAR 26:030. Optometrists, oculists and opticians.

RELATES TO: KRS 139.110

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: This regulation defines and clarifies the sales and use tax law as it applies to transactions involving optometrists, oculists and opticians.

Section 1. Oculists and optometrists are the consumers of the ophthalmic materials including eyeglasses, frames and lens used or furnished to their patients in the performance of their professional services. The tax accordingly applies to the sale of the tangible personal property to them.

Section 2. Where optometrists fill prescriptions written by others, the optometrist is the retailer and the tax applies to the entire charge made for the glasses furnished in filling the prescription.

Section 3. Opticians are engaged in the business of selling tangible personal property and the tax applies to the entire charge made by a dispensing optician for glasses and kindred products furnished in filling a prescription of an oculist, optometrist or ophthalmologist. (SU-19; 1 Ky.R. 144; eff. 12-11-74.)

103 KAR 26:040. Morticians, undertakers and funeral directors.

RELATES TO: KRS 139.110

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: To interpret the sales and use tax law as it applies to transactions involving morticians, undertakers and funeral directors.

Section 1. Morticians, undertakers and funeral directors are primarily engaged in rendering personal services which are not taxable. They are consumers of all items, including vaults and caskets, which they use or consume in the

rendition of their services and the tax applies at the time of their sale to the mortician, undertaker or funeral director. (SU-24; 1 Ky.R. 465; eff. 3-12-75.)

103 KAR 26:050. Common carriers.

RELATES TO: KRS 139.090, 139.120, 139.190, 139.470, 139.480

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: To interpret the sales and use tax law as it applies to transactions involving common carriers.

Section 1. All tangible personal property sold to or used by common carriers in this state shall be subject to application of the sales or use tax with the exceptions noted in Section 2 of this regulation. Tax will be applicable to leasing arrangements, or use pursuant to leasing arrangements, whereby items of equipment (including, for example, but not limited to, such things as tires or batteries) are acquired by common carriers for utilization over extended periods of time in connection with operations. Such purchases, uses, leases, and uses pursuant to leases are subject to the exceptions and qualifications hereinafter noted.

Section 2. Excepted from application of the sales or use tax are the following:

(1) Over the road equipment or floating equipment which enters this state in actual use in interstate commerce at the time of entering, and is used exclusively in interstate commerce thereafter (nominal use in intrastate commerce will not affect this exception from application of tax).

(2) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives or trains, used or to be used in interstate commerce. The term "rolling stock" shall mean only that equipment designed to move on rails and used for the transportation of goods or passengers for hire.

(3) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire (nominal use in intrastate commerce will not affect this exception from application of tax). (SU-43-1; 1 Ky.R. 229; eff. 1-8-75; Am. 9 Ky.R. 1152; eff. 5-4-83; 13 Ky.R. 1084; eff. 1-13-87.)

103 KAR 26:060. Painters and finishers.

RELATES TO: KRS 139.050, 139.100, 139.110, 139.120, 139.130, 139.160

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: To interpret the sales and use tax law as it applies to painting or finishing real and tangible personal property.

Section 1. Persons engaged in the business of painting or finishing tangible personal property are the sellers of tangible personal property. As a seller, a painter or finisher must obtain a retail sales and use tax permit and remit the tax measured by the gross receipts from charges for painting or finishing finished products for

consumers.

Section 2. Tax does not apply to charges for repainting or refinishing used articles. Tax applies in such case to the sale to the finisher of the paint and other materials used in the process, as he is regarded as the consumer of such property. If the refinisher uses paint or other materials purchased under a resale certificate, or without payment of use tax, he must report and pay tax measured by the cost of the materials to him.

Section 3. House painters are consumers and tax does not apply to charges for painting real estate. Tax applies in such case to the sale of paint to the house painter. (SU-51; 1 Ky.R. 229; eff. 1-8-75.)

103 KAR 26:070. Construction contractors.

RELATES TO: KRS 139.110, 139.150, 139.190, 139.210, 139.240, 139.260, 139.270, 139.310, 139.560, 139.710, 139.730

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: To interpret the sales and use tax law as it applies to transactions involving contractors making improvements to real property.

Section 1. All sales to contractors, subcontractors, builders or owners of building materials, fixtures and supplies which are to be incorporated or fabricated into any structure or improvement to real estate by the process of erecting, remodeling, or repairing such structure or improvement are subject to the sales or use tax at the time of sale to the contractor, subcontractor, builder or owner. This rule applies irrespective of the type of contract (lump-sum and materials, cost plus fixed fee, or other) for which the purchase is made. A person, firm, association, partnership or corporation engaged exclusively in construction work as a contractor or subcontractor is not required to hold a retail sales tax permit and such a permit will not be issued to these persons.

