Administrative Register of Kentucky

LEGISLATIVE RESEARCH COMMISSION
FRANKFORT, KENTUCKY

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MONDAY, JANUARY 1, 1988

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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 January 4, 1988. See tentative agenda on pages 1185-1186 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
## January 4, 1988
## (Rm. 107, Capitol Annex @ 1 p.m.)

### GENERAL GOVERNMENT CABINET

**Board of Registration for Professional Engineers and Land Surveyors**

201 KAR 18:170. Compensation of board members.

### TOURISM CABINET

### Department of Fish and Wildlife Resources

**Fish**

301 KAR 1:075. Gigging, grabbling or snagging, tickling and noodling.
301 KAR 1:120. Live fish sales and handling; licensure.
301 KAR 1:145. Gear allowed for commercial fishing.
301 KAR 1:200. Seasons and limits for angling. (Repeals 301 KAR 1:055)

### COMMERCE CABINET

### Department of Agriculture

**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. (Amended After Hearing)
401 KAR 34:144 & E. Wording of the instrument for a surety bond guaranteeing payment into a trust fund. (Not Amended After Hearing)
401 KAR 34:159 & E. Wording of the instrument for financial tests on closure or postclosure care. (Not Amended After Hearing)
401 KAR 34:162 & E. Wording of the instrument for financial tests on liability coverage and closure or postclosure care. (Not Amended After Hearing)
401 KAR 34:165 & E. Wording of the instrument for a corporate guarantee. (Not Amended After Hearing)

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

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

### JUSTICE CABINET

**Juvenile Detention Facilities**

500 KAR 6:200. Physical plant.

### CORRECTIONS CABINET

**Office of the Secretary**

501 KAR 6:030. Kentucky State Reformatory.
501 KAR 6:040. Kentucky State Penitentiary.
501 KAR 6:060. Northpoint Training Center.
501 KAR 6:120. Blackburn Correctional Complex.
501 KAR 6:130 & E. Western Kentucky Farm Center.
501 KAR 6:140 & E. Bell County Forestry Camp.

### TRANSPORTATION CABINET

**Office of Minority Affairs**

600 KAR 4:010 & E. Certification of disadvantaged, minority and women business enterprises. (Amended After Hearing)
600 KAR 4:020 & E. The disadvantaged, minority and women business enterprise program. (Amended After Hearing)

### Department of Vehicle Regulation

**Division of Motor Carriers**

601 KAR 1:005. Safety regulations.
601 KAR 1:025. Transporting hazardous materials; permit.
601 KAR 1:115. Taxicabs. (Deferred since October meeting)

**Motor Vehicle Tax**

601 KAR 9:074. Kentucky highway use license, records and taxes.

### Department of Highways

**Traffic**

603 KAR 5:210 & E. Extended weight coal haul road system. (Amended After Hearing)
603 KAR 5:230 & E. Bridge weight limits on the extended weight coal haul road system. (Amended After Hearing)

### EDUCATION AND HUMANITIES CABINET

### Department of Education

### Office of Instruction

**Instructional Services**

704 KAR 3:030. Special instructional service units.

**Elementary and Secondary Education Act**

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

**Teacher Education**

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

**Teacher Certification**
704 KAR 20:215. Vocational education administrators.
704 KAR 20:460. Examination prerequisites for principal certification.

**Office of Vocational Education**

**Instructional Programs**
705 KAR 4:210. Diploma requirements for postsecondary students.
**Management of State-Operated Schools**
705 KAR 5:130. Attendance policies for long-term adults in state-operated vocational schools.

**Office of Programs**

**Adult Education**
709 KAR 1:070. Minimum standards of admission for long-term adult students in vocational programs.

**PUBLIC PROTECTION AND REGULATION CABINET**

**Department of Insurance**

**Assets and Liabilities**
806 KAR 6:090. Discounting of casualty insurance loss reserves. (Amended After Hearing)

**Public Service Commission**

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

**Department of Housing, Buildings, and Construction**

**Kentucky Building Code**
815 KAR 7:013. Kentucky building code plan review fees.
815 KAR 7:020. Building code.
**Boilers and Pressure Vessels**
815 KAR 15:010. Definitions. (Deferred since November meeting)
**Plumbing**
815 KAR 20:010. Definitions.
815 KAR 20:020. Parts and materials list.
815 KAR 20:060. Quality and weight of materials.
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.
815 KAR 20:075. Installation recommendations for polybutylene tubing for hot and cold water distribution systems.
815 KAR 20:076. Installation recommendations for polybutylene (PB) cold water building supply, yard piping and tubing.
815 KAR 20:077. Storage and installation of aluminum soil, waste vent and storm water piping and fittings.
815 KAR 20:090. Soil, waste and vent systems.
815 KAR 20:100. Joints and connections.
815 KAR 20:120. Water supply and distribution.
815 KAR 20:130. House sewers and storm water piping; methods of installation.
815 KAR 20:191. Minimum fixture requirements.

**CABINET FOR HUMAN RESOURCES**

**Department for Health Services**

**Local Health Departments**
902 KAR 8:020. Policies and procedures for local health department operations.
**Hospitalization of Mentally Ill and Mentally Retarded**
902 KAR 12:080. Policies and procedures for mental health/mental retardation facilities.
**State Health Plan**
902 KAR 17:010. State health plan. (Amended After Hearing)
902 KAR 17:020. State health plan process. (Deferred from December meeting)

**Department for Social Insurance**

**Public Assistance**
904 KAR 2:006. Technical requirements; AFDC.
904 KAR 2:016 & E. Standards for need and amount; AFDC.
904 KAR 2:020 & E. Child support.

**Department for Social Services**

**Child Welfare**
905 KAR 1:180 & E. DSS policy and procedures manual.
**Day Care**
905 KAR 2:010. Standards for all child day care facilities. (Amended After Hearing) (Deferred from December meeting)
**Department for Medicaid Services**
**Medicaid Services**
907 KAR 1:010 & E. Payments for physicians' services.

# 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

A uniform procedure is needed to deal with disputed claims to the proceeds of grain dealer/grain warehouseman bonds, certificates of deposit and irrevocable letters of credit. The procedure outlined in this regulation will provide such uniformity in the handling of disputed claims. The procedure is needed immediately so that a final resolution of certain claims can be made. An ordinary regulation will not be effective in a timely fashion. Therefore, an emergency exists. This emergency regulation will be followed by an ordinary regulation.

MARTHA LAYNE COLLINS, Governor
DAVID E. BOSWELL, Commissioner

KENTUCKY DEPARTMENT OF AGRICULTURE

**302 KAR 36:010E. Disputed claims to bond, certificate of deposit and irrevocable letter of credit proceeds.**

RELATES TO: KRS 251.440, 251.451, 251.720
PURSUANT TO: KRS 251.700

EFFECTIVE: December 4, 1987
NECESSITY AND FUNCTION: To define and clarify the procedure for settlement of disputed claims to the proceeds of grain storage and grain dealer bonds, certificates of deposit or irrevocable letters of credit.

Section 1. Following the failure of a grain dealer or grain warehouseman the Director, Division of Weights and Measures, shall determine the claims and amounts thereof to be made against the proceeds of a grain warehouseman or grain dealer bond, certificate of deposit or irrevocable letter of credit. Such bond, certificate of deposit or irrevocable letter of credit shall first be applied to pay those individuals whom the director determines to be valid claimants. Such claimants shall be paid on a pro rata basis determined by the director if there are insufficient proceeds to reimburse claimants 100 percent. If proceeds of the bond, certificate of deposit, and/or irrevocable letter of credit remain after reimbursing all claimants 100 percent, the remaining proceeds shall be used to reimburse the Kentucky Grain Insurance Fund for any amounts paid from the fund.

Section 2. The director shall, after determining claims and amounts thereof, send notice to all claimants of the amount to be paid to that claimant and shall give the claimant ten (10) days in which to respond if the claimant does not agree with the figure he is to be paid.

Section 3. If a claim is disputed or if a claimant disagrees with the amount he is to be paid or his entitlement to a portion of the proceeds of the bond, certificate of deposit or irrevocable letter of credit and has requested further consideration of his claim, and if such request has been received by the director within the requisite ten (10) day period, the director shall forward the information concerning the claim, including all associated documents, to the commissioner or his designee to review the claim and make a final determination thereon. The director shall notify the potential claimant, in writing, that a final review of his claim has been scheduled and shall notify the potential claimant of the time and place of such review. At such time and place as has been designated the potential claimant may appear with or without counsel and a review of the claim shall be made. The potential claimant may present such information as he may have at that time and the director may likewise present such information as he has. At the request of the potential claimant, the director or the commissioner, a tape recording or transcript of the conference shall be made. Following the conference and within fifteen (15) days, the commissioner or his designee shall make a written determination concerning the claim and shall provide a copy of the determination to the Director, Division of Weights and Measures, and to the potential claimant. Within seven (7) days of the conference the commissioner shall issue a proposed determination concerning the claim. Within five (5) days of the proposed determination either the director or the potential claimant may file exceptions to the proposed determination.

Section 4. The commissioner or his designee shall review the entire record, including any exceptions thereto and shall issue a final order allowing, disallowing or modifying the claim and its amount within fifteen (15) days from the date of the conference.

Section 5. A copy of the final order shall be sent to the Director, Division of Weights and Measures, and the potential claimant. The order of the commissioner shall constitute final action by the department. Either the director or the potential claimant may appeal the final order of the commissioner to Franklin Circuit Court within thirty (30) days of the order.

Section 6. Failure to appear at the potential claimant's review or failure to timely request a review of a previously determined claim within the prescribed time period, shall be grounds for the commissioner ordering the claim to remain as originally determined by the director.

DAVID E. BOSWELL, Commissioner
APPROVED BY AGENCY: December 2, 1987
FILED WITH LRC: December 4, 1987 at 4 p.m.

STATEMENT OF EMERGENCY

In order to continue to operate the Corrections Cabinet in accordance with KRS Chapter 196, the Corrections Cabinet needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because the effected policies must be revised immediately to allow the Division of Probation and Parole to come into compliance with the American Correctional Association (ACA) accreditation standards prior to their upcoming ACA accreditation audit. This emergency regulation will be replaced by the ordinary administrative regulation filed with LRC on December 4, 1987 in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor
GEORGE W. WILSON, Secretary

CORRECTIONS CABINET

**501 KAR 6:020E. Corrections policies and procedures.**

RELATES TO: KRS Chapters 196, 197, 439
PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640
EFFECTIVE: December 7, 1987
NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on December 4 [July 15], 1987 and hereinafter should be referred to as Corrections Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

1.1 Legal Assistance for Corrections Staff
1.2 News Media [(Amended 7/15/87)]
1.6 Extraordinary Occurrence Reports
1.9 Institutional Duty Officer
1.11 Population Counts and Reporting Procedures
1.12 Operation of Motor Vehicles by Corrections Cabinet Employees
2.1 Inmate Canteen
2.10 Surplus Property
3.1 Code of Ethics
3.2 Inclement Weather and Emergency Conditions Policy
3.3 Holding of Second Jobs by Bureau Employees
3.7 Employment of Relatives
3.10 Staff Clothing and Personal Appearance
3.12 Institutional Staff Housing
3.14 Corrections Cabinet Payroll Deduction Policy and Procedure
4.1 Attendance at Professional Meetings
4.2 Staff Training and Development
4.3 Firearms and Chemical Agents Training
4.4 Educational Assistance Program
6.1 Open Records Law
7.2 Asbestos Abatement
8.4 Emergency Preparedness
9.1 Use of Force

9.3 Transportation of Convicted Offenders
9.4 Transportation of Inmates to Funerals or Bedside Visits
9.5 Return of Escapees by Automobile
9.6 Contraband
9.7 Storage, Issue and Use of Weapons Including Chemical Agents
9.8 Search Policy
9.9 Transportation of Inmates
9.10 Security Inspections
9.11 Tool Control
9.15 Institutional Entry and Exit Policy and Procedures
9.18 Informants
9.19 Found Lost or Abandoned Property
10.2 Special Management Inmates
10.3 Safekeepers
10.4 Special Needs Inmates
11.2 Nutritional Adequacy of the Diet for Inmates
11.3 Special Diet Procedures
13.1 Pharmacy Policy and Formulary
13.2 Health Maintenance Services
13.3 Medical Alert System
13.4 Health Program Audits
13.5 Acquired Immune Deficiency Syndrome
14.2 Personal Hygiene Items
14.3 Marriage of Inmates
14.4 Legal Services Program
14.6 Inmate Grievance Procedures
15.1 Hair and Grooming Standards
15.2 Offenses and Penalties
15.3 Meritorious Good Time
15.4 Governor's Meritorious Good Time Award
15.5 Restoration of Forfeited Good Time
15.6 Adjustment Procedures and Programs
16.1 General Inmate Visiting Procedure
16.2 Inmate Correspondence
16.3 Telephone Calls
16.4 Inmate Packages
17.1 Inmate Personal Property
17.2 Assessment Center Operations
17.3 Controlled Intake of Inmates
18.4 Classification of the Inmate
18.5 Custody/Security Guidelines
18.6 Classification Document
18.7 Transfers
18.8 Guidelines for Transfers Between Institutions
18.9 Out-of-State Transfers [(Amended 7/15/87)]
18.10 Preparole Progress Reports
18.11 Kentucky Correctional Psychiatric Center Transfer Procedures
18.12 Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill
18.13 Population Categories
18.15 Protective Custody
19.1 Government Services Projects
19.2 Community Services Projects
20.1 Study Release
20.6 Vocational Study Release
22.1 Privilege Trips
25.1 Gratuities
25.2 Public Official Notification of Release of an Inmate
25.3 Prerelease
25.4 Inmate Furloughs
25.6 Community Center Program
25.7 Expedient Release
25.8 Extended Furloughs
[27.1 Supervision: Case Classification (Deleted 12/4/87)]
27.2 Risk/Needs Administration
[27.4 Supervision Plan: General (Deleted 12/4/87)]
[27.8 Travel Restrictions (Deleted 12/4/87)]
[27.9 Conditions of Supervision (Deleted 12/4/87)]
27.10 Preliminary Revocation Procedures
[27.11 Apprehension and Transportation of Violators of Probation, Parole and Conditional Release (Deleted 12/4/87)]
[27.12 Fugitive Section/Probation and Parole (Deleted 12/4/87)]
[27.13 Supervision Fee (Deleted 12/4/87)]
[27.14 Interstate Compact (Deleted 12/4/87)]
[27.18 Absconder Procedures (Deleted 12/4/87)]
[27.19 Technical Violators (Deleted 12/4/87)]
[27.20 Intensive Supervision (Deleted 12/4/87)]
[28.2 Investigations: General (Deleted 12/4/87)]
[28.3 Presentence Investigations (To the Court) (Deleted 12/4/87)]
[28.4 Preparole (Presentence) Investigation (To the Institution and State Parole Board) (Deleted 12/4/87)]
[28.5 Special Report to the Parole Board (Deleted 12/4/87)]
[28.7 Out-of-State Investigations (Deleted 12/4/87)]
27-02-01 Duties of Probation and Parole Officers (Added 12/4/87)
27-03-01 Workload Formula Supervisor/Staff Ratio (Added 12/4/87)
27-05-01 Testimony, Court Demeanor and Availability of Legal Services (Added 12/4/87)
27-06-01 Availability of Supervision Services (Added 12/4/87)
27-06-02 Equal Access to Services (Added 12/4/87)
27-07-01 Cooperation with Law Enforcement Agencies (Added 12/4/87)
27-09-01 Kentucky Community Resources Directory (Added 12/4/87)
27-10-01 Pretrial Diversion (Added 12/4/87)
27-11-01 Intensive Supervision (Added 12/4/87)
27-12-01 Supervision: Case Classification (Added 12/4/87)
27-12-04 Conditions of Regular Supervision/Request for Modification (Added 12/4/87)
27-12-05 Releasee's Report (Added 12/4/87)
27-12-06 Grievance Procedures for Offenders (Added 12/4/87)
27-12-07 Employment, Education/Vocational Referral (Added 12/4/87)
27-12-08 Supervision Plan (Added 12/4/87)
27-12-09 Casebook (Added 12/4/87)
27-12-10 Guidelines for Monitoring Supervision Fee (Added 12/4/87)
27-12-11 Guidelines for Monitoring Financial Obligations Ordered by the Releasing Authority (Added 12/4/87)
27-12-12 Other Financial Obligations (Not Ordered by Releasing Authority) (Added 12/4/87)
27-12-13 Community Service Work (Added 12/4/87)
27-12-14 Client Travel Restrictions (Added 12/4/87)
27-12-15 Advanced Supervision (Added 12/4/87)
27-13-02 Alcohol Detection (Added 12/4/87)
27-14-01 Interstate Compact Transfers (Added 12/4/87)
27-14-02 Interstate Compact Out-of-state Probation and Parole Violation (Added 12/4/87)
27-15-01 Supervision Report: Violations, Unusual Incidents (Added 12/4/87)

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|---|---|
| 27-17-01 | Absconder Procedures (Added 12/4/87) |
| 27-18-01 | Probation and Parole Issuance of Detainer/Warrant (Added 12/4/87) |
| 27-21-01 | Apprehension and Transportation of Probation and Parole Violators (Added 12/4/87) |
| 27-22-01 | Fugitive Unit - Apprehensions (Added 12/4/87) |
| 27-22-02 | Fugitive Unit - Transportation of Fugitives (Added 12/4/87) |
| 27-23-01 | In-state Transfer (Added 12/4/87) |
| 27-24-01 | Closing Supervision Report (Added 12/4/87) |
| 27-24-02 | Reinstatement of Clients to Active Supervision (Added 12/4/87) |
| 27-25-01 | Application for Final Discharge from Parole (Added 12/4/87) |
| 27-26-01 | Assistance to Former Clients and Dischargees (Added 12/4/87) |
| 27-27-01 | Restoration of Civil Rights (Added 12/4/87) |
| 28-01-01 | Probation and Parole Investigation Reports (Introduction, Definitions, Confidentiality, Timing, and General Comments) (Added 12/4/87) |
| 28-01-02 | Probation and Parole Investigation Reports (Administrative Responsibilities) (Added 12/4/87) |
| 28-01-03 | Probation and Parole Investigation Reports (Presentence/Postsentence Investigation Interview Procedure) (Added 12/4/87) |
| 28-01-04 | Probation and Parole Investigation Reports (Presentence/Postsentence Verification, Composition, Case Material and Submission Schedules) (Added 12/4/87) |
| 28-01-05 | Probation and Parole Investigation Reports (Computation of Jail Custody Credit) (Added 12/4/87) |
| 28-01-06 | Probation and Parole Investigation Reports (Misdemeanant Presentence Investigation Reports for the Circuit and District Courts) (Added 12/4/87) |
| 28-01-07 | Probation and Parole Investigation Reports (Supplemental Postsentence Investigation Report, Case Material, and Submission Schedule) (Added 12/4/87) |
| 28-01-08 | Probation Parole Investigation Reports (Partial Investigation Reports and Submission Schedule) (Added 12/4/87) |
| 28-01-09 | Expedient Release Program (Added 12/4/87) |

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: December 4, 1987
FILED WITH LRC: December 7, 1987 at 2 p.m.

STATEMENT OF EMERGENCY

In order to continue to operate the Western Kentucky Farm Center in accordance with KRS Chapter 196, the Corrections Cabinet needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because the effected institutional policies must be revised immediately to allow the Western Kentucky Farm Center to implement a series of new policies to prepare the institution for an upcoming national accreditation audit. This emergency regulation will be replaced by the ordinary administrative regulation filed with LRC on November 13, 1987 in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor
GEORGE W. WILSON, Secretary

CORRECTIONS CABINET

**501 KAR 6:130E. Western Kentucky Farm Center.**

RELATES TO: KRS Chapters 196, 197, 439
PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640
EFFECTIVE: November 16, 1987
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)] |

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| [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 16, 1987 at 2 p.m.

STATEMENT OF EMERGENCY

In order to continue to operate the Bell County Forestry Camp in accordance with KRS Chapter 196, the Corrections Cabinet needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because the effected institutional policies must be added immediately to allow the Bell County Forestry Camp to implement a series of new policies to prepare the institution for an upcoming national accreditation audit. This emergency regulation will be replaced by the ordinary administrative regulation filed with LRC on November 13, 1987 in accordance with KRS Chapter 13A.

MARTHA LAYNE COLLINS, Governor
GEORGE W. WILSON, Secretary

## CORRECTIONS CABINET

### 501 KAR 6:140E. Bell County Forestry Camp.

RELATES TO: KRS Chapters 196, 197, 439
PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640
EFFECTIVE: November 16, 1987
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.

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

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| BCFC 20-04-01 | Educational Personnel Practices (Added 11/13/87) |
| BCFC 21-01-01 | Library Services (Added 11/13/87) |
| BCFC 22-01-01 | Recreation and Inmate Activities (Added 11/13/87) |
| BCFC 22-02-01 | Inmate Clubs and Organizations (Added 11/13/87) |
| BCFC 22-02-02 | Conducting Inmate Organizational Meetings and Programs (Added 11/13/87) |
| BCFC 22-03-01 | Privilege Trips (Added 11/13/87) |
| BCFC 23-01-01 | Religious Service (Added 11/13/87) |
| BCFC 23-02-01 | Visitors for Religious Programs (Added 11/13/87) |
| BCFC 23-03-01 | Marriage of Inmates (Added 11/13/87) |
| BCFC 24-01-01 | Social Services and Counseling Program (Added 11/13/87) |
| BCFC 24-01-02 | Casework Services (Added 11/13/87) |
| BCFC 25-01-01 | Release Preparation Program Description (Added 11/13/87) |
| BCFC 25-02-01 | Temporary Release/Community Center Release (Added 11/13/87) |
| BCFC 25-02-02 | Furloughs (Added 11/13/87) |
| BCFC 25-03-01 | Preparole Progress Report (Added 11/13/87) |
| BCFC 25-03-02 | Parole Eligibility Dates (Added 11/13/87) |
| BCFC 25-04-01 | Inmate Discharge Procedure (Added 11/13/87) |
| BCFC 26-01-01 | Citizen Involvement and Volunteer Services Program (Added 11/13/87) |

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: November 13, 1987
FILED WITH LRC: November 16, 1987 at 2 p.m.

STATEMENT OF EMERGENCY

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

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

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

**904 KAR 3:030E. Application process.**

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

Section 1. Application Process. The application process consists of filing and completing an application, an interview and required verification and documentation. The cabinet shall make the application process [applications] readily accessible to households as well as groups and organizations involved in program information activities and [shall provide an application form to anyone upon request].

Section 2. Prompt Action on Applications. The cabinet shall provide eligible households that complete the initial application process an opportunity to participate as soon as possible but not later than thirty (30) days after the application is filed. The department shall notify the household of any action it must take to complete the application process. If verification is lacking, the household will have up to thirty (30) days from the date the missing verification was requested to provide such verification.

Section 3. Expedited Service. The cabinet shall identify households eligible for expedited service at the time the household requests assistance and shall comply with 7 CFR 273.2(i)[(3) and 273.2(i)(4)] when expediting certification and issuance procedures.
[(1) Prior to February 1, 1983 the following households, if otherwise eligible, are entitled to expedited service:]
[(a) Households with zero net monthly income as computed in 7 CFR Part 273.10.]
[(b) Households who are destitute as defined in 7 CFR Part 273.10(e)(3).]
[(2) Effective February 1, 1983, the following households, if otherwise eligible and provided their liquid resources do not exceed $100, are entitled to expedited service:]
[(a) Households with less than $150 in monthly gross income computed in accordance with 7 CFR Part 273.10; or]
[(b) Migrant or seasonable farmworker households who are destitute as defined in 7 CFR Part 273.10(e)(3).]

Section 4. Public Assistance Application Process. Households in which all members are applying for public assistance (PA) and state administered general assistance shall be allowed to simultaneously apply for food stamp benefits. The cabinet shall comply with procedures specified in 7 CFR 273.2(j) in handling PA households.

Section 5. Joint SSI/FS Application Process. Households in which all members are applicants/recipients of Supplemental Security Income (SSI) shall be allowed to simultaneously apply for both SSI and food stamps at the appropriate Social Security Administration office. The cabinet will comply with procedures specified in 7 CFR 273.2(k) in processing these households.

MIKE ROBINSON, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: November 23, 1987
FILED WITH LRC: December 2, 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 Insurance**
**Division of Management & Development**

**904 KAR 3:045E. Coupon issuance procedures.**

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

Section 1. Basic Issuance Requirements. The cabinet is responsible for the timely and accurate issuance of coupons to eligible households. In issuing coupons the cabinet must insure that:
(1) Only certified households receive benefits;
(2) Coupons are accepted, stored, and protected after delivery to receiving points within the state;
(3) Program benefits are distributed in the correct amounts; and
(4) Coupon issuance and reconciliation activities are properly conducted in accordance with 7 CFR Part 274 and accurately reported to the Food and Nutrition Service.

Section 2. Issuance System. The cabinet shall choose one (1) of the following systems to issue coupons to eligible households:
(1) Direct delivery is a system wherein eligible households pick up and redeem their ATP card at a specified issuance center. Regular mail issuance shall be available to those households which are unable to get to their assigned issuance centers, as determined by the cabinet.
(2) Direct mail is a system wherein coupons are mailed, using at least first class mail, directly to the eligible household.
(3) Alternate issuance is a system used, in accordance with 7 CFR 274.3(c)(3), when circumstances exist which indicate a household may not receive their benefits through the normal issuance system.
(a) Local office pickup is a system whereby a household's benefits are mailed to the local office for the household to pick up.
(b) Certified mail is a system whereby benefits are sent via the postal system and must be signed for before they are obtained.
(c) As determined by the cabinet, other issuance systems may be utilized to ensure receipt of benefits by the eligible household.

Section 3. Issuance Cycles. (1) For ongoing cases the monthly coupon packet/ATP card is mailed to the household/issuance center over the first ten (10) to twenty (20) days of the issuance month, based on the last digit of the recipient's Social Security number.
(2) New approvals, reapprovals and current month recertifications shall have their coupon packet/ATP card mailed to their home/issuance center within thirty (30) days after the date of application in accordance with 7 CFR 273.2(g)(2).
[(a)] Households eligible for expedited service shall have their coupon packet/ATP card made available for <u>participation within five (5) calendar days</u> [pickup no later than the close of business on the fifth calendar day] after the date of application.
[(b) Residents of drug addiction/alcoholic treatment centers and group living arrangement facilities eligible for expedited service shall have their coupon packet/ATP card made available no later than seven (7) days after the date of application.]

Section 4. Replacement Issuances. A total of only two (2) replacements of any kind shall be made during a six (6) month period, except as specified in subsection 4 of this section. Replacements will be issued in accordance with 7 CFR Parts 273.11(i), 274.2(h) and 274.3(c) as follows:
(1) Nonreceipt of coupons/ATP cards must be reported in the period of intended use. Replacements shall be issued no more than ten (10) days after report of nondelivery is received and shall be limited to two (2) times during a six (6) month period. If coupons/ATP cards were returned to central office, <u>their replacement is not considered in the limit stated above</u> [nonreceipt did not occur and the limit stated above does not apply].
(2) Destruction, in an individual household disaster, of coupons/ATP cards after receipt must be reported within ten (10) days of the incident or within the period of intended use, whichever is earlier. Replacements shall be issued within ten (10) days of receipt of request and shall be limited to one (1) time during a six (6) month period. Where FNS has issued a disaster declaration and the household is eligible for emergency food stamp benefits the household shall not receive both the disaster allotment and a replacement allotment under this provision.
(3) Theft of ATP cards after receipt must be reported within ten (10) days of the incident or within the period of intended use, whichever is earlier. Replacements shall be issued within ten (10) days of receipt of request and shall be limited to one (1) time during a six (6) month period.
(4) Improperly manufactured or mutilated coupons shall be replaced with an amount equal to the affected coupons in accordance with 7 CFR Part 273.11(i)(5). There is no limit on the number of times this type of replacement may be made.

(5) Effective April 1, 1985, mutilated ATP cards which are identifiable as being for the current month, belonging to the household which requested the replacement, and which have not expired, shall be replaced provided the request for replacement was made during the period of intended use. Mutilated ATP cards which are not identifiable shall be considered as lost and not replaceable.

(6) Food purchased with food stamps which is subsequently destroyed in an individual disaster, as well as in a natural disaster affecting more than one (1) household, which affects the participating household, may be eligible for replacement of the actual value of loss, not to exceed one (1) month's food stamp allotment. The disaster must be reported within ten (10) days and verified. A replacement shall be issued or the opportunity to obtain a replacement given within ten (10) days of the reported loss and shall be limited to two (2) times during a six (6) month period. Where FNS has issued a disaster declaration and the household is eligible for emergency food stamp benefits the household shall not receive both the disaster allotment and a replacement allotment under this provision.

Section 5. Authorization-to-participate Card. The ATP card is used in areas participating in a direct delivery system.

(1) Effective July 1, 1985 the ATP card shall be valid for the entire month of issuance unless it is issued after the 20th day of the month. Those issued after that date are valid through the last day of the following month.

(2) The household shall be provided with a means of designating an emergency authorized representative who can transact the ATP card in their stead.

Section 6. Coupon Controls. Regardless of which issuance system is used, the cabinet shall:

(1) Establish a coupon inventory management system which insures that coupons are requisitioned and inventories are maintained in accordance with 7 CFR Parts 274.4(a);

(2) Establish control and security procedures to safeguard coupons similar to those used to protect currency outlined in 7 CFR Part 274.4(b);

(3) Arrange for the ordering of coupons and the prompt verification and written acceptance of each coupon shipment in accordance with 7 CFR Part 274.4(c);

(4) Ensure that coupon issuers and bulk storage points promptly verify and acknowledge, in writing, the contents of each coupon shipment or coupon transfer delivered to them and shall be responsible for the custody, care, control and storage of coupons pursuant to 7 CFR Part 274.5;

(5) Maintain issuance records for a period of three (3) years from the month of origin as outlined in 7 CFR Part 274.7;

(6) Control all issuance documents which establish household eligibility while the documents are transferred and processed within the state agency in accordance with 7 CFR Part 274.7(b); and

(7) Provide security and control for all issuance accountability documents pursuant to 7 CFR Part 274.7(c).

MIKE ROBINSON, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: November 23, 1987
FILED WITH LRC: December 2, 1987 at 10 a.m.

# AS AMENDED BY SUBCOMMITTEE AND PROMULGATING BODY

**GENERAL GOVERNMENT CABINET**
**Kentucky Board of Dentistry**
**(As Amended)**

**201 KAR 8:390. General anesthesia, deep sedation, and conscious sedation by dentists.**

RELATES TO: KRS 313.220
PURSUANT TO: KRS 313.220
EFFECTIVE: December 11, 1987
NECESSITY AND FUNCTION: This regulation sets forth the rules governing the use of general anesthesia, deep sedation, and conscious sedation by dentists licensed in Kentucky.

Section 1. Definitions. (1) "General anesthesia" is a controlled state of unconsciousness accompanied by partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method, or a combination thereof.

(2) "Deep sedation" is a controlled state of depressed consciousness, accompanied by partial loss of protective reflexes, including inability to respond purposefully to verbal command, produced by a pharmacologic or nonpharmacologic method or combination thereof.

(3) "Conscious sedation" is a minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command, produced by a pharmacologic or nonpharmacologic method, or a combination thereof.

These terms refer to the extent of a drug's or drugs' depressant effects upon the central nervous system and should not be confused with the route or combination of routes by which a drug is administered, i.e., oral, inhalation, intravenous, intramuscular, rectal, or submucosal.

(4) "Parenteral" is a term given to those sedation techniques in which a drug is absorbed directly from the site of its administration into the cardiovascular system effectively bypassing the gastrointestinal (GI) tract. This is in contradistinction to the oral and rectal routes of administration in which the drugs are absorbed from the GI tract into the cardiovascular compartment. Common usage of the term parenteral signifies drug administration by injection with a syringe (e.g., IM, SC, IV).

Section 2. Authorization. (1) For the purposes of this regulation, general anesthesia and deep sedation are the same. No dentist shall employ or use general anesthesia on an outpatient basis for dental patients unless such dentist possesses a permit of authorization issued by the Kentucky Board of Dentistry. Such permit must be renewed annually and the dentist holding such a permit may be reviewed at any time by the board.

(2) In order to receive authorization, the dentist must show the following and produce evidence that he:

(a) Has completed a minimum of one (1) year advanced training in anesthesiology and related academic subjects beyond the undergraduate dental school level in a training program as described in Part 2 of the ADA Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, in effect as of October 1, 1987; or

(b) Is a Diplomate of the American Board of Oral Surgery, or is eligible for examination by the American Board of Oral Surgery, or is eligible for membership in the American Dental Society of Anesthesiology.

(3) A dentist will not need a permit to employ or work in conjunction with a trained M.D., D.O. or C.R.N.A., who is a member of the anesthesiology staff of an accredited hospital, provided that such anesthesiologist must remain on the premises of the dental facility or hospital until any patient given a general anesthetic regains consciousness. A C.R.N.A. employed by or working in conjunction with a dentist must work under the direct supervision of a certified dentist or physician.

(4) All facilities other than hospitals or surgery centers must meet published ADA standards to insure that the protocol, procedures, facilities, drugs, equipment, and personnel utilization are acceptable for safe and appropriate use.

(5) All dentists and staff administering or assisting with the administering of general anesthesia must have certification in basic cardiac life support (CPR). Certification must be renewed as required by the American Heart Association.

Section 3. Inspection. The board may at any time require an on-site inspection of the facility, equipment, and personnel. The principles of evaluation will follow the current published standards of the ADA, dental specialty group, or comparable published guidelines. The inspection team will be determined by the board, but will reflect the principles of peer review.

Section 4. Provisional Permits. New applicants who are qualified by credentials in their application may be granted a temporary provisional permit of one (1) year only.

Section 5. Effective Date. Within one (1) year of the effective date of this regulation, each dentist who has been using or employing general anesthesia prior to adoption of this regulation shall make application to the board if such dentist desires to continue to use or employ general anesthesia. If he meets these requirements he shall be issued such permit. An on-site evaluation is at the discretion of the board.

Section 6. Report of Injury or Mortality. All licensees engaged in the practice of dentistry in the state of Kentucky must submit a complete report within a period of thirty (30) days to the Kentucky Board of Dentistry of any mortality or other incidents occurring in the outpatient facilities of such dentist which results in temporary or permanent physical or mental injury

requiring hospitalization of said patient during or as a direct result of dental procedures or general anesthesia related thereto.

Section 7. Personnel. For the administration of general anesthesia or deep sedation, at least three (3) individuals, each appropriately trained, are required. One is the operating dentist, who directs the general anesthesia or deep sedation. The second is a person whose responsibilities are observation and monitoring of the patient. If this person is an appropriately trained professional, he or she may direct the deep sedation or general anesthesia. The third person assists the operating dentist.

Section 8. Conscious Sedation with Parenteral Drugs. In order for a dentist to be qualified to use parenteral drugs in conscious sedation, he must produce evidence that he:

(1) Qualifies under Section 2(1), (2), or (3) of this regulation for general anesthesia; or

(2) Has completed an approved course in conscious sedation with parenteral drugs in a program approved by the Kentucky Board of Dentistry, which must include:

(a) Physical diagnosis and patient evaluation;

(b) Passing successfully a course of didactic and clinical training consistent with the ADA's Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, in effect as of October 1, 1987, and the documentation of having treated a minimum of twenty-five (25) cases; or

(3) Is a diplomate, board eligible, or eligible for board examination in any specialty, or a graduate of an accredited general practice residency, providing he can submit evidence of training in the use of conscious sedation with parenteral drugs. This training must be consistent with the ADA's Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry, in effect as of October 1, 1987, or comparable specialty guidelines.

All dentists and staff administering or assisting with the administration of conscious sedation with parenteral drugs must have certification in basic cardiac life support (CPR). Certification must be renewed as required by the American Heart Association.

Section 9. Each dentist who has been using or employing conscious sedation with parenteral drugs prior to adoption of this regulation shall seek authorization on the prescribed form to the board within one (1) year of the effective date of this regulation if such dentist desires to continue to use or employ conscious sedation with parenteral drugs. The board, based on a formal application by the dentist stating all particulars, may authorize the use or employment of conscious sedation with parenteral drugs to those dentists who have been utilizing conscious sedation in a competent and effective manner for the past three (3) years prior to the effective date of this regulation, but who have not had the benefit of formal training as outlined in this regulation. He must have current certification in basic cardiac life support (CPR).

Section 10. Inspection. The board may at any time require an on-site inspection of the facility, equipment, and personnel. The principles of evaluation will follow the current published standards of the ADA, dental specialty group or comparable published guidelines. The inspection team will be determined by the board, but will reflect the principles of peer review.

Section 11. Report of Injury or Mortality. Same as with general anesthesia.

Section 12. Permit Renewal and Annual Fee. The permit will be renewed annually unless the dentist is notified by the board that conditions exist which would prevent permit renewal. The annual fee will be fifteen (15) dollars for such a permit and shall be renewed at the time of license renewal.

Section 13. Nitrous Oxide. (1) In order for a dentist to be qualified to use nitrous oxide in conscious sedation he must:

(a) Have completed a university based course approved by the Kentucky Board of Dentistry; or

(b) Have used nitrous oxide in his practice for three (3) years prior to the adoption of these rules.

(2) The equipment used must be specifically designed for use in nitrous oxide sedation. All equipment used in the administration of nitrous oxide must have functional safeguard measures. Such safeguard measures are those recognized by the American Dental Association.

(3) The dentist must insure that every patient receiving nitrous oxide is constantly monitored. The presence of the dentist in the office is required while nitrous oxide is being used.

(4) The requirements for reporting injury or mortality are the same as with general anesthesia.

(5) No permit will be required to administer nitrous oxide by the dentist.

GREG HOLMES, General Counsel
APPROVED BY AGENCY: April 15, 1987
FILED WITH LRC: April 15, 1987, at noon

## GENERAL GOVERNMENT CABINET
## Kentucky Athletic Commission
## (As Amended)

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

RELATES TO: KRS 229.081, 229.091(1)
PURSUANT TO: KRS 229.180
EFFECTIVE: December 11, 1987
NECESSITY AND FUNCTION: This regulation is designed to protect referees and seconds in boxing matches from infectious or communicable diseases.

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

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

# AMENDED AFTER HEARING

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Amended After Hearing)**

**401 KAR 34:120. Liability requirements.**

RELATES TO: KRS 224.033, 224.071, 224.830 through 224.877, 224.994
PURSUANT TO: KRS 13A.210, 224.017, 224.862, 224.866, 224.867
NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in the storage, treatment, and disposal of hazardous waste obtain a permit. KRS 224.866 requires the cabinet to establish standards for these permits, to require adequate financial responsibility, and to establish minimum standards for closure for all facilities and the postclosure monitoring and maintenance of hazardous waste disposal facilities. This chapter establishes minimum standards for new hazardous waste sites or facilities. This regulation establishes the liability requirements.

Section 1. Coverage for Sudden Accidental Occurrences. An owner or operator of a hazardous waste treatment, storage, or disposal facility, or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for sudden or accidental occurrences in the amount of at least $1,000,000 per occurrence with an annual aggregate of at least $2,000,000, exclusive of legal defense costs. [A hazardous waste disposal site or facility shall maintain additional excess liability coverage in the amount of at least $10,000,000.] This liability coverage may be demonstrated in one (1) of three (3) ways, as specified in subsections (1), (2) and (3) of this section:

(1) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in this section.

(a) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The liability endorsement must be executed on a form provided by the cabinet containing wording identical to the wording specified in 401 KAR 34:172. The Certificate of Liability Insurance must be on a form provided by the cabinet containing wording identical to the wording specified in 401 KAR 34:176. The owner or operator must submit an originally signed duplicate of the endorsement or the certificate of insurance to the director. If requested by the director, the owner or operator must provide an originally signed duplicate of the insurance policy. An owner or operator of a new facility must submit the originally signed duplicate of the Hazardous Waste Facility Liability Endorsement or the Certificate of Liability Insurance to the director at least sixty (60) days before the date on which hazardous waste is first received for treatment, storage or disposal. The insurance must be effective before this initial receipt of hazardous waste.

(b) Each primary insurance policy must be issued by an insurer which, at a minimum, is licensed to transact the business of primary insurance in Kentucky except as KRS 304.11-030 provides otherwise. Each excess insurance policy must be issued by an insurer which, at a minimum, is licensed to provide insurance as an excess or surplus lines insurer in one (1) state.

(2) An owner or operator may meet the requirements of this regulation by passing a financial test or using the corporate guarantee for liability [self-insurance] coverage as specified in Section 7 [6] of this regulation.

(3) An owner or operator may demonstrate the required liability coverage through use of [both] the financial test, [and] insurance, the corporate guarantee, a combination of the financial test and insurance, or a combination of the corporate guarantee and insurance. [as these mechanisms are specified in this regulation.] The amounts of coverage demonstrated must total at least the minimum amounts required by this section.

Section 2. Coverage for Nonsudden Accidental Occurrences. An owner or operator of a surface impoundment, landfill, or land treatment facility which is used to manage hazardous waste, or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain additional liability coverage for nonsudden accidental occurrences in the amount of at least $3,000,000 [5,000,000] per occurrence with an annual aggregate of at least $6,000,000 [10,000,000], exclusive of legal defense costs. This liability coverage may be demonstrated in one (1) of three (3) ways, as specified in subsections (1), (2), and (3) of this section:

(1) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in this section.

(a) Each insurance policy must be amended by attachment of the Hazardous Waste Facility Liability Endorsement or evidenced by a Certificate of Liability Insurance. The liability endorsement must be on a form provided by the cabinet containing wording identical to the wording specified in 401 KAR 34:172. The certificate of liability insurance must be on a form provided by the cabinet containing wording identical to the wording specified in 401 KAR 34:176. The owner or operator must submit an originally signed duplicate of the endorsement or the certificate of insurance to the director. If requested by the director, the owner or operator must provide an originally signed duplicate of the insurance policy. An owner or operator of a new facility must submit the originally signed duplicate of the Hazardous Waste Facility Liability Endorsement or the Certificate of Liability Insurance to the

director at least sixty (60) days before the date on which hazardous waste is first received for treatment, storage or disposal. The insurance must be effective before this initial receipt of hazardous waste.

(b) Each primary insurance policy must be issued by an insurer which, at a minimum, is licensed to transact the business of primary insurance in Kentucky except as KRS 304.11-030 provides otherwise. Each excess insurance policy must be issued by an insurer which, at a minimum, is licensed to provide insurance as an excess or surplus lines insurer in one (1) state.

(2) An owner or operator may meet the requirements of this regulation by passing a financial test or using the corporate guarantee for liability [self-insurance] coverage as specified in Sections 6 and 7 of this regulation.

(3) An owner or operator may demonstrate the required liability coverage through use of [both] the financial test, [and] insurance, the corporate guarantee, a combination of the financial test and insurance, or a combination of the corporate guarantee and insurance. [as these mechanisms are specified in this regulation.] The amounts of coverage demonstrated must total at least the minimum amounts required by this section.

(4) For existing facilities, the required liability coverage for nonsudden accidental occurrences must be demonstrated by the dates listed below. The total sales or revenues of the owner or operator in all lines of business, in the fiscal year preceding the effective date of these regulations, will determine which of the dates apply. If the owner and operator of a facility are two (2) different parties, or if there is more than one (1) owner or operator, the sales or revenues of the owner or operator with the largest sales or revenues will determine the date by which the coverage must be demonstrated. The dates are as follows:

(a) For an owner or operator with sales or revenues totaling $10,000,000 or more, February 24, 1983.

(b) For an owner or operator with sales or revenues greater than $5,000,000 but less than $10,000,000, February 24, 1984.

(c) All other owners or operators, February 24, 1985.

Section 3. Adjustments by the Director. If the director determines that the levels of financial responsibility required by Sections 1 and 2 of this regulation are not consistent with the degree and duration of risks associated with treatment, storage, or disposal at any facility or group of facilities, the director may increase the level of financial responsibility required under Sections 1 and 2 of this regulation as may be necessary to protect human health and the environment. This adjusted level will be based on the director's assessment of the degree and duration of risks associated with the ownership or operation of each facility or group of such facilities. If the director determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences from the operations of a facility that is not a surface impoundment, landfill, or land treatment facility, the director may require that the owner or operator of the facility comply with Section 2 of this regulation. An owner or operator must furnish to the director, within a reasonable time, any information which the director requests to determine whether cause exists for such adjustments of the level or type of coverage. Any adjustment of the level of required coverage for a facility that has a permit shall be treated as a permit modification under Section 2(1)(e) of 401 KAR 38:040 and Section 2 of 401 KAR 38:050.

Section 4. Request for a Variance. If an owner or operator can demonstrate to the satisfaction of the director that the increased level of financial responsibility required by Section 3 of this regulation is not consistent with the degree and duration of risks associated with the treatment, storage, or disposal at each facility or group of facilities, the owner or operator may obtain a variance from the director. The director shall not grant any requests for a variance which seek to decrease the level of financial responsibility below the minimums required by KRS 224.866(3)(c). If granted, the variance shall take the form of an adjusted level of required liability coverage, such level to be based on the director's assessment of the degree and duration of risks associated with the ownership or operation of each facility or group of facilities. The director may require an owner or operator who requests a variance to provide such technical and engineering information as is deemed necessary by the director to determine a level of financial responsibility other than that required by Sections 1 and 2 of this regulation. Any request for a variance for a permitted facility shall be treated as a request for a permit modification under Section 2(1)(e) of 401 KAR 38:040 and Section 2 of 401 KAR 38:050.

Section 5. Period of Coverage. [Within sixty (60) days after receiving certifications from the owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the director will notify the owner or operator in writing that he is no longer required by this regulation to maintain liability coverage for that facility, unless the director has reason to believe that closure has not been in accordance with the approved closure plan. []An owner or operator must continuously provide liability coverage for a facility as required by this regulation until certification of termination pursuant to the requirements of KRS 224.866.[]]

Section 6. Liability Self-Insurance. (1) An owner or operator may satisfy the requirements of this regulation by demonstrating that he passes a financial test as specified in this section. To pass this test the owner or operator must demonstrate that the level of self-insurance does not exceed ten (10) percent of equity and must meet the criteria of either paragraph (a) or (b) of this subsection:

(a) The owner or operator must have:

1. Net working capital and tangible net worth each at least six (6) times the amount of liability coverage to be demonstrated by this test; and

2. Tangible net worth of at least $10 million; and

3. Assets in the United States amounting to either, at least, ninety (90) percent of his total assets or at least six (6) times the sum

of the appropriate liability coverage to be demonstrated by this test.

(b) The owner or operator must have:

1. A current rating for his most recent bond issuance of AAA, AA, A or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

2. Tangible net worth of at least $10 million; and

3. Tangible net worth at least six (6) times the amount of the liability coverage to be demonstrated by this test; and

4. Assets located in the United States amounting to either, at least, ninety (90) percent of his total assets or at least six (6) times the amount of the liability coverage to be demonstrated by this test.

(2) The phrase "amount of liability coverage" as used in subsection (1) of this section refers to the annual aggregate amounts for which coverage is required under Sections 1 and 2 of this regulation.

(3) To demonstrate that he meets this test, the owner or operator must submit the following three (3) items to the director:

(a) A letter signed by the owner's or operator's chief financial officer and executed on a form provided by the cabinet which is worded as specified in 401 KAR 34:162;

(b) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

(c) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

1. He has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

2. In connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(4) An owner or operator of a new facility must submit the items specified in subsection (3) of this section to the director at least sixty (60) days before the date on which hazardous waste is first received for treatment, storage or disposal.

(5) After the initial submission of items specified in subsection (3) of this section, the owner or operator must send updated information to the director within ninety (90) days after the close of each succeeding fiscal year. This information must consist of all three (3) items specified in subsection (3) of this section.

(6) If the owner or operator no longer meets the requirements of subsection (1) of this section, he must obtain insurance for the entire amount of required liability coverage as specified in this regulation. Evidence of insurance must be submitted to the director within ninety (90) days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.

(7) The director may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (1) of this section, require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (3) of this section. If the director finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subsection (1) of this section, the owner or operator must provide liability insurance as specified in this regulation within thirty (30) days after notification of such a finding.

(8) The director may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements (see subsection (3)(c) of this section). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The director will evaluate other qualifications on an individual basis. The owner or operator must provide liability insurance for the entire amount of liability coverage as specified in this regulation within thirty (30) days after notification of the disallowance.

Section 7. Corporate Guarantee for Liability Coverage. (1) Subject to subsection (2) of this section, an owner or operator may meet the requirements of this regulation by obtaining a written guarantee, hereinafter referred to as "corporate guarantee." The guarantor shall be the parent corporation of the owner or operator. The guarantee shall meet the requirements for owners or operators in Section 6(1) through (8) of this regulation. The wording of the corporate guarantee shall be identical to the wording specified in Section 1(2) of 401 KAR 34:165. A certified copy of the corporate guarantee shall accompany the items sent to the director as specified in Section 6(3) of this regulation. The terms of the corporate guarantee shall provide that:

(a) If the owner or operator fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden or nonsudden accidental occurrences (or both as the case may be), arising from the operation of facilities covered by this corporate guarantee, or fails to pay an amount agreed to in settlement of claims arising from or alleged to arise from such injury or damage, the guarantor shall do so up to the limits of coverage.

(b) The corporate guarantee shall remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the director. This guarantee may not be terminated unless and until the director approves alternate liability coverage complying with this regulation or 401 KAR 35:120.

(2) A corporate guarantee may be used to satisfy the requirements of this regulation only if the Attorney General or insurance commissioner of the state in which the guarantor is incorporated and the office of general counsel in the Kentucky Natural Resources and Environmental Protection Cabinet and the insurance commissioner of the Commonwealth of Kentucky have submitted a written statement to the cabinet that a corporate guarantee executed as described in this regulation and Section 1(2) of 401 KAR 34:165 is a legally valid and enforceable obligation in the Commonwealth of Kentucky.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at noon

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

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

RELATES TO: KRS 224.033, 224.071, 224.830 through 224.877, 224.994
PURSUANT TO: KRS 224.017, 224.862, 224.866, 224.867
NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in the storage, treatment, and disposal of hazardous waste obtain a permit. KRS 224.866 requires the cabinet to establish standards for these permits, to require adequate financial responsibility, and to establish minimum standards for closure for all facilities and the postclosure monitoring and maintenance of hazardous waste disposal facilities. This chapter establishes minimum standards for hazardous waste sites or facilities qualifying for interim status. This regulation establishes the liability requirements.

Section 1. Coverage for Sudden Accidental Occurrences. By October 8, 1982, an owner or operator of a hazardous waste treatment, storage, or disposal facility, or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain liability coverage for sudden accidental occurrences in the amount of at least $1,000,000 per occurrence with an annual aggregate of at least $2,000,000, exclusive of legal defense costs. [A hazardous waste disposal site or facility shall maintain additional excess liability coverage in the amount of at least $10,000,000.] This liability coverage may be demonstrated in one (1) of three (3) ways, as specified in subsections (1), (2), and (3) of this section.

(1) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in this section.

(a) Each insurance policy must be amended by attachment of the hazardous waste facility liability endorsement or evidenced by a certificate of liability insurance. The liability endorsement must be executed on a form provided by the cabinet containing wording identical to the wording specified in 401 KAR 34:172. The certificate of liability insurance must be on a form provided by the cabinet containing wording identical to the wording specified in 401 KAR 34:176. The owner or operator must submit an originally signed duplicate of the endorsement or the certificate of insurance to the director. If requested by the director, the owner or operator must provide an originally signed duplicate of the insurance policy.

(b) Each primary insurance policy must be issued by an insurer which, at a minimum, is licensed to transact the business of primary insurance in Kentucky except as KRS 304.11-030 provides otherwise. Each excess insurance policy must be issued by an insurer which, at a minimum, is licensed to provide insurance as an excess or surplus lines insurer in one (1) state.

(2) An owner or operator may meet the requirements of this regulation by passing a financial test or using the corporate guarantee for liability [self-insurance] coverage as specified in Section 7 [6] of this regulation.

(3) An owner or operator may demonstrate the required liability coverage through use of [both] the financial test, [and] insurance, the corporate guarantee, a combination of the financial test and insurance, or a combination of the corporate guarantee and insurance [as these mechanisms are specified in this regulation]. The amounts of coverage demonstrated must total at least the minimum amounts required by this section.

Section 2. Coverage for Nonsudden Accidental Occurrences. An owner or operator of a surface impoundment, landfill, or land treatment facility which is used to manage hazardous waste, or a group of such facilities, must demonstrate financial responsibility for bodily injury and property damage to third parties caused by nonsudden accidental occurrences arising from operations of the facility or group of facilities. The owner or operator must have and maintain additional liability coverage for nonsudden accidental occurrences in the amount of at least $3,000,000 [5,000,000] per occurrence with an annual aggregate of at least $6,000,000 [10,000,000], exclusive of legal defense costs. This liability coverage may be demonstrated in one (1) of three (3) ways, as specified in subsections (1), (2), and (3) of this section:

(1) An owner or operator may demonstrate the required liability coverage by having liability insurance as specified in this section.

(a) Each insurance policy must be amended by attachment of the hazardous waste facility liability endorsement or evidenced by a certificate of liability insurance. The liability endorsement must be on a form provided by the cabinet containing wording identical to the wording specified in 401 KAR 34:172. The certificate of liability insurance must be on a form provided by the cabinet containing wording identical to the wording specified in 401 KAR 34:176. The owner or operator must submit an originally signed duplicate of the endorsement or the certificate of insurance to the director. If requested by the director, the owner or operator must provide an originally signed duplicate of the insurance policy.

(b) Each primary insurance policy must be issued by an insurer which, at a minimum is licensed to transact the business of primary insurance in Kentucky except as KRS 304.11-030 provides otherwise. Each excess insurance policy must be issued by an insurer which, at a minimum is licensed to provide insurance as an excess or surplus lines insurer in one (1) state.

(2) An owner or operator may meet the requirements of this regulation by passing a financial test, or using the corporate guarantee for liability [self-insurance] coverage as specified in Sections 6 and 7 of this regulation.

(3) An owner or operator may demonstrate the required liability coverage through use of [both] the financial test, [and] insurance, the corporate guarantee, a combination of the financial test and insurance, or a combination of the corporate guarantee and insurance [as these mechanisms are specified in this regulation]. The amounts of coverage

demonstrated must total at least the minimum amounts required by this section.

(4) The required liability coverage for nonsudden accidental occurrences must be demonstrated by the dates listed below. The total sales or revenues of the owner or operator in all lines of business, in the fiscal year preceding October 8, 1982, will determine which of the dates apply. If the owner and operator of a facility are two (2) different parties, or if there is more than one (1) owner or operator, the sales or revenues of the owner or operator with the largest sales or revenues will determine the date by which the coverage must be demonstrated. The dates are as follows:

(a) For an owner or operator with sales or revenues totaling $10,000,000 or more, February 24, 1983.

(b) For an owner or operator with sales or revenues greater than $5,000,000 but less than $10,000,000, February 24, 1984.

(c) For all other owners or operators, February 24, 1985.

Section 3. Adjustments by the Director. If the director determines that the levels of financial responsibility required by Sections 1 and 2 of this regulation are not consistent with the degree and duration of risks associated with treatment, storage, or disposal at any facility or group of facilities, the director may increase the level of financial responsibility required under Sections 1 and 2 of this regulation as may be necessary to protect human health and the environment. This adjusted level will be based on the director's assessment of the degree and duration of risks associated with the ownership or operation of each facility or group of such facilities. In addition, if the director determines that there is a significant risk to human health and the environment from nonsudden accidental occurrences from the operations of a facility that is not a surface impoundment, landfill, or land treatment facility, the director may require that the owner or operator of the facility comply with Section 2 of this regulation. An owner or operator must furnish to the director, within a reasonable time, any information which the director requests to determine whether cause exists for such adjustments of the level or type of coverage. Any adjustment of the level of required coverage for a facility that has a permit shall be treated as a permit modification under Section 2(1)(e) of 401 KAR 38:040 and subject to the procedures of Section 2 of 401 KAR 38:050. Notwithstanding any other provision, the cabinet may hold a public hearing at its discretion or whenever the cabinet finds, on the basis of requests for a public hearing, a significant degree of public interest in a tentative decision to adjust the level or type of required coverage.

Section 4. Request for a Variance. If an owner or operator can demonstrate to the satisfaction of the director that the increased level of financial responsibility required by Section 3 of this regulation is not consistent with the degree and duration of risks associated with the treatment, storage, or disposal at each facility or group of facilities, the owner or operator may obtain a variance from the director. The request for a variance must be submitted to the director in writing. The director shall not grant any requests for a variance which seek to decrease the level of financial responsibility below the minimums required by KRS 224.866(3)(c). If granted, the variance shall take the form of an adjusted level of required liability coverage, such level to be based on the director's assessment of the degree and duration of risks associated with the ownership or operation of each facility or group of facilities. The director may require an owner or operator who requests a variance to provide such technical and engineering information as is deemed necessary by the director to determine a level of financial responsibility other than that required by Sections 1 and 2 of this regulation. Any request for a variance for a permitted facility shall be treated as a request for a permit modification under Section 2 of 401 KAR 38:040 and subject to the procedures of Section 2 of 401 KAR 38:050. Notwithstanding any other provision, the cabinet may hold a public hearing at its discretion or whenever the cabinet finds, on the basis of requests for a public hearing, a significant degree of public interest in a tentative decision to grant a variance.

Section 5. Period of Coverage. [Within sixty (60) days after receiving certifications from the ]An[] owner or operator [and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the director will notify the owner or operator in writing that he is no longer required by this regulation to maintain liability coverage for that facility, unless the director has reason to believe that closure has not been in accordance with the approved closure plan. ]must continuously provide liability coverage for a facility as required by this regulation until certification of termination pursuant to the requirements of KRS 224.866.[]]

Section 6. Liability Self-Insurance. (1) An owner or operator may satisfy the requirements of this regulation by demonstrating that he passes a financial test as specified in this section. To pass this test the owner or operator must demonstrate that the level of self-insurance does not exceed ten (10) percent of equity and must meet the criteria of either paragraph (a) or (b) of this subsection:

(a) The owner or operator must have:

1. Net working capital and tangible net worth each at least six (6) times the amount of liability coverage to be demonstrated by this test; and

2. Tangible net worth of at least $10 million; and

3. Assets in the United States amounting to either, at least, ninety (90) percent of his total assets or at least six (6) times the sum of the appropriate liability coverage to be demonstrated by this test.

(b) The owner or operator must have:

1. A current rating for his most recent bond issuance of AAA, AA, A or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

2. Tangible net worth of at least $10 million; and

3. Tangible net worth at least six (6) times the amount of the liability coverage to be demonstrated by this test; and

4. Assets located in the United States amounting to either, at least, ninety (90) percent of his total assets or at least six (6) times the amount of the liability coverage to be demonstrated by this test.

(2) The phrase "amount of liability coverage" as used in subsection (1) of this section refers to the annual aggregate amounts for which coverage is required under Sections 1 and 2 of this regulation.

(3) To demonstrate that he meets this test, the owner or operator must submit the following three (3) items to the director:

(a) A letter signed by the owner's or operator's chief financial officer and executed on a form provided by the cabinet which is worded as specified in 401 KAR 34:162;

(b) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

(c) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

1. He has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

2. In connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(4) An owner or operator of a new facility must submit the items specified in subsection (3) of this section to the director at least sixty (60) days before the date on which hazardous waste is first received for treatment, storage or disposal.

(5) After the initial submission of items specified in subsection (3) of this section, the owner or operator must send updated information to the director within ninety (90) days after the close of each succeeding fiscal year. This information must consist of all three (3) items specified in subsection (3) of this section.

(6) If the owner or operator no longer meets the requirements of subsection (1) of this section, he must obtain insurance for the entire amount of required liability coverage as specified in this regulation. Evidence of insurance must be submitted to the director within ninety (90) days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the test requirements.

(7) The director may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (1) of this section, require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (3) of this section. If the director finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subsection (1) of this section, the owner or operator must provide liability insurance as specified in this regulation within thirty (30) days after notification of such a finding.

(8) The director may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements (see subsection (3)(c) of this section). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The director will evaluate other qualifications on an individual basis. The owner or operator must provide liability insurance for the entire amount of liability coverage as specified in this regulation within thirty (30) days after notification of the disallowance.

Section 7. Corporate Guarantee for Liability Coverage. (1) Subject to subsection (2) of this section, an owner or operator may meet the requirements of this regulation by obtaining a written guarantee, hereinafter referred to as "corporate guarantee." The guarantor shall be the parent corporation of the owner or operator. The guarantee shall meet the requirements for owners or operators in Section 6(1) through (8) of this regulation. The wording of the corporate guarantee shall be identical to the wording specified in Section 1(2) of 401 KAR 34:165. A certified copy of the corporate guarantee shall accompany the items sent to the director as specified in Section 6(3) of this regulation. The terms of the corporate guarantee shall provide that:

(a) If the owner or operator fails to satisfy a judgment based on a determination of liability for bodily injury or property damage to third parties caused by sudden or nonsudden accidental occurrences (or both as the case may be), arising from the operation of facilities covered by this corporate guarantee, or fails to pay an amount agreed to in settlement of claims arising from or alleged to arise from such injury or damage, the guarantor shall do so up to the limits of coverage.

(b) The corporate guarantee shall remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the director. This guarantee may not be terminated unless and until the director approves alternate liability coverage complying with 401 KAR 35:120 or this regulation.

(2) A corporate guarantee may be used to satisfy the requirements of this regulation only if the Attorney General or insurance commissioner of the state in which the guarantor is incorporated and the office of general counsel in the Kentucky Natural Resources and Environmental Protection Cabinet and the insurance commissioner of the Commonwealth of Kentucky have submitted a written statement to the cabinet that a corporate guarantee executed as described in this regulation and Section 1(2) of 401 KAR 34:165 is a legally valid and enforceable obligation in the Commonwealth of Kentucky.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at noon

## TRANSPORTATION CABINET
### Office of Minority Affairs
### (Amended After Hearing)

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

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

PURSUANT TO: KRS 13A.120, 174.080

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 <u>or Portuguese</u> 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 <u>shall</u> [may] perform an onsite inspection <u>of the offices and any job sites in Kentucky on which the firm is working at the time of the application evaluation</u> 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; <u>49 CFR Part 23.62;</u> 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. Additional Program Guidelines. (1) All portions of 49 CFR 23, last amended October 21, 1987 [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.

(2) 13 CFR 121.1-121.3, last amended March 2, 1987, is hereby incorporated by reference. The federal regulation sets forth the small business size standards established by the Small Business Administration. These size standards, when less than $14 million, are required by 49 CFR Part 23 Subpart D, Appendix A to be used to determine when a firm has graduated from the certification program, i.e., it is no longer considered to be a small business.

(3) 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: December 3, 1987
FILED WITH LRC: December 7, 1987 at 9 a.m.

**TRANSPORTATION CABINET**
**Office of Minority Affairs**
**(Amended After Hearing)**

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

RELATES TO: KRS Chapters 96A, 174, 176, 177 183
PURSUANT TO: KRS 13A.120, 174.080
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 operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the contractor [produces goods from raw materials or substantially alters them before resale]; and

(b) The prime contractor may count sixty (60) [twenty (20)] percent of its expenditures to DBE, MBE or WBE regular dealers who own, operate or maintain a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. To be a regular dealer, the firm shall engage in, as its principal business, and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone, and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. [suppliers that are not manufacturers, provided the DBE, MBE or WBE supplier performs a commercially useful function in the supply process.]

(c) Brokers and packagers shall not be regarded as manufacturers or regular dealers within the meaning of this administrative regulation.

(3) The prime contractor may count toward its MBE, DBE, or WBE goals the following expenditures to MBE, DBE, or WBE firms that are not manufacturers or regular dealers:

(a) The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for

performance of the contract, provided that the fee or commission is determined by the recipient to be reasonable and not excessive as compared with fees customarily allowed for similar services.

(b) The fees charged for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in the materials and supplies, provided that the fee is determined by the recipient to be reasonable and not excessive as compared with fees customarily allowed for similar services; and

(c) The fees or commissions charged for providing any bonds or insurance specifically required for the performance of the contract, provided that the fee or commission is determined by the recipient to be reasonable and not excessive as compared with fees customarily allowed for similar service.

(4) [(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.

(5) [(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.

(6) [(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.

(7) [(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.

(8) [(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.

(9) [(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.

(10) [(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.

(11) [(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: December 3, 1987
FILED WITH LRC: December 3, 1987 at 9 a.m.

TRANSPORTATION CABINET
Department of Highways
(Amended After Hearing)

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

RELATES TO: KRS 177.9771, 189.230
PURSUANT TO: KRS 177.9771(10)
NECESSITY AND FUNCTION: KRS 177.9771(2) requires the Secretary of Transportation to certify those public highways which meet certain criteria as the extended weight coal haul road system. KRS 177.9771(9) requires the Secretary of Transportation to meet with certain local governing bodies and give consideration to their concerns before adding to or deleting from the extended weight coal haul road system. This regulation identifies the extended weight coal haul road system and establishes procedures to be followed by local governing bodies requesting consideration be given to their concerns. The Transportation Cabinet will promulgate a separate administrative regulation pursuant to KRS 177.9771(10) and 189.230 regarding bridge weight limits.

Section 1. The following terms when used in the regulation shall have the following meanings:
(1) "Local governing body" means the fiscal court of any county, the city council or commission of a city of the first through fourth classes, or the council of an urban county government.
(2) "KY" means a state numbered highway maintained by the Kentucky Department of Highways.
(3) "US" means a United States numbered highway maintained by the Kentucky Department of Highways.
(4) "I" means an interstate and defense highway maintained by the Kentucky Department of Highways.
(5) "CR" means a public highway, road, or street not maintained by the Kentucky Department of Highways.
(6) "LENGTH" means the length of a road segment in miles.
(7) "FROM" means the beginning milepoint and terminus of a road segment.
(8) "TO" means the ending milepoint and terminus of a road.
(9) "LN" means line.
(10) "RD" means road.
(11) "CO" means county.

Section 2. Resolutions of local governing bodies issued pursuant to KRS 177.9771(9) making recommendations to the Secretary of Transportation shall be submitted to: Secretary of Transportation, Transportation Cabinet, State Office Building, Frankfort, Kentucky 40622. The resolution must set forth a specific description of the road or road segments under consideration. The resolution must further set forth with specificity those conditions which give rise to inherent and definite hazards or create special conditions which the Secretary of the Transportation Cabinet needs to consider.

Section 3. The following highways, or portions thereof, are certified as meeting the criteria of and are hereby designated as the extended weight coal haul road system:

BATH COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | KY 11 | 0.0 Montgomery CO LN | 12.8 Fleming CO LN | 12.8 |
| | | | STATE ROAD MILEAGE | 12.8 |
| | | | COUNTY ROAD MILEAGE | 0.0 |
| | | | TOTAL ROAD MILEAGE | 12.8 |

BELL COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | US 25E | 0.0 Virginia State LN | 19.5 Knox CO LN | 19.5 |
| * | US 119 | 0.0 US 25E | 15.8 Harlan CO LN | 15.8 |
| * | KY 66 | 0.0 US 25E | 8.4 Little Creek RD | 8.4 |
| | | 9.8 Titan Tipple | 11.9 Straight Creek RD | 2.1 |
| | | | [18.7 Clay CO LN | 8.9] |
| | | 12.9 Bow Valley | 18.7 Clay CO LN | 5.8 |
| * | KY 72 | 0.0 US 119 | 3.4 Harlan CO LN | 3.4 |
| * | KY 74 | 0.0 Tennessee State LN | 0.9 KY 535 | 0.9 |
| | | 9.8 Mine | 16.8 US 25E | 7.0 |
| | | [ 9.4 Rockhouse BR RD | 14.0 Stony Fork RD | 4.6] |
| | | [16.1 KY 2079 | 16.8 US 25E | 0.7] |
| * | KY 92 | 0.0 Whitley CO LN | 10.8 US 25E | 10.8 |
| * | KY 186 | 0.0 Tennessee ST LN | 3.1 KY 74 | 3.1 |
| | | [ 2.0 Appolo Tipple | 2.3 Stony Fork RD | 0.3] |
| [* | KY 188 | 2.8 KY 988 | 4.1 Cranes Creek RD | 1.3] |
| * | KY 217 | 4.6 KY 1344 | 8.8 KY 987 | 4.2 |
| | | [ 0.0 KY 988 | 8.8 KY 987 | 8.8] |
| * | KY 221 | 0.0 KY 66 | 12.6 Harlan CO LN | 12.6 |
| * | KY 535 | 0.0 KY 74 | 0.6 Clear Fork RD | 0.6 |
| * | KY 987 | 4.8 Hen Wilder RD | 8.7 KY 217 | 3.9 |
| [* | KY 988 | 3.8 KY 217 | 4.3 KY 188 | 0.5] |
| * | KY 1344 | 0.0 KY 217 | 2.1 Wolfpen Branch RD | 2.1 |
| * | KY 2011 | 0.0 KY 221 | 9.0 KY 66 | 9.0 |
| | | [7.7 Mine Access | 9.0 KY 66 | 1.3] |
| * | KY 2012 | 0.0 [Balkan RD] Private Haul RD | 2.1 US 119 | 2.0 |
| | | | [0.1 Hen Wilder RD | 0.1] |
| [* | KY 2079 | 2.1 KY 74 | 2.6 Charter Tipple | 0.5] |
| * | Hen Wilder RD CR 5001 | 0.0 KY 987 | 2.0 KY 2012 | 2.0 |

| | | | | |
|---|---|---|---|---|
| * Cow Fork Road | | | | |
| CR 5032 | 0.0 KY 2011 | 2.6 Mine | | 2.6 |
| [* Straight Creek Road | | | | |
| CR 5040 | 0.0 KY 66 | 0.2 Turkey Pen Gap RD | | 0.2 |
| * Turkey Pen Gap Road | | | | |
| CR 5053 | 0.0 Straight Creek RD | 0.5 Knox CO LN | | 0.5 |
| * Cranes Creek Road | | | | |
| CR 5160 | 0.0 KY 188 | 0.2 Mountain Drive Tipple | | 0.2 |
| * Stony Fork Road | | | | |
| CR 5213 | 0.0 KY 186 | 0.4 KY 74 | | 0.4] |
| * Hignite Creek Road | | | | |
| CR 5219 | 0.0 KY 74 | 2.3 End of Road | | 2.3 |
| [* Rockhouse Branch Road | | | | |
| CR 5222 | 0.0 KY 74 | 0.5 Mine | | 0.5] |
| * Clear Fork Road | | | | |
| CR 5227 | 0.0 KY 535 | 0.6 End of Road | | 0.6 |
| [* Little Creek Road | | | | |
| CR 5358 | 0.0 KY 66 | 0.2 Little Creek Tipple | | 0.2] |
| | | | STATE ROAD MILEAGE | 111.2 [105.0] |
| | | | COUNTY ROAD MILEAGE | 7.5 [9.5] |
| | | | TOTAL ROAD MILEAGE | 118.7 [114.5] |

BOURBON COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * US 27 | 8.3 US 460 | 15.4 Harrison CO LN | 7.1 |
| * US 68 | 2.4 US 68X | 10.8 Nicholas CO LN | 8.4 |
| * US 68X | 1.4 KY 627 | 2.8 US 68 (East) | 1.4 |
| * US 460 | 7.7 US 27 | 9.2 US 68X | 1.5 |
| * KY 627 | 0.0 Clark CO LN | 9.5 US 68X | 9.5 |
| | | STATE ROAD MILEAGE | 27.9 [26.4] |
| | | COUNTY ROAD MILEAGE | 0.0 |
| | | TOTAL ROAD MILEAGE | 27.9 [26.4] |

BOYD COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * US 23 | 0.0 Lawrence CO LN | 21.1 Greenup CO LN | 21.1 |
| * US 23S | 0.0 US 60 | 0.5 Ohio State LN | 0.5 |
| * US 23X | 1.4 KY 2148 | 1.5 US 23S | 0.1 |
| | 1.7 [1.6] US 60 | 2.0 [1.8] US 23 | 0.3 [0.2] |
| * US 60 | 0.0 Carter CO LN | 12.3 [12.4] US 23 | 12.3 [12.4] |
| * US 60X | 0.0 US 60 | 0.5 US 23S | 0.5 |
| * KY 5 | 0.0 US 60 | 1.5 Straight Creek RD | 1.5 |
| [* KY 180 | 0.7 Big Run RD | 2.5 US 60 | 1.8] |
| * KY 716 | 0.0 US 60 | 0.4 Molsruger RD | 0.4 |
| * KY 757 | 6.2 US 23 | 10.2 US 23 | 4.0 |
| * KY 2148 | 0.0 US 23 | 0.1 US 23X | 0.1 |
| [* Big Run Road | | | |
| CR 5263 | 0.0 KY 180 | 1.5 Mine | 1.5] |
| * Straight Creek Road | | | |
| CR 5288 | 0.0 KY 5 | 0.6 Buena Vista RD | 0.6 |
| * County Line Tipple Road | | | |
| CR 5300 | 0.0 US 23 | 0.3 County Line Tipple | 0.3 |
| [* Cobb Road | | | |
| CR 5490 | 0.0 Straight Creek RD | 1.2 Mine | 1.2] |
| * Hatcher Drive | | | |
| CR 5357 | 0.0 Molsruger RD | 0.1 Mine | 0.1 |
| * Molsruger Road | | | |
| CR 5379 | 0.0 KY 716 | 0.3 Hatcher Drive | 0.3 |
| * Buena Vista Road | | | |
| CR 5493 | 0.0 Straight Creek RD | 0.7 Mine Access RD | 0.7 |
| * 15th Street (Ashland) | | | |
| | 0.0 US 23 | 0.2 Mansbach Dock | 0.2 |
| * 53rd Street (Ashland) | | | |
| | 0.0 US 23 | 0.1 53rd ST Dock | 0.1 |
| | | STATE ROAD MILEAGE | 40.8 [41.7] |
| | | COUNTY ROAD MILEAGE | 2.3 [4.6] |
| | | TOTAL ROAD MILEAGE | 43.1 [46.3] |

BOYLE COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * US 127 | 7.5 US 127 Bypass | 9.7 Mercer CO LN | 2.2 |
| * US 127B | 0.0 US 127 | 5.3 US 127 | 5.3 |
| * US 150 | 16.8 US 150 Bypass | 18.9 Lincoln CO LN | 2.1 |
| * US 150B | 0.0 US 127 | 2.3 US 150 | 2.3 |
| | | STATE ROAD MILEAGE | 11.9 |
| | | COUNTY ROAD MILEAGE | 0.0 |
| | | TOTAL ROAD MILEAGE | 11.9 |

BRACKEN COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * KY 8 | 0.0 Pendleton CO LN | 19.0 Mason CO LN | 19.0 |
| | | STATE ROAD MILEAGE | 19.0 |
| | | COUNTY ROAD MILEAGE | 0.0 |
| | | TOTAL ROAD MILEAGE | 19.0 |

BREATHITT COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * KY 15 | 0.0 Perry CO LN | 27.5 Wolfe CO LN | 27.5 |
| * KY 28 | 5.7 Perry CO LN | 7.4 Perry CO LN | 1.7 |
| * KY 30 | 14.1 Elkatawa Tipple | 14.8 KY 15 (North) | 0.7 |
| | 14.8 KY 15 (South) | 33.3 KY 542 | 18.5 |
| | [30.0 Mine Access | 37.5 Magoffin CO LN | 7.5] |
| * KY 476 | 0.0 Perry CO LN [5.8 Falcon Haul RD] | 11.4 KY 15 | 11.4 [5.6] |
| * KY 542 | 0.0 KY 30 [10.0 Mine Access] | 18.6 Magoffin CO LN | 18.6 [8.6] |
| * KY 1098 | 0.0 KY 15 | 20.7 Knott CO LN | 20.7 |
| | | [14.8 Mine Access | 14.8] |
| * KY 1110 | 15.2 Haddix Tipple | 15.7 KY 15 | 0.5 |
| * KY 1111 | 0.0 KY 1098 [1.6 Mine Access] | 2.2 Big Lovely RD | 2.2 [0.6] |
| [* KY 3193 | 0.0 Wolverine RD | 0.1 Wolverine RD | 0.1] |
| * Big Lovely Road CR 5030 | 0.0 KY 1111 | 1.4 KY 542 | 1.4 |
| * Springsfork Road CR 5032 | 2.2 KY 542 | 3.6 Mine Access | 1.4 |
| * Slusher Road CR 5067 | 0.0 KY 542 | 2.5 Mine | 2.5 |
| [* Wolverine Road CR 5318 | 5.1 Mine | 5.3 KY 3193 | 0.2 |
| | 5.3 KY 3193 | 5.7 KY 15 | 0.4] |
| | | STATE ROAD MILEAGE | 101.8 [67.6] |
| | | COUNTY ROAD MILEAGE | 5.3 [5.9] |
| | | TOTAL ROAD MILEAGE | 107.1 [73.5] |

BUTLER COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * Green River Parkway | 18.2 Warren CO LN | 35.1 Ohio CO LN | 16.9 |
| * Western KY Parkway | 87.4 Ohio CO LN | 88.4 Grayson CO LN | 1.0 |
| * US 231 | 8.6 KY 1468 | 8.9 Green River Parkway | 0.3 |
| | [8.4 Alley-Cassetty Tipple | 18.9 Ohio CO LN | 10.5] |
| | 11.5 KY 70 (South) | 18.9 Ohio CO LN | 7.4 |
| * KY 70 | 0.0 Muhlenberg CO LN | 14.4 US 231 | 14.4 |
| | 14.4 US 231 | 25.3 KY 411 | 10.9 |
| [* KY 79 | 13.4 KY 70 | 15.2 Possum Hollow SCH RD | 1.8 |
| * KY 269 | 4.2 Johnson RD | 6.0 Ohio CO LN | 1.8] |
| * KY 411 | 0.0 KY 70 | 6.1 Mine [2.2 Mine] | 6.1 [2.2] |
| * KY 1328 | 10.3 [10.0] Mine | 10.6 Old Greenwich SCH RD | 0.3 [0.6] |
| | 11.5 Mine | 11.7 KY 70 | 0.2 |
| * KY 1468 | 0.0 KY 70 | 1.1 US 231 | 1.1 |
| * Old Greenwich School Road CR 5015 | 0.0 KY 1328 | 0.7 KY 70 | 0.7 |
| * Jolertown Ridge Road CR 5027 | 0.0 KY 70 | 0.3 Pyramid Mine | 0.3 |
| | [Peyton Cemetery RD | 1.4 KY 70 | 1.4] |
| [* Peyton Cemetery Road CR 5028 | 0.6 Mine | 0.9 Jolertown Ridge RD | 0.3] |
| * New Cut Road (South) CR 5243 | 0.0 KY 70 | 0.3 C Crabtree Mine | 0.3 |
| | | [0.4 Mine | 0.4] |
| * Hickory Camp Creek Road CR 5246 | 0.0 KY 70 | 1.4 G Southerland RD | 1.4 |

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | Elzie Penally Road | | | |
| | CR 5247 | 0.0 KY 70 | 0.4 Addwest Mine | 0.4 |
| [* | Possum Hollow School Road | | | |
| | CR 5355 | 0.0 KY 70 | 0.7 Mine | 0.7 |
| * | Johnson Road | | | |
| | CR 5394 | 0.0 Mine | 0.1 KY 269 | 0.1] |
| * | G Southerland Road | | | |
| | CR 5406 | 2.0 Mine | 3.0 Hickory Camp Creek RD | 1.0 |
| | | | STATE ROAD MILEAGE | 58.6 [60.4] |
| | | | COUNTY ROAD MILEAGE | 4.1 [6.4] |
| | | | TOTAL ROAD MILEAGE | 62.7 [66.8] |

CALDWELL COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| | Western Kentucky Parkway | | | |
| | | 5.6 Lyon CO LN | 21.8 Hopkins CO LN | 16.2 |
| * | KY 70 | 0.5 KY 91 | 10.5 Mine | 10.0 |
| | | | STATE ROAD MILEAGE | 26.2 [16.2] |
| | | | COUNTY ROAD MILEAGE | 0.0 |
| | | | TOTAL ROAD MILEAGE | 26.2 [16.2] |

[CAMPBELL COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| | US 27 | 0.0 Pendleton CO LN | 16.6 I-471 | 16.6 |
| | | | STATE ROAD MILEAGE | 16.6 |
| | | | COUNTY ROAD MILEAGE | 0.0 |
| | | | TOTAL ROAD MILEAGE | 16.6] |

CARTER COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | US 60 | 24.1 KY 1 & KY 7 | 24.8 KY 1 | 0.7 |
| | | | [35.0 Boyd CO LN | 10.9] |
| | | 30.7 KY 207 | 35.0 Boyd CO LN | 4.3 |
| * | KY 1 | 1.2 KY 1496 | 11.5 I-64 | 10.3 |
| | | [10.6 US 60 & KY 7 | 11.5 I-64 | 0.9] |
| * | KY 7 | 0.0 Elliott CO LN | 10.9 KY 1 | 10.9 |
| * | KY 207 | 0.0 US 60 | 2.3 Greenup CO LN | 2.3 |
| | | | STATE ROAD MILEAGE | 28.5 [22.7] |
| | | | COUNTY ROAD MILEAGE | 0.0 |
| | | | TOTAL ROAD MILEAGE | 28.5 [22.7] |

CHRISTIAN COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| | Pennyrile Parkway | | | |
| | | 7.0 US 41A | 11.7 KY 1682 | 4.7 |
| * | US 41 | 28.5 KY 1296 | 31.6 Hopkins CO LN | 3.1 |
| * | US 41A | 4.4 I-24 | 13.5 Pennyrile Parkway | 9.1 |
| * | KY 1296 | 2.7 Campbell Cemetery RD | 5.2 US 41 | 2.5 |
| * | Campbell Cemetery Road | | | |
| | CR 5418 | 0.0 KY 1296 | 1.6 T D C Mine | 1.6 |
| | | | STATE ROAD MILEAGE | 19.4 [5.6] |
| | | | COUNTY ROAD MILEAGE | 1.6 |
| | | | TOTAL ROAD MILEAGE | 21.0 [7.2] |

CLARK COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | Mountain Parkway | | | |
| | | 0.0 I-64 | 11.9 Powell CO LN | 11.9 |
| * | KY 418 | 5.7 KY 1924 | 5.8 KY 627 | 0.1 |
| * | KY 627 | 0.1 KY 418 | 6.4 KY 1958 | 6.3 |
| | | 9.3 I-64 | 14.8 Bourbon CO LN | 5.5 |
| * | KY 1924 | 0.0 Dale Power Plant | 1.8 KY 418 | 1.8 |
| * | KY 1958 | 0.0 KY 627 | 2.8 I-64 | 2.8 |
| | | | STATE ROAD MILEAGE | 28.4 |
| | | | COUNTY ROAD MILEAGE | 0.0 |
| | | | TOTAL ROAD MILEAGE | 28.4 |

CLAY COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * Daniel Boone Parkway | 10.6 Laurel CO LN | 35.9 Leslie CO LN | 25.3 |
| * US 421 | 2.6 KY 66 | 32.8 Jackson CO LN | 30.2 |
| | | [28.5 KY 1350 | 25.9] |
| * KY 11 | 0.0 Knox CO LN | 8.9 US 421 (South) | 8.9 |
| | 8.9 US 421 (North) | 26.6 Owsley CO LN | 17.7 |
| * KY 66 | 0.0 Bell CO LN | 1.8 Lick Fork | 1.8 |
| | | [6.9 Leslie CO LN | 6.9] |
| | 4.9 Phillips Fork | 6.9 Leslie CO LN | 2.0 |
| | 6.9 Leslie CO LN | 18.5 US 421 | 11.6 |
| | [19.1 Daniel Boone Parkway | 32.5 KY 1482 | 13.4] |
| | 32.8 KY 3014 | 33.2 KY 11 | 0.4 |
| * KY 80 | 3.0 Roots Branch | 7.5 US 421 | 4.5 |
| | [7.0 Big Creek Tipple | 7.5 US 421 | 0.5] |
| [* KY 577 | 4.2 Buncomb RD | 5.4 KY 1350 (South) | 1.2 |
| * KY 638 | 11.9 Mine Access | 13.4 US 421 | 1.5] |
| * KY 1350 | 0.0 US 421 | 4.1 KY 577 (West) | 4.1 |
| * KY 1482 | 9.4 Mine Access | 10.2 KY 66 | 0.8 |
| * KY 1524 | 0.0 US 421 | 1.1 KY 2000 | 1.1 |
| | | [6.9 Big John Branch RD | 6.9] |
| * KY 2000 | 0.0 KY 1524 | 3.5 Mine Access | 3.5 |
| * KY 2432 | 0.0 Sester Road | 0.7 Littleton Road | 0.7 |
| * KY 2438 | 0.0 US 421 | 0.1 KY 2432 | 0.1 |
| [* KY 3014 | 0.0 KY 66 | 0.2 Oneida Bottom RD | 0.2 |
| * Oneida Bottom Road CR 5050 | 0.0 KY 3014 | 1.0 Mine | 1.0] |
| * Littleton Road CR 5103 | 0.0 KY 2432 | 0.9 Panama School RD | 0.9 |
| [* Saplings Fork Road CR 5169 | 0.0 KY 1524 | 3.5 Buzzard Creek RD | 3.5 |
| * Swafford Branch Road CR 5171 | 0.0 Buzzard Creek RD | 1.7 Mine | 1.7] |
| * Sevier Road CR 5180 | 0.0 US 421 | 0.2 Bridge | 0.2 |
| * Sester Road (Manchester) CR 5227AA | 0.0 KY 2432 | 0.2 Tipple Access | 0.2 |
| [* Buzzard Creek Road CR 5238 | 1.7 Swafford Branch RD | 2.7 Saplings Fork RD | 1.0] |
| * Panama School Road CR 5341 | 0.0 Littleton Road | 0.8 Steele RD | 0.8 |
| * Steele Road CR 5342 | 0.0 Panama School RD | 0.9 End of Road | 0.9 |
| [* Buncomb Road CR 5376 | 0.0 KY 577 | 0.4 Mine | 0.4 |
| * Sourwood Road CR 5377 | 0.0 Buncomb RD | 0.1 Mine | 0.1] |
| | | STATE ROAD MILEAGE | 112.7 [129.6] |
| | | COUNTY ROAD MILEAGE | 3.0 [10.7] |
| | | TOTAL ROAD MILEAGE | 115.7 [140.3] |

CRITTENDEN COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * US 60 | 0.0 Livingston CO LN | 23.0 Union CO LN | 23.0 |
| * KY 120 | 0.0 US 60 | 16.6 Webster CO LN | 16.6 |
| | | STATE ROAD MILEAGE | 39.6 |
| | | COUNTY ROAD MILEAGE | 0.0 |
| | | TOTAL ROAD MILEAGE | 39.6 |

DAVIESS COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * Green River Parkway | 59.5 Ohio CO LN | 70.7 US 60 Bypass | 11.2 |
| | | [70.2 US 60 Bypass | 10.7] |
| * US 60 | 10.1 US 60 Bypass | 27.9 Hancock CO LN | 17.8 |
| * US 60B | 0.0 US 60 | 10.2 US 60 | 10.2 |
| * US 231 | 0.0 Ohio CO LN | 11.3 US 60 Bypass | 11.3 |
| * KY 54 | 2.5 US 60 Bypass | 12.9 Boston-Laffoon RD | 10.4 |
| | | [15.2 KY 764 (South) | 12.7] |
| * KY 81 | 0.0 McLean CO LN | 11.9 US 60 Bypass | 11.9 |

| | | | |
|---|---|---|---|
| [* KY 140 | 9.3 Mine | 9.8 US 231 | 0.5] |
| * KY 144 | 0.0 US 60 | 11.9 Flora RD | 11.9 |
| * KY 331 | 0.0 US 60 (East) | 1.9 Mine | 1.9 |
| | via Industrial Drive and Medley-Roost Road | [1.8 Owensboro Riverport | 1.8] |
| * KY 554 | 1.9 Mine | 4.8 KY 81 | 2.9 |
| [* KY 764 | 1.7 Deserter Creek RD | 3.9 KY 54 | 2.2] |
| * KY 951 | 0.0 KY 144 | 2.9 Mine | 2.9 |
| | | [1.6 Mine | 1.6] |
| * Flora Road | | | |
| CR 5035 | 0.0 KY 144 | 1.4 Mine | 1.4 |
| * St Lawrence Road | | | |
| CR 5036 | 0.0 KY 144 | 0.2 Mine | 0.2 |
| * Iceland Road | | | |
| CR 5076 | 0.0 US 60 | 0.2 Nerco River Terminal | 0.2 |
| [* Deserter Creek Road | | | |
| CR 5151 | 3.3 Mine | 3.7 KY 764 | 0.3] |
| | | STATE ROAD MILEAGE | 92.4 [95.5] |
| | | COUNTY ROAD MILEAGE | 1.8 [2.2] |
| | | TOTAL ROAD MILEAGE | 94.2 [97.7] |

ELLIOTT COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * KY 7 | 0.0 Morgan CO LN | 19.3 Carter CO LN | 19.3 |
| * KY 32 | 8.6 KY 7 | 11.4 KY 719 | 2.8 |
| | | [16.6 Mason Branch RD | 8.0] |
| * KY 409 | 0.0 KY 7 | 2.7 Mine | 2.7 |
| [* KY 486 | 0.0 KY 32 | 2.4 P Skaggs RD | 2.4 |
| * KY 650 | 0.0 Morgan CO LN | 4.5 KY 7 | 4.5 |
| * KY 719 | 0.0 Begin State Maintenance | 4.7 KY 32 | 4.7] |
| * Dickerson | | | |
| CR 5025 | 0.0 KY 7 | 0.8 Mine | 0.8 |
| | | [0.3 Mine | 0.3] |
| [* P Skaggs Road | | | |
| CR 5121 | 0.0 KY 486 | 0.2 Mine | 0.2 |
| * Lick Ford Road | | | |
| CR 5123 | 0.0 KY 32 | 0.7 Mine | 0.7 |
| * Right Fork Road | | | |
| CR 5269 | 0.0 KY 719 | 1.8 Morgan CO LN | 1.8] |
| | | STATE ROAD MILEAGE | 24.8 [38.9] |
| | | COUNTY ROAD MILEAGE | 0.8 [3.0] |
| | | TOTAL ROAD MILEAGE | 25.6 [41.9] |

ESTILL COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * KY 52 | 0.0 Madison CO LN | 21.0 Lee CO LN | 21.0 |
| | | [7.6 KY 89 | 7.6] |
| [* KY 89 | 11.4 KY 52 | 13.4 KY 1840 | 2.0 |
| * KY 1840 | 0.0 Stump RD | 0.4 KY 89 | 0.4 |
| * Stump Road | | | |
| CR 5356 | 0.0 KY 1840 | 0.8 Southeast Prep Plant | 0.8] |
| | | STATE ROAD MILEAGE | 21.0 [10.0] |
| | | COUNTY ROAD MILEAGE | 0.0 [0.8] |
| | | TOTAL ROAD MILEAGE | 21.0 [10.8] |

FAYETTE COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| [* US 27 | 0.0 Jessamine CO LN | 2.4 KY 4 | 2.4 |
| * US 60 | 10.2 KY 4 | 12.1 I-75 | 1.9] |
| * US 68 | 0.0 Jessamine CO LN | 3.1 KY 4 | 3.1 |
| * KY 4 | 2.2 US 68 | 9.3 KY 922 | 7.1 |
| | [12.7 US 60 | 19.3 US 27 | 6.6] |
| * KY 922 | 1.0 KY 4 | 2.9 I-75 | 1.9 |
| [* Man-O'-War Boulevard (Lexington) | | | |
| | 0.0 US 68 | 3.3 US 27 | 3.3] |
| | | STATE ROAD MILEAGE | 12.1 |

| | |
|---|---|
| | [23.0] |
| COUNTY ROAD MILEAGE | 0.0 |
| | [3.3] |
| TOTAL ROAD MILEAGE | 12.1 |
| | [26.3] |

FLEMING COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | US 68 | 0.0 Robertson CO LN | 5.4 Mason CO LN | 5.4 |
| * | KY 11 | 0.0 Bath CO LN | 17.2 Mason CO LN | 17.2 |
| | | | STATE ROAD MILEAGE | 22.6 |
| | | | COUNTY ROAD MILEAGE | 0.0 |
| | | | TOTAL ROAD MILEAGE | 22.6 |

FLOYD COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | US 23 | 0.0 Pike CO LN | 24.1 Johnson CO LN | 24.1 |
| * | KY 3 | 0.0 US 23 & KY 80 | 2.3 Blackhawk Tipple | 2.3 |
| * | KY 7 | 0.0 Knott CO LN | 8.0 KY 550 | 8.0 |
| * | KY 80 | 0.0 Knott CO LN | 14.4 US 23 & KY 3 | 14.4 |
| * | KY 114 | 9.5 KY 404 | 11.4 US 23 | 1.9 |
| * | KY 122 | 8.5 KY 80 | 31.6 KY 466 | 23.1 |
| * | KY 194 | 0.0 KY 1428 | 1.6 Coal Mac Mine | 1.6 |
| | | | [5.6 Buffalo CR RD | 5.6] |
| | | 9.0 Addington Mine | 12.2 Pike CO LN | 3.2 |
| | | [7.4 Copperas RD | 12.2 Pike CO LN | 4.8] |
| * | KY 404 | 0.0 Magoffin CO LN | 8.1 KY 114 | 8.1 |
| * | KY 466 | 2.3 Caleb Fork RD | 4.1 KY 122 | 1.8 |
| | | [2.1 Mine | 4.1 KY 122 | 2.0] |
| * | KY 550 | 0.0 Knott CO LN | 0.2 KY 7 | 0.2 |
| | | 0.2 KY 7 | 1.2 Jet Tipple | 1.0 |
| | | | [4.6 KY 80 | 4.4] |
| * | KY 680 | 0.0 KY 122 | 5.4 KY 979 | 5.4 |
| * | KY 777 | 5.2 Transcontinental Mine | 9.0 KY 80 | 3.8 |
| | | [5.9 Mine | 9.0 KY 80 | 3.1] |
| * | KY 850 | 4.3 Pitts Fork Road | 7.5 KY 404 | 3.2 |
| | | [0.0 KY 550 | 7.5 KY 404 | 7.5] |
| * | KY 979 | 0.0 KY 122 | 19.3 US 23 | 19.3 |
| * | KY 1101 | 0.9 Stonecoal BR RD | 1.0 KY 122 | 0.1 |
| * | KY 1210 | 0.0 KY 80 | 7.8 KY 404 | 7.8 |
| * | KY 1426 | 0.0 Pike CO LN | 2.5 K C Rogers Mine | 2.5 |
| | | [2.5 Mine | 6.6 KY 979 | 4.1] |
| | | 6.4 Damron Coal Mine | 9.5 Justice Branch RD | 3.1 |
| | | [6.6 KY 979 | 9.0 Mine | 2.4] |
| * | KY 1428 | [ 5.7 Colliver RD | 6.2 US 23 | 0.5] |
| | | 6.2 US 23 | 8.8 KY 194 | 2.6 |
| | | 14.1 Uptown Mining Mine | 15.6 US 23 | 1.5 |
| [* | KY 1498 | 0.0 Knott CO LN | 4.6 KY 122 | 4.6] |
| * | KY 1929 | 0.0 Ned FK RD | 2.5 KY 680 | 2.5 |
| * | KY 2030 | 0.0 KY 122 | 7.8 KY 1426 | 7.8 |
| * | KY 2557 | 0.0 Betsy Layne BR RD | 0.3 US 23 | 0.3 |
| * | KY 3188 | 0.8 Kanawha Mine | 1.3 KY 80 | 0.5 |
| * | Powell Branch Road | | | |
| | CR 5022 | 0.0 Justell Bridge RD | 0.3 Camp BR Branch RD | 0.3 |
| * | Justell Bridge Road | | | |
| | CR 5024F | 0.0 US 23 | 0.1 Powell Branch RD | 0.1 |
| [* | Clark Branch Road | | | |
| | CR 5040 | 0.0 Buffalo Creek RD | 1.4 Mine | 1.4 |
| * | Buffalo Creek Road | | | |
| | CR 5043 | 0.0 KY 194 | 4.0 Clark Branch RD | 4.0 |
| * | Copperas Creek Road | | | |
| | CR 5045 | 0.0 KY 194 | 2.1 Mine | 2.1] |
| * | Bushy Fork Road | | | |
| | CR 5046 | 0.0 KY 194 | 0.4 Wolf Branch Road | 0.4 |
| * | Wolf Branch Road | | | |
| | CR 5046A | 0.0 Bushy Fork Road | 1.0 Martin CO LN | 1.0 |
| * | Bull Creek Road | | | |
| | CR 5055 | 0.0 KY 3 | 0.5 Cabin Coal Tipple | 0.5 |
| [* | Colliver Road | | | |
| | CR 5074 | 0.0 KY 1428 | 1.6 Mine | 1.6] |
| * | Camp Branch Road | | | |
| | CR 5078 | 0.0 Powell Branch RD | 0.9 Right FK/Camp BR RD | 0.9 |
| * | Right Fork/Camp Branch Road | | | |
| | CR 5078A | 0.0 Camp Branch RD | 0.2 Prater Creek Mine | 0.2 |

| | | | |
|---|---|---|---|
| * Transcontinental Road (Excluding Bridge) | | | |
| CR 5083 | 0.0 Transcontinental Tipple | 0.8 US 23 | 0.8 |
| * Spruce Pine Road | | | |
| CR 5098 | 0.0 KY 2030 | 0.4 Maple Ridge Mine | 0.4 |
| * Justice Branch Road | | | |
| CR 5107 | 0.0 KY 1426 | 0.4 RT FK Justice BR RD | 0.4 |
| * Big Branch/Little Mud Creek Road | | | |
| CR 5108 | 0.0 KY 2030 | 3.3 Island Creek Mine | 3.3 |
| * Frog Branch Road | | | |
| CR 5110 | 0.0 KY 2030 | 1.0 Maple Ridge Mine | 1.0 |
| * Betsy Layne Branch Road | | | |
| CR 5111 | 0.0 KY 2557 | 0.9 Somerset Coal Mine | 0.9 |
| * Cedar Hill Road | | | |
| CR 5118 | 0.0 KY 1426 | 0.6 Bebe Tipple | 0.6 |
| * Parsons Branch Road | | | |
| CR 5128 | 0.0 KY 979 | 0.2 Transcontinental Mine | 0.2 |
| * Frasure Branch Road | | | |
| CR 5134 | 0.0 KY 979 | 1.0 Joseph Mining Mine | 1.0 |
| * Mink Branch Road | | | |
| CR 5138 | 0.0 KY 979 | 1.9 Joseph Mining Mine | 1.9 |
| | | [1.5 Mine | 1.5] |
| * Dry Branch/Mud Creek Road | | | |
| CR 5139 | 0.0 KY 979 | 1.1 Joseph Mining Mine | 1.1 |
| * Ned Fork Road | | | |
| CR 5140 | 0.0 KY 1929 | 1.1 Premium Elkhorn Shannon Mine | 1.1 |
| * Branham Creek Road | | | |
| CR 5142 | 0.0 KY 979 | 8.3 Pike CO LN | 8.3 |
| | | [3.1 Mine | 3.1 |
| | 7.7 Left FK/Tinker FK RD | 8.3 Pike CO LN | 0.6] |
| * Barn Branch Road | | | |
| CR 5146 | 0.0 Branham Creek Road | 0.3 Phyllis Coal Mine | 0.3 |
| * Left Fork/Tinker Fork Road | | | |
| CR 5147 | 0.0 Branham Creek RD | 0.2 Wellmore Kodiak Mine | 0.2 |
| * Andy Branch Road | | | |
| CR 5148 | 0.0 Tinker Fork RD | 0.5 Ensol Mine | 0.5 |
| * Tinker Fork Road | | | |
| CR 5152 | 0.0 KY 979 | 0.6 Andy Branch RD | 0.6 |
| * Red Morg Branch Road | | | |
| CR 5153 | 0.0 KY 979 | 0.9 Turner Elkhorn Mine | 0.9 |
| | | [0.7 End of Road | 0.7] |
| * Buzzard Rock Road | | | |
| CR 5157 | 0.2 Apache Mining Mine | 0.5 Pike CO LN | 0.3 |
| * Buckhorn Hollow Road | | | |
| CR 5159 | 0.0 KY 979 | 0.4 Wheelwright Douglas #2 Mine | 0.4 |
| * Spewing Camp Branch Road | | | |
| CR 5190 | 0.0 KY 122 | 2.4 JRM Mining Mine | 2.4 |
| * Little Muddy Creek Road | | | |
| CR 5197 | 0.0 KY 2030 | 3.0 Bebe Mine | 3.0 |
| * Gunstock Branch Road | | | |
| CR 5202 | 0.0 KY 2030 | 0.4 Island Creek Mine | 0.4 |
| * Stonecoal Branch Road | | | |
| CR 5234 | 0.0 KY 1101 | 2.0 Blackhawk Mine | 2.0 |
| * Step Branch Road | | | |
| CR 5247 | 0.0 KY 122 | 0.1 Transcontinental Mine | 0.1 |
| * Goose Creek Road | | | |
| CR 5273 | 0.0 Gosling Branch RD | 0.6 Transcontinental T&H Mine | 0.6 |
| * Gosling Branch Road | | | |
| CR 5274 | 0.0 KY 80 | 0.1 Goose Creek RD | 0.1 |
| * Vine Street (Eastern) | | | |
| CR 5283C | 0.0 KY 80 | 0.1 May I Tipple | 0.1 |
| [* Prater Fork Road | | | |
| CR 5285 | 0.0 KY 850 | 1.1 Left FK/Prater CK RD | 1.1 |
| * Left Fork/Prater Creek Road | | | |
| CR 5285A | 0.0 Prater Fork RD | 0.4 Mine | 0.4] |
| * Pitts Fork Road | | | |
| CR 5288 | 0.0 KY 850 | 1.3 Branham & Baker Mine | 1.3 |
| * Johnson Fork-Conley Fork Road | | | |
| CR 5409 | 0.0 KY 1210 | 0.2 Amber Prep Plant | 0.2 |
| | | STATE ROAD MILEAGE | 150.1 |
| | | | [168.9] |
| | | COUNTY ROAD MILEAGE | 37.8 |
| | | | [36.6] |
| | | TOTAL ROAD MILEAGE | 187.9 |
| | | | [205.5] |

[GARRARD COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * US 27 | 10.3 KY 34 | 16.5 Jessamine CO LN | 6.2 |
| * KY 34 | 0.0 Boyle CO LN | 2.7 US 27 | 2.7 |
| | | STATE ROAD MILEAGE | 8.9 |
| | | COUNTY ROAD MILEAGE | 0.0 |
| | | TOTAL ROAD MILEAGE | 8.9] |

GRAYSON COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * Western KY Parkway | | | |
| | 88.4 Butler CO LN | 119.6 Hardin CO LN | 31.2 |
| | | STATE ROAD MILEAGE | 31.2 |
| | | COUNTY ROAD MILEAGE | 0.0 |
| | | TOTAL ROAD MILEAGE | 31.2 |

GREENUP COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * US 23 | 0.0 Boyd CO LN | 11.2 KY 2 | 11.2 |
| | | [11.8 KY 2541 | 11.8] |
| | 24.5 KOT Dock | 28.8 Ohio State LN | 4.3 |
| * KY 1 | 11.4 KY 207 | 17.3 US 23 | 5.9 |
| * KY 2 | 10.3 Schultz Branch RD | 17.2 US 23 | 6.9 |
| * KY 207 | 0.0 Carter CO LN | 0.0 Logtown Hollow RD | 0.5 |
| | 6.9 Mine | 9.2 KY 1 | 2.3 |
| | [0.4 Logtown RD | 9.2 KY 1 | 8.8] |
| [* KY 2541 | 1.3 Pilgrim Dock | 1.6 US 23 | 0.3] |
| * Logtown Hollow Road | | | |
| CR 5168 | 0.0 KY 207 | 0.5 Mine | 0.5 |
| * Stepp Drive | | | |
| CR 5216 | 0.0 KY 207 | 0.3 Mine | 0.3 |
| * Schultz Branch Road | | | |
| CR 5250 | 0.0 KY 2 | 1.0 Mine | 1.0 |
| | | STATE ROAD MILEAGE | 31.1 [26.8] |
| | | COUNTY ROAD MILEAGE | 1.8 [0.5] |
| | | TOTAL ROAD MILEAGE | 32.9 [27.3] |