Section 2. Definitions. (1) The terms "contractor" and "subcontractor" are used herein in the common and ordinary acceptance of the terms and include both general contractors and subcontractors engaged in such building trades as carpentry, bricklaying, wall to wall carpeting, cement work, steel work, plastering, sheet metal work (including aluminum siding), roofing, tile and terrazzo work, cabinet work, electrical work, plumbing, central heating and air conditioning, painting, interior decorating, and storm window and permanent awning work. The terms "contractor" and "subcontractor" as used herein do not include any person who repairs tangible personal property.

(2) The term "construction contract" as used herein means a contract for erecting, remodeling, or repairing a building or other structure on land and includes lump-sum, cost plus, and time-and-materials contracts, but does not include a contract for the sale and installation of machinery, appliances or equipment which the contractor has sold but which do not become part of the real property. (In this latter case, the contractor must apply

for a retail sales and use tax permit and remit tax on his sales price of the machinery, appliances or equipment.) Examples of taxable sales include refrigerators, oven-ranges and dishwashers which are not built-in, laundry appliances, window unit air conditioners and space heaters.

(3) The term "materials" means all of the tangible personal property, other than fixtures, which enters into and becomes a permanent part of a structure. Examples of materials are: bricks, builders hardware, cement, gravel, sand, macadam, asphalt, lumber, electrical wiring, wall board and coping, roofing, guttering, aluminum siding, storm doors and windows, and cabinets.

(4) The term "fixtures" means things which are accessory to a building and do not lose their identity as accessories but which do become a permanent part of the realty. Examples of fixtures are: lighting fixtures, plumbing fixtures, hot water heaters, furnaces, boilers, central heating units, elevators, hoists, burglar and fire alarm fixtures, central air conditioning and built-in refrigeration units, built-in oven-ranges and dishwashers, and cabinets.

(5) The term "improvements to real estate" as used in this regulation includes, but is not limited to, buildings, roads, sewers, dams, railroads, and fences.

Section 3. A contractor may not claim that the purchase of materials or fixtures is not subject to the tax because the property is to be used in fulfilling a contract with the federal government, state government or political subdivision thereof, or any department, agency, or instrumentality of the federal government, state government or political subdivision thereof, or with a religious, educational, or charitable institution.

Section 4. A Kentucky supplier, if he passes on the tax, and any out-of-state supplier who is the holder of a permit for collection of the use tax, shall bill and collect Kentucky tax from the contractor. A contractor, unless he falls within the exception described in Section 5 of this regulation, will not be the holder of a retail sales and use tax permit and is not entitled to execute a resale certificate. The supplier is not to accept any number of the series 900000 as evidence that the purchaser is the holder of a permit. Such numbers are issued to contractors for the purpose of reporting on a Consumer's Use Tax Return. Nor is the supplier to accept any resale certificate from a contractor-retailer who holds a permit under the exception to this rule, for any materials or supplies which the supplier, in fact, knows are to be used by such purchaser in his own construction business. Any contractor, subcontractor, builder or owner who purchases such items from an out-of-state supplier who is not licensed to collect the Kentucky use tax shall report and pay such use tax directly to the cabinet on a Consumer's Use Tax Return based upon his purchase price of the property.

Section 5. In some instances, contractors and subcontractors are in a dual business which includes selling machinery, appliances or equipment as described in Section 2 of this regulation or reselling to the general public on

an "over-the-counter" basis the same type of building materials and supplies as is used by them in their own construction work. A person operating such a dual business is referred to in this rule as a contractor-retailer, and constitutes the sole exception under which a contractor will be issued a permit. Because of the retail business he operates, such a contractor-retailer must make application for a Retail Sales and Use Tax Permit. Upon issuance of the permit, a contractor-retailer may then execute resale certificates for the machinery, appliances or equipment purchased for resale and for all items of inventory which he purchases for resale in his retail business. He may also issue a resale certificate for any items that he regularly holds in stock when he does not know at the time of purchase whether such items will be resold or used by him in his own construction business.

Section 6. In the event any contractor, subcontractor, builder, or contractor-retailer is the manufacturer of the building material or supplies he uses in his construction business, the tax shall apply to the sales price to him of all tangible personal property which enters into the manufacture of such materials or supplies.

Section 7. Any contractor-retailer who has no fixed place of business from which he regularly operates may be required to post a security as provided in KRS 139.660. (SU-54-2; 1 Ky.R. 703; eff. 5-14-75.)

103 KAR 26:080. Dentists and dental laboratories.

RELATES TO: KRS 139.110

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: To interpret the sales and use tax law as it applies to transactions involving dentists and dental laboratories.