HANCOCK COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * US 60 | 0.0 Daviess CO LN | 5.0 Mine | 5.0 |
| | | [5.5 Mine | 5.5] |
| | | STATE ROAD MILEAGE | 5.0 [5.5] |
| | | COUNTY ROAD MILEAGE | 0.0 |
| | | TOTAL ROAD MILEAGE | 5.0 [5.5] |

HARDIN COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * Western KY Parkway | | | |
| | 119.6 Grayson CO LN | 135.8 US 31W | 16.2 |
| * US 31W | 18.8 US 31W Bypass | 33.0 Meade CO LN | 14.2 |
| * US 31WB | 0.2 Western KY Parkway | 3.7 US 31W | 3.5 |
| | | STATE ROAD MILEAGE | 33.9 |
| | | COUNTY ROAD MILEAGE | 0.0 |
| | | TOTAL ROAD MILEAGE | 33.9 |

HARLAN COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * US 119 | 0.0 Bell CO LN | 39.7 Letcher CO LN | 39.7 |
| | | [18.7 Rhea Tipple | 18.7] |
| | [26.4 Totz Prep Plant | 28.2 Belt Line | 1.8 |
| | 34.3 Mine | 39.7 Letcher CO LN | 5.4] |
| * US 421 | 0.0 Virginia State LN | 17.6 US 119 (West) | 17.6 |
| | 17.6 US 119 (East) [(West)] | 27.4 Leslie CO LN | 9.8 |
| * KY 38 | 0.0 US 421 | 8.5 KY 215 | 8.5 |
| | | [13.3 Shields School RD | 13.3] |
| | 11.9 Nance Road | 14.5 Highsplint | 2.6 |
| | 16.7 Belt Line | 17.0 KY 179 | 0.3 |
| | 28.1 Jericol Tipple | 29.5 Virginia State LN | 1.4 |
| * KY 72 | 0.0 Bell CO LN | 4.9 Rockhouse Branch [Creek] RD | 4.9 |
| | 9.0 KY 2425 | 11.3 US 421 | 2.3 |

| | | | | |
|---|---|---|---|---|
| [* KY 160 | 8.8 | Benham Tipple | 14.6 Letcher CO LN | 5.8] |
| * KY 179 | 0.0 | KY 38 | 0.6 Mines | 0.6 |
| * KY 215 | 0.0 | KY 38 | 0.2 Yokum Tipple | 0.2 |
| | | | [1.1 Mine | 1.1] |
| * KY 219 | 2.3 | Mine | 5.1 US 119 | 2.8 |
| * KY 221 | 0.0 | Bell CO LN | 8.9 US 421 (South) | 8.9 |
| | 8.9 | US 421 (North) | 26.8 Perry CO LN | 17.9 |
| * KY 987 | 10.4 | Wilder Branch | 18.5 US 421 | 8.1 |
| * KY 990 | 0.0 | US 421 | 1.3 Coalgood Tipple | 1.3 |
| * KY 1137 | 0.0 | US 421 | 2.0 Crummies Creek RD | 2.0 |
| * KY 2005 | 2.6 | Lick Branch Culvert | 5.1 KY 72 | 2.5 |
| * KY 2006 | 0.7 | Mine | 4.6 Arch of KY Tipple | 3.9 |
| * KY 2007 | 0.0 | US 119 | 0.5 Layman-Coldiron RD | 0.5 |
| * KY 2008 | 0.0 | Leslie CO LN | 1.4 KY 221 | 1.4 |
| * KY 2009 | 0.0 | KY 221 | 2.7 Leslie CO LN | 2.7 |
| * KY 2425 | 0.0 | Mine | 0.4 KY 72 | 0.4 |
| * Totz Road | | | | |
| CR 5007B | 0.0 | Haul RD | 0.1 Totz Washer | 0.1 |
| * Crummies Creek Road | | | | |
| CR 5137 | 0.0 | KY 1137 | 1.5 N to End | 1.5 |
| * Slack Cemetery Road | | | | |
| CR 5140 | 0.0 | US 421 (North) | 0.4 End | 0.4 |
| | | | [0.3 Mine | 0.3] |
| * Barn Branch Road | | | | |
| CR 5142 | 0.0 | US 421 | 0.4 End | 0.4 |
| [* Old US 421 Road | | | | |
| CR 5147 | 0.0 | Daniel Carredd RD | 0.4 US 421 | 0.4 |
| * Daniel Carredd Road | | | | |
| CR 5148 | 0.0 | Old US 421 RD | 0.7 End | 0.7] |
| * Grays Branch Road | | | | |
| CR 5206K | 0.0 | US 421 @ Grays Knob | 0.4 End | 0.4 |
| * Mill Branch Hollow Road | | | | |
| CR 5219 | 0.0 | KY 72 | 0.3 Mine | 0.3 |
| [* Frye Street | | | | |
| CR 5232A | 0.0 | KY 72 | 0.2 Elcomb DR | 0.2 |
| * Elcomb Drive | | | | |
| CR 5232C | 0.0 | Frye ST | 0.4 Mine Access | 0.4] |
| * Layman-Coldiron Road | | | | |
| CR 5236H | 0.0 | KY 2007 | 0.9 Forester Creek RD | 0.9 |
| * Forester Creek Road | | | | |
| CR 5238 | 0.0 | Layman-Coldiron Road | 1.8 Mine | 1.8 |
| * Rockhouse Branch [Creek] Road | | | | |
| CR 5256 | 0.0 | KY 72 | 0.2 R B Tipple | 0.2 |
| * Ages Creek Road | | | | |
| CR 5326M | 0.0 | KY 38 | 0.3 Mine | 0.3 |
| | | | [0.5 Mine | 0.5] |
| * Abner Fork Road | | | | |
| CR 5338 | 0.0 | KY 221 | 3.9 Leslie CO LN | 3.9 |
| [* Big Run Hollow Road | | | | |
| CR 5344 | 1.4 | Mine RD | 1.7 Bell CO LN | 0.3] |
| | | | STATE ROAD MILEAGE | 140.3 |
| | | | | [132.5] |
| | | | COUNTY ROAD MILEAGE | 10.2 |
| | | | | [10.5] |
| | | | TOTAL ROAD MILEAGE | 150.5 |
| | | | | [143.0] |

HARRISON COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * US 27 | 0.0 Bourbon CO LN | 19.5 Pendleton CO LN | 19.5 |
| | | STATE ROAD MILEAGE | 19.5 |
| | | COUNTY ROAD MILEAGE | 0.0 |
| | | TOTAL ROAD MILEAGE | 19.5 |

HENDERSON COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * US 41 | 0.0 Webster CO LN | 13.0 KY 812 | 13.0 |
| * KY 812 | 5.6 Mine | 7.4 US 41 | 1.8 |
| * KY 2097 | 0.0 US 41 | 0.9 Bill Givens RD | 0.9 |
| * Bill Givens Road | | | |
| CR 5142 | 0.0 US 41 | 0.1 Bill Givens RD | 0.1 |
| | [[Webster CO LN | 0.2 KY 2097 | 0.2] |
| | | STATE ROAD MILEAGE | 15.7 |
| | | COUNTY ROAD MILEAGE | 0.1 |

| | | | |
|---|---|---|---|
| | TOTAL ROAD MILEAGE | | [0.2]<br>15.8<br>[15.9] |

HOPKINS COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | Western Kentucky Parkway | | | |
| | | 21.8 Caldwell CO LN | 43.4 Muhlenberg CO LN | 21.6 |
| * | Pennyrile Parkway (Nontoll Segment) | | | |
| | | 32.9 US 62 | 45.2 Begin Toll Segment | 12.3 |
| | | [29.6 US 41 | 45.2 Begin Toll Segment | 15.6] |
| * | Pennyrile Parkway (Toll Segment) | | | |
| | | 45.2 Nontoll Segment | 55.0 Webster CO LN | 9.8 |
| * | US 41 | 0.0 Christian CO LN | 1.4 US 41A | 1.4 |
| | | | [2.3 Pennyrile Parkway | 2.3] |
| | | 3.0 KY 1751 | 11.8 Webster CO LN | 8.8 |
| * | US 41A | 0.0 US 41 | 29.4 Webster CO LN | 29.4 |
| | | [3.7 US 62 | 29.4 Webster CO LN | 25.7] |
| * | US 62 | 1.7 KY 109 | 21.3 Sextet Mine & Tipple | 19.6 |
| * | KY 70 | 4.5 Peter Howton RD | 18.7 US 41A | 14.2 |
| | | [7.1 KY 109 | 18.7 US 41A | 11.6] |
| | | 18.7 US 41A | 26.4 Muhlenberg CO LN | 7.7 |
| | | [19.9 Pennyrile Parkway | 23.2 KY 85 | 3.3] |
| * | KY 85 | 0.0 KY 70 | 3.3 Green River Mine | 3.3 |
| * | KY 109 | 2.1 US 62 | 17.2 KY 814 | 15.1 |
| * | KY 112 | 0.0 US 62 | 9.8 US 41A | 9.8 |
| | | [2.8 Mine | 5.0 Copper Creek RD | 2.2 |
| | | 5.4 Edro Washer | 9.8 US 41A | 4.4] |
| * | KY 262 | 0.0 KY 630 | 0.3 Warrior Mine | 0.3 |
| * | KY 281 | 0.0 US 41A | 0.7 Pennyrile Parkway | 0.7 |
| * | KY 336 | 0.0 US 41A | 2.3 McLeod RD | 2.3 |
| * | KY 454 | 0.0 US 62 | 2.3 KY 112 | 2.3 |
| [* | KY 630 | 0.0 KY 262 | 2.0 US 41A | 2.0] |
| * | KY 813 | 2.5 Drakes Creek RD | 2.8 US 62 | 0.3 |
| | | [2.6 Farmer Crossing RD | 2.8 US 62 | 0.2] |
| | | 4.2 Mine | 5.1 Private Haul Road | 0.9 |
| | | [4.3 Mine | 5.0 Private Haul RD | 0.7] |
| | | 10.2 Mortons Gap-WH CTY RD | 12.3 US 41A | 2.1 |
| * | KY 814 | 0.0 KY 109 | 1.4 Webster CO LN | 1.4 |
| * | KY 1302 | 1.9 Bean Cemetery RD | 2.7 Poole RD | 0.8 |
| [* | KY 1687 | 3.9 Mine | 4.6 US 62 | 0.7] |
| * | KY 1751 | 0.0 US 41A | 1.4 US 41 | 1.4 |
| * | KY 2083 | 0.9 US 62 | 1.1 South Hopkins Tipple | 0.2 |
| * | KY 2086 | 0.0 Walnut Grove RD | 1.2 KY 109 | 1.2 |
| * | McLeod Road | | | |
| | CR 5140 | 0.0 KY 336 | 0.5 Mine | 0.5 |
| * | Mortons Gap-White City Road | | | |
| | CR 5153 | 0.0 KY 813 | 2.4 Mine | 2.4 |
| | | | [1.9 Mine | 1.9] |
| * | Farmers Crossing Road | | | |
| | CR 5161 | 0.0 KY 813 | 3.0 Ogelsby RD | 3.0 |
| * | Ogelsby Road | | | |
| | CR 5163 | 0.9 Mine | 1.4 Farmers Crossing RD | 0.5 |
| * | Goat Lane | | | |
| | CR 5179 | 0.0 US 62 | 0.4 Drakes Creek RD | 0.4 |
| * | Drakes Creek Road | | | |
| | CR 5180 | 1.4 KY 813 | 1.5 Farmers Crossing RD | 0.1 |
| * | Wells Road | | | |
| | CR 5212 | 7.9 Barnsley Loop Road | 8.7 Mine | 0.8 |
| * | Barnsley Loop Road | | | |
| | CR 5217 | 0.0 US 41A | 1.5 Wells Road | 1.5 |
| * | Copper Creek Road | | | |
| | CR 5257 | 0.0 KY 112 | 1.0 Clyde Lee RD | 1.0 |
| * | Clyde Lee Road | | | |
| | CR 5258 | 0.0 Copper Creek RD | 0.4 Mine | 0.4 |
| * | Leonard Jackson Road | | | |
| | CR 5262 | 0.0 Dawson Daylight RD | 1.0 Private Haul RD | 1.0 |
| * | Walnut Grove Road | | | |
| | CR 5301 | 0.0 Mine | 0.6 KY 2086 | 0.6 |
| * | Dawson Daylight Road | | | |
| | CR 5305 | 0.0 KY 109 | 2.4 Leonard Jackson RD | 2.4 |
| * | Ferguson Town Spur | | | |
| | CR 5311 | 0.0 Ferguson Town RD | 0.1 Roberts Bros Tipple | 0.1 |

| | | | | | |
|---|---|---|---|---|---|
| * | Ferguson Town Road | | | | |
| | CR 5325 | 3.0 Ferguson Town Spur | 3.2 KY 109 | | 0.2 |
| * | Peter Howton Road | | | | |
| | CR 5330 | 0.0 KY 70 | 0.3 Mine | | 0.3 |
| * | Poole Road | | | | |
| | CR 5390 | 0.2 KY 70 | 0.4 KY 1302 | | 0.2 |
| * | Bean Cemetery Road | | | | |
| | CR 5396 | 0.0 KY 1302 | 0.4 Mine | | 0.4 |
| | | | | STATE ROAD MILEAGE | 168.9 [157.3] |
| | | | | COUNTY ROAD MILEAGE | 15.8 [12.7] |
| | | | | TOTAL ROAD MILEAGE | 184.7 [170.0] |

JACKSON COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | US 421 | 0.0 Clay CO LN | 4.6 KY 30 (East) | 4.6 |
| | | [3.8 KY 30 | 10.8 KY 587 | 7.0] |
| * | KY 30 | 0.0 Laurel CO LN | 12.5 US 421 (South) | 12.5 |
| | | 12.5 US 421 North | 20.9 Owsley CO LN | 8.4 |
| [* | KY 587 | 0.0 US 421 | 5.5 Brushy Ridge RD | 5.5] |
| * | KY 2002 | 0.0 KY 30 | 4.3 Ruby Mine | 4.3 |
| * | KY 2003 | 0.0 KY 2002 | 2.9 Ruby Mine | 2.9 |
| [* | Brushy Ridge RD | | | |
| | CR 5041 | 0.0 KY 587 | 1.1 Mine | 1.1 |
| * | Old Island City Road | | | |
| | CR 5165 | 0.0 Clay CO LN | 1.1 Mine | 1.1 |
| * | Mildred Road | | | |
| | CR 5184 | 0.0 US 421 | 1.6 Laurel Fork RD | 1.6 |
| * | Laurel Fork Road | | | |
| | CR 5248 | 0.0 Mildred RD | 0.3 Mine | 0.3] |
| | | | STATE ROAD MILEAGE | 32.7 [25.0] |
| | | | COUNTY ROAD MILEAGE | 0.0 [4.1] |
| | | | TOTAL ROAD MILEAGE | 32.7 [29.1] |

JEFFERSON COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | US 31W | 3.2 Kosmos Cement CO | 14.8 I-264 | 11.6 |
| * | KY 1934 | 6.8 I-264 | 7.0 Ralph Avenue | 0.2 |
| * | Ralph Avenue (Louisville) | | | |
| | | 0.9 KY 1934 | 1.8 Dupont Plant | 0.9 |
| | | | STATE ROAD MILEAGE | 11.8 |
| | | | COUNTY ROAD MILEAGE | 0.9 |
| | | | TOTAL ROAD MILEAGE | 12.7 |

JESSAMINE COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| [* | US 27 | 0.0 Garrard CO LN | 14.1 Fayette CO LN | 14.1] |
| * | US 68 | 0.0 Mercer CO LN | 12.1 Fayette CO LN | 12.1 |
| | | | STATE ROAD MILEAGE | 12.1 [14.1] |
| | | | COUNTY ROAD MILEAGE | 0.0 |
| | | | TOTAL ROAD MILEAGE | 12.1 [14.1] |

JOHNSON COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | US 23 | 0.0 Floyd CO LN | 18.4 Lawrence CO LN | 18.4 |
| * | US 460 | 0.0 Magoffin CO LN | 8.3 US 23 | 8.3 |
| * | KY 3 | 0.1 KY 302 | 4.7 Martin CO LN | 4.6 |
| * | KY 40 | 0.0 Magoffin CO LN | 8.7 US 460 | 8.7 |
| | | 8.7 US 23 | 13.3 Deadfall Branch RD | 4.6 |
| * | KY 172 | 0.0 Morgan CO LN | 12.4 KY 40 | 12.4 |
| | | [2.5 Mine Access | 12.4 KY 40 | 9.9] |
| * | KY 302 | 4.1 KY 2381 | 6.5 KY 3 | 2.4 |
| * | KY 469 | 3.0 KY 1614 | 6.2 Lawrence CO LN | 3.2 |
| [* | KY 993 | 0.0 KY 581 | 2.8 US 23 | 2.8] |
| * | KY 1559 | 2.8 Frank Vanhoose Road | 6.0 US 23 | 3.2 |
| * | KY 1614 | 0.0 Morgan CO LN | 1.2 KY 469 | 1.2 |
| * | KY 2381 | 0.0 US 23 | 2.2 KY 302 | 2.2 |

| | | | | |
|---|---|---|---|---|
| * | KY 3214 | 2.3 Brier Fork Road | 3.2 KY 172 | 0.9 |
| * | Frank Vanhoose Road | | | |
| | CR 5061 | 0.0 KY 1559 | 0.4 Mine | 0.4 |
| * | Deadfall Branch Road | | | |
| | CR 5139 | 0.0 KY 40 | 0.6 Mine Access RD | 0.6 |
| * | Brier Fork Road | | | |
| | CR 5359 | 0.0 KY 3214 | 1.0 Morgan CO LN | 1.0 |
| | | | STATE ROAD MILEAGE | 70.1 [61.7] |
| | | | COUNTY ROAD MILEAGE | 2.0 [0.0] |
| | | | TOTAL ROAD MILEAGE | 72.1 [61.7] |

KNOTT COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | KY 7 | 0.0 Letcher CO LN | 16.0 Floyd CO LN | 16.0 |
| * | KY 15 | 0.0 Letcher CO LN | 9.4 Perry CO LN | 9.4 |
| * | KY 80 | 0.0 Perry CO LN | 21.1 Floyd CO LN | 21.1 |
| | | | [20.1 Floyd CO LN | 20.1] |
| * | KY 160 | 0.0 KY 15 | 5.8 AKP Coal Mine | 5.8 |
| | | | [4.2 Runnells Branch RD | 4.2] |
| | | 8.2 KY 1393 | 12.5 KY 80 | 4.3 |
| * | KY 550 | 20.6 National Mines Mine | 26.6 Floyd CO LN | 6.0 |
| * | KY 899 | 0.0 KY 1393 | 4.9 Apollo Coal Mine | 4.9 |
| | | 7.7 National Mines Mine | 12.2 KY 7 | 4.5 |
| * | KY 1087 | 1.4 KY 3209 | 3.4 Mountain Clay Mine | 2.0 |
| | | 12.0 Sandlick Branch RD | 14.1 KY 80 | 2.1 |
| | | [19.9 Bruce Branch RD | 20.6 KY 550 | 0.7] |
| * | KY 1088 | 9.1 Old KY 15 | 9.4 KY 15 | 0.3 |
| | | [3.9 Youngs Fork RD | 9.4 KY 15 | 5.5] |
| * | KY 1098 | 0.0 Breathitt CO LN | 12.0 KY 1087 | 12.0 |
| * | KY 1231 | 0.0 KY 15 | 5.8 Atlas Mining Mine | 5.8 |
| | | | [1.2 Irishman Creek RD | 1.2] |
| | | [4.8 Mine | 5.8 Mine | 1.0] |
| * | KY 1393 | 2.8 KY 899 | 4.9 KY 160 | 2.1 |
| * | KY 1410 | 0.0 KY 160 | 4.7 Letcher CO LN | 4.7 |
| [* | KY 1498 | 0.0 KY 7 | 1.5 Floyd CO LN | 1.5] |
| * | KY 3209 | 0.0 KY 80 | 0.4 KY 1087 | 0.4 |
| * | Patten Branch of Beaver Creek Road | | | |
| | CR 5009 | 0.0 KY 7 | 0.2 National Mines Mine | 0.2 |
| | | | [0.4 G. S. & M. Mine | 0.4] |
| [* | Bruce Branch Road | | | |
| | CR 5026 | 0.0 KY 1087 | 0.7 Patsy Jane Mine | 0.7] |
| * | Big Springs Branch Road | | | |
| | CR 5032 | 0.0 KY 550 | 0.9 National Mines Mine | 0.9 |
| * | Rock Fork (Bolyn) Road | | | |
| | CR 5037 | 0.0 KY 80 | 0.8 Consolidation Mine | 0.8 |
| * | Bates Branch Road | | | |
| | CR 5117 | 0.0 KY 7 | 1.4 Wheelwright Mine | 1.4 |
| * | Perkins Branch-Lick Branch Road | | | |
| | CR 5145 | 0.0 KY 15 | 0.4 Southeast Coal Mine | 0.4 |
| * | Runnells Branch Road | | | |
| | CR 5156 | 0.0 KY 160 | 0.5 Left FK Runnells BR RD | 0.5 |
| * | Left Fork of Runnells Branch Road | | | |
| | CR 5156A | 0.0 Runnells Branch RD | 0.3 Golden Oak Mine | 0.3 |
| * | Irishman Creek Road | | | |
| | CR 5203 | 0.0 KY 1231 | 2.5 RJF Coal Mine | 2.5 |
| [* | Flaxpatch Branch Road | | | |
| | CR 5208 | 0.0 KY 1231 | 0.6 Mine | 0.6] |
| * | Defeated Creek Road | | | |
| | CR 5212 | 0.0 KY 15 | 3.2 Meade & Shepherd Mine | 3.2 |
| [* | Youngs Fork Road | | | |
| | CR 5226 | 0.0 KY 1088 | 1.3 Mine | 1.3] |
| | | | STATE ROAD MILEAGE | 101.4 [90.6] |
| | | | COUNTY ROAD MILEAGE | 10.2 [13.0] |
| | | | TOTAL ROAD MILEAGE | 111.6 [103.6] |

KNOX COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | US 25E | 0.0 Bell CO LN | 26.6 Laurel CO LN | 26.6 |
| * | KY 6 | 0.0 Whitley CO LN | 14.7 KY 11 | 14.7 |
| * | KY 11 | 0.0 Whitley CO LN | 10.1 US 25E | 10.1 |
| | | 10.1 US 25E | 22.7 Clay CO LN | 12.6 |
| [* | KY 223 | 0.0 US 25E | 3.9 KY 718 | 3.9] |
| * | KY 225 | 5.9 Kayjay Mine | 15.0 US 25E | 9.1 |
| * | KY 233 | 3.4 Lynn Camp Branch RD | 6.2 US 25E | 2.8 |
| | | [4.6 Lynn Camp Branch RD | 6.2 US 25E | 1.6] |
| * | KY 459 | 2.6 Little Indian Creek RD | 11.7 KY 11 | 9.1 |
| [* | KY 718 | 0.0 KY 223 | 9.2 Alex Creek RD | 9.2] |
| * | KY 1418 | 0.8 Hubbs Hollow RD | 2.3 Clate-Perman RD | 1.5 |
| | | [0.0 Whitley CO LN | 0.6 Hubbs Hollow RD | 0.6] |
| * | KY 1809 | 0.0 Whitley CO LN | 6.3 KY 11 | 6.3 |
| * | KY 2421 | 0.0 KY 225 | 0.9 KY 11 | 0.9 |
| [* | Alex Creek Road | | | |
| | CR 5031 | 0.0 KY 718 | 0.8 Mine | 0.8] |
| * | Little Brush Creek Road | | | |
| | CR 5166 | 0.0 KY 225 | 1.6 Lay Branch RD | 1.6 |
| * | Lay Branch Road | | | |
| | CR 5169 | 0.0 Little Brush CK RD | 0.2 K & M Mine | 0.2 |
| * | Stoney Fork Road | | | |
| | CR 5210 | 0.0 KY 1809 | 1.1 Roark Mine | 1.1 |
| | | | [1.8 Swanpond Road | 1.8] |
| * | Hubbs Road | | | |
| | CR 5214 | 0.0 KY 1809 | 1.5 Girdner #1 Mine | 1.5 |
| * | Sugartree Road | | | |
| | CR 5216 | 0.0 Hubbs RD | 0.5 Turco #1 Mine | 0.5 |
| * | Flat Creek Road | | | |
| | CR 5243 | 0.0 KY 1418 | 2.6 Little Indian Creek RD | 2.6 |
| * | Hubbs Hollow Road | | | |
| | CR 5244 | 0.0 KY 1418 | 0.8 Brenda Mine | 0.8 |
| * | Little Indian Creek Road | | | |
| | CR 5245 | 3.3 Flat Creek Road | 3.6 KY 459 | 0.3 |
| * | Lewellen Road | | | |
| | CR 5259 | 0.0 Hubbs RD | 0.5 Jarcoal Mine | 0.5 |
| * | Old US 25E Loop #6 Road | | | |
| | CR 5304 | 0.6 Bailey Branch RD | 1.0 US 25E | 0.4 |
| * | Bailey Branch Road | | | |
| | CR 5305 | 0.0 Old US 25E Loop #6 RD | 0.5 Bailey Switch Tipple | 0.5 |
| * | Middle Fork Richland Creek Road | | | |
| | CR 5311 | 0.9 Higgins Road | 1.2 H & P Mine | 0.3 |
| | | [0.8 Harris RD | 0.9 Higgins RD | 0.1] |
| * | Higgins Road | | | |
| | CR 5323 | 0.0 US 25E | 0.8 Richland Creek RD | 0.8 |
| [* | Harris Road | | | |
| | CR 5327 | 0.7 Mine | 0.2 Richland Creek RD | 1.3 |
| * | Lynn Camp Branch Road | | | |
| | CR 5369 | 0.0 KY 233 | 1.0 Mine | 1.0] |
| | | | STATE ROAD MILEAGE | 93.7 |
| | | | | [95.6] |
| | | | COUNTY ROAD MILEAGE | 11.1 |
| | | | | [10.5] |
| | | | TOTAL ROAD MILEAGE | 104.8 |
| | | | | [106.1] |

LAUREL COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | Daniel Boone Parkway | 0.0 US 25 & KY 80 | 10.6 Clay CO LN | 10.6 |
| * | US 25 | 0.0 US 25E & US 25W | 16.3 KY 490 | 16.3 |
| * | US 25E | 0.0 Knox CO LN | 2.0 I-75 | 2.0 |
| * | US 25W | 0.0 Whitley CO LN | 1.0 US 25 & US 25E | 1.0 |
| * | KY 30 | 1.2 KY 490 | 9.8 Jackson CO LN | 8.6 |
| | | [1.4 KY 490 | 9.8 Jackson CO LN | 8.4] |
| * | KY 80 | 0.0 Pulaski CO LN | 11.1 US 25 & D Boone PKWY | 11.1 |
| | | 11.1 US 25 | 13.3 KY 192 | 2.2 |
| | | | [11.8 KY 638 | 0.7] |
| * | KY 192 | 0.0 Pulaski CO LN | 22.0 D Boone PKWY | 22.0 |
| | | [18.2 I-75 | 22.0 D Boone PKWY | 3.8] |
| * | KY 490 | 0.0 US 25 | 0.9 KY 30 | 0.9 |
| | | [ 0.9 KY 30 | 5.7 Victory-Greenmount RD | 4.8 |
| * | KY 1006 | 0.3 J & B Tipple | 0.5 US 25 | 0.2] |

| | | | | |
|---|---|---|---|---|
| * Railroad Street (London) | | | | |
| CR 5091N | 0.0 KY 80 (4th Street) | 0.5 Balmont Tipple | | 0.5 |
| [* Carmichael Road | | | | |
| CR 5475 | 0.0 KY 80 | 4.1 Mine | | 4.1] |
| | | | STATE ROAD MILEAGE | 74.7 [59.8] |
| | | | COUNTY ROAD MILEAGE | 0.5 [4.6] |
| | | | TOTAL ROAD MILEAGE | 75.2 [64.4] |

LAWRENCE COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * US 23 | 0.0 Johnson CO LN | 30.2 Boyd CO LN | 30.2 |
| * KY 1 | 0.0 KY 3 | 3.6 KY 828 | 3.6 |
| * KY 3 | 0.0 Martin CO LN | 15.5 US 23 | 15.5 |
| | 15.5 US 23 | 24.7 KY 1 | 9.2 |
| * KY 3S | 0.0 KY 3 | 0.1 West Virginia State LN | 0.1 |
| * KY 32 | 5.9 KY 469 | 28.9 US 23 | 23.0 |
| * KY 469 | 0.0 Johnson CO LN | 2.0 KY 32 | 2.0 |
| * KY 645 | 0.0 US 23 [Martin CO LN] | 5.2 Martin CO LN [US 23] | 5.2 |
| * KY 1760 | 0.0 US 23 | 2.8 Georges Creek RD | 2.8 |
| * Fallsburg-Fullers Road | | | |
| CR 5022 | 0.0 US 23 | 0.1 Belfry #5 Tipple | 0.1 |
| * Donithon Branch Road | | | |
| CR 5118 | 0.0 KY 3 | 1.6 Lockworth Mine | 1.6 |
| [* Yellow Creek-Tug Fork Road | | | |
| CR 5122 | 0.0 KY 3 | 0.8 Mine | 0.8 |
| * Laurel Creek Road | | | |
| CR 5124 | 0.0 KY 3 | 1.7 Lockworth Mine | 1.7] |
| * Georges Creek Road | | | |
| CR 5156 | 0.0 KY 1760 | 1.5 LT FK BR CR RD [TEBCO #22 Mine] | 1.5 |
| * Left Fork Brushy Creek Road | | | |
| CR 5203 | 0.0 Georges Creek Road | 0.8 Mine | 0.8 |
| | | STATE ROAD MILEAGE | 91.6 [78.8] |
| | | COUNTY ROAD MILEAGE | 4.0 [5.6] |
| | | TOTAL ROAD MILEAGE | 95.6 [84.4] |

LEE COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * KY 11 | 0.0 Owsley CO LN | 4.3 KY 52 (West) | 4.3 |
| * KY 52 | 0.0 Estill CO LN | 12.9 KY 11 (North) | 12.9 |
| | | STATE ROAD MILEAGE | 17.2 |
| | | COUNTY ROAD MILEAGE | 0.0 |
| | | TOTAL ROAD MILEAGE | 17.2 |

LESLIE COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * Daniel Boone Parkway | 35.9 Clay CO LN | 51.0 Perry CO LN | 15.1 |
| * US 421 | 0.0 Harlan CO LN | 35.4 Clay CO LN | 35.4 |
| | | [22.6 KY 118 | 22.6] |
| * KY 66 | 0.0 Clay CO LN | 2.8 Clay CO LN | 2.8 |
| * KY 80 | 0.0 US 421 | 9.7 Perry CO LN | 9.7 |
| * KY 118 | 0.0 US 421 | 3.5 D Boone PKWY | 3.5 |
| * KY 221 | 0.0 Perry CO LN | 1.9 KY 699 | 1.9 |
| [* KY 257 | 0.0 US 421 | 2.4 Asher Branch RD | 2.4] |
| * KY 699 | 0.0 KY 80 | 10.0 Long Branch | 10.0 |
| | | [16.0 Perry CO LN | 16.0] |
| | 15.2 Mine | 16.0 Perry CO LN | 0.8 |
| * KY 1807 | 0.0 KY 80 | 3.6 End State MAINT | 3.6 |
| * KY 2008 | 0.0 KY 2009 | 1.5 End State MAINT | 1.5 |
| | | [0.6 White Oak RD | 0.6] |
| | 1.5 Begin State MAINT | 3.8 Harlan CO LN | 2.3 |
| * KY 2009 | 0.0 Harlan CO LN | 5.4 Bledsoe Tipple | 5.4 |
| * KY 2057 | 0.0 KY 699 | 3.1 Bear Branch RD | 3.1 |
| | | [0.9 Mine | 0.9] |
| * KY 2431 | 0.0 US 421 | 0.1 High School | 0.1 |
| [* KY 6272 | 0.0 Mine | 0.5 KY 6274 | 0.5 |
| * KY 6273 | 1.0 KY 6275 | 1.2 KY 118 | 0.2 |
| * KY 6274 | 0.0 KY 6272 | 0.3 KY 6275 | 0.3 |

| | | | | |
|---|---|---|---|---|
| * | KY 6275 | 0.0 KY 6274 | 0.3 KY 6273 | 0.3] |
| * | Wendover Road | | | |
| | CR 5001 | 0.0 KY 2431 | 1.6 Hurricane Creek RD | 1.6 |
| * | Hurricane Creek Road | | | |
| | CR 5002 | 2.2 Big Branch H'Cane CR RD | 3.3 Wendover RD | 1.1 |
| | | [0.7 Big BR H'Cane CR RD | 3.3 Wendover RD | 2.6] |
| * | Camp Creeks [Long] Fork Road | | | |
| | CR 5005 | 0.0 Hurricane Creek RD | 1.6 Left Fork | 1.6 |
| | | | [0.7 Mine Access | 0.7] |
| [* | Big Branch Hurricane Creek Road | | | |
| | CR 5006 | 0.0 Hurricane Creek RD | 1.6 Leeco Prep Plant | 1.6] |
| * | Bear Branch Road | | | |
| | CR 5018 | 0.0 KY 2057 | 1.4 Mine at Perry CO LN | 1.4 |
| * | Bailey Branch Road | | | |
| | CR 5027 | 0.0 KY 1807 | 0.6 Mine | 0.6 |
| * | Long Branch Road | | | |
| | CR 5118 | 0.0 KY 699 | 0.2 Mine | 0.2 |
| * | Lewis Creek-Napier Road | | | |
| | CR 5132 | 0.0 KY 2008 | 4.7 KY 2008 | 4.7 |
| | | | [2.0 Mine | 2.0] |
| * | Abner Branch Road | | | |
| | CR 5133 | 0.0 Harlan CO LN | 1.3 Lewis Creek-Napier RD | 1.3 |
| * | White Oak Road | | | |
| | CR 5135 | 0.0 KY 2008 | 0.8 Mine | 0.8 |
| [* | Lewis Creek Road | | | |
| | CR 5137 | 0.0 KY 2009 | 1.7 Mine | 1.7] |
| * | Spruce Pine Creek Road | | | |
| | CR 5219 | 2.3 Mine | 6.6 Rocky Hollow Branch | 4.3 |
| * | Rocky Hollow Branch Road | | | |
| | CR 5220 | 0.0 US 421 | 0.2 Spruce Pine Creek RD | 0.2 |
| * | Phillips Fork Road | | | |
| | CR 5225 | 5.0 Mine RD | 5.2 Mine RD | 0.2 |
| | | | STATE ROAD MILEAGE | 95.2 |
| | | | | [88.2] |
| | | | COUNTY ROAD MILEAGE | 18.0 |
| | | | | [13.3] |
| | | | TOTAL ROAD MILEAGE | 113.2 |
| | | | | [101.5] |

LETCHER COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | US 23 | 0.0 Virginia State LN | 7.1 Pike CO LN | 7.1 |
| * | US 119 | 0.0 Harlan CO LN | 9.4 KY 806 | 9.4 |
| | | | [10.3 KY 932 | 10.3] |
| | | 20.7 KY 1862 | 27.7 US 23 | 7.0 |
| | | [17.6 KY 15 | 27.7 US 23 | 10.1] |
| * | KY 7 | 0.0 Perry CO LN | 27.6 Knott CO LN | 27.6 |
| | | [0.3 KY 1103 | 27.6 Knott CO LN | 27.3] |
| * | KY 15 | 5.2 Loggy Hollow RD | 9.3 KY 7 | 4.1 |
| | | [0.0 US 119 | 9.2 KY 7 | 9.2] |
| | | 9.3 KY 7 | 10.7 Knott CO LN | 1.4 |
| | | [9.2 KY 7 | 10.7 Knott CO LN | 1.5] |
| * | KY 113 | 0.0 KY 805 | 4.5 Millstone-Dem. RD [End ST MAINT] | 4.5 |
| * | KY 160 | [0.0 Harlan CO LN | 1.9 KY 463 | 1.9] |
| | | 13.4 Lucky Branch RD | 21.8 KY 15 | 8.4 |
| * | KY 317 | 0.0 KY 805 | 8.9 KY 7 | 8.9 |
| * | KY 343 | 0.0 KY 317 | 1.5 #2 Hollow Road | 1.5 |
| [* | KY 463 | 0.0 KY 160 | 3.3 Perry CO LN | 3.3] |
| * | KY 588 | 3.7 Tolson Loading | 5.0 KY 160 | 1.3 |
| | | 5.0 KY 160 | 6.2 Kingdom Come Creek RD | 1.2 |
| * | KY 805 | 0.0 US 119 | 9.2 US 23 | 9.2 |
| * | KY 931 | 16.6 KY 1862 | 18.4 KY 7 | 1.8 |
| | | [11.5 Mine | 13.5 Mine | 2.0] |
| | | [15.2 KY 1148 | 18.4 KY 7 | 3.2] |
| [* | KY 932 | 0.0 US 119 | 2.4 Meadow Branch RD | 2.4] |
| * | KY 1103 | 3.3 Defeated Creek | 8.2 Tolby Branch RD | 4.9 |
| | | [11.8 Mine | 14.3 KY 7 | 2.5] |
| [* | KY 1148 | 0.0 KY 15 | 4.1 KY 931 | 4.1] |
| * | KY 1410 | 0.0 Knott CO LN | 1.6 KY 7 | 1.6 |
| * | KY 1862 | 0.3 Mayking-Cram CR RD | 0.4 US 119 | 0.1 |
| * | Millstone-Democrat Road | | | |
| | CR 5020 | 1.7 Beth Energy Mine | 2.7 KY 113 | 1.0 |
| * | Beaverdam Branch Road | | | |
| | CR 5047 | 0.0 KY 7 | 2.0 A & E Coal Mine | 2.0 |

| | | | |
|---|---|---|---|
| [* Loves Branch Road | | | |
| CR 5048 | 0.0 KY 7 | 1.5 Mine | 1.5] |
| * Bottom Fork Road | | | |
| CR 5068L | 0.2 Tammy Ann Mine | 0.7 #2 Hollow Road | 0.5 |
| # Hollow Road | | | |
| CR 5068M | 0.0 Bottom Fork Road | 0.6 KY 343 | 0.6 |
| * Mayking-Cram Creek Road | | | |
| CR 5153 | 0.0 KY 1862 | 1.5 Cram Creek RD | 1.5 |
| * Cram Creek Road | | | |
| CR 5169 | 0.9 Wampler Bros Mine | 1.4 Mayking-Cram CR RD | 0.5 |
| | [0.0 Mayking-Cram CR RD | 0.5 Mine | 0.5] |
| [* Meadow Branch Road | | | |
| CR 5187 | 0.0 KY 932 | 2.1 Mine | 2.1] |
| * Kingdom Come Creek Road | | | |
| CR 5229 | 0.0 Ky 588 | 1.2 Lake Coal Mine | 1.2 |
| * Big Branch-Tolson Branch Road | | | |
| CR 5258 | 0.0 KY 588 | 4.5 Lake Coal Mine | 4.5 |
| * Whitaker Branch Road | | | |
| CR 5259 | 0.0 KY 1103 | 2.5 Big BR-Tolson BR RD | 2.5 |
| * Defeated Creek Road | | | |
| CR 5265 | 5.1 Southeast Coal Mine | 5.6 KY 1103 | 0.5 |
| * Lucky Branch Road | | | |
| CR 5272 | 0.0 KY 160 | 0.4 Lake Coal Mine | 0.4 |
| * Johnson Branch Road | | | |
| CR 5309 | 0.0 KY 160 | 0.3 Whitaker Mine | 0.3 |
| * Big Bee Tree Branch Road | | | |
| CR 5311 | 0.0 KY 160 | 1.0 Lake Coal Mine | 1.0 |
| * Hollybush Branch Road | | | |
| CR 5312 | 0.0 KY 160 | 0.4 Golden Oak Mine | 0.4 |
| * Loggy Hollow Road | | | |
| CR 5314 | 0.0 KY 15 | 1.1 Katco Mining Mine | 1.1 |
| * Hicks Branch Road | | | |
| CR 5338 | 0.0 KY 7 | 0.1 Isom #2 Tipple | 0.1 |
| * Caudill Creek Road | | | |
| CR 5354 | 0.0 KY 7 | 2.3 Golden Oak Mine | 2.3 |
| * Lowgap Branch/Elk Creek Road | | | |
| CR 5361 | 0.0 KY 7 | 1.2 Elk Creek RD | 1.2 |
| * Elk Creek Road | | | |
| CR 5362 | 0.0 Lowgap BR/Elk CK RD | 0.5 Golden Oak Mine | 0.5 |
| * Bull Creek-Meadow Fork Road | | | |
| CR 5367 | 3.3 Golden Oak Mine | 5.0 Perry CO LN | 1.7 |
| | | STATE ROAD MILEAGE | 100.0 |
| | | | [125.0] |
| | | COUNTY ROAD MILEAGE | 23.8 |
| | | | [23.6] |
| | | TOTAL ROAD MILEAGE | 123.8 |
| | | | [148.6] |

LINCOLN COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * US 27 | 17.2 US 150 | 18.0 US 150 Bypass | 0.8 |
| * US 150 | 0.0 Boyle CO LN | 4.3 US 150 Bypass | 4.3 |
| | 6.4 US 27 | 19.7 Rockcastle CO LN | 13.3 |
| * US 150B | 0.0 US 150 | 1.1 US 27 | 1.1 |
| | | STATE ROAD MILEAGE | 19.5 |
| | | COUNTY ROAD MILEAGE | 0.0 |
| | | TOTAL ROAD MILEAGE | 19.5 |

LIVINGSTON COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * US 60 | 0.0 McCracken CO LN | 29.1 Crittenden CO LN | 29.1 |
| * US 62 | 1.2 KY 453 | 2.9 Lyon CO LN | 1.7 |
| * KY 453 | 0.5 B R T Dock | 2.8 US 62 | 2.3 |
| | | STATE ROAD MILEAGE | 33.1 |
| | | | [4.0] |
| | | COUNTY ROAD MILEAGE | 0.0 |
| | | TOTAL ROAD MILEAGE | 33.1 |
| | | | [4.0] |

LYON COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * Western Kentucky Parkway | | | |
| | 3.7 US 62 | 5.6 Caldwell CO LN | 1.9 |
| * US 62 | 0.0 Livingston CO LN | 12.2 Western Kentucky Parkway | 12.2 |

| | | |
|---|---|---|
| STATE ROAD MILEAGE | | 14.1 |
| COUNTY ROAD MILEAGE | | 0.0 |
| TOTAL ROAD MILEAGE | | 14.1 |

McCRACKEN COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | US 60 | 19.5 US 62 | 20.0 Livingston CO LN | 0.5 |
| * | US 62 | 12.9 US 60 | 15.5 US 68 | 2.6 |
| * | US 68 | 0.0 US 62 | 1.2 I-24 | 1.0 |
| | | | STATE ROAD MILEAGE | 4.1 |
| | | | COUNTY ROAD MILEAGE | 0.0 |
| | | | TOTAL ROAD MILEAGE | 4.1 |

McCREARY COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | US 27 | 4.6 KY 92 | 22.7 Pulaski CO LN | 18.1 |
| * | KY 90 | 0.0 US 27 | 4.9 Eagle Creek RD | 4.9 |
| * | KY 92 | 17.3 Railroad DR | 28.4 Whitley CO LN | 11.1 |
| * | KY 1673 | 0.0 Whitley CO LN | 0.6 Whitley CO LN | 0.6 |
| | | 0.6 Whitley CO LN | 2.2 Corley Bridge RD | 1.6 |
| * | KY 90 - Sawyer Road (Eagle Creek Road) | | | |
| | CR 5023 | 0.0 KY 90 | 1.4 Big Swag Ridge RD | 1.4 |
| * | Big Swag Ridge Road | | | |
| | CR 5055 | 0.0 Eagle Creek RD | 1.3 Shamrock #9 Mine | 1.3 |
| * | Corley Ridge Road | | | |
| | CR 5108 | 0.0 KY 1673 | 0.4 Whitley CO LN | 0.4 |
| * | Railroad Drive | | | |
| | CR 5203 | 0.0 KY 92 | 0.3 Revelo Prep Plant | 0.3 |
| | | | STATE ROAD MILEAGE | 36.3 [34.7] |
| | | | COUNTY ROAD MILEAGE | 3.4 [3.0] |
| | | | TOTAL ROAD MILEAGE | 39.7 [37.7] |

McLEAN COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| [* | US 431 | 0.0 Muhlenberg CO LN | 9.3 Barrett Hill RD | 9.3] |
| * | KY 81 | [0.0 Muhlenberg CO LN | 6.2 Mine | 6.2] |
| | | 11.9 KY 256 | 18.3 Daviess CO LN | 6.4 |
| * | KY 136 | 11.1 KY 1792 | 12.9 KY 81 | 1.8 |
| * | KY 140 | 0.0 KY 256 | 0.1 KY 1792 | 0.1 |
| * | KY 256 | 5.6 Mine | 10.4 KY 81 | 4.8 |
| * | KY 1792 | 0.0 KY 140 | 2.6 KY 136 | 2.6 |
| [* | Barrett Hill Road | | | |
| | CR 5014 | 0.0 US 431 | 2.4 Brierfield Schoolhouse RD | 2.4 |
| * | Brierfield Schoolhouse Road | | | |
| | CR 5015 | 0.0 Barrett Hill RD | 0.7 Mine | 0.7] |
| | | | STATE ROAD MILEAGE | 15.7 [31.2] |
| | | | COUNTY ROAD MILEAGE | 0.0 [3.1] |
| | | | TOTAL ROAD MILEAGE | 15.7 [34.3] |

MADISON COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| [* | US 25 | 0.0 Rockcastle CO LN | 3.8 KY 21 | 3.8 |
| * | KY 21 | 8.6 I-75 | 9.1 US 25 | 0.5] |
| * | KY 52 | 13.0 KY 876 | 22.9 Estill CO LN | 9.9 |
| * | KY 876 | 7.2 I-75 | 10.8 KY 52 | 3.6 |
| | | [8.6 Kit Carson DR | 10.8 KY 52 | 2.2] |
| | | | STATE ROAD MILEAGE | 13.5 [16.4] |
| | | | COUNTY ROAD MILEAGE | 0.0 |
| | | | TOTAL ROAD MILEAGE | 13.5 [16.4] |

MAGOFFIN COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | Mountain Parkway | | | |
| | | 71.1 KY 30 | 75.6 US 460 | 3.9 |
| | | [63.1 Morgan CO LN | 75.6 US 460 | 12.5] |
| * | US 460 | 12.5 Mountain Parkway | 20.4 Johnson CO LN | 7.9 |
| | | [0.0 Morgan CO LN | 20.4 Johnson CO LN | 20.4] |

| | | | | |
|---|---|---|---|---|
| * | KY 7 | 4.8 Brushy Creek RD | 23.9 Mountain Parkway | 19.1 |
| * | KY 30 | 3.3 KY 1397 | 8.9 Mountain Parkway | 5.6 |
| | | [0.0 Breathitt CO LN | 8.9 Mountain Parkway | 8.9] |
| * | KY 40 | 4.6 KY 1081 | 6.9 Johnson CO LN | 2.3 |
| * | KY 364 | 0.0 KY 1081 | 1.3 Mine | 1.3 |
| * | KY 404 | 0.0 KY 7 | 2.7 Floyd CO LN | 2.7 |
| * | KY 542 | 0.0 Breathitt CO LN | 5.8 KY 7 | 5.8 |
| * | KY 867 | 4.7 KY 1635 | 5.7 KY 7 | 1.0 |
| | | 5.7 KY 7 | 7.4 Hickory Tipple | 1.7 |
| * | KY 1081 | 8.3 KY 364 | 16.9 KY 40 | 8.6 |
| [* | KY 1090 | 0.0 KY 30 | 1.5 Mine | 1.5] |
| * | KY 1397 | 2.5 Crane Nest Branch RD | 3.0 KY 30 | 0.5 |
| * | KY 1471 | 0.0 Big Half Mountain RD | 4.3 KY 7 | 4.3 |
| * | KY 1502 | 2.7 Jake Wireman Road | 3.3 KY 542 | 0.6 |
| | | [1.3 Mine | 3.3 KY 542 | 2.0] |
| * | KY 1635 | 0.0 Tiptop-Bettsmann RD | 5.7 KY 867 | 5.7 |
| * | KY 1734 | 0.0 KY 7 | 1.3 Salt Lick RD | 1.3 |
| * | Salt Lick Road | | | |
| | CR 5126 | 0.0 KY 1734 | 0.3 Mine | 0.3 |
| * | Brushy Fork Road | | | |
| | CR 5132 | 0.0 KY 7 | 1.0 Mine | 1.0 |
| * | Jake Wireman Road | | | |
| | CR 5144 | 0.0 KY 1502 | 1.0 Mine | 1.0 |
| * | Beetree Branch Road | | | |
| | CR 5145 | 0.0 KY 7 | 0.7 Mine | 0.7 |
| * | Big Half Mountain Road | | | |
| | CR 5148 | 0.0 Mine | 0.5 KY 1471 | 0.5 |
| * | Wright Oakley Creek Road | | | |
| | CR 5221 | 0.0 KY 1635 | 0.3 Mine | 0.3 |
| * | Tiptop-Bettsmann Branch Road | | | |
| | CR 5225B | 0.0 Breathitt CO LN | 0.7 KY 1635 | 0.7 |
| * | Crane Nest Branch Road | | | |
| | CR 5229 | 0.0 KY 1397 | 0.3 Mine | 0.3 |
| | | | STATE ROAD MILEAGE | 72.3 [99.6] |
| | | | COUNTY ROAD MILEAGE | 4.8 [3.5] |
| | | | TOTAL ROAD MILEAGE | 77.1 [103.1] |

MARTIN COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | KY 3 | 0.0 Johnson CO LN | 13.3 KY 40 | 13.3 |
| | | 22.9 KY 292 | 23.2 Lawrence CO LN | 0.3 |
| | | [21.8 Laurel Creek RD | 23.2 Lawrence CO LN | 1.4] |
| * | KY 40 | 5.3 KY 1224 [3] | 10.2 KY 3 | 4.9 |
| | | 10.2 KY 3 | 20.2 KY 292 | 10.0 |
| * | KY 292 | 0.0 Pike CO LN | 13.2 KY 40 | 13.2 |
| | | 27.8 Mine | 28.9 KY 3 | 1.1 |
| * | KY 645 | 0.0 Lawrence CO LN [KY 40] | 4.7 KY 645 [Lawrence CO LN] | 4.7 |
| [* | KY 908 | 1.7 Mine | 6.7 KY 40 | 5.0] |
| * | KY 1224 | 0.5 Mine | 4.4 KY 40 | 3.9 |
| * | KY 1439 | 0.0 Meathouse Road | 6.4 KY 1714 | 6.4 |
| * | KY 1714 | 3.6 KY 1439 | 9.2 KY 292 | 5.6 |
| | | [1.7 Mine | 9.2 KY 292 | 7.5] |
| * | KY 2032 | 0.0 KY 1439 | 4.0 KY 40 | 4.0 |
| [* | Big Branch Road | | | |
| | CR 5102 | 0.0 KY 1714 | 0.7 Mine | 0.7] |
| * | Emily Branch Road | | | |
| | CR 5105 | 0.0 KY 1714 | 0.5 Mine | 0.5 |
| | | | [1.0 Mine | 1.0] |
| * | Meathouse Road | | | |
| | CR 5116 | 0.0 KY 1439 | 2.6 Lowgap RD | 2.6 |
| * | Lowgap Road | | | |
| | CR 5117 | 0.0 Pike CO LN | 2.0 Meathouse RD | 2.0 |
| * | Laurel Fork-Wolf Creek Road | | | |
| | CR 5202 | 0.0 KY 1439 | 7.8 Private Access Road | 7.8 |
| * | Middle Fork-Wolf Creek Road | | | |
| | CR 5205 | 0.0 Mid FK Rockcastle RD | 3.3 Mine Access Road | 3.3 |
| | | | [4.0 Private Haul Road | 4.0] |
| * | Middle Fork of Rockcastle Creek Road | | | |
| | CR 5206 | 0.0 KY 3 | 0.2 Mid FK Wolf CK RD | 0.2 |
| [* | Venters Branch Road | | | |
| | CR 5212 | 0.0 KY 3 | 1.0 Mine | 1.0 |

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | Little Laurel Creek Road | | | |
| | CR 5313 | 0.0 KY 3 | 0.6 Mine | 0.6] |
| | | | STATE ROAD MILEAGE | 67.4 |
| | | | | [74.3] |
| | | | COUNTY ROAD MILEAGE | 16.4 |
| | | | | [12.1] |
| | | | TOTAL ROAD MILEAGE | 83.8 |
| | | | | [86.4] |

MASON COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | US 62 | 12.7 US 68 | 17.4 KY 10 (West) | 4.7 |
| * | US 68 | 0.0 Fleming CO LN | 11.9 US 62 | 11.9 |
| * | KY 8 | 0.0 Bracken CO LN | 11.0 KY 10 | 11.0 |
| * | KY 10 | 9.7 US 68 | 15.9 Spring Creek RD | 6.2 |
| * | KY 11 | 0.0 Fleming CO LN | 11.3 US 62 | 11.3 |
| * | Spring Creek Road | | | |
| | CR 5012 | 0.0 KY 10 | 1.8 Cabin Creek PK | 1.8 |
| * | Cabin Creek Pike | | | |
| | CR 5013 | 0.0 Spring Creek RD | 0.7 Dravo Lime CO | 0.7 |
| | | | STATE ROAD MILEAGE | 45.1 |
| | | | COUNTY ROAD MILEAGE | 2.5 |
| | | | TOTAL ROAD MILEAGE | 47.6 |

MEADE COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | US 31W | 0.0 Hardin CO LN | 0.6 US 60 | 0.6 |
| * | US 60 | 8.7 KY 144 | 15.6 US 31W 6.9 | |
| * | KY 144 | 25.4 KY 448 | 28.7 US 60 | 3.3 |
| * | KY 448 | 0.0 KY 144 | 5.3 KY 933 | 5.3 |
| * | KY 933 | 4.6 Olin Chemical Plant | 7.4 KY 448 | 2.8 |
| | | | STATE ROAD MILEAGE | 18.9 |
| | | | COUNTY ROAD MILEAGE | 0.0 |
| | | | TOTAL ROAD MILEAGE | 18.9 |

MERCER COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| [* | US 68 | 6.8 US 127 | 20.3 Jessamine CO LN | 13.5] |
| * | US 127 | 0.0 Boyle CO LN | 4.4 US 68 | 4.4 |
| [* | KY 33 | 6.4 KY 342 | 7.7 US 68 | 1.3 |
| * | KY 342 | 0.0 KY 33 | 1.5 E W Brown Power Plant | 1.5] |
| | | | STATE ROAD MILEAGE | [20.7] |
| | | | | 4.4 |
| | | | COUNTY ROAD MILEAGE | 0.0 |
| | | | TOTAL ROAD MILEAGE | [20.7] |
| | | | | 4.4 |

MONTGOMERY COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | US 460 | 7.3 KY 11 (North) | 8.3 KY 686 (North) | 1.0 |
| * | KY 11 | 0.0 Powell CO LN | 9.2 KY 686 (South) | 9.2 |
| | | 10.0 US 460 (North) | 15.4 Bath CO LN | 5.4 |
| * | KY 686 | 0.0 KY 11 (South) | 2.7 US 460 (North) | 2.77 |
| | | | STATE ROAD MILEAGE | 18.3 |
| | | | COUNTY ROAD MILEAGE | 0.0 |
| | | | TOTAL ROAD MILEAGE | 18.3 |

MORGAN COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| [* | Mountain Parkway | | | |
| | | 57.7 Wolfe CO LN | 63.1 Magoffin CO LN | 5.4] |
| * | US 460 | 15.5 KY 191 | 17.8 KY 7 | 2.3 |
| | | [13.1 KY 205 | 17.7 KY 7 | 4.6 |
| | | 23.9 Malone-Jones RD | 28.8 Magoffin CO LN | 4.9] |
| * | KY 7 | 0.0 US 460 | 11.7 Elliott CO LN | 11.7 |
| * | KY 172 | [11.8 Laurel Fork RD | 12.3 Old House Branch RD | 0.5] |
| | | 18.7 Cinda Branch RD | 22.6 Johnson CO LN | 3.9 |
| | | | [22.3 KY 1614 | 3.6] |
| * | KY 191 | 13.0 Still Branch Road | 14.7 US 460 | 1.7 |
| [* | KY 205 | 0.0 Wolfe CO LN | 6.8 US 460 | 6.8] |
| * | KY 437 | 6.3 KY 3344 | 12.4 KY 172 @ Relief | 6.1 |
| [* | KY 650 | 2.9 Mine | 4.0 Elliott CO LN | 1.1] |
| * | KY 1614 | 0.0 KY 172 | 0.2 Johnson CO LN | 0.2 |

| | | | | |
|---|---|---|---|---|
| * | KY 3344 | 0.0 KY 437 | 0.4 Mine | 0.4 |
| [* | Old House Branch Road | | | |
| | CR 5035 | 0.0 KY 172 | 0.6 Mine | 0.6] |
| * | Cinda Branch Road | | | |
| | CR 5043 | 0.0 KY 172 | 0.3 Mine | 0.3 |
| [* | Laurel Fork Road | | | |
| | CR 5064 | 0.0 KY 172 | 2.2 Elliott CO LN | 2.2] |
| * | River Road | | | |
| | CR 5100 | 0.0 KY 191 | 0.3 Mine | 0.3 |
| [* | Jones Creek Road | | | |
| | CR 5103 | 0.0 Malone-Jones RD | 0.4 Mine | 0.4 |
| * | Malone-Jones Creek Road | | | |
| | CR 5175 | 0.0 KY 7 | 1.3 Jones Creek RD | 1.3] |
| | | | STATE ROAD MILEAGE | 26.3 [38.8] |
| | | | COUNTY ROAD MILEAGE | 0.6 [4.8] |
| | | | TOTAL ROAD MILEAGE | 26.9 [43.6] |

MUHLENBERG COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | Western Kentucky Parkway | 43.4 Hopkins CO LN | 65.7 Ohio CO LN | 22.3 |
| * | US 62 | 8.8 KY 189 | 10.5 KY 176 | 1.7 |
| | | 17.9 US 431 | 26.0 Ohio CO LN | 8.1 |
| | | [19.8 Cleaton-Green River RD | 26.0 Ohio CO LN | 6.2] |
| * | US 431 | 9.8 KY 70 | 25.5 Mine | 15.7 |
| | | | [27.7 McLean CO LN | 17.9] |
| * | KY 70 | 0.0 Hopkins CO LN | 15.4 US 431 | 15.4 |
| | | 15.4 US 431 | 23.8 Butler CO LN | 8.4 |
| [* | KY 81 | 0.0 US 431 | 7.4 McLean CO LN | 7.4] |
| * | KY 176 | 0.0 US 62 | 12.5 T V A Paradise Plant | 12.5 |
| * | KY 181 | 15.2 Western KY Parkway | 17.5 Mine | 2.3 |
| * | KY 189 | 6.0 Mine Access | 8.8 US 62 | 2.8 |
| * | KY 277 | 2.6 KY 602 | 3.8 KY 1379 | 1.2 |
| * | KY 602 | 0.0 KY 277 | 0.7 US 431 | 0.7 |
| * | KY 1379 | 0.0 KY 277 | 0.5 Prep Plant Access | 0.5 |
| * | Cleaton-Green River Road | | | |
| | CR 5022 | 0.0 US 62 | 2.4 Gibraltar Haul RD | 2.4 |
| * | Gibraltar Haul Road | | | |
| | CR 5040 | 0.0 Cleaton-Green River RD | 0.2 Mine | 0.2 |
| * | Green River Power Plant Road | | | |
| | CR 5045 | 0.0 US 431 | 0.7 KY Utilities Plant | 0.7 |
| * | Caney Creek Mine Road | | | |
| | CR 5103 | 0.0 KY 176 | 0.7 Prep Plant & Mine | 0.7 |
| * | Vogue Haul Road | | | |
| | CR 5389 | 0.0 Henry Oaks Road | 0.8 Vogue Road | 0.8 |
| * | Henry Oaks Road | | | |
| | CR 5392 | 2.3 Mine | 4.5 Vogue Haul Road | 2.2 |
| * | Vogue Road | | | |
| | CR 5407 | 0.0 Vogue Haul Road | 1.6 Tipple | 1.6 |
| | | | STATE ROAD MILEAGE | 91.6 [79.2] |
| | | | COUNTY ROAD MILEAGE | 8.6 [3.3] |
| | | | TOTAL ROAD MILEAGE | 100.2 [82.5] |

NICHOLAS COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | US 68 | 0.0 Bourbon CO LN | 12.2 Robertson CO LN | 12.2 |
| | | | STATE ROAD MILEAGE | 12.2 |
| | | | COUNTY ROAD MILEAGE | 0.0 |
| | | | TOTAL ROAD MILEAGE | 12.2 |

OHIO COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | Western Kentucky Parkway | 65.7 Muhlenberg CO LN | 87.4 Butler CO LN | 21.7 |
| | | | [76.8 Green River PKWY | 11.1] |
| * | Green River Parkway | 35.1 Butler CO LN | 59.5 Daviess CO LN | 24.4 |
| * | US 62 | 0.0 Muhlenberg CO LN | 15.5 Horton-Mount Pleasant RD | 15.5 |
| | | | [19.8 KY 505 (South) | 19.8] |

| | | | | |
|---|---|---|---|---|
| * US 231 | 0.0 Butler CO LN | 10.0 US 62 (South) | 10.0 |
| | 10.0 US 62 (North) | 24.3 Daviess CO LN | 14.3 |
| * KY 69 | 6.9 Mine | 7.6 KY 85 (South) | 0.7 |
| * KY 85 | 7.3 KY 69 (East) | 11.4 US 62 | 4.1 |
| * KY 269 | 0.8 Schultztown-Coolsprings RD | 5.6 US 231 | 4.8 |
| | [0.0 Butler CO LN | 5.6 US 231 | 5.6] |
| * KY 1245 | 4.6 Pyramid Washer | 5.2 James RD | 0.6 |
| * KY 1903 | 0.0 US 62 | 0.9 Lewis Creek Dock | 0.9 |
| * Horton-Mount Pleasant Road | | | |
| CR 5124 | 0.0 US 62 | 0.1 Southwind Tipple | 0.1 |
| * Daniels Mine Road (West) | | | |
| CR 5206A | 0.0 US 62 | 0.6 Brown Badgett Mine | 0.6 |
| | | [1.6 Mine | 1.6] |
| | 1.7 Southwind Mine | 2.9 US 62 | 1.2 |
| * Schultztown-Cool | Springs Road | | |
| CR 5267 | 2.5 KY 269 [Mine] | 3.6 Green Mine [KY 269] | 1.1 |
| * Lone Star Road | | | |
| CR 5313 | 0.0 KY 69 | 1.1 Tipple | 1.1 |
| * James Road | | | |
| CR 5322 | 0.0 US 62 | 0.5 KY 1245 | 0.5 |
| | | [0.4 KY 1245 | 0.4] |
| * Martin-Dodson Cemetery Road | | | |
| CR 5373 | 0.0 US 231 | 0.6 Mine | 0.6 |
| | | STATE ROAD MILEAGE | 97.0 |
| | | | [91.5] |
| | | COUNTY ROAD MILEAGE | 5.2 |
| | | | [2.2] |
| | | TOTAL ROAD MILEAGE | 102.2 |
| | | | [93.7] |

OWSLEY COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * KY 11 | 0.0 Clay CO LN | 17.3 Lee CO LN | 17.3 |
| | | [10.8 KY 1938 | 10.8] |
| * KY 30 | 0.0 Jackson CO LN | 5.2 KY 847 | 5.2 |
| | 9.4 Veneable School RD | 11.2 KY 11 @ Levi | 1.8 |
| * KY 847 | 0.0 KY 30 | 4.3 Bowman Branch RD | 4.3 |
| [* KY 1938 | 1.6 Minnow Branch RD | 2.5 KY 11 | 0.9] |
| * Hurricane Branch Road | | | |
| CR 5301 | 0.0 Bowman Branch Road | 1.1 Denham & Lewis Mine | 1.1 |
| * Bowman Branch Road | | | |
| CR 5303 | 0.0 KY 847 | 0.3 Hurricane Branch RD | 0.3 |
| [* Minnow Branch Road | | | |
| CR 5304 | 0.0 KY 1938 | 0.3 Mine | 0.3] |
| * Veneable School Road | | | |
| CR 5316 | 0.0 KY 30 | 0.4 Apex Mine | 0.4 |
| * The Judd Road | | | |
| CR 5323 | 2.2 Manious Road | 2.4 KY 30 | 0.2 |
| | | STATE ROAD MILEAGE | 28.6 |
| | | | [11.7] |
| | | COUNTY ROAD MILEAGE | 2.0 |
| | | | [0.3] |
| | | TOTAL ROAD MILEAGE | 30.6 |
| | | | [12.0] |

PENDLETON COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * US 27 | 0.0 Harrison CO LN | 19.4 Campbell CO LN | 19.4 |
| * KY 8 | 2.2 Black River Lime | 4.3 Bracken CO LN | 2.1 |
| | | STATE ROAD MILEAGE | 21.5 |
| | | COUNTY ROAD MILEAGE | 0.0 |
| | | TOTAL ROAD MILEAGE | 21.5 |

PERRY COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * Daniel Boone Parkway | | | |
| | 51.0 Leslie CO LN | 59.1 KY 15 | 8.1 |
| * KY 7 | 0.0 KY 15 | 13.6 Letcher CO LN | 13.6 |
| | | [11.4 KY 699 | 11.4] |
| * KY 15 | 0.0 Knott CO LN | 25.2 Breathitt CO LN | 25.2 |
| * KY 28 | 3.5 Buckhorn-Breathitt RD | 6.0 Breathitt CO LN | 2.5 |
| | 6.0 Breathitt CO LN | 18.1 KY 15 | 12.1 |
| * KY 80 | 0.0 Leslie CO LN | 4.6 KY 451 | 4.6 |
| | 7.9 D Boone Parkway & KY 15 | 15.9 Knott CO LN | 8.0 |

| | | | | |
|---|---|---|---|---|
| * | KY 221 | 0.0 Harlan CO LN | 0.5 Leslie CO LN | 0.5 |
| * | KY 451 | [7.2 Mine | 7.7 Daniel Boone PKWY | 0.5] |
| | | 7.7 Daniel Boone PKWY | 7.8 KY 80 | 0.1 |
| | | [7.8 KY 80 | 10.9 KY 2021 | 3.1] |
| * | KY 463 | 1.4 Jackson Fork Road | 6.5 KY 699 | 5.1 |
| | | [0.0 Letcher CO LN | 6.5 KY 699 | 6.5] |
| * | KY 476 | [2.0 KY 550 | 2.4 Darfork Tipple | 0.4] |
| | | 3.9 KY 1146 (South) | 4.2 KY 1146 (North) | 0.3 |
| | | | [18.1 Mine | 14.2] |
| | | 7.5 Dwarf-Engle Fork RD | 22.3 Breathitt CO LN | 14.8 |
| [* | KY 550 | 0.0 KY 15 & KY 80 | 2.5 KY 476 | 2.5] |
| * | KY 699 | 0.0 Leslie CO LN | 12.5 KY 7 | 12.5 |
| * | KY 1087 | 0.0 KY 476 | 0.7 Lick Branch RD | 0.7 |
| * | KY 1095 | 0.0 Montgomery Creek Road | 2.9 KY 15 | 2.9 |
| | | [0.4 Kelly Fork RD | 2.9 KY 15 | 2.5] |
| * | KY 1096 | 0.0 KY 80 | 4.0 Whitaker Tipple | 4.0 |
| * | KY 1146 | 2.2 Jakes Fork Tipple | 2.7 KY 476 | 0.5 |
| | | 2.7 KY 476 | 4.6 Buckhorn Prep Plant | 1.9 |
| | | | [4.0 KY 80 | 1.3 |
| | | 4.0 KY 80 | 4.6 Buckhorn Prep Plant | 0.6] |
| [* | KY 2021 | 2.3 Hurricane Branch RD | 3.4 KY 451 | 1.1 |
| * | KY 3196 | 0.0 Beech Fork RD | 0.1 KY 699 | 0.1] |
| * | Wayne Davidson Road | | | |
| | CR 5005 | 0.3 Cumberland Elk Tipple | 0.5 KY 15 | 0.2 |
| * | Dwarf-Engle Fork Road | | | |
| | CR 5032 | 0.0 KY 476 | 0.1 Highland Coal Mine | 0.1 |
| * | Coates Branch Road | | | |
| | CR 5044 | 0.0 Ky 476 | 0.5 Ball Branch Mine | 0.5 |
| * | Lick Branch Road | | | |
| | CR 5045 | 0.0 KY 1087 | 0.6 Star Fire Mine | 0.6 |
| * | Cockerell Fork-Noble Branch Road | | | |
| | CR 5050 | 0.0 KY 476 | 1.7 Shamrock Coal Mine | 1.7 |
| * | Jeff-Knott County Line Road | | | |
| | CR 5100 | 0.0 Old KY 15 Loop #1 RD | 2.4 Lake Coal Mine | 2.4 |
| * | Old KY 15 Loop #1 Road | | | |
| | CR 5102 | 0.0 KY 15 | 0.5 Jeff-Knott CO LN RD | 0.5 |
| * | Oakwood Avenue-Stacy Branch Road | | | |
| | CR 5117 | 0.0 Main ST (Vicco) | 1.3 Chester Tipple | 1.3 |
| * | Main Street (Vicco) | | | |
| | CR 5118B | 0.0 KY 1095 | 0.6 Knott CO LN | 0.6 |
| * | Kelly Fork Road | | | |
| | CR 5119 | 0.0 KY 1095 | 0.4 Emmons Tipple | 0.4 |
| * | Montgomery Creek Road | | | |
| | CR 5120 | 0.0 Letcher CO LN | 1.5 KY 1095 | 1.5 |
| * | Left Fork Maces Creek Road | | | |
| | CR 5131 | 0.0 KY 1165 | 1.1 Leemike Mine | 1.1 |
| * | Little Leatherwood Creek Road | | | |
| | CR 5139 | 0.0 KY 699 | 5.7 Blue Diamond Mine | 5.7 |
| * | Beech Fork Road | | | |
| | CR 5146 | 0.0 KY 3196 | 3.0 Leemike Mine | 3.0 |
| * | Jackson Fork Road | | | |
| | CR 5152 | 0.0 KY 463 | 0.4 Blue Diamond Mine | 0.4 |
| * | Coal Waste Road | | | |
| | CR 5237 | 0.0 KY 699 [Leatherwood Tipple] | 0.8 Leatherwood Lookout TWR RD | 0.8 |
| * | Leatherwood Lookout Tower Road | | | |
| | CR 5238 | 0.0 Coal Waste RD | 2.2 Leslie CO LN | 2.2 |
| [* | Hurricane Branch Road | | | |
| | CR 5301 | 0.0 KY 2021 | 1.0 Mine | 1.0] |
| * | Sam Campbell Branch Road (Old Pigeon Roost-Hull School RD) | | | |
| | CR 5319 | 0.0 KY 15 | 4.8 Dun Raven [River Proc.] Tipple | 4.8 |
| * | Clear Fork road | | | |
| | CR 5320 | 0.0 KY 28 | 2.3 Sam Campbell BR RD | 2.3 |
| [* | Trace Branch-Tenmile Creek Road | | | |
| | CR 5326 | 0.0 KY 15 | 1.1 Mine | 1.1] |
| * | Barwick Road | | | |
| | CR 5330 | 0.0 KY 28 | 0.8 Breathitt CO LN | 0.8 |
| * | Right Fork Spencer Creek Road | | | |
| | CR 5332 | 0.0 Spencer Creek-Napfor BR RD | 1.0 Vires Coal Mine | 1.0 |
| * | Spencer Creek-Napfor Branch Road | | | |
| | CR 5333 | 0.0 KY 28 | 1.9 Pine Branch Mine | 1.9 |
| * | Buckhorn-Breathitt County Line Road | | | |
| | CR 5349 | 0.0 KY 28 | 0.4 Kescoal Mine | 0.4 |
| | | | [1.2 Mine | 1.2] |
| | | | STATE ROAD MILEAGE | 117.5 |

| | | |
|---|---|---|
| | | [123.0] |
| COUNTY ROAD MILEAGE | | 34.2 |
| | | [28.6] |
| TOTAL ROAD MILEAGE | | 151.7 |
| | | [151.6] |

| PIKE COUNTY ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * US 23 | 0.0 Letcher CO LN | 39.6 Floyd CO LN | 39.6 |
| * New US 23 | 0.0 KY 1384 | 1.4 US 23 NW of Pikeville | 1.4 |
| [* US 23X | 2.1 KY 1384 | 2.3 US 23 | 0.2] |
| * US 119 | 0.0 US 23 | 29.7 West Virginia ST LN | 29.7 |
| * Old US 119 | 0.0 US 23 | 2.8 US 119 | 2.8 |
| * US 460 | 0.0 US 23 | 24.0 Virginia State LN | 24.0 |
| * KY 80 | 0.0 US 460 | 6.9 Virginia State LN | 6.9 |
| * KY 122 | 3.3 Arnold Fork Road Mine | 10.4 US 23 | 7.1 |
| | [3.6 Mine | 5.2 KY 610 | 1.6 |
| | 6.8 Robinson Creek RD | 10.4 US 23 | 3.6] |
| * KY 194 | 0.0 Floyd CO LN | 16.8 US 119 (South) | 16.8 |
| | 16.8 US 119 (North) | 41.3 Kyber Coal Mine | 24.5 |
| | | [27.8 Mine | 11.0] |
| | [31.0 Mine | 40.0 KY 1499 | 9.0] |
| | 47.2 H K Corp Mine | 55.7 KY 632 at Phelps | 8.5 |
| | 66.5 Lynntrough Branch RD | 67.7 KY 2062 | 1.2 |
| | 69.6 KY 2059 | 73.2 Virginia State LN | 3.6 |
| * KY 195 | 0.0 KY 197 | 11.6 US 460 | 11.6 |
| * KY 197 | 5.6 Fountain Blue Mine | 16.6 KY 80 | 11.0 |
| | [0.0 US 23 | 16.6 KY 80 | 16.6] |
| * KY 199 | 8.2 KY 1056 | 11.6 US 119 | 3.4 |
| * KY 292 | 0.0 Goody-AFLX-BURNWL RD | 4.8 US 119 (South) | 4.8 |
| | 4.8 US 119 (North) | 12.7 Martin CO LN | 7.9 |
| * KY 319 | 3.8 KY 1056 at Nampa [(East)] | 12.3 US 119 | 8.5 |
| | | [5.8 Hatfield Branch RD | 2.0 |
| | 8.9 Mine | 12.3 US 119 | 3.4] |
| * KY 468 | 0.0 US 119 | 13.6 KY 292 | 13.6 |
| * KY 610 | 0.0 US 23 | 2.7 Burk Branch RD | 2.7 |
| | 8.0 Virgie Tipple | 8.9 KY 122 | 0.9 |
| * KY 611 | 0.0 KY 195 | 3.5 Henry Clay Mine | 3.5 |
| | | [6.0 US 23 | 6.0] |
| | 4.3 Little Fork-Left Fork RD | 6.0 US 23 | 1.7 |
| * KY 612 | 0.0 Turkey CK-Long FK RD | 1.6 Sukey Fork RD | 1.6 |
| * KY 632 | 0.0 KY 194 @ Kimper | 15.0 KY 194 @ Phelps | 15.0 |
| * KY 881 | 0.0 US 119 | 3.0 Brushy Fork Road | 3.0 |
| * KY 1056 | 0.0 KY 199 | 7.7 KY 319 (North) | 7.7 |
| | | [4.5 Left FK/Blackberry RD | 4.5 |
| | 5.2 Blue Springs BR RD | 7.7 KY 319 (North) | 2.5] |
| | 7.7 KY 319 (South) | 10.1 West Virginia State LN | 2.4 |
| * KY 1373 | 4.8 Card Creek-Card Knob RD | 6.7 US 460 | 1.9 |
| * KY 1384 | 0.2 Peter Fork #2 Tipple | 3.8 Dog Fork-Hurricane Creek RD | 3.6 |
| | 6.0 Clark Elkhorn Mine | 7.3 New US 23 | 1.3 |
| | [0.0 US 23 | 7.7 US 23X | 7.7] |
| * KY 1426 | 0.0 US 23 | 4.9 Floyd CO LN | 4.9 |
| | | [3.5 Hoopwood Branch RD | 3.5] |
| * KY 1441 | 4.4 Standard Elkhorn Mine | 10.1 US 119 | 5.7 |
| * KY 1469 | 6.0 Kentucky Elkhorn Mine | 11.4 KY 610 | 5.4 |
| | 11.4 KY 610 | 12.2 KY Elkhorn Tipple | 0.8 |
| * KY 1499 | 0.0 US 460 | 6.1 KY 194 | 6.1 |
| * KY 1758 | 6.8 Daugherty Tipple | 7.8 KY 632 | 1.0 |
| * KY 1789 | 0.0 US 460 | 0.4 Clark Elkhorn #1 Tipple | 0.4 |
| * KY 2059 | 0.0 KY 194 | 0.3 Private Haul Road | 0.3 |
| | 1.6 Private Haul Road | 2.3 Lower Elk Creek RD | 0.7 |
| * KY 2061 | 0.0 US 23 | 3.4 Hawkeye Coal Mine | 3.4 |
| * KY 2062 | 0.0 KY 194 | 3.1 KY 194 | 3.1 |
| [* KY 2552 | 0.0 US 23 | 0.3 Shelbiana RD | 0.3] |
| * KY 3154 | 0.2 Meathouse Branch RD | 0.5 US 119 | 0.3 |
| * KY 3227 | 0.0 US 23 | 1.0 Coal Run Tipple | 1.0 |
| [* Raccoon Creek Road CR 5001 | 0.0 KY 1441 | 0.2 Mine | 0.2] |
| * Grassy Branch Road CR 5005 | 0.0 KY 1441 | 0.5 Branson Coleman Mine | 0.5 |
| * Winn Branch Road CR 5011 | 0.0 US 119 | 1.3 Chloe Creek Dev Mine | 1.3 |
| * Varney Branch Road CR 5021 | 0.0 KY 194 | 0.4 Utility Tipple | 0.4 |

| | | | | |
|---|---|---|---|---|
| * | Meathouse Fork Road | | | |
| | CR 5022 | 0.0 KY 194 | 1.3 Rockhouse FK-Pigeon Creek RD | 1.3 |
| * | Rockhouse Fork-Pigeon Creek Road | | | |
| | CR 5024 | 0.0 Meathouse FK RD | 1.0 Ridgeway Coals Mine | 1.0 |
| | | | [1.9 Mine | 1.9] |
| * | Meathouse Branch Road | | | |
| | CR 5025 | 0.0 KY 3154 | 3.2 Ember & K-Lin Mine | 3.2 |
| [* | Dix Fork Road | | | |
| | CR 5032 | 0.0 US 119 | 0.1 Mine | 0.1] |
| * | Peg Branch Road | | | |
| | CR 5043 | 0.0 US 119 | 0.6 Eastern Coal Mine [Entrance] | 0.6 |
| * | Goody-Aflex-Burnwell Road | | | |
| | CR 5050 | 0.0 KY 292 | 1.1 Harbour Marine Mine | 1.1 |
| | | | [0.5 Belfry #1 Prep Plant | 0.5] |
| * | Turkey Creek-Long Fork Road | | | |
| | CR 5062 | 0.0 KY 468 | 3.1 KY 612 | 3.1 |
| * | Sukey Fork Road | | | |
| | CR 5063 | 0.0 KY 612 | 0.5 Coal Mac Mine [Entrance] | 0.5 |
| * | Bent Branch Road | | | |
| | CR 5074 | 0.0 KY 468 | 1.1 Gex Tipple | 1.1 |
| * | Swinge Camp Branch Road | | | |
| | CR 5075 | 0.0 KY 468 | 0.4 H Mar/Island Mines [Entrance] | 0.4 |
| * | Halfway Branch Road | | | |
| | CR 5077 | 0.0 KY 468 | 0.5 Island Creek Mine [Entrance] | 0.5 |
| * | Rockhouse Fork Road | | | |
| | CR 5078 | 0.0 KY 468 | 0.4 Island Creek Mine | 0.4 |
| | | | [0.3 Case Prep Plant | 0.3] |
| * | Brushy Fork Road | | | |
| | CR 5095 | 0.0 KY 881 | 0.5 Addington Mine | 0.5 |
| * | Big Branch/Meathouse Creek Road | | | |
| | CR 5111 | 0.0 Martin CO LN | 2.7 Little Fork Mine [Entrance] | 2.7 |
| * | Miller Creek-Cowpen Road | | | |
| | CR 5123 | 3.6 Miller Creek Tipple | 5.1 KY 194 | 1.5 |
| * | Joes Creek Road | | | |
| | CR 5127 | 0.0 KY 194 | 0.4 Liberty Mine [Entrance] | 0.4 |
| * | Lick Branch Road | | | |
| | CR 5141 | 0.0 KY 468 | 0.8 Gex Big Hill Mine [Entrance] | 0.8 |
| * | Fishtrap Ridgeline Road | | | |
| | CR 5160 | 0.0 KY 194 | 2.7 Hurricane Creek Road | 2.7 |
| * | Hurricane Creek Road | | | |
| | CR 5162 | 2.5 Wellmore Mine | 3.7 Fishtrap Ridgeline Road | 1.2 |
| * | Dicks Fork Road | | | |
| | CR 5163 | 0.0 KY 194 | 0.6 Big Fist #4 Mine | 0.6 |
| * | Lane Branch Road | | | |
| | CR 5168 | 0.0 KY 632 | 1.2 McCoy Elkhorn Mine [Entrance] | 1.2 |
| * | Mullen Fork Road | | | |
| | CR 5191 | 0.0 KY 199 | 2.1 St Johnsbury Mine [Entrance] | 2.1 |
| * | Hatfield Branch Road | | | |
| | CR 5210 | 0.0 KY 319 | 0.8 Blackberry Creek Mine [Entrance] | 0.8 |
| * | Left Fork/Blackberry Road | | | |
| | CR 5213 | 0.0 KY 1056 | 1.5 H Mar/Eastern Mines [Entrance] | 1.5 |
| * | Blue Springs Branch Road | | | |
| | CR 5218 | 0.0 KY 1056 | 0.1 Blackberry Creek Mine [Entrance] | 0.1 |
| * | Lynntrough Branch Road | | | |
| | CR 5233 | 0.0 KY 194 | 1.2 Majestic Mine | 1.2 |
| | | | [0.2 Majestic Tipple | 0.2] |
| * | Lower Elk Creek Road | | | |
| | CR 5241 | 0.0 KY 2059 | 0.6 Race Fork Mine [Entrance] | 0.6 |
| * | Prater Branch Road | | | |
| | CR 5253 | 0.0 KY 194 | 0.8 Majestic Mine [Entrance] | 0.8 |
| * | Calloway Branch Road | | | |
| | CR 5260 | 0.0 KY 632 | 1.1 KY Carbon Scales | 1.1 |
| [* | Little Hackney Creek Road | | | |
| | CR 5281 | 0.0 US 460 | 1.5 Mine [Entrance] | 1.5] |
| * | Old Mouthcard-Feds Creek Road | | | |
| | CR 5282 | 0.0 US 460 | 0.3 Flannery Branch RD | 0.3 |
| * | Flannery Branch Road | | | |
| | CR 5283 | 0.0 Old Mouthcard-Feds CR RD | 0.2 Mouthcard Mines | 0.2 |
| * | Card Creek-Card Knob Road | | | |
| | CR 5285 | 0.0 KY 1373 | 0.7 Clark Elkhorn Mine | 0.7 |
| | | 1.6 Wellmore Mine [Entrance] | 4.6 US 460 | 3.0 |
| * | Island Creek Road | | | |
| | CR 5287 | 0.0 Bane Tipple | 0.6 Island CR Grapevine RD [CR 5288] | 0.6 |

| | | | |
|---|---|---|---|
| * Island Creek-Grapevine Road | | | |
| CR 5288 | 0.0 Island CR RD [CR 528]7 | 1.8 Milers Creek Road | 1.8 |
| | | [0.5 CR 5289 | 0.5] |
| * Left Fork Island Creek Road | | | |
| CR 5289 | 0.0 Island CR-Grapevine RD [CR 5288] | 0.2 Flannery Coal Mine [Entrance] | 0.2 |
| * Millers Creek Road | | | |
| CR 5290 | 0.0 Island CR-Grapevine RD | 2.4 Flannery Coal Mine | 2.4 |
| * Hopkins Creek Road | | | |
| CR 5322 | 0.0 US 460 | 1.0 Hopkins Creek Tipple | 1.0 |
| [* Daniel Branch Road | | | |
| CR 5326 | 0.0 US 460 | 0.4 Mine [Entrance] | 0.4] |
| * Harless Creek Road | | | |
| CR 5330 | 0.0 US 460 | 1.5 Wellmore Mine [Entrance] | 1.5 |
| [* Dog Branch Road | | | |
| CR 5332 | 0.0 KY 195 | 0.4 Mine [Entrance] | 0.4] |
| * Left Fork Wolfpit Branch Road | | | |
| CR 5333 | 0.0 Wolfpit Branch Gardiner FK RD | 0.8 Wellmore Mine | 0.8 |
| [* Ratliff Hollow Road | | | |
| CR 5339 | 0.0 KY 195 | 0.2 Wolfpit Tip @ Ratliff | 0.2] |
| * Jimmie Creek Road | | | |
| CR 5341 | 0.0 US 460 | 0.6 Wellmore Mine | 0.6 |
| * Old US 460 Loop | | | |
| CR 5353 | 0.0 Potter Coal Mine | 0.8 US 460 | 0.5 |
| * Shortridge Fork Road | | | |
| CR 5355 | 0.4 Wellmore Mine | 0.9 Wellmore Private RD | 0.5 |
| | [0.0 CR 5285 | 0.9 Mine | 0.9] |
| * Abes Fork Road | | | |
| CR 5356 | 0.0 Virginia State LN | 0.4 Potter Prep Plant | 0.4 |
| * Ohio Street (Elkhorn City) | | | |
| CR 5361T | 0.0 KY 80 | 0.5 Potter Processing | 0.5 |
| * Old Bridge Street (Elkhorn City) | | | |
| CR 5361Z | 0.0 KY 80 | 0.1 Private Access Road | 0.1 |
| * John Moore Branch Road | | | |
| CR 5363 | 0.0 KY 197 | 0.9 Federal Tipple | 0.9 |
| * Jackson Branch Road | | | |
| CR 5371 | 0.0 KY 197 | 1.7 C & D Coal Mine | 1.7 |
| * Brushy Branch Road | | | |
| CR 5379 | 0.0 KY 195 | 0.8 Ratliff Elkhorn Mine | 0.8 |
| * Marrowbone Creek Road | | | |
| CR 5381 | 0.0 KY 195 | 2.1 LAD/Prospect Mine | 2.1 |
| | | [1.2 Mine | 1.2] |
| * Bowling Fork Road | | | |
| CR 5384 | 0.0 KY 195 | 1.9 Henry Clay Mine | 1.9 |
| [* Fleming Branch Road | | | |
| CR 5410 | 0.0 KY 610 | 0.8 Mine | 0.8] |
| * Little Fork/Left Fork Road | | | |
| CR 5416 | 0.0 KY 611 | 0.2 Henry Clay Mine | 0.2 |
| * Rockhouse Creek/Greasy Road | | | |
| CR 5422 | 0.0 KY 195 | 0.3 Bad Fork RD | 0.3 |
| * Wolfpit Branch-Gardner Fork Road | | | |
| CR 5433 | 0.0 KY 195 | 0.9 Left FK Wolfpit BR RD | 0.9 |
| * Wolfpen Branch Road | | | |
| CR 5444 | 0.0 KY 80 | 0.8 Wellmore Mine | 0.8 |
| * Red Creek Road | | | |
| CR 5463 | 0.0 US 460 | 0.8 Right FK/Red CK RD | 0.8 |
| * Right Fork/Red Creek Road | | | |
| CR 5465 | 0.0 Red Creek Road | 0.8 Wellmore Mine | 0.8 |
| [* Shelbiana Road | | | |
| CR 5473 | 0.0 KY 2553 | 0.2 Dry BR/Dry CK RD | 0.2] |
| * Marion Branch Road | | | |
| CR 5478 | 0.0 KY 1426 | 1.6 Chapperal Tipple | 1.6 |
| * Tollage Creek Road | | | |
| CR 5496 | 0.0 US 23 | 1.0 Coal Run Mine | 1.0 |
| * Harmond Branch Road | | | |
| CR 5505 | 0.0 US 23 | 0.9 Amber #9 Mine | 0.9 |
| * Dog Fork/Hurricane Creek Road | | | |
| CR 5522 | 0.0 KY 1384 | 1.3 Peter Fork Joline Mine | 1.3 |
| [* Coal Run Road | | | |
| CR 5524 | 0.0 US 23 | 0.2 Lackens Branch RD | 0.2 |
| * Lackens Branch Road | | | |
| CR 5525 | 0.0 Coal Run RD | 0.7 Mine | 0.7] |
| * Cedar Creek/Island Creek Road | | | |
| CR 5528 | 0.0 KY 1384 | 1.1 KY 1426 | 1.1 |

| | | | | |
|---|---|---|---|---|
| * Hoopwood Branch Road | | | | |
| CR 5529 | 0.0 KY 1426 | 0.7 Stillhouse Mine | | 0.7 |
| | | [0.5 Mine | | 0.5] |
| * Raccoon Branch Road | | | | |
| CR 5531 | 0.0 KY 1426 | 1.3 Jet/Cimaron Mine | | 1.3 |
| * Billy Compton Road | | | | |
| CR 5534 | 0.0 Island Creek RD | 1.2 Horn Const Mine | | 1.2 |
| | | [0.2 Road BR/Sookeys CR RD | | 0.2] |
| * Island Creek Road | | | | |
| CR 5535 | 0.0 KY 1426 | 4.0 Corbin Coal Mine | | 4.0 |
| * Road Branch/Sookey's Creek Road | | | | |
| CR 5539 | 0.0 RT FK Sookeys CK RD | 1.9 Billy Compton RD | | 1.9 |
| * Right Fork Sookeys Creek Road | | | | |
| CR 5540 | 0.0 Road BR/Sookeys CK RD | 0.5 Pace Energies Mine | | 0.5 |
| * Bear Fork-Tinker Fork Road | | | | |
| CR 5547 | 0.0 Bear Fork RD | 1.1 Floyd CO LN | | 1.1 |
| * L Robinson-Floyd County Road | | | | |
| CR 5550 | 0.0 Robinson Creek RD | 0.6 Floyd CO LN | | 0.6 |
| * Little Fork/Robinson Road | | | | |
| CR 5553 | 0.0 Robinson Creek RD | 1.6 Apache Mining Mine | | 1.6 |
| * Robinson Creek Road | | | | |
| CR 5554 | 0.0 KY 122 | 4.1 Apache Mining Mine | | 4.1 |
| * Arnold Fork Road | | | | |
| CR 5555 | 0.0 KY 122 | 0.3 Apache Mining Mine | | 0.3 |
| * Burk Branch Road | | | | |
| CR 5578 | 0.0 KY 610 | 0.9 Beth Energy Mine | | 0.9 |
| * Lizzie Fork Road | | | | |
| CR 5590 | 0.4 Beth Energy Mine | 1.4 US 23 | | 1.0 |
| | [0.0 US 23 | 1.4 Mine | | 1.4] |
| * Rob Fork Road | | | | |
| CR 5593 | 0.0 US 23 | 0.5 Damron Fork Tipple | | 0.5 |
| [* Dry Branch/Dry Creek Road | | | | |
| CR 5605 | 0.0 Shelbiana RD | 2.3 Dry BR/Dry CK Spur RD | | 2.3 |
| * Esco Road | | | | |
| CR 5609 | 0.0 US 23 | 0.6 Landmark Tipple | | 0.6 |
| * Sugar Camp Branch Road | | | | |
| CR 5611 | 0.0 KY 122 | 1.5 Mine | | 1.5] |
| * Bear Fork Branch Road | | | | |
| CR 5616 | 0.0 KY 122 | 1.5 Bear FK-Tinker FK RD | | 1.5 |
| [* Dry Branch/Dry Creek Spur | | | | |
| CR 5618 | 0.0 Dry BR/Dry CK RD | 0.3 Mine | | 0.3] |
| | | | STATE ROAD MILEAGE | 305.3 |
| | | | | [297.1] |
| | | | COUNTY ROAD MILEAGE | 88.6 |
| | | | | [79.0] |
| | | | TOTAL ROAD MILEAGE | 393.9 |
| | | | | [376.1] |

POWELL COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * Mountain Parkway | | | |
| | 11.9 Clark CO LN | 36.0 Wolfe CO LN | 24.1 |
| * KY 11 | 21.0 KY 15 | 25.0 Montgomery CO LN | 4.0 |
| * KY 15 | 3.5 KY 11 | 4.1 Mountain Parkway | 0.6 |
| | | STATE ROAD MILEAGE | 28.7 |
| | | COUNTY ROAD MILEAGE | 0.0 |
| | | TOTAL ROAD MILEAGE | 28.7 |

PULASKI COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * US 27 | 0.0 McCreary CO LN | 16.9 KY 80 Bypass | 16.9 |
| * KY 80 | 21.6 KY 80 Bypass | 40.4 Laurel CO LN | 18.8 |
| | [19.1 US 27 | 40.4 Laurel CO LN | 21.3] |
| * KY 80B | 0.0 US 27 | 2.3 KY 80 | 2.3 |
| * KY 90 | 2.9 KY 790 | 4.2 US 27 | 1.3 |
| | [2.0 KY 790 | 4.2 US 27 | 1.3] |
| * KY 192 | 0.0 KY 80 Bypass | 18.6 Laurel CO LN | 18.6 |
| | | [15.0 Old Whitley Road | 15.0] |
| * KY 790 | 0.0 Wayne CO LN | 5.7 KY 90 | 5.7 |
| * KY 1247 | 0.0 US 27 | 8.3 KY 80 Bypass | 8.3 |
| * KY 1580 | 0.0 Ferguson Tipple | 0.5 KY 1247 | 0.5 |
| * KY 1675 | 5.7 Acorn-Lick Creek RD | 10.5 KY 80 | 4.8 |
| [* KY 1956 | 0.0 KY 80 | 0.8 Line Creek RD | 0.8] |
| * Acorn-Lick Creek Road | | | |
| CR 5016 | 0.0 KY 1675 | 1.7 Ano RD | 1.7 |

| | | | | | |
|---|---|---|---|---|---|
| * Bolthouse Ridge Road | | | | | |
| CR 5017 | 0.0 | Ano RD | 0.9 | Ikerd-Bandy Mine | 0.9 |
| * Ano Road | | | | | |
| CR 5018 | 0.0 | Acorn-Lick Creek RD | 1.4 | Bolthouse Ridge RD | 1.4 |
| [* Line Creek Road | | | | | |
| CR 5027 | 0.0 | KY 1956 | 0.8 | Buffalo Branch RD | 0.8 |
| * Buffalo Branch Road | | | | | |
| CR 5028 | 0.0 | Line Creek RD | 0.4 | Rockcastle CO LN | 0.4] |
| * Old Whitley Road | | | | | |
| CR 5216 | 0.0 | KY 192 | 3.9 | Cumberland River RD | 3.9 |
| * Cumberland River Road | | | | | |
| CR 5225 | 0.0 | Old Whitley RD | 1.1 | Wash Ridge Mine | 1.1 |
| * Cooper Power Plant Road | | | | | |
| CR 5349 | 0.0 | KY 1247 | 0.6 | E KY Power Plant | 0.6 |
| | | | | STATE ROAD MILEAGE | 77.2 [77.0] |
| | | | | COUNTY ROAD MILEAGE | 9.6 [10.8] |
| | | | | TOTAL ROAD MILEAGE | 86.8 [87.8] |

ROBERTSON COUNTY

| ROAD | FROM | | TO | | LENGTH |
|---|---|---|---|---|---|
| * US 68 | 0.0 | Nicholas CO LN | 1.4 | Fleming CO LN | 1.4 |
| | | | | STATE ROAD MILEAGE | 1.4 |
| | | | | COUNTY ROAD MILEAGE | 0.0 |
| | | | | TOTAL ROAD MILEAGE | 1.4 |

ROCKCASTLE COUNTY

| ROAD | FROM | | TO | | LENGTH |
|---|---|---|---|---|---|
| * US 25 | 11.8 | I-75 | 13.9 | US 150 | 2.1 |
| | [24.9 | R B S Tipple | 27.0 | Madison CO LN | 2.1] |
| * US 150 | 0.0 | Lincoln CO LN | 10.5 | US 25 | 10.5 |
| [* KY 1249 | 3.0 | Buffalo Branch RD | 3.5 | Dyer Branch RD | 0.5 |
| * Buffalo Branch Road | | | | | |
| CR 5180 | 0.0 | KY 1249 | 2.3 | Pulaski CO LN | 2.3 |
| * Dyer Branch Road | | | | | |
| CR 5229 | 0.0 | KY 1249 | 0.4 | Mine Access | 0.4] |
| | | | | STATE ROAD MILEAGE | 12.6 [15.2] |
| | | | | COUNTY ROAD MILEAGE | 0.0 [2.7] |
| | | | | TOTAL ROAD MILEAGE | 12.6 [17.9] |

SIMPSON COUNTY

| ROAD | FROM | | TO | | LENGTH |
|---|---|---|---|---|---|
| * US 31W | 0.0 | Tennessee State LN | 14.0 | Warren CO LN | 14.0 |
| | | | | STATE ROAD MILEAGE | 14.0 |
| | | | | COUNTY ROAD MILEAGE | 0.0 |
| | | | | TOTAL ROAD MILEAGE | 14.0 |

UNION COUNTY

| ROAD | FROM | | TO | | LENGTH |
|---|---|---|---|---|---|
| * US 60 | 0.0 | Crittenden CO LN | 5.7 | KY 109 in Sturgis | 5.7 |
| | [1.4 | KY 109 | 5.7 | KY 109 | 4.3] |
| * KY 109 | 0.0 | Webster CO LN | 1.5 | US 60 (West) | 1.5 |
| | 1.5 | US 60 (East) | 4.9 | KY 492 | 3.4 |
| | | | [3.2 | KY 1508 | 1.7] |
| * KY 360 | 0.5 | KY 871 (South) | 6.6 | Island Creek Mine | 6.1 |
| * KY 492 | 1.9 | Davis Mine Road | 2.5 | KY 109 | 0.6 |
| * KY 871 | 0.0 | KY 360 (South) | 2.4 | Hite Speece Road | 2.4 |
| * KY 1508 | 0.0 | KY 109 | 2.7 | Pyro Dock | 2.7 |
| | 5.3 | Kannipe Dock | 6.0 | Private Haul Road | 0.7 |
| * Davis Mine Road | | | | | |
| CR 5227 | 0.0 | KY 109 | 0.3 | Private Haul Road | 0.3 |
| * Hite Speece Road | | | | | |
| CR 5314 | 0.0 | KY 871 | 0.2 | Hamilton Mine Road | 0.2 |
| * Hamilton Road | | | | | |
| CR 5317 | 0.0 | Hite Speece Road | 0.5 | Mine and Prep Plant | 0.5 |
| | | | | STATE ROAD MILEAGE | 23.1 [10.2] |
| | | | | COUNTY ROAD MILEAGE | 1.0 [0.0] |

| | | | | |
|---|---|---|---|---|
| | | | TOTAL ROAD MILEAGE | 24.1<br>[10.2] |

WARREN COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | Green River Parkway | | | |
| | | 0.0 I-65 | 18.2 Butler CO LN | 18.2 |
| * | US 31W | 0.0 Simpson CO LN | 9.0 Green River Parkway | 9.0 |
| | | | STATE ROAD MILEAGE | 27.2 |
| | | | COUNTY ROAD MILEAGE | 0.0 |
| | | | TOTAL ROAD MILEAGE | 27.2 |

WAYNE COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | KY 776 | 7.5 KY 790 | 9.8 Brammer Hill Ridge Road | 2.3 |
| | | [9.2 Denny Creek RD | 9.8 Brammer Hill Ridge RD | 0.6] |
| * | KY 790 | 1.3 KY 776 | 10.5 Pulaski CO LN | 9.2 |
| | | [5.0 Brammer Hill-Delta RD | 10.5 Pulaski CO LN | 5.5] |
| * | Brammer Hill Ridge Road | | | |
| | CR 5023 | 0.0 KY 776 | 2.2 Mine | 2.2 |
| | | | [4.2 Mine | 4.2] |
| * | Denny Creek Road | | | |
| | CR 5024 | 0.0 KY 776 | 1.7 Sizemore Road | 1.7 |
| | | | [0.4 Sizemore RD | 0.4] |
| * | Brammer Hill-Delta Road | | | |
| | CR 5030 | 0.0 KY 790 | 2.2 Brammer Hill Ridge RD | 2.2 |
| | | | [2.4 Brammer Hill Ridge RD | 2.4] |
| * | Sizemore Road | | | |
| | CR 5155 | 0.0 Denny Creek RD | 0.4 Mine | 0.4 |
| | | | [1.7 Mine | 1.7] |
| | | | STATE ROAD MILEAGE | 11.5<br>[6.1] |
| | | | COUNTY ROAD MILEAGE | 6.5<br>[8.7] |
| | | | TOTAL ROAD MILEAGE | 18.0<br>[14.8] |

WEBSTER COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | Pennyrile PKWY | 55.0 Hopkins CO LN | 62.6 KY 56 | 7.6 |
| * | US 41 | 0.0 Hopkins CO LN | 12.1 Henderson CO LN | 12.1 |
| * | US 41A | 0.0 Hopkins CO LN | 19.5 KY 56 | 19.5 |
| * | KY 56 | 5.3 US 41A | 12.5 US 41 (South) | 7.2 |
| | | 12.5 US 41 (North) | 14.4 Old Eastwood Ferry RD | 1.9 |
| * | KY 109 | 2.9 KY 670 | 14.7 Union CO LN | 11.8 |
| * | KY 120 | 0.0 Crittenden CO LN | 6.7 US 41A | 6.7 |
| | | [3.6 Mine | 6.7 US 41A | 3.1] |
| * | KY 132 | 23.6 Mine | 25.9 KY 494 | 2.3 |
| | | | [28.5 KY 56 | 4.9] |
| [* | KY 270 | 8.6 Mine | 13.2 US 41A | 4.6] |
| * | KY 494 | 0.0 KY 132 | 2.2 US 41 | 2.2 |
| * | KY 670 | 0.0 KY 109 | 2.7 US 41A | 2.7 |
| * | KY 814 | 0.0 Hopkins CO LN | 0.6 US 41A | 0.6 |
| * | Old Eastwood Ferry Road | | | |
| | CR 5034 | 0.0 KY 56 | 0.1 Sebree Dock | 0.1 |
| * | Quinns Landing Road | | | |
| | CR 5036 | 0.0 Henderson CO LN | 0.4 Big Rivers Plant | 0.4 |
| | | | [0.2 Big Rivers Plant | 0.2] |
| | | | STATE ROAD MILEAGE | 74.6<br>[76.0] |
| | | | COUNTY ROAD MILEAGE | 0.5 |
| | | | TOTAL ROAD MILEAGE | 75.1<br>[76.5] |

WHITLEY COUNTY

| | ROAD | FROM | TO | LENGTH |
|---|---|---|---|---|
| * | US 25T | 0.0 US 25W | 0.7 US 25W | 0.7 |
| * | US 25W | 0.8 Black Oak-Proctor Hollow RD | 32.8 US 25T | 32.0 |
| | | [0.0 Tennessee State LN | 14.1 KY 26 | 14.1 |
| | | 29.6 I-75 | 32.8 US 25T | 3.2] |
| | | 33.5 KY 312 (East) | 33.7 Laurel CO LN | 0.2 |
| * | KY 6 | 0.0 KY 26 | 1.6 Knox CO LN | 1.6 |
| * | KY 11 | 0.0 KY 92 | 2.6 Knox CO LN | 2.6 |
| * | KY 26 | 0.0 US 25W | 14.3 US 25W | 14.3 |

| | | | | |
|---|---|---|---|---|
| * KY 92 | 0.0 McCreary CO LN | 11.3 US 25W (South) | 11.3 |
| | 11.3 US 25W (North) | 33.4 Bell CO LN | 22.1 |
| * KY 628 | 2.7 Jordan Hollow RD | 5.2 US 25W | 2.5 |
| | [1.9 Jordan Hollow RD | 5.2 US 25W | 3.3] |
| * KY 779 | 6.3 KY 1064 (South) | 12.7 KY 11 | 6.4 |
| | | [ 7.0 KY 1064 (North) | 0.7 |
| | 8.0 KY 1418 | 12.7 KY 11 | 4.7] |
| * KY 904 | 0.0 KY 92 | 13.5 KY 92 | 13.5 |
| * KY 1064 | 0.0 KY 92 | 4.2 KY 779 (West) | 4.2 |
| | 4.2 KY 779 (East) | 12.0 KY 6 | 7.8 |
| [* KY 1418 | 0.0 KY 779 | 1.5 Knox CO LN | 1.5 |
| * KY 1595 | 3.1 Mine | 4.6 KY 92 | 1.5] |
| * KY 1673 | 0.0 KY 92 | 0.4 McCreary CO LN | 0.4 |
| | 0.4 McCreary CO LN | 1.7 McCreary CO LN | 1.3 |
| | | [1.4 Mine | 1.0] |
| * KY 1809 | 0.0 KY 92 | 1.4 Knox CO LN | 1.4 |
| * KY 1898 | 2.2 Old Jellico RD | 2.8 KY 92 | 0.6 |
| | [1.8 Mine | 2.8 KY 92 | 1.0] |
| [* KY 2995 | 0.0 KY 2996 | 0.8 Dean Chambers Tipple | 0.8 |
| * KY 2996 | 0.0 US 25W | 0.7 KY 2995 | 0.7] |
| * McNeil Hollow-Corn Creek Road | | | |
| CR 5045 | 2.4 Brenda Mine | 3.6 KY 1064 | 1.2 |
| | [0.0 KY 26 | 2.4 Mine | 2.4] |
| [* Morgan Road | | | |
| CR 5048 | 0.0 KY 1064 | 0.7 Mine | 0.7 |
| * Bunch Creek Road | | | |
| CR 5154 | 0.0 KY 92 | 0.5 Mine | 0.5] |
| * Carpenter-Lick Fork Road | | | |
| CR 5172 | 0.0 KY 92 | 0.9 Daniel Bros Mine | 0.9 |
| | | [0.8 Mine | 0.8] |
| * Doc Siler Road | | | |
| CR 5223 | 0.0 Tennessee ST LN [Skaggs RD] | 0.1 Skaggs RD [Tennessee ST LN] | 0.1 |
| * Skaggs Branch Road | | | |
| CR 5224 | 0.0 Doc Siler RD | 0.7 Bowline Mine | 0.7 |
| * Keswick-Gatliff Road | | | |
| CR 5227 | 3.3 Upper Cane Creek RD | 8.0 KY 904 | 4.7 |
| | [2.0 Mine | 8.0 KY 904 | 6.0] |
| * Upper Cane Creek Road | | | |
| CR 5230 | 0.0 Keswick-Gatliff RD | 0.5 Gatliff Mine | 0.5 |
| [* Bethel Church Road | | | |
| CR 5268 | 0.0 KY 904 | 0.2 Mine | 0.2 |
| * Cotton Creek - Dal Road | | | |
| CR 5272 | 5.0 Mine | 5.7 KY 904 | 0.7 |
| * Paint Creek - Wolf Creek Road | | | |
| CR 5320 | 0.0 KY 92 | 1.1 Mine | 1.1] |
| * Jordan Hollow Road | | | |
| CR 5321 | 1.0 Wash Ridge Mine | 1.5 KY 628 | 0.5 |
| | [0.0 KY 628 | 0.3 Mine | 0.3] |
| [* Kensee Hollow Road | | | |
| CR 5326 | 0.0 US 25W | 0.8 Mine | 0.8] |
| * Ryans Creek Road | | | |
| CR 5335 | 0.0 KY 1898 | 1.0 Bucks Branch Road | 1.0 |
| * Old Jellico Creek Road | | | |
| CR 5337 | 0.0 KY 92 | 1.0 Gatliff Mine | 1.2 |
| * Kidd Road | | | |
| CR 5344 | 0.0 McCreary CO LN | 1.5 Stansbury Mine | 1.5 |
| | | STATE ROAD MILEAGE | 122.9 |
| | | | [112.6] |
| | | COUNTY ROAD MILEAGE | 12.1 |
| | | | [14.8] |
| | | TOTAL ROAD MILEAGE | 135.0 |
| | | | [127.4] |

WOLFE COUNTY

| ROAD | FROM | TO | LENGTH |
|---|---|---|---|
| * Mountain PKWY | 36.0 Powell CO LN | 53.3 KY 1010 | 17.3 |
| | [57.2 KY 205 | 57.7 Morgan CO LN | 0.5] |
| * KY 15 | 0.0 Breathitt CO LN | 10.3 KY 651 | 10.3 |
| | 13.9 KY 3040 | 14.0 KY 715 | 0.1 [14.0] |
| * KY 15S | 0.0 KY 15 | 1.1 Mountain PKWY | 1.1 |
| [* KY 191 | 14.3 KY 205 | 15.9 KY 205 | 1.6 |
| * KY 205 | 4.3 KY 1094 | 6.4 KY 191 | 2.1 |
| | 6.4 KY 191 | 6.9 Morgan CO LN | 0.5] |
| * KY 651 | 0.0 Sandy Ridge RD | 2.1 KY 15 | 2.1 |
| * KY 715 | 2.6 KY 2016 | 5.8 KY 15 | 3.2 |

| | | |
|---|---|---|
| * | KY 1010 | 1.6 Mines |
| [* | KY 1094 | 2.7 Mine |
| * | KY 2016 | 0.2 Mine |
| * | KY 3040 | 0.0 KY 15 |
| * | Sandy Ridge Road CR 5220 | 0.0 KY 651 |
| | 3.7 Mountain PKWY | 2.1 |
| | 7.5 KY 205 | 4.8] |
| | 4.5 KY 715 | 4.3 |
| | 0.4 J & A Tipple | 0.4 |
| | 3.0 Mine | 3.0 |
| | [2.7 Mine | 2.7] |
| | STATE ROAD MILEAGE | 40.9 [54.0] |
| | COUNTY ROAD MILEAGE | 3.0 [2.7] |
| | TOTAL ROAD MILEAGE | 43.9 [56.7] |
| | TOTAL STATE ROAD MILEAGE | 3,621.3 [3,637.6] [3,398.6] |
| | TOTAL COUNTY ROAD MILEAGE | 361.6 [366.7] |
| | TOTAL EXTENDED WEIGHT SYSTEM MILEAGE | 3,982.9 [3,999.2] [3,765.3] |

[Section 4. The effective date of this regulation is April 1, 1987.]