Section 1. Dentists are consumers of the materials, supplies, dental laboratory products and other tangible personal property which they use in performing their services. The tax, accordingly, applies to the sale of the tangible personal property to them.

Section 2. Dental laboratories are the retailers of the plates, inlays and any other products which they manufacture for dentists or other consumers. Tax applies to their entire charges for such products regardless of whether the materials and services are separately stated.

Section 3. Dental laboratories making repairs or replacements to dentures and other tangible personal property are the consumers of tangible personal property used to make such repairs or replacements and the tax applies at the time of the sale of such materials to them. (SU-77; 1 Ky.R. 229; eff. 1-8-75.)

103 KAR 26:090. Veterinarians.

RELATES TO: KRS 139.050, 139.100, 139.110, 139.120, 139.130

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: To interpret the sales and use tax law as it applies to transactions

involving veterinarians.

Section 1. Veterinarians are the consumers of the materials, supplies or other items of tangible personal property which they use in performing their services. The tax, accordingly, applies to the sale of tangible personal property to them. Drugs, medicines and other tangible personal property which are personally administered by a veterinarian or by an assistant under his direction during treatment of a patient is not the subject of a "retail sale."

Section 2. Any veterinarian who, for a separate charge, supplies or dispenses drugs, medicines or other tangible personal property in any manner other than the manner described above is a retailer of such tangible personal property and the tax applies at the time of the delivery of the tangible personal property to the consumer. (SU-78; 1 Ky.R. 229; eff. 1-8-75.)

103 KAR 26:100. Towel and linen service.

RELATES TO: KRS 139.100, 139.110, 139.120, 139.130, 139.140

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: To interpret the sales and use tax law as it applies to transactions involving towel and linen services.

Section 1. Persons furnishing periodic cleaning or laundering of coats, caps, aprons, diapers, uniforms, dresses, towels, linens and articles of a similar nature under an agreement which provides for a continuous service to be rendered to barber shops, beauty shops, industrial plants and other establishments or to individuals, are consumers of the supplies and other property used in performing their services and the tax applies at the time such supplies are purchased. (SU-86-2; 1 Ky.R. 229; eff. 1-8-75.)

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CUMULATIVE SUPPLEMENT

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LOCATOR INDEX -- EFFECTIVE DATES

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

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201 KAR 8:006	1859 (See 14 Ky.R.)		902 KAR 13:010		
201 KAR 8:390	1860		Amended	2121	8-5-87
201 KAR 27:017	2169	8-5-87	902 KAR 13:030		
806 KAR 12:110			Amended	2122	8-5-87
Amended	2107	8-5-87	902 KAR 13:050		
806 KAR 38:060			Amended	2123	8-5-87
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806 KAR 38:080			Amended	2125	8-5-87
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			Amended	2126	8-5-87

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101 KAR 2:040E	1045	10-15-87	500 KAR 6:030E	126	7-1-87
101 KAR 2:050E	1048	10-15-87	Replaced	332	10-2-87
201 KAR 25:011E	544	8-24-87	500 KAR 6:040E	127	7-1-87
201 KAR 25:012E	545	8-24-87	Replaced	333	10-2-87
201 KAR 27:017E			500 KAR 6:050E	128	7-1-87
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201 KAR 27:018E	545	8-27-87	500 KAR 6:060E	129	7-1-87
201 KAR 27:019E	546	8-27-87	Replaced	336	10-2-87
301 KAR 1:190E	546	8-27-87	500 KAR 6:070E	130	7-1-87
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301 KAR 2:044E	407	8-7-87	500 KAR 6:080E	131	7-1-87
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301 KAR 2:220E	686	9-16-87	500 KAR 6:090E	132	7-1-87
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301 KAR 2:230E	691	9-25-87	500 KAR 6:100E	133	7-1-87
301 KAR 3:021E	692	9-25-87	Replaced	340	10-2-87
301 KAR 4:050E	693	9-16-87	500 KAR 6:110E	134	7-1-87
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302 KAR 20:055E	698	10-8-87	Replaced	344	10-2-87
302 KAR 20:065E	700	10-8-87	500 KAR 6:130E	137	7-1-87
302 KAR 20:070E	702	10-8-87	Replaced	346	10-2-87
302 KAR 20:210E	706	10-8-87	500 KAR 6:140E	138	7-1-87
302 KAR 34:050E	121	7-2-87	Replaced	346	10-2-87
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603 KAR 5:210E	725	10-15-87	201 KAR 9:121		
603 KAR 5:230E	755	10-15-87	Amended	836	
605 KAR 1:160E	550	9-15-87	201 KAR 11:220	1021	
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702 KAR 3:190E	550	9-8-87	201 KAR 18:050		
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702 KAR 7:065E	800	10-14-87	201 KAR 18:170	1170	
807 KAR 5:008E	1056	10-30-87	201 KAR 19:095		
811 KAR 2:096E	420	7-24-87	Amended	837	
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902 KAR 4:050E	800	10-2-87	Amended	571	11-6-87
902 KAR 8:020E	801	9-25-87	201 KAR 20:090		
902 KAR 10:120E			Amended	573	11-6-87
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905 KAR 1:091E	427	8-7-87	Amended	1069	11-6-87
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907 KAR 1:011E	817	10-2-87	Amended	585	
907 KAR 1:016E	431	7-17-87	Amended	1071	11-6-87
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907 KAR 1:031E	150	7-1-87	Amended	587	11-6-87
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907 KAR 1:036E	152	7-1-87	Amended	588	11-6-87
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907 KAR 1:037E	158	7-1-87	Amended	589	11-6-87
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101 KAR 1:325					
Amended	831				
101 KAR 2:040					
Amended	832				
101 KAR 2:050					
Amended	834				
201 KAR 1:062					
Amended	161	7-2-87			