C. LESLIE DAWSON, Secretary/Commissioner
APPROVED BY AGENCY: December 3, 1987
FILED WITH LRC: December 7, 1987 at 9 a.m.

**TRANSPORTATION CABINET**
**Department of Highways**
**(Amended After Hearing)**

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

RELATES TO: KRS 177.9771, 189.230
PURSUANT TO: KRS 177.9771
NECESSITY AND FUNCTION: KRS 189.230 provides that the Department of Highways may prescribe gross vehicle weight limits for bridges lower than the limits prescribed in KRS 177.9771 on any bridge which may be damaged or destroyed to the point of catastrophic failure if gross vehicle weights exceed certain limits. This regulation identifies the bridges on the extended weight coal haul road system which the Department of Highways has judged may be so damaged and prescribes the maximum weight limit for each such bridge.

Section 1. Definitions. The following terms when used in this administrative regulation shall have the following meanings:
(1) "TY I" means a single unit truck consisting of two (2) single axles.
(2) "TY II" means a single unit truck consisting of one (1) steering axle and two (2) axles in tandem arrangement.
(3) "TY III" means a single unit truck consisting of one (1) steering axle and three (3) axles in tridem arrangement.
(4) "TY IV" means a tractor-semitrailer combination with five (5) or more axles.
(5) "KY" means a state numbered highway maintained by the Kentucky Department of Highways.
(6) "US" means a United States numbered highway maintained by the Kentucky Department of Highways.
(7) "I" means an interstate and defense highway maintained by the Kentucky Department of Highways.
(8) "CR" means a public highway, road, or street not maintained by the Kentucky Department of Highways.
(9) "MP" means milepoint.
(10) "FROM" means the beginning milepoint and terminus of a road segment on the extended weight coal haul road system.
(11) "TO" means the ending milepoint and terminus of a road segment on the extended weight coal haul road system.
(12) "Catastrophic failure" means a failure that is marked by sudden or unpredictable damage ranging from extreme misfortune to utter ruin.
(13) "AASHTO" means the American Association of State Highway and Transportation Officials.
(14) "CO" means county.
(15) "LN" means line.
(16) "Mpt." means milepoint.
(17) "PKWY" means parkway.

Section 2. (1) The Department of Highways shall determine the bridges on the extended weight coal road system which may be damaged or destroyed to the point of catastrophic failure by motor vehicles operating at the weights authorized by KRS 177.9771. This determination shall be based upon an analysis of the bridges in accordance with the guidelines and ratings set forth in the AASHTO Manual for Maintenance Inspection of Bridges, 1983 edition and 1984 and 1985 Interim Revisions. The load factor method of analysis may be used only when a bridge is known to have been designed by that method. When the allowable stress method of analysis is used the maximum allowable stress in steel members shall not exceed sixty-nine (69) percent of the yield strength of the steel.
(2) When the analysis specified in subsection (1) of this section cannot be applied to a bridge, the Department of Highways shall determine if any such bridge may be damaged or destroyed to the point of catastrophic failure in accordance with the AASHTO Manual for Maintenance Inspection of Bridges, 1983 edition and 1984 and 1985 Interim Revisions. Before making such a determination the Department of Highways shall conduct an on-site inspection to determine whether the bridge shows appreciable signs of deterioration or distress or otherwise poses a significant hazard to the traveling public.

Section 3. When the Department of Highways determines that a bridge on the extended weight coal haul road system may be damaged or destroyed to the point of catastrophic failure, the department may adopt a weight limit for the bridge in accordance with the guidelines set forth in the AASHTO Manual for Maintenance Inspection Bridges, 1983 edition and 1984 and 1985 Interim Revisions.

Section 4. The Department of Highways has determined that the following bridges on the extended weight coal haul road system may be damaged or destroyed to the point of catastrophic failure as provided in Section 2 of this administrative regulation and has established a weight limit for each as set forth in Section 3 of this administrative regulation:

BATH COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | KY 11 | 0.0 Montgomery CO LN | 12.8 Fleming CO LN |

Weight Limit - Bridge over Hinkston Creek @ milepoint 0.01
TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 54 tons

BELL COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 25E | 0.0 Virginia State LN | 19.5 Knox CO LN |

Weight Limit - Bridge over Little Yellow Creek @ milepoint 2.17
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 43 tons
Weight Limit - Bridge over L & N R.R. @ milepoint 7.52
TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 56 tons
Weight Limit - Bridge over Greasy Creek @ milepoint 18.14
TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 48 tons

| | | | |
|---|---|---|---|
| * | US 119 | 0.0 US 25E | 15.8 Harlan CO LN |

Weight Limit - Bridge over Cumberland River @ milepoint 0.02
TY I = 20 tons, TY II = 30 [31] tons, TY III = 32 tons, TY IV = 39 tons

| | | | |
|---|---|---|---|
| * | KY 66 | 0.0 US 25E | 8.4 Little Creek RD |

Weight Limit - Bridge over Cumberland River @ milepoint 0.33
TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 50 tons
Weight Limit - Bridge over Left Fork Straight Creek @ milepoint 3.95
TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 44 tons
Weight Limit - Bridge over Sims Fork @ milepoint 7.16
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons

| | | | |
|---|---|---|---|
| | | 9.8 Titan Tipple | 11.9 Straight CR RD |
| | | | [18.7 Clay CO LN] |
| | | 12.9 Bow Valley | 18.7 Clay CO LN |
| * | KY 72 | 0.0 US 119 | 3.4 Harlan CO LN |

Weight Limit - Bridge over Hinkston Creek @ milepoint 0.06
TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons

| | | | |
|---|---|---|---|
| * | KY 74 | 0.0 Tennessee State LN | 0.9 KY 535 |
| | | [9.4 Rockhouse BR RD | 14.0 Stony Fork RD] |
| | | 9.8 Mine | 16.8 US 25E |

Weight Limit - Bridge over L & N R.R. @ milepoint 11.56
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Stoney Fork @ milepoint 13.07
TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 60 tons
Weight Limit - Bridge over Yellow Creek Bypass Canal @ milepoint 14.21
TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 60 tons

| | | | |
|---|---|---|---|
| | | [16.1 KY 2079 | 16.8 US 25E] |

Weight Limit - Bridge over Little Yellow Creek @ milepoint 16.66
TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 37 tons

| | | | |
|---|---|---|---|
| * | KY 92 | 0.0 Whitley CO LN | 10.8 US 25E |
| * | KY 186 | 0.0 Tennessee ST LN | 3.1 KY 74 |
| | | [2.0 Appolo Tipple | 2.3 Stony Fork RD] |

Weight Limit - Bridge over Bennett's Fork @ milepoint 2.41
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons

| | | | |
|---|---|---|---|
| [* | KY 188 | 2.8 KY 988 | 4.1 Cranes Creek RD |

Weight Limit - Bridge over Clear Creek @ milepoint 2.80
TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons]

| | | | |
|---|---|---|---|
| * | KY 217 | 4.6 KY 1344 [0.0 KY 988] | 8.8 KY 987 |

[Weight Limit - Bridge over Clear Fork Creek @ milepoint 0.20
TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 58 tons]
[Weight Limit - Bridge over Clear Fork Creek @ milepoint 1.22
TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 38 tons]
Weight Limit - Bridge over Brownies Creek @ milepoint 8.77
TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons

| | | | |
|---|---|---|---|
| * | KY 221 | 0.0 KY 66 | 12.6 Harlan CO LN |

Weight Limit - Bridge over Right Fork Straight Creek @ milepoint 4.16
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons
Weight Limit - Bridge over Stoney Fork Creek @ milepoint 9.23
TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons

| | | | |
|---|---|---|---|
| * | KY 535 | 0.0 KY 74 | 0.6 Clear Fork RD |
| * | KY 987 | 4.8 Hen Wilder RD | 8.7 KY 217 |

Weight Limit - Bridge over Brownies Creek @ milepoint 8.19

TY I = 20 tons, TY II = 28 tons, TY III = 30 tons, TY IV = 48 tons
[* KY 988 3.8 KY 217 4.3 KY 188
Weight Limit - Bridge over Clear Fork @ Jct. KY 217
TY I = 10 tons, TY II = 10 tons, TY III = 10 tons, TY IV = 10 tons]
* KY 1344 0.0 KY 217 2.1 Wolfpen Branch RD
* KY 2011 0.0 KY 221 [7.7 Mine Access] 9.0 KY 66
Weight Limit - Bridge over Knuckles Branch @ milepoint 1.27
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons
Weight Limit - Bridge over Jim York Branch @ milepoint 1.88
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons
Weight Limit - Bridge over Stoney Fork Creek @ milepoint 3.86
TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons
Weight Limit - Bridge over Red Bird Creek @ milepoint 6.40
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons
Weight Limit - Bridge over Red Bird Creek @ milepoint 7.54
TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons
Weight Limit - Bridge over Red Bird Creek @ milepoint 7.91
TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons
* KY 2012 0.0 Private Haul RD [Balkan RD (Private)] 2.0 US 119 [0.1 Hen Wilder RD]
Weight Limit - Bridge over Cumberland River @ Tejay @ milepoint 1.30
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons
[* KY 2079 2.1 KY 74 2.6 Charter Tipple
Weight Limit - Bridge over Yellow Creek @ milepoint 2.23
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons]
* Hen Wilder RD
CR 5001 0.0 KY 987 2.0 KY 2012
* Cow Fork Road
CR 5032 0.0 KY 2011 2.6 Mine
[* Straight Creek Road
CR 5040 0.0 KY 66 0.2 Turkey Pen Gap RD
* Turkey Pen Gap Road
CR 5053 0.0 Straight Creek RD 0.5 Knox CO LN
* Cranes Creek Road
CR 5160 0.0 KY 188 0.2 Mountain Drive Tipple
Weight Limit - Bridge over Yellow Branch
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
* Stony Fork Road
CR 5213 0.0 KY 186 0.4 KY 74]
* Hignite Creek Road
CR 5219 0.0 KY 74 2.3 End of Road
Weight Limit - Bridge over Hignite Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
[* Rockhouse Branch Road
CR 5222 0.0 KY 74 0.5 Mine]
* Clear Fork Road
CR 5227 0.0 KY 535 0.6 End of Road
[* Little Creek Road
CR 5358 0.0 KY 66 0.2 Little Creek Tipple
Weight Limit - Bridge over Straight Creek
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons]

BOURBON COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 27 | 8.3 US 460 | 15.4 Harrison CO LN |

Weight Limit - Bridge over Cooper Creek @ milepoint 13.22
TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 59 tons
Weight Limit - Bridge over Townsend Creek @ milepoint 15.4
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 59 tons
* US 68 2.4 US 68X 10.8 Nicholas CO LN
Weight Limit - Bridge over Hinkston Creek @ milepoint 9.41
TY I = 20 tons, TY II = 36 tons, TY III = 38 [37] tons, TY IV = 50 [48] tons
* US 68X 1.4 KY 627 2.8 US 68 (East)
Weight Limit - Bridge over Stoner Creek @ milepoint 2.0
TY I = 20 tons, TY II = 39 [40] tons, TY III = 40 [39] tons, TY IV = 48 [47] tons
* US 460 7.7 US 27 9.2 US 68X
Weight Limit - Bridge over L & N RR @ milepoint 7.99
TY I = 5 tons, TY II = 5 tons, TY III = 5 tons, TY IV = 5 tons
Weight Limit - Bridge over Houston Creek @ milepoint 8.82
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 57 tons
* KY 627 0.0 Clark CO LN 9.5 US 68X
Weight Limit - Bridge over Strodes Creek Mill Race @ milepoint 0.75
TY I = 20 tons, TY II = 44 [28] tons, TY III = 46 [37] tons, TY IV = 60 [40] tons
[Weight Limit - Bridge over Strodes Creek @ milepoint 0.91
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

Weight Limit - Bridge over Green Creek @ milepoint 4.12
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Kennedy's Creek @ milepoint 6.06
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 57 tons]

BOYD COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 23 | 0.0 Lawrence CO LN | 21.1 Greenup CO LN |
| | Weight Limit - Bridge over I-64 @ milepoint 10.56 | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over C & O R.R. @ milepoint 19.31 | | |
| | TY I = 20 tons, TY II = 30 tons, TY III = 31 tons, TY IV = 39 | | |
| | Weight Limit - Bridge over C & O R.R. & Armco Rd. @ milepoint 19.34 | | |
| | TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 52 tons | | |
| * | US 23S | 0.0 US 60 | 0.5 Ohio State LN |
| | Weight Limit - Northbound Bridge over Ohio River @ milepoint 0.03 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons | | |
| | Weight Limit - Southbound Bridge over Ohio River @ milepoint 0.05 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 33 tons, TY IV = 36 tons | | |
| * | US 23X | 1.4 KY 2148 | 1.5 US 23S |
| | | [1.6 US 60 | 1.8 US 23] |
| | | 1.7 US 60 | 2.0 US 23 |
| * | US 60 | 0.0 Carter CO LN | 12.3 [12.4] US 23 |
| | Weight Limit - Bridge over C & O R.R. at Princess @ milepoint 2.69 | | |
| | TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons | | |
| * | US 60X | 0.0 US 60 | 0.5 US 23S |
| * | KY 5 | 0.0 US 60 | 1.5 Straight Creek RD |
| | Weight Limit - Bridge over Williams Creek @ milepoint 0.92 | | |
| | TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons | | |
| [* | KY 180 | 0.7 Big Run RD | 2.5 US 60] |
| * | KY 716 | 0.0 US 60 | 0.4 Molsruger RD |
| * | KY 757 | 6.2 US 23 | 10.2 US 23 |
| * | KY 2148 | 0.0 US 23 | 0.1 US 23X |
| [* | Big Run Road | | |
| | CR 5263 | 0.0 KY 180 | 1.5 Mine] |
| * | Straight Creek Road | | |
| | CR 5288 | 0.0 KY 5 | 0.6 Buena Vista RD |
| | Weight Limit - Bridge over Straight Creek | | |
| | TY I = 14 tons, TY II = 14 tons, TY III = 14 tons, TY IV = 14 tons | | |
| * | County Line Tipple Road | | |
| | CR 5300 | 0.0 US 23 | 0.3 County Line Tipple |
| * | Hatcher Drive | | |
| | CR 5357 | 0.0 Molsruger RD | 0.1 Mine |
| * | Molsruger Road | | |
| | CR 5379 | 0.0 Ky 716 | 0.3 Hatcher DR |
| [* | Cobb Road | | |
| | CR 5490 | 0.0 Straight Creek RD | 1.2 Mine] |
| * | Buena Vista Road | | |
| | CR 5493 | 0.0 Straight Creek RD | 0.7 Mine Access RD |
| * | 15th Street (Ashland) | | |
| | | 0.0 US 23 | 0.2 Mansbach Dock |
| * | 53rd Street (Ashland) | | |
| | | 0.0 US 23 | 0.1 53rd ST Dock |

BOYLE COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 127 | 7.5 US 127 Bypass | 9.7 Mercer CO LN |
| | Weight Limit - Bridge over Mocks Branch @ milepoint 9.74 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons | | |
| * | US 127B | 0.0 US 127 | 5.3 US 127 |
| | Weight Limit - Bridge over Southern RR @ milepoint 0.93 | | |
| | TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 54 [53] tons | | |
| * | US 150 | 16.8 US 150 Bypass | 18.9 Lincoln CO LN |
| * | US 150B | 0.0 US 127 | 2.3 US 150 |

BRACKEN COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | KY 8 | 0.0 Pendleton CO LN | 19.0 Mason CO LN |
| | Weight Limit - Bridge over Holts Creek at Foster @ milepoint 1.20 | | |
| | TY I = 20 tons, TY II = 27 tons, TY III = 28 tons, TY IV = 39 tons | | |
| | Weight Limit - Bridge over Snag Creek @ milepoint 4.18 | | |
| | TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 40 tons | | |
| | Weight Limit - Bridge over Locust Creek @ milepoint 7.04 | | |
| | TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 57 [56] tons | | |

Weight Limit - Bridge over Big Bracken Creek @ milepoint 13.93
TY I = 20 tons, TY II = 38 [40] tons, TY III = 39 tons, TY IV = 53 [51] tons

BREATHITT COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | KY 15 | 0.0 Perry CO LN | 27.5 Wolfe CO LN |
| | Weight Limit - Bridge over Lost Creek @ milepoint 0.48 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 38 tons, TY IV = 51 tons | | |
| | Weight Limit - Bridge over Lost Creek @ milepoint 3.07 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 38 tons, TY IV = 51 tons | | |
| | Weight Limit - Bridge over Lost Creek @ Milepoint 3.80 | | |
| | TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 51 tons | | |
| | Weight Limit - Bridge over Lost Creek @ milepoint 6.48 | | |
| | TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 49 tons | | |
| | Weight Limit - Bridge over Lost Creek @ milepoint 6.69 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 50 tons | | |
| | Weight Limit - Bridge over Troublesome Creek @ Milepoint 7.64 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 50 tons | | |
| | Weight Limit - Bridge over Quicksand Creek @ milepoint 14.73 | | |
| | TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 47 tons | | |
| | Weight Limit - Bridge over Frozen Creek @ milepoint 23.27 | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 49 tons, TY IV = 57 tons | | |
| * | KY 28 | 5.7 Perry CO LN | 7.4 Perry CO LN |
| * | KY 30 | 14.1 Elkatawa Tipple | 14.8 KY 15 (North) |
| | | 14.8 KY 15 (South) | 33.3 KY 542 |
| | Weight Limit - Bridge over Hunting Creek @ milepoint 29.07 | | |
| | TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons | | |
| | | [30.0 Mine Access | 37.5 Magoffin CO LN] |
| * | KY 476 | 0.0 Perry CO LN [5.8 Falcon Haul RD] | 11.4 KY 15 |
| | Weight Limit - Bridge over Troublesome Creek @ milepoint 7.02 | | |
| | TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 50 tons | | |
| * | KY 542 | 0.0 KY 30 [10.0 Mine Access] | 18.6 Magoffin CO LN |
| | Weight Limit - Bridge over Big Caney Creek @ milepoint 0.09 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons | | |
| * | KY 1098 | 0.0 KY 15 | 20.7 Knott CO LN [14.8 Mine ACC] |
| | Weight Limit - Bridge over South Fork Quicksand Creek @ milepoint 5.27 | | |
| | TY I = 20 tons, TY II = 27 tons, TY III = 30 tons, TY IV = 49 tons | | |
| | Weight Limit - Bridge over Quicksand Creek @ milepoint 17.98 | | |
| | TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 59 tons | | |
| * | KY 1110 | 15.2 Haddix Tipple | 15.7 KY 15 |
| | Weight Limit - Bridge over North Fork Kentucky River @ milepoint 15.55 | | |
| | TY I = 20 tons, TY II = 34 tons, TY III = 36 [37] tons, TY IV = 51 tons | | |
| * | KY 1111 | 0.0 KY 10.98 [1.6 Mine Access] | 2.2 Big Lovely RD |
| [* | KY 3193 | 0.0 Wolverine RD | 0.1 Wolverine RD |
| | Weight Limit - Bridge over North Fork Kentucky River @ milepoint 0.01 | | |
| | TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons] | | |
| * | Big Lovely Road | | |
| | CR 5030 | 0.0 KY 1111 | 1.4 KY 542 |
| * | Springsfork Road | | |
| | CR 5032 | 2.2 KY 542 | 3.6 Mine Access |
| * | Slusher Road | | |
| | CR 5067 | 0.0 KY 542 | 2.5 Mine |
| [* | Wolverine Road | | |
| | CR 5318 | 5.1 Mine | 5.3 KY 3193 |
| | | 5.3 KY 3193 | 5.7 KY 15] |

BUTLER COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | Green River Parkway | | |
| | | 18.2 Warren CO LN | 35.1 Ohio CO LN |
| | Weight Limit - Bridge over Green River @ milepoint 32.64 | | |
| | TY I = 20 tons, TY II = 42 tons, TY III = 46 tons, TY IV = 54 tons | | |
| * | Western KY PKWY | 87.4. Ohio CO Ln | 88.4 Grayson CO LN |
| * | US 231 | [8.4 Alley-Cassetty Tipple | 18.9 Ohio CO LN] |
| | | 8.6 KY 1468 | 8.9 Green River PKWY |
| | | 11.5 KY 70 (South) | 18.9 Ohio CO LN |
| | [Weight Limit - Bridge over Embrys Ditch @ milepoint 9.92 | | |
| | TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons] | | |
| | Weight Limit - Bridge over Green River @ milepoint 12.26 | | |
| | TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 51 tons | | |
| | Weight Limit - Bridge over Indian Camp Creek @ milepoint 16.32 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 51 tons | | |
| | Weight Limit - Bridge over West Fork Indian Camp Creek @ milepoint 17.1 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 51 tons | | |

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|---|---|---|---|---|
| * | KY 70 | 0.0 Muhlenberg CO LN | 14.4 US 231 | |
| | Weight Limit - Bridge over Panther Creek @ milepoint 4.19 | | | |
| | TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 60 tons | | | |
| | | 14.4 US 231 | 25.3 KY 411 | |
| | Weight Limit - Bridge over Welch Creek @ milepoint 20.37 | | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons | | | |
| [* | KY 79 | 13.4 KY 70 | 15.2 Possum Hollow SCH RD | |
| * | KY 269 | 4.2 Johnson RD | 6.0 Ohio CO LN] | |
| * | KY 411 | 0.0 KY 70 | 6.1 [2.2] Mine | |
| * | KY 1328 | 10.3 [10.0] Mine | 10.6 Old Greenwich SCH RD | |
| | | 11.5 Mine | 11.7 KY 70 | |
| * | KY 1468 | 0.0 KY 70 | 1.1 US 231 | |
| * | Old Greenwich School Road | | | |
| | CR 5015 | 0.0 KY 1328 | 0.7 KY 70 | |
| * | Jolertown Ridge Road | | | |
| | CR 5027 | 0.0 KY 70 | 0.3 Pyramid Mine | |
| | | [0.0 Peyton Cemetery RD | 1.4 KY 70] | |
| [* | Peyton Cemetery Road | | | |
| | CR 5028 | 0.6 Mine | 0.9 Jolertown Ridge RD] | |
| * | New Cut Road (South) | | | |
| | CR 5243 | 0.0 KY 70 | 0.3 C Crabtree MN [0.4 Mine] | |
| * | Hickory Camp Creek Road | | | |
| | CR 5246 | 0.0 KY 70 | 1.4 G Southerland RD | |
| * | Elzie Penally Road | | | |
| | CR 5247 | 0.0 KY 70 | 0.4 Addwest Mine | |
| [* | Possum Hollow School Road | | | |
| | CR 5355 | 0.0 KY 70 | 0.7 Mine | |
| * | Johnson Road | | | |
| | CR 5394 | 0.0 Mine | 0.1 KY 269] | |
| * | G Southerland Road | | | |
| | CR 5406 | 2.0 Mine | 3.0 Hickory Camp Creek RD | |

CALDWELL COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| | Western Kentucky Parkway | | |
| | | 5.6 Lyon CO LN | 21.8 Hopkins CO LN |
| | Weight Limit - Bridge over I. C. R.R. @ milepoint 11.36 | | |
| | TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 57 tons | | |
| | Weight Limit - Bridge over Tradewater River @ milepoint 21.75 | | |
| | TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 58 tons | | |
| * | KY 70 | 0.5 KY 91 | 10.5 Mine |
| | Weight Limit - Bridge over Stephenson Creek @ milepoint 8.20 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Donaldson Creek @ milepoint 8.42 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Donaldson Creek Overflow @ milepoint 8.55 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons | | |

[CAMPBELL COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| | US 27 | 0.0 Pendleton CO LN | 16.6 I-471] |

CARTER COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 60 | 24.1 KY 1 and KY 7 | 24.8 KY 1 [35.0 Boyd CO LN] |
| | | 30.7 KY 207 | 35.0 Boyd CO LN |
| | [Weight Limit - Bridge over Upper Stinson Creek @ milepoint 26.30 | | |
| | TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons] | | |
| * | KY 1 | 1.2 KY 1496 [10.6 US 60 & KY 7] | 11.5 I-64 |
| | Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 2.40 | | |
| | TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 59 tons | | |
| | Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 4.13 | | |
| | TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 4.75 | | |
| | TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 5.41 | | |
| | TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 5.77 | | |
| | TY I = 20 tons, TY II = 33 tons, TY III = 34 tons, TY IV = 45 tons | | |
| | Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 7.70 | | |
| | TY I = 20 tons, TY II = 40 tons, TY III = 41 tons, TY IV = 55 tons | | |
| | Weight Limit - Bridge over I-64 @ milepoint 11.50 | | |
| | TY I = 20 tons, TY II = 26 tons, TY III = 30 tons, TY IV = 51 tons | | |

| | | | | |
|---|---|---|---|---|
| * | KY 7 | 0.0 Elliott CO LN | 10.9 KY 1 | |
| | Weight Limit - Bridge over Clifty Creek near Sophie @ milepoint 1.64 | | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons | | | |
| | Weight Limit - Bridge over Little Sandy River @ milepoint 10.12 | | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 49 tons, TY IV = 56 tons | | | |
| * | KY 207 | 0.0 US 60 | 2.3 Greenup CO LN | |

CHRISTIAN COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | Pennyrile PKWY | 7.0 US 41A | 11.7 KY 1682 |
| | Weight Limit - Bridge over US 41 @ milepoint 7.91 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons | | |
| * | US 41 | 28.5 KY 1296 | 31.6 Hopkins CO LN |
| | Weight Limit - Bridge over Campbells Creek @ milepoint 29.51 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over L & N RR @ milepoint 30.88 | | |
| | TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 50 tons | | |
| * | US 41A | 4.4 I-24 | 13.5 Pennyrile Parkway |
| * | KY 1296 | 2.7 Campbell Cemetery RD | 5.2 US 41 |
| * | Campbell Cemetery Road | | |
| | CR 5418 | 0.0 KY 1296 | 1.6 T D C Mine |

CLARK COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | Mountain Parkway | | |
| | | 0.0 I-64 | 11.9 Powell CO LN |
| | Weight Limit - Bridge over I-64 @ milepoint 0.13 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 47 tons | | |
| | Weight Limit - Bridge over C & O RR @ milepoint 3.65 | | |
| | TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 55 tons | | |
| * | KY 418 | 5.7 KY 1924 | 5.8 KY 627 |
| * | KY 627 | 0.1 KY 418 | 6.4 KY 1958 |
| | | 9.3 I-64 | 14.8 Bourbon CO LN |
| | Weight Limit - Bridge over Woodruff Creek @ milepoint 13.20 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 40 tons | | |
| * | KY 1924 | 0.0 Dale Power Plant | 1.8 KY 418 |
| * | KY 1958 | 0.0 KY 627 | 2.8 I-64 |

CLAY COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | Daniel Boone Parkway | | |
| | | 10.6 Laurel CO LN | 35.9 Leslie CO LN |
| | Weight Limit - Bridge over Little Goose Creek Rd. @ milepoint 10.81 | | |
| | TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Urban Road @ milepoint 13.90 | | |
| | TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Hooker Road @ milepoint 16.14 | | |
| | TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Ham Branch Rd. & Goose Creek @ milepoint 21.67 | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 57 tons | | |
| | Weight Limit - Bridge over Red Bird River @ milepoint 33.58 | | |
| | TY I = 20 tons, TY II = 42 tons, TY III = 42 tons, TY IV = 56 tons | | |
| * | US 421 | 2.6 KY 66 | 32.8 Jackson CO LN [28.5 KY 1350] |
| | Weight Limit - Bridge over Horse Creek @ milepoint 16.58 | | |
| | TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Little Goose Creek @ milepoint 18.59 | | |
| | TY I = 20 tons, TY II = 35 tons, TY III = 36 [37] tons, TY IV = 48 tons | | |
| | Weight Limit - Bridge over Island Creek @ milepoint 20.49 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 43 tons | | |
| | Weight Limit - Bridge over Branch of Island Creek @ milepoint 21.20 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 32 tons, TY IV = 53 tons | | |
| | Weight Limit - Bridge over Laurel Creek @ milepoint 23.97 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 43 tons | | |
| | Weight Limit - Bridge over Sexton Creek @ milepoint 28.41 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 32 tons, TY IV = 52 tons | | |
| * | KY 11 | 0.0 Knox CO LN | 8.9 US 421 (South) |
| | Weight Limit - Bridge over Collins Fork - Goose Creek @ milepoint 2.91 | | |
| | TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Collins Fork - Goose Creek @ milepoint 5.38 | | |
| | TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons | | |
| | | 8.9 US 421 (North) | 26.6 Owsley CO LN |
| | Weight Limit - Bridge over Wildcat Creek @ milepoint 15.57 | | |
| | TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons | | |
| * | KY 66 | 0.0 Bell CO LN | 1.8 Lick FK [6.9 Leslie CO LN] |

| | | | |
|---|---|---|---|
| | 4.9 Phillips Fork | | 6.9 Leslie CO LN |
| | Weight Limit - Bridge over Phillips Fork Creek @ milepoint 4.95 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 48 tons | | |
| | 6.9 Leslie CO LN | | 18.5 US 421 |
| | [19.1 Daniel Boone Parkway | | 32.5 KY 1482] |
| | 32.8 KY 3014 | | 33.2 KY 11 |
| * KY 80 | 7.0 Big Creek Tipple | | 7.5 US 421 |
| | 3.0 Roots Branch | | 7.5 US 421 |
| [* KY 577 | 4.2 Buncomb RD | | 5.4 KY 1350 (South) |
| | Weight Limit - Bridge over Little Sexton Creek @ milepoint 5.26 | | |
| | TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons | | |
| * KY 638 | 11.9 Mine Access | | 13.4 US 421] |
| * KY 1350 | 0.0 US 421 | | 4.1 KY 577 (West) |
| * KY 1482 | 9.4 Mine Access | | 10.2 KY 66 |
| * KY 1524 | 0.0 US 421 | | 1.1 KY 2000 [6.9 Big John BR RD] |
| | [Weight Limit - Bridge over Mud Lick Creek @ milepoint 4.06 | | |
| | TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 59 tons] | | |
| * KY 2000 | 0.0 KY 1524 | | 3.5 Mine Access |
| * KY 2432 | 0.0 Sester Road | | 0.7 Littleton Road |
| * KY 2438 | 0.0 US 421 | | 0.1 KY 2432 |
| | Weight Limit - Bridge over Goose Creek & L & N RR @ milepoint 0.01 | | |
| | TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 50 tons | | |
| [* KY 3014 | 0.0 KY 66 | | 0.2 Oneida Bottom RD |
| * Oneida Bottom Road | | | |
| CR 5050 | 0.0 KY 3014 | | 1.0 Mine |
| | Weight Limit - Bridge over Goose Creek | | |
| | TY I = 11 tons, TY II = 11 tons, TY III = 11 tons, TY IV = 11 tons] | | |
| * Littleton Road | | | |
| CR 5103 | 0.0 KY 2432 | | 0.9 Panama School RD |
| | Weight Limit - Bridge over Coal Hollow | | |
| | TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons | | |
| [* Saplings Fork Road | | | |
| CR 5169 | 0.0 KY 1524 | | 3.5 Buzzard Creek RD |
| | Weight Limit - Bridge over Goose Creek | | |
| | TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons | | |
| * Swafford Branch Road | | | |
| CR 5171 | 0.0 Buzzard Creek RD | | 1.7 Mine] |
| * Sevier Road | | | |
| CR 5180 | 0.0 US 421 | | 0.2 Bridge |
| | Weight Limit - Bridge over Goose Creek | | |
| | TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 60 tons | | |
| * Sester Road (Manchester) | | | |
| CR 5227AA | 0.0 KY 2432 | | 0.2 Tipple Access |
| [* Buzzard Creek Road | | | |
| CR 5238 | 1.7 Swafford Branch RD | | 2.7 Saplings Fork RD] |
| * Panama School Road | | | |
| CR 5341 | 0.0 Littleton Road | | 0.8 Steele RD |
| * Steele Road | | | |
| CR 5342 | 0.0 Panama School RD | | 0.9 End of Road |
| [* Buncomb Road | | | |
| CR 5376 | 0.0 KY 577 | | 0.4 Mine |
| * Sourwood Road | | | |
| CR 5377 | 0.0 Buncomb RD | | 0.1 Mine] |

CRITTENDEN ROAD

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 60 | 0.0 Livingston CO LN | 23.0 Union CO LN |
| | Weight Limit - Bridge over Windlow Creek @ milepoint 12.4 | | |
| | TY I = 20 tons, TY II = 25 tons, TY III = 26 tons, TY IV = 43 tons | | |
| | Weight Limit - Bridge over Repton Creek @ milepoint 14.69 | | |
| | TY I = 20 tons, TY II = 27 tons, TY III = 28 tons, TY IV = 44 tons | | |
| | Weight Limit - Bridge over Matoon Creek @ milepoint 15.79 | | |
| | TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Hoods Creek @ milepoint 17.22 | | |
| | TY I = 20 tons, TY II = 27 tons, TY III = 28 tons, TY IV = 47 tons | | |
| | Weight Limit - Bridge over Meadow Creek @ milepoint 20.32 | | |
| | TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons | | |
| * | KY 120 | 0.0 US 60 | 16.6 Webster CO LN |
| | Weight Limit - Bridge over Unnamed Stream @ milepoint 5.20 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 38 tons, TY IV = 57 tons | | |
| | Weight Limit - Bridge over Piney Fork Creek @ milepoint 9.05 | | |
| | TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Piney Fork Creek @ milepoint 9.18 | | |
| | TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons | | |

Weight Limit - Bridge over Slough of Trade Water River @ milepoint 16.43
TY I = 17 tons, TY II = 19 tons, TY III = 20 tons, TY IV = 33 tons
Weight Limit - Bridge over Slough of Trade Water River @ milepoint 16.53
TY I = 17 tons, TY II = 19 tons, TY III = 20 tons, TY IV = 33 tons

DAVIESS COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | Green River Parkway | | |
| | | 59.5 Ohio CO LN | 70.7 [70.2] US 60 Bypass |
| | Weight Limit - Bridge over Owensboro Beltline @ milepoint 70.18 | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 55 tons | | |
| * | US 60 | 10.1 US 60 Bypass | 27.9 Hancock CO LN |
| | Weight Limit - Bridge over L & N Railroad @ milepoint 11.78 | | |
| | TY I = 20 tons, TY II = 34 tons, TY III = 35 [37] tons, TY IV = 44 tons | | |
| | Weight Limit - Westbound Bridge over L & N RR @ milepoint 16.66 | | |
| | TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons | | |
| | Weight Limit - Eastbound Bridge over Power Plant Entrance @ milepoint 16.66 | | |
| | TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 53 tons | | |
| | Weight Limit - Bridge over Pup Creek @ milepoint 20.31 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 45 tons | | |
| * | US 60B | 0.0 US 60 | 10.2 US 60 |
| | Weight Limit - Bridge over US 431 @ milepoint 4.22 | | |
| | TY I = 20 tons, TY II = 42 tons, TY III = 42 tons, TY IV = 48 tons | | |
| | Weight Limit - Bridge over L & N Railroad @ milepoint 4.84 | | |
| | TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 49 tons | | |
| | Weight Limit - Bridge over Sutherland Road @ milepoint 5.08 | | |
| | TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Horse Fork Creek @ milepoint 5.65 | | |
| | TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over I C RR @ milepoint 7.71 | | |
| | TY I = 20 tons, TY II = 37 tons, TY III = 37 tons, TY IV = 48 tons | | |
| | Weight Limit - Bridge over L&N RR & KY 2710 @ milepoint 9.77 | | |
| | TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 43 tons | | |
| * | US 231 | 0.0 Ohio CO LN | 11.3 US 60 Bypass |
| | Weight Limit - Bridge over Panther Creek @ milepoint 3.91 | | |
| | TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Panther Creek @ milepoint 8.84 | | |
| | TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over overflow @ milepoint 8.94 | | |
| | TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over overflow @ milepoint 9.22 | | |
| | TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Owensboro Beltline @ milepoint 11.29 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 60 tons | | |
| * | KY 54 | 2.5 US 60 Bypass | 12.9 Boston-Lafoon RD [15.2 KY 764 (South)] |
| | Weight Limit - Bridge over Barnett Creek @ milepoint 5.68 [5.7] | | |
| | TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Caney Creek @ milepoint 7.78 [7.8] | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Panther Creek Overflow @ milepoint 10.26 [10.3] | | |
| | TY I = 20 tons, TY II = 36 tons, TY III = 39 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Panther Creek @ milepoint 10.46 [10.5] | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 58 tons | | |
| * | KY 81 | 0.0 McLean CO LN | 11.9 US 60 Bypass |
| | Weight Limit - Bridge over Panther Creek @ milepoint 6.50 | | |
| | TY I = 20 tons, TY II = 27 tons, TY III = 28 tons, TY IV = 43 tons | | |
| [* | KY 140 | 9.3 Mine | 9.8 US 231] |
| * | KY 144 | 0.0 US 60 | 11.9 Flora RD |
| | Weight Limit - Bridge over L & N RR @ milepoint 0.16 | | |
| | TY I = 20 tons, TY II = 43 tons, TY III = 46 tons, TY IV = 50 tons | | |
| * | KY 331 | 0.0 US 60 (East) (Via Industrial Dr. & Medley-Roost Rd.) | 1.9 Mine [1.8 Owensboro RVPT] |
| * | KY 554 | 1.9 Mine | 4.8 KY 81 |
| [* | KY 764 | 1.7 Deserter Creek RD | 3.9 KY 54 |
| | Weight Limit - Bridge over Unnamed Stream @ milepoint 2.07 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons] | | |
| * | KY 951 | 0.0 KY 144 | 2.9 [1.6] Mine |
| * | Flora Road | | |
| | CR 5035 | 0.0 KY 144 | 1.4 Mine |
| * | St Lawrence Road | | |
| | CR 5036 | 0.0 KY 144 | 0.2 Mine |
| * | Iceland Road | | |
| | CR 5076 | 0.0 US 60 | 0.2 Nerco River Terminal |

[* Deserter Creek Road
CR 5151 3.3 Mine 3.7 KY 764]

ELLIOTT COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | KY 7 | 0.0 Morgan CO LN | 19.3 Carter CO LN |
| | Weight Limit - Bridge over Doctors Branch @ milepoint 4.15 | | |
| | TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Little Sandy River @ milepoint 7.15 | | |
| | TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 59 tons | | |
| | Weight Limit - Bridge over Little Sandy River @ milepoint 10.32 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 55 tons | | |
| | Weight Limit - Bridge over Little Sandy River @ milepoint 13.61 | | |
| | TY I = 20 tons, TY II = 26 tons, TY III = 29 tons, TY IV = 38 tons | | |
| | Weight Limit - Bridge over Little Sandy River @ milepoint 19.27 | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 49 tons, TY IV = 56 tons | | |
| * | KY 32 | 8.6 KY 7 | 11.4 KY 719 [16.6 Mason Branch RD] |
| | Weight Limit - Bridge over Middle Fork @ milepoint 11.30 | | |
| | TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 47 tons | | |
| | [Weight Limit - Bridge over Newcombe Creek @ milepoint 14.06 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 31 tons] | | |
| * | KY 409 | 0.0 KY 7 | 2.7 Mine |
| [* | KY 486 | 0.0 KY 32 | 2.4 P Skaggs RD |
| * | KY 650 | 0.0 Morgan CO LN | 4.5 KY 7 |
| | Weight Limit - Bridge over Little Sandy River @ milepoint 4.36 | | |
| | TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 56 tons | | |
| * | KY 719 | 0.0 Begin State Maintenance | 4.7 KY 32] |
| * | Dickerson | | |
| | CR 5025 | 0.0 KY 7 | 0.8 [0.3] Mine |
| [* | P Skaggs Road | | |
| | CR 5121 | 0.0 KY 486 | 0.2 Mine |
| * | Lick Ford Road | | |
| | CR 5123 | 0.0 KY 32 | 0.7 Mine |
| | Weight Limit - Bridge over Lick Fork of Newcombe Creek | | |
| | TY I = 8 tons, TY II = 8 tons, TY III = 8 tons, TY IV = 8 tons | | |
| | Weight Limit - Bridge over Lick Fork of Newcombe Creek | | |
| | TY I = 7 tons, TY II = 7 tons, TY III = 7 tons, TY IV = 7 tons | | |
| * | Right Fork Road | | |
| | CR 5269 | 0.0 KY 719 | 1.8 Morgan CO LN] |

ESTILL COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | KY 52 | 0.0 Madison CO LN | 21.0 Lee CO LN [7.6 KY 89] |
| | Weight Limit - Bridge over Drowning Creek @ milepoint 0.01 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over KY River @ milepoint 7.37 | | |
| | TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 37 tons | | |
| [* | KY 89 | 11.4 KY 52 | 13.4 KY 1840 |
| | Weight Limit - Bridge over Sweet Lick Creek @ milepoint 12.14 | | |
| | TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 54 tons | | |
| * | KY 1840 | 0.0 Stump RD | 0.4 KY 89 |
| * | Stump Road | | |
| | CR 5356 | 0.0 KY 1840 | 0.8 Southeast Prep Plant] |

FAYETTE COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| [* | US 27 | 0.0 Jessamine CO LN | 2.4 KY 4 |
| | Weight Limit - Bridge over New Circle Road @ milepoint 2.41 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons | | |
| * | US 60 | 10.2 KY 4 | 12.1 I-75 |
| | Weight Limit - Bridge over New Circle Road @ milepoint 10.19 | | |
| | TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 58 tons] | | |
| * | US 68 | 0.0 Jessamine CO LN | 3.1 KY 4 |
| | Weight Limit - Bridge over South Elkhorn Creek @ milepoint 0.74 | | |
| | TY I = 20 tons, TY II = 41 [28] tons, TY III = 43 [37] tons, TY IV = 60 [40] tons | | |
| * | KY 4 | 2.2 US 68 | 9.3 KY 922 |
| | [Weight Limit - Bridge over Parkers Mill Road @ milepoint 3.86 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons] | | |
| | Weight Limit - Bridge over US 60, Versailles Road @ milepoint 4.61 | | |
| | TY I = 20 tons, TY II = 43 [28] tons, TY III = 44 [37] tons, TY IV = 58 [40] tons | | |
| | Weight Limit - Bridge over Viley Pike @ milepoint 5.48 | | |
| | TY I = 20 tons, TY II = 43 [28] tons, TY III = 45 [37] tons, TY IV = 60 [40] tons | | |
| | Weight Limit - Bridge over Southern RR @ milepoint 6.01 | | |
| | TY I = 20 tons, TY II = 39 [28] tons, TY III = 40 [37] tons, TY IV = 51 [40] tons | | |

[Weight Limit - Bridge over L&N RR @ milepoint 6.76
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Leestown Pike @ milepoint 7.24
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Southern RR @ milepoint 8.03
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
12.7 US 60 19.3 US 27
Weight Limit - Bridge over Richmond Road @ milepoint 14.84
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Green Tree-Chinoe Road @ milepoint 17.05
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Tates Creek Pike @ milepoint 17.75
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Lansdowne Drive @ milepoint 18.81
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons]

| | | | | |
|---|---|---|---|---|
| * | KY 922 | 1.0 KY 4 | 2.9 I-75 | |
| [* | Man-O'-War Boulevard (Lexington) | | | |
| | | 0.0 US 68 | 3.3 US 27] | |

FLEMING COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 68 | 0.0 Robertson CO LN | 5.4 Mason CO LN |
| * | KY 11 | 0.0 Bath CO LN | 17.2 Mason CO LN |

Weight Limit - Bridge over Fleming Creek @ milepoint 7.80
TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 54 tons
Weight Limit - Bridge over Cassidy Creek @ milepoint 8.77
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons

FLOYD COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 23 | 0.0 Pike CO LN | 24.1 Johnson CO LN |

Weight Limit - Bridge over Levisa Fork Big Sandy River @ milepoint 10.76
TY I = 20 tons, TY II = 45 tons, TY III = 49 tons, TY IV = 56 tons
Weight Limit - Bridge over C&O RR @ milepoint 10.95
TY I = 20 tons, TY II = 45 tons, TY III = 48 tons, TY IV = 57 tons

| | | | |
|---|---|---|---|
| * | KY 3 | 0.0 US 23 & KY 80 | 2.3 Blackhawk Tipple |
| * | KY 7 | 0.0 Knott CO LN | 8.0 KY 550 |

Weight Limit - Bridge over Right Fork Beaver Creek @ milepoint 8.01
TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 38 tons

| | | | |
|---|---|---|---|
| * | KY 80 | 0.0 Knott CO LN | 14.4 US 23 & KY 3 |
| * | KY 114 | 9.5 KY 404 | 11.4 US 23 |

Weight Limit - Bridge over C&O RR @ milepoint 10.41
TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 56 tons
Weight Limit - Bridge over Middle Creek @ milepoint 10.60
TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 55 tons

| | | | |
|---|---|---|---|
| * | KY 122 | 8.5 KY 80 | 31.6 KY 466 |

Weight Limit - Bridge over Left Beaver Creek north of Price
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 53 tons
Weight Limit - Bridge over unnamed stream @ Pilgrim Church
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons
Weight Limit - Bridge over Abner Fork @ Melvin
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons

| | | | |
|---|---|---|---|
| * | KY 194 | 0.0 KY 1428 | 1.6 Coal Mac Mine |
| | | | [5.6 Buffalo CR RD] |

Weight Limit - Bridge over Cow Creek @ milepoint 1.27
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons
[Weight Limit - Bridge over Cow Creek @ milepoint 2.03
TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons]

| | | | |
|---|---|---|---|
| | | 9.0 Addington Mine [7.4 Copperas RD] | 12.2 Pike CO LN |

Weight Limit - Bridge over Brushy Creek @ milepoint 12.15
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons

| | | | |
|---|---|---|---|
| * | KY 404 | 0.0 Magoffin CO LN | 8.1 KY 114 |

Weight Limit - Bridge over Middle Creek @ milepoint 8.07
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons

| | | | |
|---|---|---|---|
| * | KY 466 | 2.3 Caleb FK RD [2.1 Mine] | 4.1 KY 122 |

Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 2.58
TY I = 16 [20] tons, TY II = 18 tons, TY III = 21 tons, TY IV = 37 tons
Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 2.90
TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons

| | | | |
|---|---|---|---|
| * | KY 550 | 0.0 Knott CO LN | 0.2 KY 7 |

Weight Limit - Bridge over Right Fork of Beaver Creek @ milepoint 0.06
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons

| | | | |
|---|---|---|---|
| | | 0.2 KY 7 | 1.2 Jett Tipple [4.6 KY 80] |

[Weight Limit - Bridge over Right Fork of Beaver Creek @ milepoint 1.58

TY I = 20 tons, TY II = 28 tons, TY III = 27 tons, TY IV = 31 tons
Weight Limit - Bridge over Brush Creek @ milepoint 2.02
TY I = 20 tons, TY II = 31 tons, TY III = 33 tons, TY IV = 52 tons]

| | | | |
|---|---|---|---|
| * | KY 680 | 0.0 KY 122 | 5.4 KY 979 |
| * | KY 777 | 5.2 Transcontinental [5.9] Mine | 9.0 KY 80 |

[Weight Limit - Bridge over Turkey Creek @ milepoint 8.63
TY I = 20 tons, TY II = 43 tons, TY III = 48 tons, TY IV = 57 tons]

| | | | |
|---|---|---|---|
| * | KY 850 | 4.3 Pitts FK RD [0.0 KY 550] | 7.5 KY 404 |
| * | KY 979 | 0.0 KY 122 | 19.3 US 23 |

Weight Limit - Bridge over Toler Creek @ milepoint 17.43
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

| | | | |
|---|---|---|---|
| * | KY 1101 | 0.9 Stonecoal BR RD | 1.0 KY 122 |

Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 0.90
TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 59 tons

| | | | |
|---|---|---|---|
| * | KY 1210 | 0.0 KY 80 | 7.8 KY 404 |

Weight Limit - Bridge over Middle Creek @ milepoint 7.76
TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 59 tons

| | | | |
|---|---|---|---|
| * | KY 1426 | 0.0 Pike CO LN | 2.5 K C Rogers Mine |
| | | 6.4 Damron Coal Mine | 9.5 Justice BR RD |
| | | [2.5 Mine | 6.6 KY 979 |
| | | 6.6 KY 979 | 9.0 Mine] |
| * | KY 1428 | [5.7 Colliver RD | 6.2 US 23 |

Weight Limit - Bridge over Levisa Fork @ milepoint 5.9
TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons]

| | | | |
|---|---|---|---|
| | | 6.2 US 23 | 8.8 KY 194 |

[Weight Limit - Bridge over Cow Creek @ milepoint 8.75
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 59 tons]

| | | | |
|---|---|---|---|
| | | 14.1 Uptown Mining Mine | 15.6 US 23 |

Weight Limit - Bridge over Little Paint Creek @ milepoint 14.85
TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 44 tons

| | | | |
|---|---|---|---|
| [* | KY 1498 | 0.0 Knott CO LN | 4.6 KY 122 |

Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 4.59
TY I = 20 tons, TY II = 39 tons, TY III = 38 tons, TY IV = 60 tons]

| | | | |
|---|---|---|---|
| * | KY 1929 | 0.0 Ned FK RD | 2.5 KY 680 |
| * | KY 2030 | 0.0 KY 122 | 7.8 KY 1426 |

Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 0.10
TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 56 tons

| | | | |
|---|---|---|---|
| * | KY 2557 | 0.0 Betsy Layne BR RD | 0.3 US 23 |
| * | KY 3188 | 0.8 Kanawha Mine | 1.3 KY 80 |
| * | Powell Branch Road | | |
| | CR 5022 | 0.0 Justell Bridge RD | 0.3 Camp BR Branch RD |
| * | Justell Bridge Road | | |
| | CR 5024F | 0.0 US 23 | 0.1 Powell Branch RD |
| [* | Clark Branch Road | | |
| | CR 5040 | 0.0 Buffalo Creek RD | 1.4 Mine |
| * | Buffalo Creek Road | | |
| | CR 5043 | 0.0 KY 194 | 4.0 Clark Branch RD |

Weight Limit - Bridge over Buffalo Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

| | | | |
|---|---|---|---|
| * | Copperas Creek Road | | |
| | CR 5045 | 0.0 KY 194 | 2.1 Mine] |
| * | Bushy Fork Road | | |
| | CR 5046 | 0.0 KY 194 | 0.4 Wolf BR RD |
| * | Wolf Branch Road | | |
| | CR 5046A | 0.0 Bushy Fork Road | 1.0 Martin CO LN |
| * | Bull Creek Road | | |
| | CR 5055 | 0.0 KY 3 | 0.5 Cabin Coal Tipple |
| [* | Colliver Road | | |
| | CR 5074 | 0.0 KY 1428 | 1.6 Mine] |
| * | Camp Branch Road | | |
| | CR 5078 | 0.0 Powell Branch RD | 0.9 Right FK/Camp BR RD |
| * | Right Fork/Camp Branch Road | | |
| | CR 5078A | 0.0 Camp Branch RD | 0.2 Prater Creek Mine |
| * | Transcontinental Road (Excluding Bridge) | | |
| | CR 5083 | 0.0 Transcontinental Tip | 0.8 US 23 |
| * | Spruce Pine Road | | |
| | CR 5098 | 0.0 KY 2030 | 0.4 Maple Ridge Mine |
| * | Justice Branch Road | | |
| | CR 5107 | 0.0 KY 1426 | 0.4 Right Fork Justice BR RD |
| * | Big Branch/Little Mud Creek Road | | |
| | CR 5108 | 0.0 KY 2030 | 3.3 Island Creek Mine |
| * | Frog Branch Road | | |
| | CR 5110 | 0.0 KY 2030 | 1.0 Maple Ridge Mine |
| * | Betsy Layne Branch Road | | |

| | | | |
|---|---|---|---|
| | CR 5111 | 0.0 KY 2557 | 0.9 Somerset Coal Mine |
| * | Cedar Hill Road | | |
| | CR 5118 | 0.0 KY 1426 | 0.6 Bebe Tipple |
| * | Parsons Branch Road | | |
| | CR 5128 | 0.0 KY 979 | 0.2 Transcontinental Mine |
| | Weight Limit - Bridge over Mud Creek | | |
| | TY I = 20 tons, TY II = 36 tons, TY III = 36 tons, TY IV = 36 tons | | |
| * | Frasure Branch Road | | |
| | CR 5134 | 0.0 KY 979 | 1.0 Joseph Mining Mine |
| * | Mink Branch Road | | |
| | CR 5138 | 0.0 KY 979 | 1.9 Joseph Mining [1.5] Mine |
| | [Weight Limit - Bridge over Big Mud Creek | | |
| | TY I = 18 tons, TY II = 18 tons, TY III = 18 tons, TY IV = 18 tons] | | |
| * | Dry Branch/Mud Creek Road | | |
| | CR 5139 | 0.0 KY 979 | 1.1 Joseph Mining Mine |
| * | Ned Fork Road | | |
| | CR 5140 | 0.0 KY 1929 | 1.1 Premium Elkhorn Shannon Mine |
| * | Branham Creek Road | | |
| | CR 5142 | 0.0 KY 979 | 8.3 Pike CO LN |
| | | [0.0 KY 979 | 3.1 Mine |
| | | 7.7 Left FK/Tinker FK RD | 8.3 Pike CO LN] |
| * | Barn Branch Road | | |
| | CR 5146 | 0.0 Branham Creek RD | 0.3 Phyllis Coal Mine |
| * | Left Fork/Tinker Fork Road | | |
| | CR 5147 | 0.0 Branham Creek RD | 0.2 Wellmore Kodiak Mine |
| * | Andy Branch Road | | |
| | CR 5148 | 0.0 Tinker Fork RD | 0.5 Ensol Mine |
| * | Tinker Fork Road | | |
| | CR 5152 | 0.0 KY 979 | 0.6 Andy Branch RD |
| * | Red Morg Branch Road | | |
| | CR 5153 | 0.0 KY 979 | 0.9 Turner Elkhorn Mine |
| | | | [0.7 End of Road] |
| * | Buzzard Rock Road | | |
| | CR 5157 | 0.2 Apache Mining Mine | 0.5 Pike CO LN |
| * | Buckhorn Hollow Road | | |
| | CR 5159 | 0.0 KY 979 | 0.4 Wheelwright Douglas #2 Mine |
| * | Spewing Camp Branch | | |
| | CR 5190 | 0.0 KY 122 | 2.4 J R M Mining Mine |
| | Weight Limit - Bridge over Left Fork of Beaver Creek | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons | | |
| * | Little Muddy Creek Road | | |
| | CR 5197 | 0.0 KY 2030 | 3.0 Bebe Mine |
| * | Gunstock Branch Road | | |
| | CR 5202 | 0.0 KY 2030 | 0.4 Island Creek Mine |
| * | Stonecoal Branch Road | | |
| | CR 5234 | 0.0 KY 1101 | 2.0 Blackhawk Mine |
| * | Step Branch Road | | |
| | CR 5247 | 0.0 KY 122 | 0.1 Transcontinental Mine |
| * | Goose Creek Road | | |
| | CR 5273 | 0.0 Gosling Branch RD | 0.6 Transcontinental T&H Mine |
| * | Gosling Branch Road | | |
| | CR 5274 | 0.0 KY 80 | 0.1 Goose Creek RD |
| * | Vine Street (Eastern) | | |
| | CR 5283C | 0.0 KY 80 | 0.1 May I Tipple |
| | Weight Limit - Bridge over Right Fork of Beaver Creek | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons | | |
| [* | Prater Fork Road | | |
| | CR 5285 | 0.0 KY 850 | 1.1 Left FK/Prater CK RD |
| * | Left Fork/Prater Creek Road | | |
| | CR 5285A | 0.0 Prater Fork RD | 0.4 Mine] |
| * | Pitts Fork Road | | |
| | CR 5288 | 0.0 KY 850 | 1.3 Branham & Baker Mine |
| * | Johnson Fork-Conley Fork Road | | |
| | CR 5409 | 0.0 KY 1210 | 0.2 Amber Prep Plant |

[GARRARD COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 27 | 10.3 KY 34 | 16.5 Jessamine CO LN |
| | Weight Limit - Bridge over the Kentucky River @ milepoint 16.28 | | |
| | TY I = 20 tons, TY II = 30 tons, TY III = 32 tons, TY IV = 45 tons | | |
| * | KY 34 | 0.0 Boyle CO LN | 2.7 US 27] |

GRAYSON COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | Western KY PKWY | 88.4 Butler CO LN | 119.6 Hardin CO LN |
| | Weight Limit - Bridge over Millwood-Pleasant View Road @ milepoint 99.08 | | |
| | TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Kentucky 187 @ milepoint 103.98 | | |
| | TY I = 20 tons, TY II = 40 tons, TY III = 41 tons, TY IV = 58 tons | | |

GREENUP COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 23 | 0.0 Boyd CO LN | 11.2 KY 2 [11.8 KY 2541] |
| | [Weight Limit - Bridge over Little Sandy River @ milepoint 11.4 | | |
| | TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 57 tons] | | |
| | | 24.5 K O T Dock | 28.8 Ohio ST LN |
| | Weight Limit - Bridge over Tygart's Creek @ milepoint 26.47 | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 45 tons, TY IV = 50 tons | | |
| * | KY 1 | 11.4 KY 207 | 17.3 US 23 |
| * | KY 2 | 10.3 Schultz Branch Road | 17.2 US 23 |
| | Weight Limit - Bridge over Little Sandy River @ milepoint 13.17 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons | | |
| * | KY 207 | 0.0 Carter CO LN | 0.5 Logtown Hollow RD |
| | | 6.9 Mine | 9.2 KY 1 |
| | | [0.4 Logtown RD | 9.2 KY 1 |
| | Weight Limit - Bridge over Sandslick Creek @ milepoint 6.64 | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons | | |
| * | KY 2541 | 1.3 Pilgrim Dock | 1.6 US 23] |
| * | Logtown Hollow Road | | |
| | CR 5168 | 0.0 KY 207 | 0.5 Mine |
| * | Stepp Drive | | |
| | CR 5216 | 0.0 KY 207 | 0.3 Mine |
| * | Schultz Branch Road | | |
| | CR 5250 | 0.0 KY 2 | 1.0 Mine |

HANCOCK COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 60 | 0.0 Daviess CO LN | 5.0 [5.5] Mine |

HARDIN COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | Western KY PKWY | 119.6 Grayson CO LN | 135.8 US 31W |
| | Weight Limit - Bridge over Valley Creek @ milepoint 132.46 | | |
| | TY I = 20 tons, TY II = 42 tons, TY III - 43 tons, TY IV = 54 tons | | |
| | Weight Limit - Bridge over L&N RR - Gaither Station Road @ milepoint 132.62 | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons | | |
| * | US 31W | 18.8 US 31W Bypass | 33.0 Meade CO LN |
| * | US 31WB | 0.2 Western Kentucky Parkway | 3.7 US 31W |
| | Weight Limit - Bridge over US 62, L&N, and IC RR @ milepoint 0.65 | | |
| | TY I = 20 tons, TY II = 41 tons, TY III = 41 tons, TY IV = 41 tons | | |

HARLAN COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 119 | 0.0 Bell CO LN | 39.7 Letcher CO LN |
| | | | [18.7 Rhea Tipple] |
| | | [26.4 Totz Prep Plant | 28.2 Belt Line |
| | | 34.3 Mine | 39.7 Letcher CO LN] |
| | Weight Limit - Bridge over Poore Fork Cumberland River @ milepoint 31.12 | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 53 tons | | |
| | Weight Limit - Bridge over Poore Fork Cumberland River @ milepoint 33.32 | | |
| | TY I = 20 tons, TY II = 47 tons, TY III = 47 tons, TY IV = 55 tons | | |
| | Weight Limit - Bridge over Clover Lick Creek @ milepoint 33.74 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons | | |
| | Weight Limit - Bridge over Poor Fork @ milepoint 35.56 | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Poor Fork @ milepoint 38.91 | | |
| | TY I = 20 tons, TY II = 25 tons, TY III = 27 tons, TY IV = 35 tons | | |
| | Weight Limit - Bridge over Poor Fork @ milepoint 39.61 | | |
| | TY I = 20 tons, TY II = 30 tons, TY III = 31 tons, TY IV = 44 tons | | |
| * | US 421 | 0.0 Virginia State LN | 17.6 US 119 (West) |
| | Weight Limit - Bridge over Cranks Creek @ milepoint 2.70 | | |
| | TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 42 tons | | |
| | Weight Limit - Bridge over Fork of Crummies Creek @ milepoint 7.36 | | |
| | TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 40 tons | | |
| | Weight Limit - Bridge over KY 840, L&N RR, Clover Fork @ milepoint 17.51 | | |
| | TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 49 tons | | |

| | | | |
|---|---|---|---|
| | | 17.6 US 119 (East) [(West)] | 27.4 Leslie CO LN |
| * | KY 38 | 0.0 US 421 | 8.5 KY 215 [13.3 Shields SCH RD] |
| | Weight Limit - Bridge over Clover Fork Cumberland River @ milepoint 8.21 | | |
| | TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 53 tons | | |
| | [Weight Limit - Bridge over Yocum Creek @ milepoint 8.60 | | |
| | TY I = 20 tons, TY II = 26 tons, TY III = 27 tons, TY IV = 38 tons] | | |
| | | 11.9 Nance RD | 14.5 Highsplint |
| | Weight Limit - Bridge over Clover Fork @ milepoint 12.90 | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 60 tons | | |
| | | 16.7 Belt Line | 17.0 KY 179 |
| | | 28.1 Jericol Tipple | 29.5 Virginia State LN |
| * | KY 72 | 0.0 Bell CO LN | 4.9 Rockhouse BR [Creek] RD |
| | Weight Limit - Bridge over Puckett Creek @ milepoint 4.73 | | |
| | TY I = 20 tons, TY II = 26 tons, TY III = 27 tons, TY IV = 40 tons | | |
| | Weight Limit - Bridge over Puckett Creek @ milepoint 4.84 | | |
| | TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons | | |
| | | 9.0 KY 2425 | 11.3 US 421 |
| [* | KY 160 | 8.8 Benham Tipple | 14.6 Letcher CO LN |
| | Weight Limit - Bridge over L&N RR & Looney Creek @ milepoint 9.05 | | |
| | TY I = 20 tons, TY II = 34 tons, TY III = 37 tons, TY IV = 50 tons | | |
| | Weight Limit - Bridge over L&N RR & Looney Creek @ milepoint 10.34 | | |
| | TY I = 20 tons, TY II = 33 tons, TY III = 34 tons, TY IV = 44 tons | | |
| | Weight Limit - Bridge over Looney Creek @ milepoint 11.29 | | |
| | TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 57 tons | | |
| | Weight Limit - Bridge over Poor Creek @ milepoint 11.82 | | |
| | TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 54 tons] | | |
| * | KY 179 | 0.0 KY 38 | 0.6 Mines |
| * | KY 215 | 0.0 KY 38 | 0.2 Yocum Tipple [1.1 Mine] |
| | Weight Limit - Bridge over Yocum Creek @ milepoint 1.06 | | |
| | TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons | | |
| * | KY 219 | 2.3 Mine | 5.1 US 119 |
| | Weight Limit - Bridge over Wallins Creek @ milepoint 2.48 | | |
| | TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 58 tons | | |
| | Weight Limit - Bridge over Tributary of Wallins Creek @ milepoint 2.79 | | |
| | TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons | | |
| | Weight Limit - Bridge over Wallins Creek @ milepoint 2.88 | | |
| | TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 60 tons | | |
| * | KY 221 | 0.0 Bell CO LN | 8.9 US 421 (South) |
| | | 8.9 US 421 (North) | 26.8 Perry CO LN |
| * | KY 987 | 10.4 Wilder Branch RD | 18.5 US 421 |
| | Weight Limit - Bridge over Martins Fork Lake @ milepoint 12.72 | | |
| | TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 55 tons | | |
| | Weight Limit - Bridge over Martins Fork @ milepoint 15.07 | | |
| | TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Crummies Creek @ milepoint 18.52 | | |
| | TY I = 20 tons, TY II = 29 tons, TY III = 34 tons, TY IV = 41 tons | | |
| * | KY 990 | 0.0 US 421 | 1.3 Coalgood Tipple |
| * | KY 1137 | 0.0 US 421 | 2.0 Crummies Creek RD |
| * | KY 2005 | 2.6 Lick Branch Culvert | 5.1 KY 72 |
| | Weight Limit - Bridge over Yocum Creek @ milepoint 5.08 | | |
| | TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons | | |
| * | KY 2006 | 0.7 Mine | 4.6 Arch of KY Tipple |
| * | KY 2007 | 0.0 US 119 | 0.5 Layman-Coldiron RD |
| | Weight Limit - Bridge over Cumberland River @ milepoint 0.43 | | |
| | TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 55 tons | | |
| * | KY 2008 | 0.0 Leslie CO LN | 1.4 KY 221 |
| * | KY 2009 | 0.0 KY 221 | 2.7 Leslie CO LN |
| | Weight Limit - Bridge over Fork of Laurel Fork Creek @ milepoint 1.51 | | |
| | TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 59 tons | | |
| | Weight Limit - Bridge over Laurel Fork Creek @ milepoint 2.72 | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 58 tons | | |
| * | KY 2425 | 0.0 Mine | 0.4 KY 72 |
| * | Totz Road | | |
| | CR 5007B | 0.0 Haul RD | 0.1 Totz Washer |
| * | Crummies Creek Road | | |
| | CR 5137 | 0.0 KY 1137 | 1.5 N to End |
| * | Slack Cemetery Road | | |
| | CR 5140 | 0.0 US 421 (North) | 0.4 End [0.3 Mine] |
| * | Barn Branch Road | | |
| | CR 5142 | 0.0 US 421 | 0.4 End |
| [* | Old US 421 Road | | |
| | CR 5147 | 0.0 Daniel Carredd RD | 0.4 US 421 |
| * | Daniel Carredd Road | | |
| | CR 5148 | 0.0 Old US 421 RD | 0.7 End] |

* Grays Branch Road
CR 5206K 0.0 US 421 @ Grays Knob 0.4 End
Weight Limit - Bridge over Martins Fork
TY I = 20 tons, TY II = 20 tons, TY III = 20 tons, TY IV = 20 tons
* Mill Branch Hollow
CR 5219 0.0 KY 72 0.3 Mine
[* Frye Street
CR 5232A 0.0 KY 72 0.2 Elcomb DR
Weight Limit - Bridge over Catron Creek
TY I = 20 tons, TY II = 22 tons, TY III = 24 tons, TY IV = 40 tons
* Elcomb Drive
CR 5232C 0.0 Frye ST 0.4 Mine Access]
* Layman-Coldiron Road
CR 5236H 0.0 KY 2007 0.9 Foresters Creek RD
Weight Limit - Bridge over Jesses Creek
TY I = 18 tons, TY II = 18 tons, TY III = 18 tons, TY IV = 18 tons
* Foresters Creek Road
CR 5238 0.0 Layman-Coldiron RD 1.8 Mine
* Rockhouse Branch [Creek] Road
CR 5256 0.0 KY 72 0.2 R B Tipple
* Ages Creek Road
CR 5326M 0.0 KY 38 0.3 [0.5] Mine
Weight Limit - Bridge over Ages Branch
TY I = 20 tons, TY II = 27 tons, TY III = 33 tons, TY IV = 53 tons
* Abner Fork Road
CR 5338 0.0 KY 221 3.9 Leslie CO LN
[* Big Run Hollow Road
CR 5344 1.4 Mine RD 1.7 Bell CO LN]

HARRISON COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 27 | 0.0 Bourbon CO LN | 19.5 Pendleton CO LN |

Weight Limit - Bridge over South Fork Licking River @ milepoint 5.65
TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 57 tons
Weight Limit - Bridge over L&N RR @ milepoint 6.28
TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 45 tons
Weight Limit - Bridge over Indian Creek @ milepoint 7.09
TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 58 tons
Weight Limit - Bridge over Sycamore Creek @ milepoint 9.09
TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons
Weight Limit - Bridge over Two Lick Creek @ milepoint 10.40
TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 57 tons
Weight Limit - Bridge over Curry Creek @ milepoint 13.27
TY I = 20 tons, TY II = 31 tons, TY III = 35 tons, TY IV = 50 tons
Weight Limit - Bridge over Richland Creek @ milepoint 19.18
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 60 tons

HENDERSON COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 41 | 0.0 Webster CO LN | 13.0 KY 812 |

Weight Limit - Bridge over King Creek @ milepoint 0.65
TY I = 20 tons, TY II = 41 tons, TY III = 44 tons, TY IV = 60 tons
Weight Limit - Bridge over East Fork of Cane Creek @ milepoint 6.20
TY I = 20 tons, TY II = 41 tons, TY III = 44 tons, TY IV = 60 tons
Weight Limit - Bridge over Dredged Ditch @ milepoint 6.32
TY I = 20 tons, TY II = 41 tons, TY III = 44 tons, TY IV = 60 tons
* KY 812 5.6 Mine 7.4 US 41
* KY 2097 0.0 US 41 0.9 Bill Givens RD
* Bill Givens Road
CR 5142 0.0 Webster CO LN 0.1 [0.2] KY 2097

HOPKINS COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | Western Kentucky Parkway | 21.8 Caldwell CO LN | 43.4 Muhlenberg CO LN |

Weight Limit - Bridge over Tradewater River Overflow @ milepoint 22.00
TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons
Weight Limit - Bridge over I.C. RR @ milepoint 24.89
TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons
Weight Limit - Bridge over KY 112 & Copperas Creek @ milepoint 28.35
TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 52 tons
Weight Limit - Bridge over Oak Hill Rd. & I.C. RR @ milepoint 33.87
TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons

Weight Limit - Bridge over Pennyrile Parkway @ milepoint 38.31
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 56 tons
* Pennyrile Parkway (Nontoll Segment)
32.9 US 62 [29.6 US 41] 45.2 Begin Toll Segment
Weight Limit - Bridge on exit ramp to U.S. 41 @ milepoint 45.2
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
* Pennyrile Parkway (Toll Segment)
45.2 End Nontoll Segment 55.0 Webster CO LN
Weight Limit - Bridge over KY 138 @ milepoint 54.07
TY I = 20 tons, TY II = 40 tons, TY III = 41 tons, TY IV = 56 tons
* US 41 0.0 Christian CO LN 1.4 US 41A [2.3 Pennyrile PKWY]
Weight Limit - Bridge over Drakes Creek @ milepoint 0.49
TY I = 20 tons, TY II = 31 tons, TY III = 36 [33] tons, TY IV = 53 tons
[Weight Limit - Bridge on entrance ramp to Pennyrile Parkway @ milepoint 2.3
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons]
3.0 KY 1751 11.8 Webster CO LN
Weight Limit - Bridge over Otter Creek @ milepoint 6.13
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons
* US 41A 0.0 US 41 [3.7 US 62] 29.4 Webster CO LN
Weight Limit - Bridge over Crab Orchard Creek @ milepoint 0.82
TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 56 tons
Weight Limit - Bridge over IC RR & Pleasant Run Creek @ milepoint 3.42
TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 48 tons
Weight Limit - Bridge over L&N RR @ milepoint 6.59
TY I = 20 tons, TY II = 28 tons, TY III = 28 tons, TY IV = 34 tons
Weight Limit - Bridge over Pond Creek @ milepoint 22.86
TY I = 20 tons, TY II = 23 tons, TY III = 27 [26] tons, TY IV = 43 tons
[Weight Limit - Bridge over Weirs Creek @ milepoint 28.01
TY I = 20 tons, TY II = 23 tons, TY III = 26 tons, TY IV = 43 tons]
* US 62 1.7 KY 109 21.3 Sextet Mine & Tipple
Weight Limit - Bridge over Copperas Creek @ milepoint 5.70
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 60 tons
Weight Limit - Bridge over Cane Run Creek @ milepoint 7.94
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 60 tons
Weight Limit - Bridge over Pleasant Run @ milepoint 12.51
TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 60 tons
Weight Limit - Bridge over L&N RR, Fork Pleasant Run @ milepoint 14.89
TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 58 tons
Weight Limit - Bridge over US 41 @ milepoint 15.64
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Pleasant Run Creek @ milepoint 16.39
TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 60 tons
Weight Limit - Bridge over Drakes Creek @ milepoint 16.72
TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 54 tons
* KY 70 4.5 Peter Howton Road [7.1 KY 109] 18.7 US 41A
Weight Limit - Bridge over Lick Creek @ milepoint 5.92
TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 51 tons
Weight Limit - Bridge over Richland Creek @ milepoint 11.77
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons
Weight Limit - Bridge over ICG RR NE of Richland @ milepoint 13.09
TY I = 20 tons, TY II = 27 tons, TY III = 27 tons, TY IV = 34 tons
Weight Limit - Bridge over Sugar Creek @ milepoint 13.45
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons
Weight Limit - Bridge over L&N RR @ milepoint 18.53
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
18.7 US 41A 26.4 Muhlenburg CO
Weight Limit - Bridge over Pond River @ milepoint 26.32
TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 60 tons
[19.9 Pennyrile Parkway 23.2 KY 85]
* KY 85 0.0 KY 70 3.3 Green River Mine
* KY 109 2.1 US 62 17.2 KY 814
Weight Limit - Bridge over Western Kentucky Parkway @ milepoint 3.81
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 54 tons
Weight Limit - Bridge over IC RR @ milepoint 4.50
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 58 tons
Weight Limit - Bridge over IC RR @ milepoint 6.49
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 58 tons
Weight Limit - Bridge over Lick Creek @ milepoint 7.24
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons
* KY 112 0.0 US 62 9.8 US 41A
Weight Limit - Bridge over Copperas Creek @ milepoint 0.68
TY I = 20 tons, TY II = 25 tons, TY III = 26 tons, TY IV = 43 tons
[2.8 Mine 5.0 Copper Creek RD
5.4 Edro Washer 9.8 US 41A]

Weight Limit - Bridge over Finley Ditch @ milepoint 5.85
TY I = 20 tons, TY II = 26 tons, TY III = 27 tons, TY IV = 46 tons
Weight Limit - Bridge over Unnamed Stream @ milepoint 8.06
TY I = 20 tons, TY II = 26 tons, TY III = 27 tons, TY IV = 46 tons
Weight Limit - Bridge over Unnamed Stream @ milepoint 8.26
TY I = 20 tons, TY II = 26 tons, TY III = 27 tons, TY IV = 46 tons

| | | | | |
|---|---|---|---|---|
| * | KY 262 | 0.0 | KY 630 | 0.3 Warrior Mine |
| * | KY 281 | 0.0 | US 41A | 0.7 Pennyrile Parkway |

Weight Limit - Bridge over L&N RR @ milepoint 0.25
TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 56 tons

| | | | | |
|---|---|---|---|---|
| * | KY 336 | 0.0 | US 41A | 2.3 McLeod RD |
| * | KY 454 | 0.0 | US 62 | 2.3 KY 112 |

Weight Limit - Bridge over Western KY PKWY @ milepoint 1.02
TY I = 20 tons, TY II = 36 tons, TY III = 37 tons, TY IV = 49 tons

| | | | | |
|---|---|---|---|---|
| [* | KY 630 | 0.0 | KY 262 | 2.0 US 41A] |
| * | KY 813 | 2.5 | Drakes Creek Road | 2.8 US 62 |
| | | 4.2 | Mine | 5.1 Private Haul Road |
| | | [2.6 | Farmer Crossing RD | 2.8 US 62 |
| | | 4.3 | Mine | 5.0 Private Haul RD] |
| | | 10.2 | Mortons Gap-WH CTY RD | 12.3 US 41A |
| * | KY 814 | 0.0 | KY 109 | 1.4 Webster CO LN |
| * | KY 1302 | 1.9 | Bean Cemetery RD | 2.7 Poole RD |
| [* | KY 1687 | 3.9 | Mine | 4.6 US 62] |
| * | KY 1751 | 0.0 | US 41A | 1.4 US 41 |

Weight Limit - Bridge over L&N RR @ milepoint 1.14
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 58 tons

| | | | | |
|---|---|---|---|---|
| * | KY 2083 | 0.9 | US 62 | 1.1 South Hopkins Tipple |
| * | KY 2086 | 0.0 | Walnut Grove RD | 1.2 KY 109 |
| * | McLeod Road | | | |
| | CR 5140 | 0.0 | KY 336 | 0.5 Mine |
| * | Mortons Gap-White City Road | | | |
| | CR 5153 | 0.0 | KY 813 | 2.4 [1.9] Mine |
| * | Farmers Crossing Road | | | |
| | CR 5161 | 0.0 | KY 813 | 3.0 Ogelsby RD |

Weight Limit - Bridge over Unnamed Tributary of Pond River
TY I = 20 tons, TY II = 36 tons, TY III = 46 tons, TY IV = 50 tons

| | | | | |
|---|---|---|---|---|
| * | Ogelsby Road | | | |
| | CR 5163 | 0.9 | Mine | 1.4 Farmer Crossing RD |
| * | Goat Lane | | | |
| | CR 5179 | 0.0 | US 62 | 0.4 Drakes Creek RD |
| * | Drakes Creek Road | | | |
| | CR 5180 | 1.4 | KY 813 | 1.5 Farmers Crossing RD |
| * | Wells Road | | | |
| | CR 5212 | 7.9 | Barnsley Loop RD | 8.7 Mine |
| * | Barnsley Loop Road | | | |
| | CR 5217 | 0.0 | US 41A | 1.5 Wells Road |
| * | Copper Creek Road | | | |
| | CR 5257 | 0.0 | KY 112 | 1.0 Clyde Lee RD |

Weight Limit - Bridge over Copper Creek
TY I = 20 tons, TY II = 36 tons, TY III = 46 tons, TY IV = 50 tons

| | | | | |
|---|---|---|---|---|
| * | Clyde Lee Road | | | |
| | CR 5258 | 0.0 | Copper Creek RD | 0.4 Mine |
| * | Leonard Jackson Road | | | |
| | CR 5262 | 0.0 | Dawson Daylight RD | 1.0 Private Haul RD |
| * | Walnut Grove Road | | | |
| | CR 5301 | 0.0 | Mine | 0.6 KY 2086 |
| * | Dawson Daylight Road | | | |
| | CR 5305 | 0.0 | KY 109 | 2.4 Leonard Jackson RD |
| * | Ferguson Town Spur | | | |
| | CR 5311 | 0.0 | Ferguson Town RD | 0.1 Roberts Bros Tipple |
| * | Ferguson Town Road | | | |
| | CR 5325 | 3.0 | Ferguson Town Spur | 3.2 KY 109 |
| * | Peter Howton Road | | | |
| | CR 5330 | 0.0 | KY 70 | 0.3 Mine |
| * | Poole Road | | | |
| | CR 5390 | 0.2 | KY 70 | 0.4 KY 1302 |
| * | Bean Cemetery Road | | | |
| | CR 5396 | 0.0 | KY 1302 | 0.4 Mine |

JACKSON COUNTY

| | ROAD | FROM | | TO |
|---|---|---|---|---|
| * | US 421 | 0.0 | Clay CO LN | 4.6 KY 30 (East) |
| | | [3.8 | KY 30 | 10.8 KY 587 |

Weight Limit - Bridge over Fork Lick Creek @ milepoint 6.26

TY I = 20 tons, TY II = 38 tons, TY III = 38 tons, TY IV = 60 tons
Weight Limit - Bridge over McCammon Creek @ milepoint 8.82
TY I = 20 tons, TY II = 38 tons, TY III = 38 tons, TY IV = 60 tons]
* KY 30 0.0 Laurel CO LN 12.5 US 421 (South)
Weight Limit - Bridge over Moores Creek @ milepoint 0.59
TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 49 tons
Weight Limit - Bridge over Pond Creek @ milepoint 2.64
TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 49 tons
12.5 US 421 (North) 20.9 Owsley CO LN
[* KY 587 0.0 US 421 5.5 Brushy Ridge RD]
* KY 2002 0.0 KY 30 4.3 Ruby Mine
* KY 2003 0.0 KY 2002 2.9 Ruby Mine
[* Brushy Ridge RD
CR 5041 0.0 KY 587 1.1 Mine
* Old Island City Road
CR 5165 0.0 Clay CO LN 1.1 Mine
* Mildred Road
CR 5184 0.0 US 421 1.6 Laurel Fork RD
Weight Limit - Bridge over Laurel Fork
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
* Laurel Fork Road
CR 5248 0.0 Mildred RD 0.3 Mine]

JEFFERSON COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 31W | 3.2 Kosmos Cement CO | 14.8 I-264 |
| * | KY 1934 | 6.8 I-264 | 7.0 Ralph Avenue |
| * | Ralph Avenue (Louisville) | 0.9 KY 1934 | 1.8 Dupont Plant |

JESSAMINE COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| [* | US 27 | 0.0 Garrard CO LN | 14.1 Fayette CO LN |
| | Weight Limit - Bridge over Town Fork @ milepoint 5.59 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons] | | |
| * | US 68 | 0.0 Mercer CO LN | 12.1 Fayette CO LN |

JOHNSON COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 23 | 0.0 Floyd CO LN | 18.4 Lawrence CO LN |
| | Weight Limit - Bridge over C&O RR & Levisa Fork @ milepoint 3.53 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 33 tons, TY IV = 38 tons | | |
| | Weight Limit - Bridge over Paint Creek @ milepoint 8.68 | | |
| | TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 55 tons | | |
| * | US 460 | 0.0 Magoffin CO LN | 8.3 US 23 |
| * | KY 3 | 0.1 KY 302 | 4.7 Martin CO LN |
| * | KY 40 | 0.0 Magoffin CO LN | 8.7 US 460 |
| | Weight Limit - Bridge over Little Paint Creek @ milepoint 0.53 | | |
| | TY I = 20 tons, TY II = 25 tons, TY III = 26 tons, TY IV = 43 tons | | |
| | Weight Limit - Bridge over Little Paint Creek @ milepoint 1.50 | | |
| | TY I = 20 tons, TY II = 23 tons, TY III = 27 tons, TY IV = 44 tons | | |
| | Weight Limit - Bridge over Road Fork Creek @ milepoint 4.60 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 41 tons | | |
| | Weight Limit - Bridge over Road Fork Creek @ milepoint 4.92 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 29 tons, TY IV = 41 tons | | |
| | Weight Limit - Bridge over Barnetts Creek @ milepoint 6.31 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 29 tons, TY IV = 41 tons | | |
| | Weight Limit - Bridge over Big Paint Creek @ milepoint 6.46 | | |
| | TY I = 20 tons, TY II = 20 tons, TY III = 23 tons, TY IV = 40 tons | | |
| | 8.7 US 23 | | 13.3 Deadfall Branch RD |
| * | KY 172 | 0.0 Morgan CO LN [2.5 Mine Access] | 12.4 KY 40 |
| | Weight Limit - Bridge over Upper Laurel Creek @ milepoint 1.65 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Mudlick Creek @ milepoint 11.91 | | |
| | TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 55 tons | | |
| * | KY 302 | 4.1 KY 2381 | 6.5 KY 3 |
| * | KY 469 | 3.0 KY 1614 | 6.2 Lawrence CO LN |
| [* | KY 993 | 0.0 KY 581 | 2.8 US 23] |
| * | KY 1559 | 2.8 Frank Vanhoose Road | 6.0 US 23 |
| | Weight Limit - Bridge over Tom's Creek @ milepoint 3.53 | | |
| | TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 58 tons | | |
| * | KY 1614 | 0.0 Morgan CO LN | 1.2 KY 469 |
| * | KY 2381 | 0.0 US 23 | 2.2 KY 302 |

| | | | |
|---|---|---|---|
| * | KY 3214 | 2.3 Briar Fork Road | 3.2 KY 172 |
| * | Frank Vanhoose Road | | |
| | CR 5061 | 0.0 KY 1559 | 0.4 Mine |
| * | Deadfall Branch Road | | |
| | CR 5139 | 0.0 KY 40 | 0.6 Mine Access Road |
| * | Briar Fork Road | | |
| | CR 5339 | 0.0 KY 3214 | 1.0 Morgan CO LN |

KNOTT COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | KY 7 | 0.0 Letcher CO LN | 16.0 Floyd CO LN |
| | Reduced Weight Limit - Bridge over Beaver Fork @ milepoint 6.10 | | |
| | TY I = 20 tons, TY II = 40 tons, TY III = 41 tons, TY IV = 60 tons | | |
| * | KY 15 | 0.0 Letcher CO LN | 9.4 Perry CO LN |
| | Reduced Weight Limit - Bridge over Carr Fork Reservoir @ milepoint 2.82 | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 49 tons, TY IV = 55 tons | | |
| | Reduced Weight Limit - Bridge over Carr Fork Lake @ milepoint 5.64 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 42 tons, TY IV = 60 tons | | |
| * | KY 80 | 0.0 Perry CO LN | 21.1 [20.1] Floyd CO LN |
| * | KY 160 | 0.0 KY 15 | 5.8 A K P Coal Mine |
| | | | [4.2 Runnells Branch RD] |
| | Reduced Weight Limit - Bridge over Carr Fork Lake @ milepoint 1.74 | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 56 tons | | |
| | | 8.2 KY 1393 | 12.5 KY 80 |
| * | KY 550 | 20.6 National Mines Mine | 26.6 Floyd CO LN |
| | Reduced Weight Limit - Bridge over Jones Fork @ milepoint 20.63 | | |
| | TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 51 tons | | |
| | Reduced Weight Limit - Bridge over Jones Fork @ milepoint 21.51 | | |
| | TY I = 20 tons, TY II = 27 tons, TY III = 30 tons, TY IV = 39 tons | | |
| | Reduced Weight Limit - Bridge over Jones Fork @ milepoint 25.30 | | |
| | TY I = 20 tons, TY II = 30 tons, TY III = 31 tons, TY IV = 44 tons | | |
| * | KY 899 | 0.0 KY 1393 | 4.9 Apollo Coal Mine |
| | | 7.7 National Mines Mine | 12.2 KY 7 |
| | Reduced Weight Limit - Bridge over Caney Creek @ milepoint 8.74 | | |
| | TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 44 tons | | |
| | Reduced Weight Limit - Bridge over Caney Creek @ milepoint 11.82 | | |
| | TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 60 tons | | |
| * | KY 1087 | 1.4 KY 3209 | 3.4 Mountain Clay Mine |
| | | 12.0 Sandlick Branch RD | 14.1 KY 80 |
| | | [19.9 Bruce Branch RD | 20.6 KY 550] |
| * | KY 1088 | 9.1 Old KY 15 [3.9 Youngs Fork RD] | 9.4 KY 15 |
| | Reduced Weight Limit - Bridge over Yellow Creek @ milepoint 9.12 | | |
| | TY I = 20 tons, TY II - 36 tons, TY III = 38 tons, TY IV = 60 tons | | |
| | Reduced Weight Limit - Bridge over Carr Creek @ milepoint 9.36 | | |
| | TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 56 tons | | |
| * | KY 1098 | 0.0 Breathitt CO LN | 12.0 KY 1087 |
| | Weight Limit - Bridge over Laurel Fork Quicksand Creek @ milepoint 6.94 | | |
| | TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons | | |
| * | KY 1231 | 0.0 KY 15 | 5.8 Atlas Mining Mine |
| | | | [1.2 Irishman Creek RD |
| | | 4.8 Mine | 5.8 Mine] |
| * | KY 1393 | 2.8 KY 899 | 4.9 KY 160 |
| * | KY 1410 | 0.0 KY 160 | 4.7 Letcher CO LN |
| | Reduced Weight Limit - Bridge over Carr Fork @ milepoint 0.01 | | |
| | TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 55 tons | | |
| [* | KY 1498 | 0.0 KY 7 | 1.5 Floyd CO LN] |
| * | KY 3209 | 0.0 KY 80 | 0.4 KY 1087 |
| | Reduced Weight Limit - Bridge over Ball Fork @ milepoint 0.05 | | |
| | TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons | | |
| * | Patten Branch of Beaver Creek Road | | |
| | CR 5009 | 0.0 KY 7 | 0.2 National Mines Mine |
| | | | [0.4 G.S. & M. Mine] |
| [* | Bruce Branch Road | | |
| | CR 5026 | 0.0 KY 1087 | 0.7 Patsy Jane Mine] |
| * | Big Springs Branch Road | | |
| | CR 5032 | 0.0 KY 550 | 0.9 National Mines Mine |
| | Reduced Weight Limit - Bridge over Jones Fork | | |
| | TY I = 19 tons, TY II = 20 tons, TY III = 23 tons, TY IV = 39 tons | | |
| * | Rock Fork (Bolyn) Road | | |
| | CR 5037 | 0.0 KY 80 | 0.8 Consolidation Mine |
| * | Bates Branch Road | | |
| | CR 5117 | 0.0 KY 7 | 1.4 Wheelwright Mine |
| * | Perkins Branch-Lick Branch Road | | |
| | CR 5145 | 0.0 KY 15 | 0.4 Southeast CoalMine |

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*  Runnells Branch Road
   CR 5156          0.0 KY 160                                    0.5 Left FK Runnells BR RD
*  Left Fork of Runnells Branch Road
   CR 5156A         0.0 Runnells Branch RD                        0.3 Golden Oak Mine
*  Irishman Creek Road
   CR 5203          0.0 KY 1231                                   2.5 R J F Coal Mine
[* Flaxpatch Branch Road
   CR 5208          0.0 KY 1231                                   0.6 Mine]
*  Defeated Creek Road
   CR 5212          0.0 KY 15                                     3.2 Meade & Shepherd Mine
[* Youngs Fork Road
   CR 5226          0.0 KY 1088                                   1.3 Mine]

KNOX COUNTY
    ROAD                      FROM                                                  TO
*  US 25E           0.0 Bell CO LN                               26.6 Laurel CO LN
   Weight Limit - Bridge over Cumberland River @ milepoint 0.85
   TY I = 20 tons, TY II = 33 tons, TY III = 33 tons, TY IV = 40 tons
   Weight Limit - Bridge over L&N RR @ milepoint 1.54
   TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 51 tons
   Weight Limit - Bridge over Stinking Creek @ milepoint 3.70
   TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons
   Weight Limit - Bridge over Turkey Creek @ milepoint 4.81
   TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 51 tons
*  KY 6             0.0 Whitley CO LN                            14.7 KY 11
   Weight Limit - Bridge over Lynn Camp Creek @ milepoint 0.23
   TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons
   Weight Limit - Bridge over Stewards Creek @ milepoint 0.83
   TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons
   Weight Limit - Bridge over Indian Creek @ milepoint 6.15
   TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons
   Weight Limit - Bridge over Tributary of Indian Creek @ milepoint 6.85
   TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons
   Weight Limit - Bridge over Indian Creek @ milepoint 8.37
   TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons
*  KY 11            0.0 Whitley CO LN                            10.1 US 25E
   Weight Limit - Bridge over Little Poplar Creek @ milepoint 2.17
   TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 51 tons
                   10.1 US 25E                                   22.7 Clay CO LN
   Weight Limit - Bridge over Little Richland Creek @ milepoint 13.00
   TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons
   Weight Limit - Bridge over Little Richland Creek @ milepoint 13.39
   TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons
   Weight Limit - Bridge over Little Richland Creek @ milepoint 13.57
   TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons
[* KY 223           0.0 US 25E                                    3.9 KY 718
   Weight Limit - Bridge over Roads Fork Stinking Creek @ milepoint 3.91
   TY I = 20 tons, TY II = 38 tons, TY III = 38 tons, TY IV = 60 tons]
*  KY 225           5.9 Kayjay Mine                              15.0 US 25E
*  KY 233           3.4 [4.6] Lynn Camp Branch RD                 6.2 US 25E
*  KY 459           2.6 Little Indian Creek RD                   11.7 KY 11
   Weight Limit - Bridge over Richland Creek @ milepoint 11.48
   TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 38 tons
[* KY 718           0.0 KY 223                                    9.2 Alex Creek RD]
*  KY 1418          0.8 Hubbs Hollow Road                         2.3 Clate-Perman RD
                   [0.0 Whitley CO LN                             0.6 Hubbs Hollow RD]
*  KY 1809          0.0 Whitley CO LN                             6.3 KY 11
*  KY 2421          0.0 KY 225                                    0.9 KY 11
[* Alex Creek Road
   CR 5031          0.0 KY 718                                    0.8 Mine
   Weight Limit - Bridge over Pigeon Fork
   TY I = 20 tons, TY II = 26 tons, TY III = 31 tons, TY IV = 51 tons]
*  Little Brush Creek Road
   CR 5166          0.0 KY 225                                    1.6 Lay Branch RD
   Weight Limit - Bridge over Brush Creek
   TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
*  Lay Branch Road
   CR 5169          0.0 Little Brush CK RD                        0.2 K & M Mines
*  Stoney Fork Road
   CR 5210          0.0 KY 1809                                   1.1 Roark Mine [1.8 Swanpond RD]
*  Hubbs Road
   CR 5214          0.0 KY 1809                                   1.5 Girdner #1 Mine
   Weight Limit - Bridge over Hubbs Creek east of Bryant's Store
   TY I = 20 tons, TY II = 24 tons, TY III = 28 tons, TY IV = 47 tons
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Weight Limit - Bridge over Hubbs Creek @ Bain Branch
TY I = 3 tons, TY II = 3 tons, TY III = 3 tons, TY IV = 3 tons
* Sugartree Road
CR 5216 0.0 Hubbs RD 0.5 Terco #1 Mine
Weight Limit - Bridge over Hubbs Creek
TY I = 4 tons, TY II = 4 tons, TY III = 4 tons, TY IV = 4 tons
* Flat Creek Road
CR 5243 0.0 KY 1418 2.6 Little Indian CR RD
* Hubbs Hollow Road
CR 5244 0.0 KY 1418 0.8 Brenda Mine
* Little Indian Creek Road
CR 5245 3.3 Flat Creek Road 3.6 KY 459
* Lewellen Road
CR 5259 0.0 Hubbs Road 0.5 Jarcoal Mine
* Old US 25E Loop #6 Road
CR 5304 0.6 Bailey Branch RD 1.0 US 25E
Weight Limit - Bridge [Branch] over Bailey Creek
TY I = 9 tons, TY II = 9 tons, TY III = 9 tons, TY IV = 9 tons
* Bailey Bridge [Branch] Road
CR 5305 0.0 Old US 25E Loop #6 RD 0.5 Bailey Switch Tipple
Weight Limit - Branch over Bailey Branch (Richland Creek)
TY I = 18 tons, TY II = 18 tons, TY III = 18 tons, TY IV = 18 tons
* Middle Fork Richland Creek Road
CR 5311 0.9 Higgins Road 1.2 H & P Mine
[0.8 Harris RD 0.9 Higgins RD]
* Higgins Road
CR 5323 0.0 US 25E 0.8 Richland Creek RD
[* Harris Road
CR 5327 0.7 Mine 0.2 Richland Creek RD
* Lynn Camp Branch Road
CR 5369 0.0 KY 233 1.0 Mine]

LAUREL COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | Daniel Boone Parkway | 0.0 US 25 & KY 80 | 10.6 Clay CO LN |
| | Weight Limit - Bridge over L&N RR @ milepoint 0.85<br>TY I = 20 tons, TY II = 45 tons, TY III = 48 tons, TY IV = 55 tons | | |
| | Weight Limit - Bridge over Little Laurel River @ milepoint 3.40<br>TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Sallys Branch Rd. @ milepoint 4.18<br>TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over KY 1305 @ milepoint 6.42<br>TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 48 tons | | |
| | Weight Limit - Bridge over Lick Creek Road @ milepoint 7.64<br>TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 48 tons | | |
| | Weight Limit - Bridge over KY 488 @ milepoint 8.57<br>TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 60 tons | | |
| * | US 25 | 0.0 US 25E & US 25W | 16.3 KY 490 |
| | Weight Limit - Bridge over Robinson Creek @ milepoint 3.28<br>TY I = 20 tons, TY II = 36 tons, TY III = 37 tons, TY IV = 49 tons | | |
| | Weight Limit - Bridge over Laurel River at Lily @ milepoint 4.14<br>TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over L&N RR @ milepoint 7.19<br>TY I = 20 tons, TY II = 36 tons, TY III = 37 tons, TY IV = 48 tons | | |
| | Weight Limit - Bridge over Little Laurel River @ milepoint 8.44<br>TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 60 tons | | |
| * | US 25E | 0.0 Knox CO LN | 2.0 I-75 |
| * | US 25W | 0.0 Whitley CO LN | 1.0 US 25 & US 25E |
| * | KY 30 | 1.2 [1.4] KY 490 | 9.8 Jackson CO LN |
| | Weight Limit - Bridge over Rockcastle River @ milepoint 9.08<br>TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 59 tons | | |
| * | KY 80 | 0.0 Pulaski CO LN | 11.1 US 25 & D Boone PKWY |
| | Weight Limit - Bridge over I-75 @ milepoint 10.59<br>TY I = 20 tons, TY II = 34 tons, TY III = 36 [37] tons, TY IV = 43 tons | | |
| | | 11.1 US 25 | 13.3 [11.8] KY 638 |
| * | KY 192 | 0.0 Pulaski CO LN [18.2 I-75] | 22.0 D Boone PKWY |
| | Weight Limit - Bridge over I-75 @ milepoint 18.24<br>TY I = 20 tons, TY II = 32 tons, TY III = 34 tons, TY IV = 42 tons | | |
| * | KY 490 | 0.0 US 25 | 0.9 KY 30 |
| | Weight Limit - Bridge over L&N RR @ milepoint 0.10<br>TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 44 tons | | |
| | | [0.9 KY 30 | 5.7 Victory-Greenmount RD |
| * | KY 1006 | 0.3 J & B Tipple | 0.5 US 25] |