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201 KAR 26:200			401 KAR 47:010	529	
Amended	231	9-10-87	Withdrawn		10-29-87
201 KAR 26:210	313	9-10-87	401 KAR 47:020		
201 KAR 26:220	314	9-10-87	Amended	464	
201 KAR 26:230	528	10-2-87	Withdrawn		10-29-87
201 KAR 27:018	669		401 KAR 47:040		
201 KAR 27:019	669		Amended	468	
201 KAR 28:050			Amended	821	11-6-87
Amended	31	8-5-87	401 KAR 49:030		
201 KAR 28:060			Amended	475	
Amended	32	8-5-87	Amended	827	11-6-87
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Amended	232	9-10-87	Amended	829	11-6-87
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Amended	233	9-10-87	Amended	883	
201 KAR 28:110			401 KAR 51:052		
Amended	33	8-5-87	Amended	892	
301 KAR 1:075			401 KAR 57:045		
Amended	1080		Amended	900	
301 KAR 1:120			401 KAR 59:221		
Amended	1081		Amended	902	
301 KAR 1:145			401 KAR 59:305		
Amended	1082		Amended	903	
301 KAR 1:190	670	11-6-87	401 KAR 59:310	1025	
301 KAR 1:200	1170		401 KAR 63:041	320	*(No eff. date)
301 KAR 2:044			*Since Statement of Consideration was not received by 15th day following hearing, proposed regulation must be refiled. (KRS 13A.280(2))		
Amended	463	10-2-87	401 KAR 63:042	670	11-6-87
301 KAR 2:050			405 KAR 7:070		
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301 KAR 2:110			Amended	432	9-10-87
Amended	35	8-5-87	405 KAR 16:060		
301 KAR 2:140			Amended	22	
Amended	839		405 KAR 18:060		
301 KAR 2:220			Amended	24	
Amended	598	11-6-87	405 KAR 18:190		
301 KAR 2:230			Amended	27	
Amended	841		500 KAR 4:030		
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301 KAR 3:030			500 KAR 4:050		
Amended	36	8-5-87	Amended	163	7-2-87
301 KAR 4:050			500 KAR 4:060		
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302 KAR 20:055			500 KAR 6:030	332	10-2-87
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302 KAR 20:065			500 KAR 6:050	334	10-2-87
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Amended	868		500 KAR 6:180	349	10-2-87
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Amended	235	9-10-87	601 KAR 9:015		
501 KAR 6:030			Amended	252	9-10-87
Amended	47	8-5-87	601 KAR 9:040		
Amended	236	9-10-87	Amended	252	9-10-87
Amended	605	11-6-87	601 KAR 9:047		
Amended	905		Amended	254	9-10-87
Amended	1083		601 KAR 9:060		
501 KAR 6:040			Amended	255	9-10-87
Amended	48	8-5-87	601 KAR 9:074		
Amended	238	9-10-87	Amended	256	*(No eff. date)
Amended	478	10-2-87	Amended	1098	
Amended	907		*Since Statement of Consideration was not received by 15th day following hearing, proposed regulation must be refiled. (KRS 13A.280(2))		
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Amended	480	10-2-87	601 KAR 9:085		
Amended	908		Amended	261	9-10-87
501 KAR 6:060			601 KAR 9:125	91	8-5-87
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704 KAR 15:030			Amended	1123	
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705 KAR 5:110	353	9-10-87	Amended	1146	
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