* Railroad Street (London)
CR 5091N 0.0 KY 80 (4th Street) 0.5 Balmont Tipple
[* Carmichael Road
CR 5475 0.0 KY 80 4.1 Mine]

LAWRENCE COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 23 | 0.0 Johnson CO LN | 30.2 Boyd CO LN |
| * | KY 1 | 0.0 KY 3 | 3.6 KY 828 |
| * | KY 3 | 0.0 Martin CO LN | 15.5 US 23 |

Weight limit - Bridge over Levisa & Tug Forks @ milepoint 14.87
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
15.5 US 23 24.7 KY 1
Weight Limit - Bridge over Two Mile Branch @ milepoint 15.52
TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons

| | | | |
|---|---|---|---|
| * | KY 3S | 0.0 KY 3 | 0.1 West Virginia State LN |
| * | KY 32 | 5.9 KY 469 | 28.9 US 23 |

Weight Limit - Bridge over Cains Creek @ milepoint 9.53
TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons
Weight Limit - Bridge over Blaine Creek @ milepoint 10.10
TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 54 tons
Weight Limit - Bridge over Hood Creek @ milepoint 10.85
TY I = 20 tons, TY II = 36 tons, TY III = 37 tons, TY IV = 60 tons
Weight Limit - Bridge over Brushy Creek @ milepoint 16.05
TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 54 tons
Weight Limit - Bridge over Rich Creek @ milepoint, 18.39
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 59 tons
Weight Limit - Bridge over Blaine Creek @ milepoint 22.55
TY I = 20 tons, TY II = 35 [38] tons, TY III = 37 [38] tons, TY IV = 60 tons
Weight Limit - Bridge over Russey Branch @ milepoint 23.46
TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons

| | | | |
|---|---|---|---|
| * | KY 469 | 0.0 Johnson CO LN | 2.0 KY 32 |

Weight Limit - Bridge over Left Fork of Blaine Creek @ milepoint 0.01
TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 60 tons

| | | | |
|---|---|---|---|
| * | KY 645 | 0.0 US 23 | 5.2 Martin CO LN |
| | | [0.0 Martin CO LN | 5.2 US 23] |
| * | KY 1760 | 0.0 US 23 | 2.8 Georges Creek RD |
| * | Fallsburg-Fullers Road | | |
| | CR 5022 | 0.0 US 23 | 0.1 Belfry #5 Tipple |
| * | Donithon Branch Road | | |
| | CR 5118 | 0.0 KY 3 | 1.6 Lockworth Mine |
| [* | Yellow Creek-Tug Fork Road | | |
| | CR 5122 | 0.0 KY 3 | 0.8 Mine |
| * | Laurel Creek Road | | |
| | CR 5124 | 0.0 KY 3 | 1.7 Lockworth Mine |

Weight Limit - Bridge over Laurel Creek
TY I = 6 tons, TY II = 6 tons, TY III = 6 tons, TY IV = 6 tons]

| | | | |
|---|---|---|---|
| * | Georges Creek Road | | |
| | CR 5156 | 0.0 KY 1760 | 1.5 Left FK Brushy CR RD [Tebco #22 Mine] |
| * | Left Fork Brushy Creek Road | | |
| | CR 5203 | 0.0 Georges Creek Road | 0.8 Mine |

LEE COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | KY 11 | 0.0 Owsley CO LN | 4.3 KY 52 (West) |

Weight Limit - Bridge over South Fork Kentucky River @ milepoint 3.19
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over North Fork Kentucky River @ milepoint 4.17
TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 51 tons

| | | | |
|---|---|---|---|
| * | KY 52 | 0.0 Estill CO LN | 12.9 KY 11 (North) |

LESLIE COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | Daniel Boone Parkway | 35.9 Clay CO LN | 51.0 Perry CO LN |
| * | US 421 | 0.0 Harlan CO LN | 35.4 Clay CO LN [22.6 KY 118] |

Weight Limit - Bridge over Middle Fork Kentucky River @ milepoint 11.55
TY I = 20 tons, TY II = 35 [28] tons, TY III = 36 [37] tons, TY IV = 46 tons
Weight Limit - Bridge over Rockhouse Creek @ milepoint 23.02
TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 51 tons

| | | | |
|---|---|---|---|
| * | KY 66 | 0.0 Clay CO LN | 2.8 Clay CO LN |

Weight Limit - Bridge over Red Bird River @ milepoint 2.71
TY I = 20 tons, TY II = 28 [33] tons, TY III = 34 [33] tons, TY IV = 44 tons

| | | | |
|---|---|---|---|
| * KY 80 | 0.0 US 421 | | 9.7 Perry CO LN |
| Weight Limit - Bridge over Cutshin Creek @ milepoint 5.15 | | | |
| TY I = 20 tons, TY II = 27 tons, TY III = 28 tons, TY IV = 43 tons | | | |
| Weight Limit - Bridge over Wooton Creek @ milepoint 6.12 | | | |
| TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 46 tons | | | |
| Weight Limit - Bridge over MacIntosh Creek @ milepoint 8.84 | | | |
| TY I = 20 tons, TY II = 25 tons, TY III = 26 tons, TY IV = 42 tons | | | |
| * KY 118 | 0.0 US 421 | | 3.5 D Boone PKWY |
| * KY 221 | 0.0 Perry CO LN | | 1.9 KY 699 |
| [* KY 257 | 0.0 US 421 | | 2.4 Asher Branch RD] |
| * KY 699 | 0.0 KY 80 | | 10.0 Long BR [16.0 Perry CO LN] |
| Weight Limit - Bridge over Cutshin Creek @ milepoint 1.96 | | | |
| TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 43 tons | | | |
| Weight Limit - Bridge over Maggard Creek @ milepoint 8.14 | | | |
| TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons | | | |
| | 15.2 Mine | | 16.0 Perry CO LN |
| * KY 1807 | 0.0 KY 80 | | 3.6 End State MAINT |
| * KY 2008 | 0.0 KY 2009 | | 1.5 End ST MAINT |
| | | | [0.6 White Oak RD] |
| | 1.5 Begin State MAINT | | 3.8 Harlan CO LN |
| * KY 2009 | 0.0 Harlan CO LN | | 5.4 Bledsoe Tipple |
| Weight Limit - Bridge over Greasy Creek @ milepoint 3.58 | | | |
| TY I = 8 tons, TY II = 8 tons, TY III = 8 tons, TY IV = 8 tons | | | |
| * KY 2057 | 0.0 KY 699 | | 3.1 Bear BR RD [0.9 Mine] |
| * KY 2431 | 0.0 US 421 | | 0.1 High School |
| Weight Limit - Bridge over Middle Fork Kentucky River @ milepoint 0.01 | | | |
| TY I = 20 tons, TY II = 26 tons, TY III = 28 tons, TY IV = 32 tons | | | |
| [* KY 6272 | 0.0 Mine | | 0.5 KY 6274 |
| * KY 6273 | 1.0 KY 6275 | | 1.2 KY 118 |
| * KY 6274 | 0.0 KY 6272 | | 0.3 KY 6275 |
| * KY 6275 | 0.0 KY 6274 | | 0.3 KY 6273] |
| * Wendover Road | | | |
| CR 5001 | 0.0 KY 2431 | | 1.6 Hurricane Creek RD |
| * Hurricane Creek Road | | | |
| CR 5002 | 2.2 [0.7] Big BR H'Cane CR RD | | 3.3 Wendover RD |
| * Camp Creeks [Long] Fork Road | | | |
| CR 5005 | 0.0 Hurricane Creek RD | | 1.6 Left FK [0.7 Mine Access] |
| [* Big Branch Hurricane Creek Road | | | |
| CR 5006 | 0.0 Hurricane Creek RD | | 1.6 Leeco Prep Plant |
| Weight Limit - Bridge over Raccoon Creek | | | |
| TY I = 4 tons, TY II = 4 tons, TY III = 4 tons, TY IV = 4 tons] | | | |
| * Bear Branch Road | | | |
| CR 5018 | 0.0 KY 2057 | | 1.4 Mine & Perry CO LN |
| * Bailey Branch Road | | | |
| CR 5027 | 0.0 KY 1807 | | 0.6 Mine |
| * Long Branch Road | | | |
| CR 5118 | 0.0 KY 699 | | 0.2 Mine |
| * Lewis Creek-Napier Road | | | |
| CR 5132 | 0.0 KY 2008 | | 4.7 KY 2008 [2.0 Mine] |
| * Abner Branch Road | | | |
| CR 5133 | 0.0 Harlan CO LN | | 1.3 Lewis Creek-Napier RD |
| * White Oak Road | | | |
| CR 5135 | 0.0 KY 2008 | | 0.8 Mine |
| [* Lewis Creek Road | | | |
| CR 5137 | 0.0 KY 2009 | | 1.7 Mine] |
| * Spruce Pine Creek Road | | | |
| CR 5219 | 2.3 Mine | | 6.6 Rocky Hollow BR RD |
| * Rocky Hollow Branch Road | | | |
| CR 5220 | 0.0 US 421 | | 0.2 Spruce Pine Creek RD |
| Weight Limit - Bridge over Beech Fork | | | |
| TY I = 5 tons, TY II = 5 tons, TY III = 5 tons, TY IV = 5 tons | | | |
| * Phillips Fork Road | | | |
| CR 5225 | 5.0 Mine RD | | 5.2 Mine RD |

LETCHER COUNTY

| ROAD | FROM | TO |
|---|---|---|
| * US 23 | 0.0 Virginia State LN | 7.1 Pike CO LN |
| Weight Limit - Bridge over Elkhorn Creek @ milepoint 5.83 | | |
| TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons | | |
| * US 119 | 0.0 Harlan CO LN | 9.4 KY 806 |
| | 20.7 KY 1862 | 27.7 US 23 [10.3 KY 932 |
| | 17.6 KY 15 | 27.7 US 23 |
| Weight Limit - Bridge over North Fork Ky. River, L&N RR @ milepoint 17.7 | | |
| TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 55 tons] | | |

* KY 7 0.0 Perry CO LN [0.3 KY 1103] 27.6 Knott CO LN
Weight Limit - Bridge over Line Fork @ milepoint 0.17
TY I = 20 tons, TY II = 25 tons, TY III = 29 tons, TY IV = 34 tons
Weight Limit - Bridge over North Fork Kentucky River @ milepoint 2.61
TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 48 tons
Weight Limit - Bridge over Elk Creek @ milepoint 5.28
TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons
Weight Limit - Bridge over Gaudill Branch @ milepoint 8.04
TY I = 20 tons, TY II = 41 tons, TY III = 44 tons, TY IV = 60 tons
Weight Limit - Bridge over Rockhouse Creek @ milepoint 22.31
TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 60 tons
Weight Limit - Bridge over Rockhouse Creek @ milepoint 24.78
TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 48 tons
* KY 15 5.2 Loggy Hollow RD 9.3 KY 7
[0.0 US 119 9.2 KY 7]
Weight Limit - Bridge over North Fork Kentucky River @ milepoint 0.10
TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 45 tons
Weight Limit - Bridge over North Fork Kentucky River @ milepoint 0.41
TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 54 tons
Weight Limit - Bridge over North Fork Kentucky River @ milepoint 0.70
TY I = 20 tons, TY II = 45 tons, TY III = 48 tons, TY IV = 57 tons
Weight Limit - Bridge over Business Ramp @ milepoint 1.33
TY I = 20 tons, TY II = 42 tons, TY III = 47 tons, TY IV = 60 tons
Weight Limit - Bridge over North Fork Kentucky River @ milepoint 1.48
TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 40 tons
Weight Limit - Bridge over North Fork Kentucky River @ milepoint 1.67
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons]
9.3 [9.2] KY 7 10.7 Knott CO LN
* KY 113 0.0 KY 805 4.5 Millstone-Dem RD [End ST MT]
Weight Limit - Bridge over North Fork Kentucky River @ milepoint 0.53
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons
Weight Limit - Bridge over North Fork Kentucky River @ milepoint 1.49
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons
Weight Limit - Bridge over Left Fork Milestone Creek @ milepoint 1.80
TY I = 20 tons, TY II = 36 tons, TY III = 37 tons, TY IV = 58 tons
Weight Limit - Bridge over Milestone Creek @ milepoint 2.48
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons
* KY 160 [0.0 Harlan CO LN 1.9 KY 463
Weight Limit - Bridge over Line Fork @ milepoint 1.83
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons]
13.4 Lucky Branch RD 21.8 KY 15
Weight Limit - Bridge over Kings Creek @ milepoint 14.73
TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 51 tons
* KY 317 0.0 KY 805 8.9 KY 7
* KY 343 0.0 KY 317 1.5 #2 Hollow Road
Weight Limit - Bridge over Yount's Fork Creek @ milepoint 0.08
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons
Weight Limit - Bridge over Wright's Fork @ milepoint 0.46
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons
Weight Limit - Bridge over Wright's Fork @ milepoint 0.65
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons
[* KY 463 0.0 KY 160 3.3 Perry CO LN]
* KY 588 3.7 Tolson Loading 5.0 KY 160
5.0 KY 160 6.2 Kingdom Come Creek RD
* KY 805 0.0 US 119 9.2 US 23
Weight Limit - Bridge over Potters Fork @ milepoint 6.98
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 51 tons
Weight Limit - Bridge over Potters Fork @ milepoint 8.18
TY I = 20 tons, TY II = 37 [39] tons, TY III = 38 [39] tons, TY IV = 60 tons
Weight Limit - Bridge over Potters Fork @ milepoint 8.92
TY I = 20 tons, TY II = 36 tons, TY III = 39 tons, TY IV = 60 tons
Weight Limit - Bridge in Haymond @ milepoint 9.24
TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 31 tons
* KY 931 [11.5 Mine 13.5 Mine
15.2 KY 1148 18.4 KY 7]
16.6 KY 1862 18.4 KY 7
[* KY 932 0.0 US 119 2.4 Meadow Branch RD]
* KY 1103 3.3 Defeated Creek 8.2 Tolby Branch RD
[11.8 Mine 14.3 KY 7
* KY 1148 0.0 KY 15 4.1 KY 931]
* KY 1410 0.0 Knott CO LN 1.6 KY 7
* KY 1862 0.3 Mayking-Cram CR RD 0.4 US 119
Weight Limit - Bridge over North Fork Kentucky River @ milepoint 0.31
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons

| | | | |
|---|---|---|---|
| * | Millstone-Democrat Road | | |
| | CR 5020 | 1.7 Beth Energy Mine | 2.7 KY 113 |
| * | Beaverdam Branch Road | | |
| | CR 5047 | 0.0 KY 7 | 2.0 A & E Coal Mine |
| [* | Loves Branch Road | | |
| | CR 5048 | 0.0 KY 7 | 1.5 Mine] |
| * | Bottom Fork Road | | |
| | CR 5068L | 0.2 Tammy Ann Mine | 0.7 #2 Hollow Road |
| * | #2 Hollow Road | | |
| | CR 5068M | 0.0 Bottom Fork Road | 0.6 KY 343 |
| * | Mayking-Cram Creek Road | | |
| | CR 5153 | 0.0 KY 1862 | 1.5 Cram Creek RD |
| * | Cram Creek Road | | |
| | CR 5169 | 0.9 Wampler Bros Mine | 1.4 Mayking-Cram CR RD |
| | | [0.0 Mayking-Cram CR RD | 0.5 Mine |
| * | Meadow Branch Road | | |
| | CR 5187 | 0.0 KY 932 | 2.1 Mine] |
| * | Kingdom Come Creek Road | | |
| | CR 5229 | 0.0 Ky 588 | 1.2 Lake Coal Mine |
| | Weight Limit - Bridge over Cowan Creek | | |
| | TY I = 20 tons, TY II = 30 tons, TY III = 34 tons, TY IV = 53 tons | | |
| | Weight Limit - Bridge over Kingdom Come Creek | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons | | |
| * | Big Branch-Tolson Branch Road | | |
| | CR 5258 | 0.0 KY 588 | 4.5 Lake Coal Mine |
| * | Whitaker Branch Road | | |
| | CR 5259 | 0.0 KY 1103 | 2.5 Big BR-Tolson BR RD |
| * | Defeated Creek Road | | |
| | CR 5265 | 5.1 Southeast Mine | 5.6 KY 1103 |
| | Weight Limit - Bridge over Line Fork Creek | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons | | |
| * | Lucky Branch Road | | |
| | CR 5272 | 0.0 KY 160 | 0.4 Lake Coal Mine |
| * | Johnson Branch Road | | |
| | CR 5309 | 0.0 KY 160 | 0.3 Whitaker Mine |
| * | Bee Tree Branch Road | | |
| | CR 5311 | 0.0 KY 160 | 1.0 Lake Coal Mine |
| * | Hollybush Branch Road | | |
| | CR 5312 | 0.0 KY 160 | 0.4 Golden Oak Mine |
| * | Loggy Hollow Road | | |
| | CR 5314 | 0.0 KY 15 | 1.1 Katco Mining Mine |
| * | Hicks Branch Road | | |
| | CR 5338 | 0.0 KY 7 | 0.1 Isom #2 Tipple |
| | Weight Limit - Bridge over Rockhouse Creek | | |
| | TY I = 9 tons, TY II = 9 tons, TY III = 9 tons, TY IV = 9 tons | | |
| * | Caudill Creek Road | | |
| | CR 5354 | 0.0 KY 7 | 2.3 Golden Oak Mine |
| * | Lowgap Branch/Elk Creek Road | | |
| | CR 5361 | 0.0 KY 7 | 1.2 Elk Creek RD |
| | Weight Limit - Bridge over Elk Creek | | |
| | TY I = 20 tons, TY II = 36 tons, TY III = 42 tons, TY IV = 60 tons | | |
| * | Elk Creek Road | | |
| | CR 5362 | 0.0 Lowgap BR/Elk CK RD | 0.5 Golden Oak Mine |
| * | Bull Creek-Meadow Fork Road | | |
| | CR 5367 | 3.3 Golden Oak Mine | 5.0 Perry CO LN |

LINCOLN COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 27 | 17.2 US 150 | 18.0 US 150 Bypass |
| * | US 150 | 0.0 Boyle CO LN | 4.3 US 150 Bypass |
| | Weight Limit - Bridge over Hanging Fork Creek @ milepoint 1.81 | | |
| | TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 58 tons | | |
| | | 6.4 US 27 | 19.7 Rockcastle CO LN |
| | Weight Limit - Bridge over Logans Creek @ milepoint 7.04 | | |
| | TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over L&N RR @ milepoint 18.62 | | |
| | TY I = 20 tons, TY II = 36 tons, TY III = 39 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Turkey Creek @ milepoint 19.35 | | |
| | TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons | | |
| * | US 150B | 0.0 US 150 | 1.1 US 27 |

LIVINGSTON COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 60 | 0.0 McCracken CO LN | 29.1 Crittenden CO LN |
| | Weight Limit - Bridge over Cumberland River @ milepoint 12.37 | | |
| | TY I = 20 tons, TY II = 24 tons, TY III = 26 tons, TY IV = 37 tons | | |
| | Weight Limit - Bridge over Dyers Creek @ milepoint 16.66 | | |
| | TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Mitchell Branch @ milepoint 21.31 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons | | |
| | Weight Limit - Bridge over Sandy Creek @ milepoint 25.98 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons | | |
| | Weight Limit - Bridge over Dry Creek @ milepoint 29.06 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 40 tons | | |
| * | US 62 | 1.2 KY 453 | 2.9 Lyon CO LN |
| | Weight Limit - Bridge over Cumberland River @ milepoint 2.78 | | |
| | TY I = 20 tons, TY II = 26 tons, TY III = 29 tons, TY IV = 38 tons | | |
| * | KY 453 | 0.5 B R T Dock | 2.8 US 62 |
| | Weight Limit - Bridge over IC RR @ milepoint 1.92 | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons | | |

LYON COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | Western Kentucky Parkway | | |
| | | 3.7 US 62 | 5.6 Caldwell CO LN |
| * | US 62 | 0.0 Livingston CO LN | 12.2 Western Kentucky Parkway |

McCRACKEN COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 60 | 19.5 US 62 | 20.0 Livingston CO LN |
| | Weight Limit - Bridge over US 68 @ milepoint 19.64 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons | | |
| | Weight Limit - Bridge over Tennessee River @ milepoint 19.86 | | |
| | TY I = 20 tons, TY II = 21 tons, TY III = 22 tons, TY IV = 30 tons | | |
| * | US 62 | 1.2 KY 453 | 2.9 Lyon CO LN |
| | Weight Limit - Bridge over IC RR @ milepoint 12.98 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over IC RR @ milepoint 13.06 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons | | |
| * | US 68 | 0.0 US 62 | 1.0 I-24 |
| | Weight Limit - Bridge over I-24 @ milepoint 1.01 | | |
| | TY I = 20 tons, TY II = 40 tons, TY III = 41 tons, TY IV = 54 tons | | |

McCREARY COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 27 | 4.6 KY 90 | 22.7 Pulaski CO LN |
| * | KY 90 | 0.0 US 27 | 4.9 Eagle Creek RD |
| * | KY 92 | 17.3 Railroad DR | 28.4 Whitley CO LN |
| | Weight Limit - Bridge over Marsh Creek @ milepoint 25.42 | | |
| | TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 59 tons | | |
| * | KY 1673 | 0.6 [0.0] Whitley CO LN | 2.2 Corley Ridge RD [0.6 Whitley CO LN] |
| * | KY 90 - Sawyer Road (Eagle Creek Road) | | |
| | CR 5023 | 0.0 KY 90 | 1.4 Big Swag Ridge RD |
| * | Big Swag Ridge Road | | |
| | CR 5055 | 0.0 Eagle Creek RD | 1.3 Shamrock #9 Mine |
| * | Corley Ridge Road | | |
| | CR 5108 | 0.0 KY 1673 | 0.4 Whitley CO LN |
| * | Railroad Drive | | |
| | CR 5203 | 0.0 KY 92 | 0.3 Revelo Prep Plant |

McLEAN COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| [* | US 431 | 0.0 Muhlenberg CO LN | 9.3 Barrett Hill RD |
| | Weight Limit - Bridge over Drain to Cypress Creek @ milepoint 0.80 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Unnamed Stream to Green River @ milepoint 4.63 | | |
| | TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Green River & Rough River @ milepoint 5.10 | | |
| | TY I = 20 tons, TY II = 34 tons, TY III = 33 tons, TY IV = 46 tons | | |
| | Weight Limit - Bridge over Buck Creek @ milepoint 9.13 | | |
| | TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons] | | |
| * | KY 81 | [0.0 Muhlenberg CO LN | 6.2 Mine |
| | Weight Limit - Bridge over Unnamed Stream @ milepoint 0.08 | | |
| | TY I = 20 tons, TY II = 23 tons, TY III = 26 tons, TY IV = 43 tons | | |

Weight Limit - Bridge over Unnamed Stream @ milepoint 5.26
TY I = 20 tons, TY II = 24 tons, TY III = 28 tons, TY IV = 47 tons
Weight Limit - Bridge over Slough @ milepoint 5.74
TY I = 20 tons, TY II = 23 tons, TY III = 26 tons, TY IV = 43 tons]

| | | | | |
|---|---|---|---|---|
| | | 11.9 KY 256 | 18.3 | Daviess CO LN |
| * | KY 136 | 11.1 KY 1792 | 12.9 | KY 81 |

Weight Limit - Bridge over Long Falls Creek @ milepoint 11.26
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 56 tons

| | | | | |
|---|---|---|---|---|
| * | KY 140 | 0.0 KY 256 | 0.1 | KY 1792 |
| * | KY 256 | 5.6 Mine | 10.4 | KY 81 |

Weight Limit - Bridge over Porters Ditch @ milepoint 6.72
TY I = 17 tons, TY II = 17 tons, TY III = 20 tons, TY IV = 22 tons
Weight Limit - Bridge over Branch of Porters Ditch @ milepoint 7.34
TY I = 11 tons, TY II = 11 tons, TY III = 11 tons, TY IV = 11 tons
Weight Limit - Bridge over Long Falls Creek @ milepoint 9.86
TY I = 20 tons, TY II = 24 tons, TY III = 25 tons, TY IV = 31 tons

| | | | | |
|---|---|---|---|---|
| * | KY 1792 | 0.0 KY 140 | 2.6 | KY 136 |

Weight Limit - Bridge over Porters Drainage Ditch @ milepoint 0.92
TY I = 20 tons, TY II = 28 tons, TY III = 30 tons, TY IV = 48 tons

| | | | | |
|---|---|---|---|---|
| [* | Barrett Hill Road | | | |
| | CR 5014 | 0.0 US 431 | 2.4 | Brierfield Schoolhouse RD |

Weight Limit - Bridge over Buck Creek
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons

| | | | | |
|---|---|---|---|---|
| * | Brierfield Schoolhouse Road | | | |
| | CR 5015 | 0.0 Barrett Hill RD | 0.7 | Mine] |

MADISON COUNTY

| | ROAD | FROM | TO | |
|---|---|---|---|---|
| [* | US 25 | 0.0 Rockcastle CO LN | 3.8 | KY 21 |

Weight Limit - Bridge over L & N Railroad @ milepoint 3.20
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

| | | | | |
|---|---|---|---|---|
| * | KY 21 | 8.6 I-75 | 9.1 | US 25 |

Weight Limit - Bridge over I-75 @ milepoint 8.62
TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 52 tons]

| | | | | |
|---|---|---|---|---|
| * | KY 52 | 13.0 KY 876 | 22.9 | Estill CO LN |
| * | KY 876 | 7.2 I-75 [8.6 Kit Carson DR] | 10.8 | KY 52 |

MAGOFFIN COUNTY

| | ROAD | FROM | TO | |
|---|---|---|---|---|
| * | Mountain PKWY | 71.7 KY 30 [63.1 Morgan CO LN] | 75.6 | US 460 |

Weight Limit - Bridge over Licking River @ milepoint 74.51
TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 50 tons

| | | | | |
|---|---|---|---|---|
| * | US 460 | 12.5 Mountain PKWAY [0.0 Morgan CO LN] | 20.4 | Johnson CO LN |

[Weight Limit - Bridge over Licking River @ milepoint 1.75
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 42 tons
Weight Limit - Bridge over State Road on Fork Creek @ milepoint 11.35
TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 44 tons]

| | | | | |
|---|---|---|---|---|
| * | KY 7 | 4.8 Brushy Creek RD | 23.9 | Mountain Parkway |

Weight Limit - Bridge over Licking River @ milepoint 5.79
TY I = 20 tons, TY II = 33 tons, TY III = 35 tons, TY IV = 57 tons

| | | | | |
|---|---|---|---|---|
| * | KY 30 | 3.3 KY 1397 [0.0 Breathitt CO LN] | 8.9 | Mountain Parkway |

Weight Limit - Bridge over Middle Fork @ milepoint 7.55
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons

| | | | | |
|---|---|---|---|---|
| * | KY 40 | 4.6 KY 1081 | 6.9 | Johnson CO LN |

Weight Limit - Bridge over Little Paint Creek @ milepoint 6.48
TY I = 20 [18] tons, TY II = 22 [19] tons, TY III = 23 [22] tons, TY IV = 39 tons

| | | | | |
|---|---|---|---|---|
| * | KY 364 | 0.0 KY 1081 | 1.3 | Mine |
| * | KY 404 | 0.0 KY 7 | 2.7 | Floyd CO LN |
| * | KY 542 | 0.0 Breathitt CO LN | 5.8 | KY 7 |
| * | KY 867 | 4.7 KY 1635 | 5.7 | KY 7 |
| | | 5.7 KY 7 | 7.4 | Hickory Tipple |
| * | KY 1081 | 8.3 KY 364 | 16.9 | KY 40 |
| [* | KY 1090 | 0.0 KY 30 | 1.5 | Mine |

Weight Limit - Bridge over Middle Fork Creek @ milepoint 0.01
TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 52 tons]

| | | | | |
|---|---|---|---|---|
| * | KY 1397 | 2.5 Crane Nest Branch RD | 3.0 | KY 30 |
| * | KY 1471 | 0.0 Big Half Mountain RD | 4.3 | KY 7 |

Weight Limit - Bridge over Licking River @ milepoint 3.96
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

| | | | | |
|---|---|---|---|---|
| * | KY 1502 | 2.7 Jake Wireman RD [1.3 Mine] | 3.3 | KY 542 |
| * | KY 1635 | 0.0 Tiptop-Bettsmann RD | 5.7 | KY 867 |
| * | KY 1734 | 0.0 KY 7 | 1.3 | Salt Lick RD |
| * | Salt Lick Road | | | |
| | CR 5126 | 0.0 KY 1734 | 0.3 | Mine |

* Brushy Fork Road
CR 5132 0.0 KY 7 1.0 Mine
* Jake Wireman Road
CR 5144 0.0 KY 1502 1.0 Mines
* Beetree Branch Road
CR 5145 0.0 KY 7 0.7 Mine
* Big Half Mountain Road
CR 5148 0.0 Mine 0.5 KY 1471
Weight Limit - Bridge over Big Half Mountain Creek
TY I = 5 tons, TY II = 5 tons, TY III = 5 tons, TY IV = 5 tons
* Wright Oakley Creek Road
CR 5221 0.0 KY 1635 0.3 Mine
Weight Limit - Bridge over Oakley Creek
TY I = 6 tons, TY II = 6 tons, TY III = 6 tons, TY IV = 6 tons
* Tiptop-Bettsmann Branch Road
CR 5225B 0.0 Breathitt CO LN 0.7 KY 1635
* Crane Nest Branch Road
CR 5229 0.0 KY 1397 0.3 Mine

MARTIN COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | KY 3 | 0.0 Johnson CO LN | 13.3 KY 40 |
| | Weight Limit - Branch Coldwater Fork Rockcastle Creek @ milepoint 13.09 | | |
| | TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 52 tons | | |
| | | 22.9 KY 292 [21.8 Laurel Creek RD] | 23.2 Lawrence CO LN |
| * | KY 40 | 5.3 KY 1224 [3] | 10.2 KY 3 |
| | Weight Limit - Bridge over Rockcastle Fork @ milepoint 6.95 | | |
| | TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 53 tons | | |
| | Weight Limit - Bridge over Rockcastle Creek @ milepoint 10.14 | | |
| | TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons | | |
| | | 10.2 KY 3 | 20.2 KY 292 |
| * | KY 292 | 0.0 Pike CO LN | 13.2 KY 40 |
| | Weight Limit - Bridge over Wolfe Creek @ milepoint 11.99 | | |
| | TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 43 tons | | |
| | | 27.8 Mine | 28.9 KY 3 |
| * | KY 645 | 0.0 Lawrence CO LN [KY 40] | 4.7 KY 40 [Lawrence CO LN] |
| [* | KY 908 | 1.7 Mine | 6.7 KY 40] |
| * | KY 1224 | 0.5 Mine | 4.4 KY 40 |
| | Weight Limit - Bridge over Rockcastle Fork @ milepoint 4.32 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 55 tons | | |
| * | KY 1439 | 0.0 Meathouse Road | 6.4 KY 1714 |
| | Weight Limit - Bridge over Wolfe Creek @ milepoint 1.83 | | |
| | TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 45 tons | | |
| * | KY 1714 | 3.6 KY 1439 [1.7 Mine] | 9.2 KY 292 |
| * | KY 2032 | 0.0 KY 1439 | 4.0 KY 40 |
| [* | Big Branch Road | | |
| | CR 5102 | 0.0 KY 1714 | 0.7 Mine] |
| * | Emily Creek [Branch] Road | | |
| | CR 5105 | 0.0 KY 1714 | 0.5 [1.0] Mine |
| | [Weight Limit - Bridge over Holty Branch | | |
| | TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons] | | |
| * | Meathouse Road | | |
| | CR 5116 | 0.0 KY 1439 | 2.6 Lowgap RD |
| * | Lowgap Road | | |
| | CR 5117 | 0.0 Pike CO LN | 2.0 Meathouse RD |
| * | Laurel Fork-Wolf Creek Road | | |
| | CR 5202 | 0.0 KY 1439 | 7.8 Private Access Road |
| * | Middle Fork of Wolf Creek Road | | |
| | CR 5205 | 0.0 Mid FK Rockcastle RD | 3.3 Mine Access RD |
| | | | [4.0 Private Haul Road] |
| * | Middle Fork of Rockcastle Creek Road | | |
| | CR 5206 | 0.0 KY 3 | 0.2 Mid FK Wolf CK RD |
| [* | Venters Branch Road | | |
| | CR 5212 | 0.0 KY 3 | 1.0 Mine |
| * | Little Laurel Creek Road | | |
| | CR 5313 | 0.0 KY 3 | 0.6 Mine |
| | Weight Limit - Bridge over Rockcastle Creek | | |
| | TY I = 18 tons, TY II = 18 tons, TY III = 18 tons, TY IV = 18 tons] | | |

MASON COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 62 | 12.7 US 68 | 17.4 KY 10 (West) 4.7 |
| * | US 68 | 0.0 Fleming CO LN | 11.9 US 62 |
| * | KY 8 | 0.0 Bracken CO LN | 11.0 KY 10 |

Weight Limit - Bridge over Phillips Creek @ milepoint 7.11
TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 39 tons
* KY 10 9.7 US 68 15.9 Spring Creek RD
Weight Limit - Bridge over L&N RR @ milepoint 9.79
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Bull Fork @ milepoint 13.30
TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 60 tons
* KY 11 0.0 Fleming CO LN 11.3 US 62
Weight Limit - Bridge over Mill Creek @ milepoint 0.16
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 59 tons
* Spring Creek Road
CR 5012 0.0 KY 10 1.8 Cabin Creek PK
Weight Limit - Bridge over Spring Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Spring Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
* Cabin Creek Pike
CR 5013 0.0 Spring Creek RD 0.7 Dravo Lime CO

MEADE COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 31W | 0.0 Hardin CO LN | 0.6 US 60 |
| * | US 60 | 8.7 KY 144 | 15.6 US 31W |
| | Weight Limit - Bridge over Tank Trail @ milepoint 12.36 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons | | |
| | Weight Limit - Bridge over Pinwheel Road @ milepoint 13.62 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons | | |
| * | KY 144 | 25.4 KY 448 | 28.7 US 60 |
| * | KY 448 | 0.0 KY 144 | 5.3 KY 933 |
| | Weight Limit - Bridge over L & N RR @ milepoint 3.36 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons | | |
| * | KY 933 | 4.6 Olin Chemical Plant | 7.4 KY 448 |

MERCER COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| [* | US 68 | 6.8 US 127 | 20.3 Jessamine CO LN |
| | Weight Limit - Bridge over Shaker Creek @ milepoint 12.70 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons | | |
| | Weight Limit - Bridge over Kentucky River @ milepoint 20.29 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons] | | |
| * | US 127 | 0.0 Boyle CO LN | 4.4 US 68 |
| [* | KY 33 | 6.4 KY 342 | 7.7 US 68 |
| * | KY 342 | 0.0 KY 33 | 1.5 E W Brown Power Plant] |

MONTGOMERY COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 460 | 7.3 KY 11 (North) | 8.3 KY 686 (North) |
| * | KY 11 | 0.0 Powell CO LN | 9.2 KY 686 (South) |
| | Weight Limit - Bridge over Lulbegrud Creek @ milepoint 3.92 | | |
| | TY I = 20 tons, TY II = 40 tons, TY III = 42 tons TY IV = 58 tons | | |
| | Weight Limit - Bridge over Lulbegrud Creek @ milepoint 5.38 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons | | |
| | | 10.0 US 460 (North) | 15.4 Bath CO LN |
| * | KY 686 | 0.0 KY 11 (South) | 2.7 US 460 (North) |

MORGAN COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| [* | Mountain Parkway | | |
| | | 57.7 Wolfe CO LN | 63.1 Magoffin CO LN |
| | Weight Limit - Bridge over Red River & KY 134 @ milepoint 60.40 | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Johnson Creek & KY 134 @ milepoint 62.12 | | |
| | TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons] | | |
| * | US 460 | 15.5 KY 191 | 17.8 KY 7 |
| | | [13.1 KY 205 | 17.7 KY 7 |
| | | 23.9 Malone-Jones RD | 28.8 Magoffin CO LN |
| | Weight Limit - Bridge over White Oak Creek @ milepoint 25.94 | | |
| | TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons] | | |
| * | KY 7 | 0.0 US 460 | 11.7 Elliott CO LN |
| | Weight Limit - Bridge over Elk Fork Creek @ milepoint 2.56 | | |
| | TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 51 tons | | |
| | Weight Limit - Bridge over North Fork of Licking River @ milepoint 8.37 | | |
| | TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 51 tons | | |
| | Weight Limit - Bridge over Road Fork @ milepoint 8.60 | | |

TY I = 20 tons, TY II = 23 [25] tons, TY III = 25 tons, TY IV = 37 [38] tons

| | | | |
|---|---|---|---|
| * | KY 172 | [11.8 Laurel Fork RD | 12.3 Old House Branch RD] |
| | | 18.7 Cinda Branch RD | 22.6 Johnson CO LN [22.3 KY 1614] |
| * | KY 191 | 13.0 Steele Branch RD | 14.7 US 460 |
| [* | KY 205 | 0.0 Wolfe CO LN | 6.8 US 460] |
| * | KY 437 | 6.3 KY 3344 | 12.4 KY 172 @ Relief |

Weight Limit - Bridge over Open Fork Creek @ milepoint 12.27
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons

| | | | |
|---|---|---|---|
| [* | KY 650 | 2.9 Mine | 4.0 Elliott CO LN] |
| * | KY 1614 | 0.0 KY 172 | 0.2 Johnson CO LN |
| * | KY 3344 | 0.0 KY 437 | 0.4 Mine |
| [* | Old House Branch Road | | |
| | CR 5035 | 0.0 KY 172 | 0.6 Mine] |
| * | Cinda Branch Road | | |
| | CR 5043 | 0.0 KY 172 | 0.3 Mine |
| [* | Laurel Fork Road | | |
| | CR 5064 | 0.0 KY 172 | 2.2 Elliott CO LN] |
| * | River Road | | |
| | CR 5100 | 0.0 KY 191 | 0.3 Mine |
| [* | Jones Creek Road | | |
| | CR 5103 | 0.0 Malone-Jones RD | 0.4 Mine |
| * | Malone-Jones Creek Road | | |
| | CR 5175 | 0.0 KY 7 | 1.3 Jones Creek RD] |

MUHLENBERG COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | Western Kentucky Parkway | | |
| | | 43.4 Hopkins CO LN | 65.7 Ohio CO LN |

Weight Limit - Bridge over Pond River Relief @ milepoint 43.60
TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 60 tons
Weight Limit - Bridge over KY 175-IC RR - Unnamed Creek @ milepoint 48.05
TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 60 tons
Weight Limit - Bridge over KY 181 @ milepoint 52.52
TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 55 tons
Weight Limit - Bridge over IC RR @ milepoint 55.51
TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 59 tons
Weight Limit - Bridge over L&N RR, Branch Little Cypress Creek @ milepoint 57.58
TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 60 tons
Weight Limit - Bridge over Green River Parkway @ milepoint 65.38
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 57 tons

| | | | |
|---|---|---|---|
| * | US 62 | 8.8 KY 189 | 10.5 KY 176 |
| | | 17.9 US 431 [19.8 Cleaton-Green River RD] | 26.0 Ohio CO LN |

Weight Limit - Bridge over I.C. RR @ milepoint 24.71
TY I = 20 tons, TY II = 28 tons, TY III = 28 tons, TY IV = 36 tons

| | | | |
|---|---|---|---|
| * | US 431 | 9.8 KY 70 | 25.5 Mine [27.7 McLean CO LN] |

Weight limit - Bridge over Pond Creek @ milepoint 12.45
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons
Weight Limit - Bridge over Western KY Parkway @ milepoint 17.48
TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 60 tons
[Weight Limit - Bridge over Overflow Structure @ milepoint 27.71
TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 60 tons]

| | | | |
|---|---|---|---|
| * | KY 70 | 0.0 Hopkins CO LN | 15.4 US 431 |

Weight Limit - Bridge over Pond River @ milepoint 0.20
TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons
Weight Limit - Bridge over Isaac Creek @ milepoint 3.50
TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons

| | | | |
|---|---|---|---|
| | | 15.4 US 431 | 23.8 Butler CO LN |

Weight Limit - Bridge over Mud River @ milepoint 23.75
TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 46 tons

| | | | |
|---|---|---|---|
| [* | KY 81 | 0.0 US 431 | 7.4 McLean CO LN |

Weight Limit - Bridge over Cypress Creek @ milepoint 1.07
TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 60 tons
Weight Limit - Bridge over Branch of Muddy Fork @ milepoint 2.71
TY I = 20 tons, TY II = 24 tons, TY III = 27 tons, TY IV = 46 tons
Weight Limit - Bridge over Muddy Fork @ milepoint 2.86
TY I = 20 tons, TY II = 23 tons, TY III = 26 tons, TY IV = 43 tons]

| | | | |
|---|---|---|---|
| * | KY 176 | 0.0 US 62 | 12.5 T V A Paradise Plant |

Weight Limit - Bridge over Pond Creek @ milepoint 4.29
TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 60 tons

| | | | |
|---|---|---|---|
| * | KY 181 | 15.2 Western KY PKWY | 17.5 Mine |
| * | KY 189 | 6.0 Mine Access | 8.8 US 62 |
| * | KY 277 | 2.6 KY 602 | 3.8 KY 1379 |
| * | KY 602 | 0.0 KY 277 | 0.7 US 431 |
| * | KY 1379 | 0.0 KY 277 | 0.5 Prep Plant Access |

Weight Limit - Bridge over Unnamed Stream @ milepoint 0.25
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

| | ROAD | FROM | TO |
|---|---|---|---|
| * | Cleaton-Green River Road | | |
| | CR 5022 | 0.0 US 62 | 2.4 Gibraltar Haul RD |
| * | Gibraltar Haul Road | | |
| | CR 5040 | 0.0 Cleaton-Green River RD | 0.2 Mine |
| * | Green River Power Plant Road | | |
| | CR 5045 | 0.0 US 431 | 0.7 KY Utilities Plant |
| * | Caney Creek Mine Road | | |
| | CR 5103 | 0.0 KY 176 | 0.7 Prep Plant & Mine |
| * | Vogue Haul Road | | |
| | CR 5389 | 0.0 Henry Oaks Road | 0.8 Vogue Road |
| * | Henry Oaks Road | | |
| | CR 5392 | 2.3 Mine | 4.5 Vogue Haul Road |
| * | Vogue Road | | |
| | CR 5407 | 0.0 Vogue Haul Road | 1.6 Tipple |

NICHOLAS COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 68 | 0.0 Bourbon CO LN | 12.2 Robertson CO LN |

Weight Limit - Bridge over Stony Creek @ milepoint 9.72
TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons

OHIO COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | Western KY PKWY | 65.7 Muhlenberg CO LN | 87.4 Butler CO LN [76.8 Green River PKWY] |

Weight Limit - Bridge over Lewis Creek @ milepoint 69.75
TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons
Weight Limit - Bridge over KY 369 @ milepoint 72.43
TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 49 tons
Weight Limit - Bridge over US 231 @ milepoint 74.56
TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 60 tons
Weight Limit - Bridge over Arnold-Butler Road @ milepoint 85.72
TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons

| | | | |
|---|---|---|---|
| * | Green River PKW | 35.1 Butler CO LN | 59.5 Daviess CO LN |

Weight Limit - Bridge over Rough River @ milepoint 49.34
TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 54 tons

| | | | |
|---|---|---|---|
| * | US 62 | 0.0 Muhlenberg CO LN | 15.5 Horton-Mount Pleasant RD [19.8 KY 505 (South)] |

Weight Limit - Bridge over Green River @ milepoint 0.01
TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 41 tons
Weight Limit - Bridge over Lewis Creek @ milepoint 1.45
TY I = 20 tons, TY II = 32 tons, TY III = 32 tons, TY IV = 57 tons
Weight Limit - Bridge over Branch of Three Lick Fork @ milepoint 11.91
TY I = 20 tons, TY II = 33 [37] tons, TY III = 35 [38] tons, TY IV = 49 [53] tons
Weight Limit - Bridge over Three Lick Fork @ milepoint 12.03
TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons
Weight Limit - Bridge over Muddy Creek @ milepoint 12.30
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 59 tons
Weight Limit - Bridge over Elmlick Creek @ milepoint 14.95
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 53 tons

| | | | |
|---|---|---|---|
| * | US 231 | 0.0 Butler CO LN | 10.0 US 62 (South) |
| | | 10.0 US 62 (North) | 24.3 Daviess CO LN |

Weight Limit - Bridge over North Fork Muddy Creek @ milepoint 12.30
TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 59 tons
Weight Limit - Bridge over Barnett Creek @ milepoint 20.30
TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons

| | | | |
|---|---|---|---|
| * | KY 69 | 6.9 Mine | 7.6 KY 85 (South) |
| * | KY 85 | 7.3 KY 69 (East) | 11.4 US 62 |

Weight Limit - Bridge over Branch West Fork Lewis Creek @ milepoint 9.62
TY I = 20 tons, TY II = 33 tons, TY III = 35 tons, TY IV = 56 tons

| | | | |
|---|---|---|---|
| * | KY 269 | 0.8 Schultztown-Cool SP RD [0.0 Butler CO LN] | 5.6 US 231 |
| * | KY 1245 | 4.6 Pyramid Washer | 5.2 James RD |
| * | KY 1903 | 0.0 US 62 | 0.9 Lewis Creek Dock |
| * | Horton-Mount Pleasant Road | | |
| | CR 5124 | 0.0 US 62 | 0.1 Southwind Tipple |

Weight Limit - Bridge over Pigeon Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

| | | | |
|---|---|---|---|
| * | Daniels Mine Road (West) | | |
| | CR 5206A | 0.0 US 62 | 1.6 Brown Badgett Mine |
| | | 1.7 Southwind Mine | 2.9 US 62 |
| * | Schultztown-Cool Springs Road | | |
| | CR 5267 | 2.5 KY 269 [Mine] | 3.6 Green Mine [KY 269] |

| | ROAD | FROM | TO |
|---|---|---|---|
| * | Lone Star Road | | |
| | CR 5313 | 0.0 KY 69 | 1.1 Tipple |
| * | James Road | | |
| | CR 5322 | 0.0 US 62 | 0.5 [0.4] KY 1245 |
| | Weight Limit - Bridge over Railroad Ditch | | |
| | TY I = 4 tons, TY II = 4 tons, TY III = 4 tons, TY IV = 4 tons | | |
| | Weight Limit - Bridge over Render Creek | | |
| | TY I = 3 tons, TY II = 3 tons, TY III = 3 tons, TY IV = 3 tons | | |
| * | Martin-Dodson Cemetery Road | | |
| | CR 5373 | 0.0 US 231 | 0.6 Mine |

OWSLEY COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | KY 11 | 0.0 Clay CO LN | 17.3 Lee CO LN [10.8 KY 1938] |
| | Weight Limit - Bridge over Sexton Creek @ milepoint 1.80 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 53 tons | | |
| | Weight Limit - Bridge over Island Creek @ milepoint 4.02 | | |
| | TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 56 tons | | |
| | Weight Limit - Bridge over White Oak Creek @ milepoint 6.18 | | |
| | TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 49 tons | | |
| * | KY 30 | 0.0 Jackson CO LN | 5.2 KY 847 |
| | Weight Limit - Bridge over Little Sturgeon Creek @ milepoint 3.42 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Little Sturgeon Creek @ milepoint 4.88 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Little Sturgeon Creek @ milepoint 5.15 | | |
| | TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons | | |
| | | 9.4 Venable School Road | 11.2 KY 11 @ Levi |
| * | KY 847 | 0.0 KY 30 | 4.3 Bowman Branch RD |
| [* | KY 1938 | 1.6 Minnow Branch RD | 2.5 KY 11] |
| * | Hurricane Branch Road | | |
| | CR 5301 | 0.0 Bowman Branch Road | 1.1 Denham & Lewis Mine |
| * | Bowman Branch Road | | |
| | CR 5303 | 0.0 KY 847 | 0.3 Hurricane Branch RD |
| [* | Minnow Branch Road | | |
| | CR 5304 | 0.0 KY 1938 | 0.3 Mine] |
| * | Venable School Road | | |
| | CR 5316 | 0.0 KY 30 | 0.4 Apex Mine |
| * | The Judd Road | | |
| | CR 5323 | 2.2 Manious Road | 2.4 KY 30 |

PENDLETON COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 27 | 0.0 Harrison CO LN | 19.4 Campbell CO LN |
| | Weight Limit - Bridge over Blanket Creek near Four Oak @ milepoint 4.41 | | |
| | TY I = 20 tons, TY II = 40 tons, TY III = 43 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over L&N RR @ milepoint 7.57 | | |
| | TY I = 20 tons, TY II = 31 tons, TY III = 33 tons, TY IV = 54 tons | | |
| | Weight Limit - Bridge over South Fork of Licking River @ milepoint 8.18 | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over L&N RR-CR 5011-Kennedy Br. @ milepoint 15.78 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 60 tons | | |
| * | KY 8 | 2.2 Black River Lime | 4.3 Bracken CO LN |

PERRY COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | Daniel Boone Parkway | | |
| | | 51.0 Leslie CO LN | 59.1 KY 15 |
| * | KY 7 | 0.0 KY 15 | 13.6 Letcher CO LN [11.4 KY 699] |
| | Weight Limit - Bridge over Maces @ milepoint 2.44 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 53 tons | | |
| * | KY 15 | 0.0 Knott CO LN | 25.2 Breathitt CO LN |
| | Weight Limit - Bridge over Main Street, Carr Fork, & L&N RR @ milepoint 0.20 | | |
| | TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 55 tons | | |
| | Weight Limit - Bridge over Carr Fork & L&N RR @ milepoint 3.37 | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 48 tons, TY IV = 55 tons | | |
| | Weight Limit - Bridge over L&N RR @ milepoint 13.17 | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 50 tons, TY IV = 55 tons | | |
| | Weight Limit - Bridge over KY 80, N Fork KY River @ milepoint 13.57 | | |
| | TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 49 tons | | |
| | Weight Limit - Bridge over First Creek & L&N RR @ milepoint 15.95 | | |
| | TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 56 tons | | |
| * | KY 28 | 3.5 Buckhorn-Breathitt RD | 6.0 Breathitt CO LN |
| | | 6.0 Breathitt CO LN | 18.1 KY 15 |

Weight Limit - Bridge over Grapevine Creek @ milepoint 15.02
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons
* KY 80 0.0 Leslie CO LN 4.6 KY 451
Weight Limit - Bridge over Right Fork of Big Creek @ milepoint 1.57
TY I = 20 tons, TY II = 25 [27] tons, TY III = 28 [29] tons, TY IV = 46 tons
7.9 D Boone Parkway & KY 15 15.9 Knott CO LN
* KY 221 0.0 Harlan CO LN 0.5 Leslie CO LN
* KY 451 [7.2 Mine 7.7 Daniel Boone PKWY]
7.7 Daniel Boone PKWY 7.8 KY 80
[7.8 KY 80 10.9 KY 2021]
* KY 463 1.4 Jackson Fork RD [0.0 Letcher CO LN] 6.5 KY 699
Weight Limit - Bridge over Leatherwood Creek @ milepoint 6.34
TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons
* KY 476 [2.0 KY 550 2.4 Darfork Tipple
Weight Limit - Bridge over Lott's Creek @ milepoint 2.07
TY I = 20 tons, TY II = 20 tons, TY III = 20 tons, TY IV = 30 tons
Weight Limit - Bridge over Lott's Creek @ milepoint 2.22
TY I = 20 tons, TY II = 20 tons, TY III = 22 tons, TY IV = 28 tons]
3.9 KY 1146 (South) 14.2 KY 1146 (North) [18.1 Mine]
7.5 Dwarf-Engle Ford Road 22.3 Breathitt CO LN
Weight Limit - Bridge over Troublesome Creek @ milepoint 8.72
TY I = 20 tons, TY II = 24 tons, TY III = 27 tons, TY IV = 38 tons
Weight Limit - Bridge over Ball Fork @ milepoint 12.36
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 54 tons
Weight Limit - Bridge over Troublesome Creek @ milepoint 18.30
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons
[* KY 550 0.0 KY 15 & KY 80 2.5 KY 476
Weight Limit - Bridge over Lott's Creek @ milepoint 2.45
TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 48 tons]
* KY 699 0.0 Leslie CO LN 12.5 KY 7
Weight Limit - Bridge over Leatherwood Creek @ milepoint 4.75
TY I = 20 tons, TY II = 33 tons, TY III = 35 tons, TY IV = 57 tons
Weight Limit - Bridge over Leatherwood Creek @ milepoint 8.01
TY I = 20 tons, TY II = 38 tons, TY III = 38 tons, TY IV = 60 tons
Weight Limit - Bridge over Big Leather Creek @ milepoint 10.77
TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 60 tons
* KY 1087 0.0 KY 476 0.7 Lick Branch RD
* KY 1095 0.0 Montgomery Creek RD [0.4 Kelly Fork RD] 2.9 KY 15
Weight Limit - Bridge over Carr Fork @ milepoint 2.55
TY I = 18 tons, TY II = 19 tons, TY III = 22 tons, TY IV = 31 tons
* KY 1096 0.0 KY 80 4.0 Whitaker Tipple
Weight Limit - Bridge over Big Creek @ milepoint 0.02
TY I = 20 tons, TY II = 40 tons, TY III = 38 tons, TY IV = 46 tons
Weight Limit - Bridge over Big Creek @ milepoint 3.55
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
* KY 1146 2.2 Jakes Fork Tipple 2.7 KY 476
Weight Limit - Bridge over Trace Fork @ milepoint 2.69
TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 31 tons
2.7 KY 476 4.0 KY 80
4.0 KY 80 4.6 Buckhorn Prep Plant
[* KY 2021 2.3 Hurricane Branch RD 3.4 KY 451]
* KY 3196 0.0 Beech Fork RD 0.1 KY 699
Weight Limit - Bridge over Leatherwood Creek @ milepoint 0.01
TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons
* Wayne Davidson Road
CR 5005 0.3 Cumberland Elk Tipple 0.5 KY 15
* Dwarf-Engle Fork Road
CR 5032 0.0 KY 476 0.1 Highland Coal Mine
* Coates Branch Road
CR 5044 0.0 Ky 476 0.5 Ball Branch Mine
* Lick Branch Road
CR 5045 0.0 KY 1087 0.6 Star Fire Mine
* Cockerell Fork-Noble Branch Road
CR 5050 0.0 KY 476 1.7 Shamrock Coal Mine
* Jeff-Knott County Line Road
CR 5100 0.0 Old KY 15 Loop #1 RD 2.4 Lake Coal Mine
* Old KY 15 Loop #1 Road
CR 5102 0.0 KY 15 0.5 Jeff-Knott CO LN RD
Weight Limit - Bridge over North Fork of Kentucky River
TY I = 10 tons, TY II = 10 tons, TY III = 10 tons, TY IV = 10 tons
* Oakwood Avenue-Stacy Branch Road
CR 5117 0.0 Main ST (Vicco) 1.3 Chester Tipple
* Main Street (Vicco)
CR 5118B 0.0 KY 1095 0.6 Knott CO LN

* Kelly Fork Road
CR 5119 0.0 KY 1095 0.4 Emmons Tipple
* Montgomery Creek Road
CR 5120 0.0 Letcher CO LN 1.5 KY 1095
* Left Fork Maces Creek Road
CR 5131 0.0 KY 1165 1.1 Leemike Mine
* Little Leatherwood Creek Road
CR 5139 0.0 KY 699 5.7 Blue Diamond Mine
Weight Limit – Bridge over Straight Fork
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons
Weight Limit – Bridge over Little Leatherwood Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit – Bridge over Little Leatherwood Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
* Beech Fork Road
CR 5146 0.0 KY 3196 3.0 Lee Mine
* Jackson Fork Road
CR 5152 0.0 KY 463 0.4 Blue Diamond Mine
* Coal Waste Road
CR 5237 0.0 KY 699 [Leatherwood Tipple] 0.8 Leatherwood Lookout TWR RD
* Leatherwood Lookout Tower Road
CR 5238 0.0 Coal Waste RD 2.2 Leslie CO LN
[* Hurricane Branch Road
CR 5301 0.0 KY 2021 1.0 Mine]
* Sam Campbell Branch Road (Old Pigeon Roose–Hull School RD)
CR 5319 0.0 KY 15 4.8 Dun Raven Tipple
[River Processing Tipple]

* Clear Fork Road
CR 5320 0.0 KY 28 2.3 Sam Campbell BR RD
[* Trace Branch–Tenmile Creek Road
CR 5326 0.0 KY 15 1.1 Mine
Weight Limit – Bridge over Ten Mile Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons]
* Barwick Road
CR 5330 0.0 KY 28 0.8 Breathitt CO LN
* Right Fork Spencer Creek Road
CR 5332 0.0 Spencer Creek–Napfor BR RD 1.0 Vires Coal Mine
* Spencer Creek–Napfor Branch Road
CR 5333 0.0 KY 28 1.9 Pine Branch Mine
* Buckhorn–Breathitt County Line Road
CR 5349 0.0 KY 28 1.2 Kescoal Mine

PIKE COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 23 | 0.0 Letcher CO LN | 39.6 Floyd CO LN |

Weight Limit – Bridge over Shelby Creek @ milepoint 17.23
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit – Bridge over Little Creek @ milepoint 18.12
TY I = 20 tons, TY II = 34 tons, TY III = 33 tons, TY IV = 60 tons
Weight Limit – Bridge over Shelby Creek @ milepoint 19.75
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit – Bridge over C&O RR & Levisa Fork @ milepoint 22.00
TY I = 20 tons, TY II = 30 tons, TY III = 31 tons, TY IV = 47 tons

* New US 23 0.0 KY 1384 1.4 US 23 NW of Pikeville
[* US 23X 2.1 KY 1384 2.3 US 23]
* US 119 0.0 US 23 29.7 W. Va. State LN
Weight Limit – Bridge over Raccoon Creek @ milepoint 6.61
TY I = 18 tons, TY II = 20 tons, TY III = 23 tons, TY IV = 40 tons
Weight Limit – Bridge over John's Creek @ milepoint 7.94
TY I = 20 tons, TY II = 21 tons, TY III = 24 tons, TY IV = 37 tons
Weight Limit – Bridge over Bent Branch @ milepoint 9.99
TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons
Weight Limit – Bridge over Bent Branch @ milepoint 10.23
TY I = 13 tons, TY II = 13 tons, TY III = 13 tons, TY IV = 13 tons
Weight Limit – Bridge over Bent Branch @ milepoint 10.88
TY I = 12 tons, TY II = 12 tons, TY III = 12 tons, TY IV = 12 tons
Weight Limit – Bridge over Bent Branch @ milepoint 11.25
TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 60 tons
Weight Limit – Bridge over Bent Branch @ milepoint 11.40
TY I = 20 tons, TY II = 20 tons, TY III = 23 tons, TY IV = 40 [31] tons
Weight Limit – Bridge over Bent Branch @ milepoint 11.63
TY I = 11 tons, TY II = 11 tons, TY III = 11 tons, TY IV = 11 tons
Weight Limit – Bridge over Fork of Big Creek @ milepoint 16.41
TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 60 tons

Weight Limit - Bridge over Big Creek @ milepoint 17.06
TY I = 20 tons, TY II = 23 tons, TY III = 24 tons, TY IV = 27 tons
Weight Limit - Bridge over Reed Fork @ milepoint 18.48
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Big Creek @ milepoint 20.13
TY I = 20 tons, TY II = 24 tons, TY III = 28 tons, TY IV = 47 tons
Weight Limit - Bridge over Tug River @ West Virginia State Line @ milepoint 29.7
TY I = 20 tons, TY II = 45 tons, TY III = 45 tons, TY IV = 52 tons

* Old US 119

0.0 US 23 — 2.8 US 119

* US 460 0.0 US 23 — 24.0 Virginia State LN

Weight Limit - Bridge over Levisa Fork @ milepoint 4.26
TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 46 tons

* KY 80 0.0 US 460 — 6.9 Virginia State LN

Weight Limit - Bridge over Russell Fork of Big Sandy @ milepoint 3.07
TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 57 tons
Weight Limit - Bridge over Russell Fork & Clinchfield @ milepoint 3.60
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 57 tons

* KY 122 [3.6 Mine — 5.2 KY 610

6.8 Robinson Creek RD — 10.4 US 23]

3.3 Arnold Fork Road Mine — 10.4 US 23

Weight Limit - Bridge over Robinson Creek @ milepoint 6.75
TY I = 20 tons, TY II = 36 tons, TY III = 37 tons, TY IV = 53 tons
Weight Limit - Bridge over Bear Fork north of Jones Chapel @ milepoint 8.28
TY I = 20 tons, TY II = 36 [38] tons, TY III = 39 [38] tons, TY IV = 60 tons

* KY 194 0.0 Floyd CO LN — 16.8 US 119 (South)

16.8 US 119 (North) — 41.3 Kyber Coal [27.8] Mine

Weight Limit - Bridge over John's Creek @ milepoint 25.62
TY I = 20 tons, TY II = 28 tons, TY III = 30 tons, TY IV = 48 tons

[31.0 Mine — 40.0 KY 1499]

47.2 H K Corp Mine — 55.7 KY 632 @ Phelps

Weight Limit - Bridge over Peter Creek @ milepoint 51.37
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons

66.5 Lynntrough Branch RD — 67.7 KY 2062

69.6 KY 2059 — 73.2 Virginia State LN

* KY 195 0.0 KY 197 — 11.6 US 460

Weight Limit - Bridge over Brushy Branch @ milepoint 3.27
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Wolf Pit Branch @ milepoint 9.93
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Russell Fork @ milepoint 11.44
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

* KY 197 5.6 Fountain Blue Mine [0.0 US 23] — 16.6 KY 80

Weight Limit - Bridge over Sycamore Creek @ milepoint 6.70
TY I = 20 tons, TY II = 32 tons, TY III = 38 tons, TY IV = 46 tons
Weight Limit - Bridge over Elkhorn Creek @ milepoint 13.91
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 56 tons

* KY 199 8.2 KY 1056 — 11.6 US 119

Weight Limit - Bridge over Pond Creek @ milepoint 8129
TY I = 20 tons, TY II = 39 [40] tons, TY III = 39 tons, TY IV = 58 tons
Weight Limit - Bridge over Pond Creek @ milepoint 8.72
TY I = 20 tons, TY II = 34 tons, TY IV = 35 tons, TY IV = 44 tons
Weight Limit - Bridge over Pond Creek @ milepoint 11.34
TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 59 tons

* KY 292 0.0 Goody-AFLX-BURNWL RD — 4.8 US 119 (South)

4.8 US 119 (North) — 12.7 Martin CO LN

* KY 319 3.8 KY 1056 @ Nampa [(East)] — 12.3 US 119 [5.8 Hatfield BR RD]

Weight Limit - Bridge over Blackberry Creek @ milepoint 4.40
TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 60 tons

[8.9 Mine — 12.3 US 119]

Weight Limit - Bridge over Blackberry Fork @ milepoint 10.33
TY I = 3 tons, TY II = 3 tons, TY III = 3 tons, TY IV = 3 tons

* KY 468 0.0 US 119 — 13.6 KY 292

* KY 610 0.0 US 23 — 2.7 Burk Branch RD

Weight Limit - Bridge over Beefhide Creek @ Myra @ milepoint 1.60
TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 60 tons

8.0 Virgie Tipple — 8.9 KY 122

Weight Limit - Bridge over Long Fork @ milepoint 8.08
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 53 tons

* KY 611 0.0 KY 195 — 3.5 Henry Clay Mine [6.0 US 23]

4.3 Little Fork-Left Fork RD — 6.0 US 23

* KY 612 0.0 Turkey CK-Long FK RD — 1.6 Sukey Fork RD

* KY 632 0.0 KY 194 @ Kimper — 15.0 KY 194 @ Phelps

Weight Limit - Bridge over Johns Creek @ milepoint 1.19

TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 [40] tons
Weight Limit - Bridge over Peter Creek @ milepoint 14.96
TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 60 tons

| | | | |
|---|---|---|---|
| * | KY 881 | 0.0 US 119 | 3.0 Brushy Fork Road |
| * | KY 1056 | 0.0 KY 199 | [4.5 Left FK/Blackberry RD |
| | | 5.2 Blue Springs BR RD] | 7.7 KY 319 (North) |

Weight Limit - Bridge over Blackberry Creek @ milepoint 6.52
TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 60 tons

| | | | |
|---|---|---|---|
| | | 7.7 KY 319 (South) | 10.1 West Virginia State LN |

Weight Limit - Bridge over Tug Fork Big Sandy River @ milepoint 10.10
TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 53 tons

| | | | |
|---|---|---|---|
| * | KY 1373 | 4.8 Card Creek-Card Knob Road | 6.7 US 460 |
| * | KY 1384 | [0.0 US 23 | 7.7 US 23X] |
| | | 0.2 Peter Fork #2 Tipple | 3.8 Dog Fork-Hurricane CR RD |
| | | 6.0 Clark Elkhorn Mine | 7.3 New US 23 |
| * | KY 1426 | 0.0 US 23 | 4.9 Floyd CO LN |
| | | | [3.5 Hoopwood Branch RD] |
| * | KY 1441 | 4.4 Standard Elkhorn Mine | 10.1 US 119 |

Weight Limit - Bridge over Raccoon Creek @ milepoint 4.79
TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 60 tons
Weight Limit - Bridge over Raccoon Creek @ milepoint 6.04
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons
Weight Limit - Bridge over Raccoon Creek @ milepoint 7.96
TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 60 tons
Weight Limit - Bridge over Burning Fork [Raccoon] Creek @ milepoint 10.00
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 58 tons

| | | | |
|---|---|---|---|
| * | KY 1469 | 6.0 KY Elkhorn Mine | 11.4 KY 610 |
| | | 11.4 KY 610 | 12.2 KY Elkhorn Tipple |
| * | KY 1499 | 0.0 US 460 | 6.1 KY 194 |

Weight Limit - Bridge over Levisa Fork @ milepoint 6.03
TY I = 15 tons, TY II = 25 tons, TY III = 28 tons, TY IV = 41 tons

| | | | |
|---|---|---|---|
| * | KY 1758 | 6.8 Daugherty Tipple | 7.8 KY 632 |
| * | KY 1789 | 0.0 US 460 | 0.4 Clark Elkhorn #1 Tipple |
| * | KY 2059 | 0.0 KY 194 | 0.3 Private Haul Road |
| | | 1.6 Private Haul Road | 2.3 Lower Elk Creek RD |
| * | KY 2061 | 0.0 US 23 | 3.4 Hawkeye Mine |

Weight Limit - Bridge over Cowpen Creek @ milepoint 0.81
TY I = 20 tons, TY II = 39 [20] tons, TY III = 41 [21] tons, TY IV = 60 [36] tons

| | | | |
|---|---|---|---|
| * | KY 2062 | 0.0 KY 194 | 3.1 KY 194 |
| [* | KY 2552 | 0.0 US 23 | 0.3 Shelbiana RD |

Weight Limit - Bridge over Shelby Creek @ milepoint 0.01
TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 39 tons]

| | | | |
|---|---|---|---|
| * | KY 3154 | 0.2 Meathouse Branch RD | 0.5 US 119 |
| * | KY 3227 | 0.0 US 23 | 1.0 Coal Run Tipple |
| [* | Raccoon Creek Road | | |
| | CR 5001 | 0.0 KY 1441 | 0.2 Mine] |
| * | Grassy Branch Road | | |
| | CR 5005 | 0.0 KY 1441 | 0.5 Branson Coleman Mine |
| * | Winn Branch Road | | |
| | CR 5011 | 0.0 US 119 | 1.3 Chloe Creek Dev Mine |

Weight Limit - Bridge over Little Ratliff Creek
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons

| | | | |
|---|---|---|---|
| * | Varney Branch Road | | |
| | CR 5021 | 0.0 KY 194 | 0.4 Utility Tipple |
| * | Meathouse Fork Road | | |
| | CR 5022 | 0.0 KY 194 | 1.3 Rockhouse FK-Pigeon CR RD |
| * | Rockhouse Fork-Pigeon Creek Road | | |
| | CR 5024 | 0.0 Meathouse FK RD | 1.0 Ridgeway Coals [1.9] Mine |
| * | Meathouse Branch Road | | |
| | CR 5025 | 0.0 KY 3154 | 3.2 Ember and K-Line Mines |
| [* | Dix Fork Road | | |
| | CR 5032 | 0.0 US 119 | 0.1 Mine |

Weight Limit - Bridge over Big Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons]

| | | | |
|---|---|---|---|
| * | Peg Branch Road | | |
| | CR 5043 | 0.0 US 119 | 0.6 Eastern Coal Mine [Entrance] |
| * | Goody-Aflex-Burnwell Road | | |
| | CR 5050 | 0.0 KY 292 | 1.1 Harbour Marine Mine |
| | | | [0.5 Belfry #1 Prep Plant] |
| * | Turkey Creek-Long Fork Road | | |
| | CR 5062 | 0.0 KY 468 | 3.1 KY 612 |
| * | Sukey Fork Road | | |
| | CR 5063 | 0.0 KY 612 | 0.5 Coal Mac Mine [Entrance] |
| * | Bent Branch Road | | |

CR 5074 0.0 KY 468 1.1 Gex Tipple
Weight Limit - Bridge over Big Creek
TY I = 18 [17] tons, TY II = 18 tons, TY III = 20 tons, TY IV = 32 tons
* Swinge Camp Branch Road
CR 5075 0.0 KY 468 0.4 H Mar/Island Mines [Entrance]
Weight Limit - Bridge over Big Creek
TY I = 3 ton, TY II = 3 ton, TY III = 3 ton, TY IV = 3 ton
* Halfway Branch Road
CR 5077 0.0 KY 468 0.5 Island Creek Mine [Entrance]
* Rockhouse Fork Road
CR 5078 0.0 KY 468 0.4 Island Creek Mine
[0.3 Case Prep Plant]
Weight Limit - Bridge over Big Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
* Brushy Fork Road
CR 5095 0.0 KY 881 0.5 Addington Mine
Weight Limit - Bridge over Left Fork of Brushy Fork
TY I = 20 tons, TY II = 26 tons, TY III = 26 tons, TY IV = 26 tons
* Big Branch/Meathouse Creek Road
CR 5111 0.0 Martin CO LN 2.7 Little Fork Mine [Entrance]
* Miller Creek Road
CR 5123 3.6 Miller Creek Tipple 5.1 KY 194
Weight Limit - Bridge over Johns Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
* Joes Creek Road
CR 5127 0.0 KY 194 0.4 Liberty Mine [Entrance]
Weight Limit - Bridge over Johns Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
* Lick Branch Road
CR 5141 0.0 KY 468 0.8 Jex Big Hill Mine [Entrance]
* Fishtrap Ridgeline Road
CR 5160 0.0 KY 194 2.7 Hurricane Creek Road
* Hurricane Creek Road
CR 5162 2.5 Wellmore Mine 3.7 Fishtrap Ridgeline RD
* Dicks Fork Road
CR 5163 0.0 KY 194 0.6 Big Fist #4 Mine
* Lane Branch Road
CR 5168 0.0 KY 632 1.2 McCoy Elkhorn Mine [Entrance]
* Mullen Fork Road
CR 5191 0.0 KY 199 2.1 St Johnsbury Mine [Entrance]
Weight Limit - Bridge over Pond Creek
TY I = 18 tons, TY II = 18 tons, TY III = 18 tons, TY IV = 18 tons
* Hatfield Branch Road
CR 5210 0.0 KY 319 0.8 Blackberry CR Mine [Entrance]
* Left Fork/Blackberry Road
CR 5213 0.0 KY 1056 1.5 H Mar/Eastern Mines [ENT]
Weight Limit - Bridge over Right Fork Blackberry Creek
TY I = 20 tons, TY II = 37 tons, TY III = 48 tons, TY IV = 60 tons
* Blue Springs Branch Road
CR 5218 0.0 KY 1056 0.1 Blackberry CR Mine [Entrance]
Weight Limit - Bridge over Blackberry Creek
TY I = 16 tons, TY II = 16 tons, TY III = 16 tons, TY IV = 16 tons
* Lynntrough Branch Road
CR 5233 0.0 KY 194 1.2 [0.2] Majestic Mine [Tipple]
* Lower Elk Creek Road
CR 5241 0.0 KY 2059 0.6 Race Fork Mine [Entrance]
* Prater Branch Road
CR 5253 0.0 KY 194 0.8 Majestic Mine [Entrance]
* Calloway Branch Road
CR 5260 0.0 KY 632 1.1 KY Carbon Scales
[* Little Hackney Creek Road
CR 5281 0.0 US 460 1.5 Mine Entrance]
* Old Mouth Card-Feds Creek Road
CR 5282 0.0 US 460 0.3 Flannary Branch RD
* Flannary Branch Road
CR 5283 0.0 Old Mouth Card-Feds CR RD 0.2 Mouth Card Mines
* Card Creek-Card Knob Road
CR 5285 0.0 KY 1373 0.7 Clark Elkhorn Mine
1.6 Wellmore Mine [Entrance] 4.6 US 460
* Island Creek Road
CR 5287 0.0 Bane Tipple 0.6 Island Creek-Grapevine RD [CR 5288]
* Island Creek-Grapevine Road
CR 5288 0.0 Island Creek Road [CR 5287] 1.8 Millers CR RD [0.5 CR 5289]

| | | |
|---|---|---|
| * Left Fork/Island Creek Road | | |
| CR 5289 | 0.0 Island Creek-Grapevine RD [CR 5288] | 0.2 Flannary Coal Mine [Entrance] |
| * Millers Branch Road | | |
| CR 5290 | 0.0 Island Creek-Grapevine RD | 2.4 Flannary Coal Mine |
| * Hopkins Creek Road | | |
| CR 5322 | 0.0 US 460 | 1.0 Hopkins Creek Tipple |
| Weight Limit - Bridge over Levisa Fork | | |
| TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons | | |
| [* Daniel Branch Road | | |
| CR 5326 | 0.0 US 460 | 0.4 Mine Entrance] |
| * Harless Creek Road | | |
| CR 5330 | 0.0 US 460 | 1.5 Wellmore Mine [Entrance] |
| [* Dog Branch Road | | |
| CR 5332 | 0.0 KY 195 | 0.4 Mine Entrance] |
| * Left Fork Wolfpit Branch Road | | |
| CR 5333 | 0.0 Wolf Branch-Gardner Fork Road | 0.8 Wellmore Mine |
| [* Ratliff Hollow Road | | |
| CR 5339 | 0.0 KY 195 | 0.2 Wolfpit Tip @ Ratliff |
| Weight Limit - Bridge over Marrowbone Creek | | |
| TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons] | | |
| * Jimmie Creek Road | | |
| CR 5341 | 0.0 US 460 | 0.6 Wellmore Mine |
| * Old US 460 Loop #2 Road | | |
| CR 5353 | 0.3 Potter Coal Mine | 0.8 US 460 |
| * Shortridge Fork Road | | |
| CR 5355 | 0.4 Wellmore Mine [0.0 CR 5285] | 0.9 Wellmore Private RD [Mine] |
| * Abes Fork Road | | |
| CR 5356 | 0.0 Virginia State LN | 0.4 Potter Prep Plant |
| * Ohio Street (Elkhorn City) | | |
| CR 5361T | 0.0 KY 80 | 0.5 Potter Processing |
| * Old Bridge Street (Elkhorn City) | | |
| CR 5361Z | 0.0 KY 80 | 0.1 Private Access Road |
| * John Moore Branch Road | | |
| CR 5363 | 0.0 KY 197 | 0.9 Federal Tipple |
| * Jackson Branch Road | | |
| CR 5371 | 0.0 KY 197 | 1.7 C & D Coal Mine |
| * Brushy Branch Road | | |
| CR 5379 | 0.0 KY 195 | 0.8 Ratliff Elkhorn Mine |
| * Marrowbone Creek Road | | |
| CR 5381 | 0.0 KY 195 | 2.1 Lad/Prospect [1.2] Mine |
| Weight Limit - Bridge over Marrowbone Creek | | |
| TY I = 18 tons, TY II = 18 tons, TY III = 18 tons, TY IV = 18 tons | | |
| * Bowling Fork Road | | |
| CR 5384 | 0.0 KY 195 | 1.9 Henry Clay Mine |
| [* Fleming Branch Road | | |
| CR 5410 | 0.0 KY 610 | 0.8 Mine |
| Weight Limit - Bridge over Shelby Creek | | |
| TY I = 3 tons, TY II = 3 tons, TY III = 3 tons, TY IV = 3 tons] | | |
| * Little Fork/Left Fork Road | | |
| CR 5416 | 0.0 KY 611 | 0.2 Henry Clay Mine |
| * Rockhouse Creek/Greasy Road | | |
| CR 5422 | 0.0 KY 195 | 0.3 Bad Fork RD |
| Weight Limit - Bridge over Marrowbone Creek | | |
| TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons | | |
| * Wolfpit Branch-Gardner Fork Road | | |
| CR 5433 | 0.0 KY 195 | 0.9 Left Fork Wolfpit BR RD |
| Weight Limit - Bridge over Wolfpit Branch | | |
| TY I = 3 tons, TY II = 3 tons, TY III = 3 tons, TY IV = 3 tons | | |
| Weight Limit - Bridge over Wolfpit Creek | | |
| TY I = 3 tons, TY II = 3 tons, TY III = 3 tons, TY IV = 3 tons | | |
| * Wolfpen Branch Road | | |
| CR 5444 | 0.0 KY 80 | 0.8 Wellmore Mine |
| * Red Creek Road | | |
| CR 5463 | 0.0 US 460 | 0.8 Right FK/Red CK RD |
| * Right Fork/Red Creek Road | | |
| CR 5465 | 0.0 Red Creek Road | 0.8 Wellmore Mine |
| [* Shelbiana Road | | |
| CR 5473 | 0.0 KY 2553 | 0.2 Dry BR/Dry CK RD] |
| * Marion Branch Road | | |
| CR 5478 | 0.0 KY 1426 | 1.6 Chapperal Tipple |
| * Tollage Creek Road | | |
| CR 5496 | 0.0 US 23 | 1.0 Coal Run Mine |
| * Harmond Branch Road | | |
| CR 5505 | 0.0 US 23 | 0.9 Amber #9 Mine |

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*  Dog Fork/Hurricane Creek Road
   CR 5522          0.0 KY 1384                                    1.3 Peter Fork Joline Mine
[* Coal Run Road
   CR 5524          0.0 US 23                                      0.2 Lackens Branch RD
*  Lackens Branch Road
   CR 5525          0.0 Coal Run RD                                0.7 Mine]
*  Cedar Creek/Island Creek Road
   CR 5528          0.0 KY 1384                                    1.1 KY 1426
*  Hoopwood Branch Road
   CR 5529          0.0 KY 1426                                    0.7 Stillhouse [0.5] Mine
*  Raccoon Branch Road
   CR 5531          0.0 KY 1426                                    1.3 Jet/Cimaron Mine
*  Billy Compton Road
   CR 5534          0.0 Island Creek RD                            1.2 Horn Const Mine
                                                                  [0.2 RD BR/Sookeys CR RD]
*  Island Creek Road
   CR 5535          0.0 KY 1426                                    4.0 Corbin Coal Mine
*  Road Branch/Sookey's Creek Road
   CR 5539          0.0 RT FK Sookeys CK RD                        1.9 Billy Compton RD
*  Right Fork Sookeys Creek Road
   CR 5540          0.0 Road BR/Sookeys CK RD                      0.5 Pace Energies Mine
*  Bear Fork - Tinker Fork Road
   CR 5547          0.0 Bear Fork RD                               1.1 Floyd CO LN
*  L Robinson - Floyd County Road
   CR 5550          0.0 Robinson Creek RD                          0.6 Floyd CO LN
*  Little Fork/Robinson Road
   CR 5553          0.0 Robinson Creek RD                          1.6 Apache Mining Mine
*  Robinson Creek Road
   CR 5554          0.0 KY 122                                     4.1 Apache Mining Mine
   Weight Limit - Bridge over Robinson Creek
   TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
   Weight Limit - Bridge over Robinson Creek
   TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
*  Arnold Fork Road
   CR 5555          0.0 KY 122                                     0.3 Apache Mining Mine
*  Burk Branch Road
   CR 5578          0.0 KY 610                                     0.9 Beth Energy Mine
*  Lizzie Fork Road
   CR 5590          0.4 Beth Energy Mine  [0.0 US 23]              1.4 US 23 [Mine]
   Weight Limit - Bridge over Caney Creek
   TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons
*  Rob Fork Road
   CR 5593          0.0 US 23                                      0.5 Damron Fork Tipple
[* Dry Branch/Dry Creek Road
   CR 5605          0.0 Shelbiana RD                               2.3 Dry BR/Dry CK Spur RD
*  Esco Road
   CR 5609          0.0 US 23                                      0.6 Landmark Tipple
*  Sugar Camp Branch Road
   CR 5611          0.0 KY 122                                     1.5 Mine]
*  Bear Fork Branch Road
   CR 5616          0.0 KY 122                                     1.5 Bear FK-Tinker FK RD
[* Dry Branch/Dry Creek Spur
   CR 5618          0.0 Dry BR/Dry CK RD                           0.3 Mine]

POWELL COUNTY
    ROAD                        FROM                                                TO
*  Mountain Parkway
                   11.9 Clark CO LN                                36.0 Wolfe CO LN
   Weight Limit - Bridge over Lulbegrud Creek @ milepoint 11.90
   TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 45 tons
   Weight Limit - Bridge over Red River @ milepoint 18.22
   TY I = 20 tons, TY II = 37 tons, TY III = 37 tons, TY IV = 45 tons
   Weight Limit - Bridge over Red River @ milepoint 24.83
   TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 50 tons
   Weight Limit - Bridge over Cane Creek @ milepoint 26.12
   TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 60 tons
   Weight Limit - Bridge over KY 613 @ milepoint 27.38
   TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 60 tons
   Weight Limit - Bridge over North Fork Red River @ milepoint 27.94
   TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 55 tons
   Weight Limit - Bridge over Middle Fork Red River @ milepoint 31.96
   TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 46 tons
   Weight Limit - Bridge over KY 11 & 15 @ milepoint 32.08
   TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 54 tons
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| | | | | |
|---|---|---|---|---|
| * | KY 11 | 21.0 KY 15 | 25.0 | Montgomery CO LN |
| * | KY 15 | 3.5 KY 11 | 4.1 | Mountain Parkway |
| | Weight Limit - Bridge over Mountain Parkway @ milepoint 4.08 | | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons | | | |

PULASKI COUNTY

| | ROAD | FROM | TO | |
|---|---|---|---|---|
| * | US 27 | 0.0 McCreary CO LN | 16.9 | KY 80 Bypass |
| | Weight Limit - Bridge over Cumberland River @ milepoint 9.19 | | | |
| | TY I = 20 tons, TY II = 28 [27] tons, TY III = 37 [35] tons, TY IV = 40 tons | | | |
| | Weight Limit - Bridge over Pitman Creek @ milepoint 10.06 | | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 38 tons, TY IV = 59 tons | | | |
| * | KY 80 | 21.6 KY 80 Bypass [19.1 US 27] | 40.4 | Laurel CO LN |
| | [Weight Limit - Bridge over Southern RR @ milepoint 19.24 | | | |
| | TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 59 tons] | | | |
| | Weight Limit - Bridge over Buck Creek @ milepoint 31.55 | | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 55 tons | | | |
| * | KY 80B | 0.0 US 27 | 2.3 | KY 80 |
| * | KY 90 | 2.0 KY 790 | 4.2 | US 27 |
| | Weight Limit - Bridge over Cumberland River @ milepoint 3.07 | | | |
| | TY I = 20 tons, TY II = 28 [22] tons, TY III = 37 [35] tons, TY IV = 40 tons | | | |
| * | KY 192 | 0.0 KY 80 Bypass | 18.6 | Laurel CO LN |
| | | | [15.0 | Old Whitley Road] |
| | Weight Limit - Bridge over Pitman Creek @ milepoint 4.13 | | | |
| | TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 58 tons | | | |
| | Weight Limit - Bridge over Buck Creek @ milepoint 10.57 | | | |
| | TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons | | | |
| * | KY 790 | 0.0 Wayne CO LN | 5.7 | KY 90 |
| * | KY 1247 | 0.0 US 27 | 8.3 | KY 80 Bypass |
| | Weight Limit - Bridge over Southern RR @ milepoint 0.08 | | | |
| | TY I = 20 tons, TY II = 40 tons, TY III = 41 tons, TY IV = 52 tons | | | |
| | Weight Limit - Bridge over Pitman Creek @ milepoint 3.40 | | | |
| | TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 52 tons | | | |
| * | KY 1580 | 0.0 Ferguson Tipple | 0.5 | KY 1247 |
| * | KY 1675 | 5.7 Acorn-Lick Creek RD | 10.5 | KY 80 |
| | Weight Limit - Bridge over Branch of Short Creek @ milepoint 9.48 | | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 53 tons | | | |
| [* | KY 1956 | 0.0 KY 80 | 0.8 | Line Creek RD] |
| * | Acorn-Lick Creek Road | | | |
| | CR 5016 | 0.0 KY 1675 | 1.7 | Ano RD |
| * | Bolthouse Ridge Road | | | |
| | CR 5017 | 0.0 Ano RD | 0.9 | Ikerd Bandy Mine |
| * | Ano Road | | | |
| | CR 5018 | 0.0 Acorn-Lick Creek RD | 1.4 | Bolthouse Ridge RD |
| [* | Line Creek Road | | | |
| | CR 5027 | 0.0 KY 1956 | 0.8 | Buffalo Branch RD |
| * | Buffalo Branch Road | | | |
| | CR 5028 | 0.0 Line Creek RD | 0.4 | Rockcastle CO LN] |
| * | Old Whitley Road | | | |
| | CR 5216 | 0.0 KY 192 | 3.9 | Cumberland River RD |
| * | Cumberland River Road | | | |
| | CR 5225 | 0.0 Old Whitley RD | 1.1 | Wash Ridge Mine |
| * | Cooper Power Plant Road | | | |
| | CR 5349 | 0.0 KY 1247 | 0.6 | E KY Power Plant |

ROBERTSON COUNTY

| | ROAD | FROM | TO | |
|---|---|---|---|---|
| * | US 68 | 0.0 Nicholas CO LN | 1.4 | Fleming CO LN |

ROCKCASTLE COUNTY

| | ROAD | FROM | TO | |
|---|---|---|---|---|
| * | US 25 | 11.8 I-75 | 13.9 | US 150 |
| | | [24.9 R B S Tipple | 27.0 | Madison CO LN] |
| * | US 150 | 0.0 Lincoln CO LN | 10.5 | US 25 |
| [* | KY 1249 | 3.0 Buffalo Branch RD | 3.5 | Dyer Branch RD |
| * | Buffalo Branch Road | | | |
| | CR 5180 | 0.0 KY 1249 | 2.3 | Pulaski CO LN |
| * | Dyer Branch Road | | | |
| | CR 5229 | 0.0 KY 1249 | 0.4 | Mine Access] |

SIMPSON COUNTY

| | ROAD | FROM | TO | |
|---|---|---|---|---|
| * | US 31W | 0.0 Tennessee State LN | 14.0 | Warren CO LN |

UNION COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 60 | 0.0 Crittenden CO LN [1.4 KY 109] | 5.7 KY 109 in Sturgis |
| | Weight Limit - Bridge over Branch of Cypress Creek @ milepoint 3.66 | | |
| | TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 55 tons | | |
| * | KY 109 | 0.0 Webster CO LN | 1.5 US 60 (West) |
| | | 1.5 US 60 (East) | 4.9 KY 492 [3.2 KY 1508] |
| * | KY 360 | 0.5 KY 871 (South) | 6.6 Island Creek Mine |
| * | KY 492 | 1.9 Davis Mine RD | 2.5 KY 109 |
| * | KY 871 | 0.0 KY 360 (South) | 2.4 Hite Speece RD |
| * | KY 1508 | 0.0 KY 109 | 2.7 Pyro Dock |
| | | 5.3 Canipe Dock | 6.0 Private Haul Road |
| | Weight Limit - Bridge over Unnamed Stream @ milepoint 5.61 | | |
| | TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 59 tons | | |
| * | Davis Mine Road | | |
| | CR 5227 | 0.0 KY 109 | 0.3 Private Haul Road |
| * | Hite Speece Road | | |
| | CR 5314 | 0.0 KY 871 | 0.2 Hamilton Mine Road |
| * | Hamilton Mine Road | | |
| | CR 5317 | 0.0 Hite Speece Road | 0.5 Mine and Prep Plant |

WARREN COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | Green River Parkway | | |
| | | 0.0 I-65 | 18.2 Butler CO LN |
| | Weight Limit - Bridge over I-65 @ milepoint 0.01 | | |
| | TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 52 tons | | |
| | Weight Limit - Bridge over US 31-W @ milepoint 3.57 | | |
| | TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 59 tons | | |
| * | US 31W | 0.0 Simpson CO LN | 9.0 Green River Parkway |
| | Weight Limit - Bridge over L&N RR @ milepoint 7.99 | | |
| | TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons | | |

WAYNE COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | KY 776 | 7.5 KY 790 [9.2 Denny Creek RD] | 9.8 Brammer Hill Ridge RD |
| * | KY 790 | 1.3 KY 776 [5.0 Brammer Hill-Delta RD] | 10.5 Pulaski CO LN |
| | Weight Limit - Bridge over Sinking Creek @ milepoint 2.02 | | |
| | TY I = 20 tons, TY II = 30 tons, TY III = 31 tons, TY IV = 41 tons | | |
| * | Brammer Hill Ridge Road | | |
| | CR 5023 | 0.0 KY 776 | 2.2 [4.2] Mine |
| * | Denny Creek Road | | |
| | CR 5024 | 0.0 KY 776 | 1.7 [0.4] Sizemore RD |
| * | Brammer Hill-Delta Road | | |
| | CR 5030 | 0.0 KY 790 | 2.2 [2.4] Brammer Hill Ridge RD |
| * | Sizemore Road | | |
| | CR 5155 | 0.0 Denny Creek RD | 0.4 [1.7] Mine |

WEBSTER COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | Pennyrile PKWY | 55.0 Hopkins CO LN | 62.6 KY 56 |
| * | US 41 | 0.0 Hopkins CO LN | 12.1 Henderson CO LN |
| * | US 41A | 0.0 Hopkins CO LN | 19.5 KY 56 |
| * | KY 56 | 5.3 US 41A | 12.5 US 41 (South) |
| | Weight Limit - Bridge over Branch @ milepoint 12.42 | | |
| | TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons | | |
| | | 12.5 US 41 (North) | 14.4 Old Eastwood Ferry RD |
| * | KY 109 | 2.9 KY 670 | 14.7 Union CO LN |
| | Weight Limit - Bridge over Crab Orchard Creek @ milepoint 7.33 | | |
| | TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 51 tons | | |
| | Weight Limit - Bridge over Caney Fork @ milepoint 10.72 | | |
| | TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 51 tons | | |
| * | KY 120 | 0.0 Crittenden CO LN [3.6 Mine] | 6.7 US 41A |
| * | KY 132 | 23.6 Mine | 25.9 KY 494 [28.5 KY 56] |
| [* | KY 270 | 8.6 Mine | 13.2 US 41A] |
| * | KY 494 | 0.0 KY 132 | 2.2 US 41 |
| * | KY 670 | 0.0 KY 109 | 2.7 US 41A |
| * | KY 814 | 0.0 Hopkins CO LN | 0.6 US 41A |
| * | Old Eastwood Ferry Road | | |
| | CR 5034 | 0.0 KY 56 | 0.1 Sebree Dock |
| * | Quinns Landing Road | | |
| | CR 5036 | 0.0 Henderson CO LN | 0.2 Big Rivers Plant |

WHITLEY COUNTY

| | ROAD | FROM | TO |
|---|---|---|---|
| * | US 25T | 0.0 US 25W | 0.7 US 25W |
| * | US 25W | [0.0 Tennessee State LN | 14.1 KY 26] |
| | | 0.8 Black Oak-Proctor Road | 32.8 US 25T |
| | [Weight Limit - Bridge over Elk Fork Creek @ milepoint 0.53 | | |
| | TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 60 tons] | | |
| | Weight Limit - Bridge over Clear Creek @ milepoint 5.04 | | |
| | TY I = 20 tons, TY II = 30 tons, TY III = 32 tons, TY IV = 39 tons | | |
| | Weight Limit - Bridge over Clear Fork Creek @ milepoint 6.23 | | |
| | TY I = 20 tons, TY II = 30 tons, TY III = 32 tons, TY IV = 39 tons | | |
| | Weight Limit - Bridge over L&N RR @ milepoint 11.02 | | |
| | TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Watts Creek @ milepoint 14.17 | | |
| | TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 51 tons | | |
| | Weight Limit - Bridge over L&N RR @ milepoint 14.35 | | |
| | TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 59 tons | | |
| | Weight Limit - Bridge over I-75 South Interchange @ milepoint 16.20 | | |
| | TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 49 tons | | |
| | Weight Limit - Bridge over South Fork of Spruce Creek @ milepoint 25.56 | | |
| | TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 57 tons | | |
| | Weight Limit - Bridge over Spruce Creek @ milepoint 27.04 | | |
| | TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 59 tons | | |
| | | [29.6 I-75 | 32.8 US 25T] |
| | | 33.5 KY 312 (East) | 33.7 Laurel CO LN |
| | Weight Limit - Bridge over Lynn Camp Creek @ milepoint 33.73 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 45 tons | | |
| * | KY 6 | 0.0 KY 26 | 1.6 Knox CO LN |
| | Weight Limit - Bridge over Unnamed Stream @ milepoint 0.47 | | |
| | TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over Corn Creek @ milepoint 1.64 | | |
| | TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons | | |
| * | KY 11 | 0.0 KY 92 | 2.6 Knox CO LN |
| * | KY 26 | 0.0 US 25W | 14.3 US 25W |
| * | KY 92 | 0.0 McCreary CO LN | 11.3 US 25W (South) |
| | Weight Limit - Bridge over Pleasant Run @ milepoint 0.23 | | |
| | TY I = 20 tons, TY II = 34 [38] tons, TY III = 36 [38] tons, TY IV = 58 [60] tons | | |
| | Weight Limit - Bridge over Pleasant Run @ milepoint 1.51 | | |
| | TY I = 20 tons, TY II = 31 tons, TY III = 33 tons, TY IV = 46 tons | | |
| | Weight Limit - Bridge over Jellico Creek @ milepoint 2.99 | | |
| | TY I = 20 tons, TY II = 25 tons, TY III = 28 tons, TY IV = 40 tons | | |
| | Weight Limit - Bridge over Briar Creek @ milepoint 8.39 | | |
| | TY I = 14 tons, TY II = 14 tons, TY III = 14 tons, TY IV = 14 tons | | |
| | Weight Limit - Bridge over I-75 @ milepoint 11.00 | | |
| | TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 51 tons | | |
| | | 11.3 US 25W (North) | 33.4 Bell CO LN |
| | Weight Limit - Bridge over Cumberland River @ milepoint 22.02 | | |
| | TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons | | |
| | Weight Limit - Bridge over Golden Fork @ milepoint 26.66 | | |
| | TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 50 tons | | |
| | Weight Limit - Bridge over Harpes Creek @ milepoint 27.89 | | |
| | TY I = 20 tons, TY II = 38 tons, TY III = 38 tons, TY IV = 60 tons | | |
| * | KY 628 | 2.7 [1.9] Jordan Hollow RD | 5.2 US 25W |
| | Weight Limit - Bridge over Possum Creek @ milepoint 3.91 | | |
| | TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons | | |
| | Weight Limit - Bridge over I-75 @ milepoint 4.91 | | |
| | TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 48 tons | | |
| * | KY 779 | 6.3 KY 1064 (South) | [7.0 KY 1064 (North) |
| | | 8.0 KY 1418] | 12.7 KY 11 |
| | Weight Limit - Bridge over Cumberland River @ milepoint 11.83 | | |
| | TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons | | |
| * | KY 904 | 0.0 KY 92 | 13.5 KY 92 |
| | Weight Limit - Bridge over Cumberland River @ milepoint 0.09 | | |
| | TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons | | |
| | Weight Limit - Bridge over Popular Creek @ milepoint 13.44 | | |
| | TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons | | |
| * | KY 1064 | 0.0 KY 92 | 4.2 KY 779 (West) |
| | Weight Limit - Bridge over Unnamed Stream @ milepoint 0.79 | | |
| | TY I = 10 tons, TY II = 10 tons, TY III = 10 tons, TY IV = 10 tons | | |
| | | 4.2 KY 779 (East) | 12.0 KY 6 |
| [* | KY 1418 | 0.0 KY 779 | 1.5 Knox CO LN |
| * | KY 1595 | 3.1 Mine | 4.6 KY 92 |
| | Weight Limit - Bridge over Poplar Creek @ milepoint 4.49 | | |
| | TY I = 20 tons, TY II = 28 tons, TY III = 30 tons, TY IV = 52 tons] | | |

| | | | |
|---|---|---|---|
| * KY 1673 | 0.0 KY 92 | | 0.4 McCreary CO LN |
| | 0.4 McCreary CO LN | | 1.7 McCreary CO LN [1.4 Mine] |
| * KY 1809 | 0.0 KY 92 | | 1.4 Knox CO LN |
| Weight Limit - Bridge over Golden Creek @ milepoint 0.21 | | | |
| TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 53 tons | | | |
| * KY 1898 | 2.2 Old Jellico RD [1.8 Mine] | | 2.8 KY 92 |
| Weight Limit - Bridge over Jellico Creek @ milepoint 2.20 | | | |
| TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 38 tons | | | |
| [* KY 2995 | 0.0 KY 2996 | | 0.8 Dean Chambers Tipple |
| * KY 2996 | 0.0 US 25W | | 0.7 KY 2995] |
| * McNeil Hollow-Corn Creek Road | | | |
| CR 5045 | [0.0 KY 26 | | 2.4 Mine] |
| | 2.4 Brenda Mine | | 3.6 KY 1064 |
| [* Morgan Road | | | |
| CR 5048 | 0.0 KY 1064 | | 0.7 Mine |
| * Bunch Creek Road | | | |
| CR 5154 | 0.0 KY 92 | | 0.5 Mine] |
| * Carpenter-Lick Fork Road | | | |
| CR 5172 | 0.0 KY 92 | | 0.9 Daniel Bros [0.8] Mine |
| Weight Limit - Bridge over Popular Creek | | | |
| TY I = 5 tons, TY II = 5 tons, TY III = 5 tons, TY IV = 5 tons | | | |
| * Doc Siler Road | | | |
| CR 5223 | 0.0 Tennessee ST LN [Skaggs RD] | | 0.1 Skaggs RD [Tennessee ST LN] |
| * Skaggs Branch Road | | | |
| CR 5224 | 0.0 Doc Siler RD | | 0.7 Bowlin Mine |
| * Keswick-Gatliff Road | | | |
| CR 5227 | 3.3 Upper Cane Creek RD [2.0 Mine] | | 8.0 KY 904 |
| [Weight Limit - Bridge over Patterson Creek | | | |
| TY I = 18 tons, TY II = 20 tons, TY III = 24 tons, TY IV = 40 tons] | | | |
| Weight Limit - Bridge over Bennetts Branch | | | |
| TY I = 20 tons, TY II = 28 tons, TY III = 33 tons, TY IV = 56 tons | | | |
| * Upper Cane Creek Road | | | |
| CR 5230 | 0.0 Keswick-Gatliff RD | | 0.5 Mine |
| [* Bethel Church Road | | | |
| CR 5268 | 0.0 KY 904 | | 0.2 Mine |
| * Cotton Creek - Dal Road | | | |
| CR 5272 | 5.0 Mine | | 5.7 KY 904 |
| * Paint Creek - Wolf Creek Road | | | |
| CR 5320 | 0.0 KY 92 | | 1.1 Mine] |
| * Jordan Hollow Road | | | |
| CR 5321 | [0.0 KY 628 | | 0.3 Mine] |
| | 1.0 Wash Ridge Mine | | 1.5 KY 628 |
| [* Kensee Hollow Road | | | |
| CR 5326 | 0.0 US 25W | | 0.8 Mine] |
| * Ryans Creek Road | | | |
| CR 5335 | 0.0 KY 1898 | | 1.0 Bucks Branch Road |
| * Old Jellico Road | | | |
| CR 5337 | 0.0 KY 92 | | 1.0 Gatliff Mine |
| Weight Limit - Bridge over Paint Creek | | | |
| TY I = 16 tons, TY II = 16 tons, TY III = 16 tons, TY IV = 16 tons | | | |
| * Kidd Road | | | |
| CR 5344 | 0.0 McCreary CO LN | | 1.5 Stansbury Mine |

WOLFE COUNTY

| ROAD | FROM | | TO |
|---|---|---|---|
| * Mountain PKWY | 36.0 Powell CO LN | | 53.3 KY 1010 |
| Weight Limit - Bridge over Swiftcamp Creek @ milepoint 43.77 | | | |
| TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 47 tons | | | |
| Weight Limit - Bridge over KY 191 @ milepoint 46.22 | | | |
| TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 59 tons | | | |
| Weight Limit - Bridge over KY 1512 @ milepoint 49.67 | | | |
| TY I = 20 tons, TY II = 40 tons, TY III = 41 tons, TY IV = 53 tons | | | |
| | [57.2 KY 205 | | 57.7 Morgan CO LN |
| Weight Limit - Bridge over Helechawa-Lee City Road @ milepoint 57.19 | | | |
| TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons] | | | |
| * KY 15 | 0.0 Breathitt CO LN | | 10.3 KY 651 [14.0 KY 715] |
| Weight Limit - Bridge over Holly Creek @ milepoint 1.79 | | | |
| TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons | | | |
| [Weight Limit - Bridge over Mountain Parkway @ milepoint 12.87 | | | |
| TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 52 tons] | | | |
| | 13.9 KY 3040 | | 14.0 KY 715 |
| * KY 15S | 0.0 KY 15 | | 1.1 Mountain PKWY |
| Weight Limit - Bridge over Mountain Parkway @ milepoint 1.05 | | | |
| TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 58 tons | | | |

| | | | |
|---|---|---|---|
| [* KY 191 | 14.3 KY 205 | | 15.9 KY 205 |
| * KY 205 | 4.3 KY 1094 | | 6.4 KY 191 |
| Weight Limit - Bridge over State Road Fork @ milepoint 6.32 | | | |
| TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 53 tons | | | |
| | 6.4 KY 191 | | 6.9 Morgan CO LN] |
| * KY 651 | 0.0 Sandy Ridge RD | | 2.1 KY 15 |
| * KY 715 | 2.6 KY 2016 | | 5.8 KY 15 |
| * KY 1010 | 1.6 Mine | | 3.7 Mountain PKWY |
| Weight Limit - Bridge over Mountain Parkway @ milepoint 3.65 | | | |
| TY I = 20 tons, TY II = 22 tons, TY III = 23 tons, TY IV = 31 tons | | | |
| [* KY 1094 | 2.7 Mine | | 7.5 KY 205] |
| * KY 2016 | 0.2 Mine | | 4.5 KY 715 |
| * KY 3040 | 0.0 KY 15 | | 0.4 J & A Tipple |
| * Sandy Ridge Road | | | |
| CR 5220 | 0.0 KY 651 | | 3.0 [2.7] Mine |

Section 5. No person shall operate, or knowingly cause to be operated, on any bridge listed in Section 4 of this administrative regulation any vehicle whose gross vehicle weight exceeds the weight limits specified for that bridge.

Section 6. In accordance with KRS 189.230(3) the Department of Highways shall post the gross vehicle weight limits for each bridge listed in Section 4 of this administrative regulation.

Section 7. No person shall operate, or knowingly cause to be operated, on any bridge on the extended weight coal haul road system any vehicle whose gross vehicle weight exceeds the limits specified by a notice posted pursuant to KRS 189.230(3).

Section 8. A copy of the AASHTO Manual for Maintenance Inspection of Bridges, 1983 edition and 1984 and 1985 Interim Revisions is hereby incorporated by reference as part of this administrative regulation. A copy of the AASHTO Manual for Maintenance Inspection of Bridges, 1983 edition and 1984 and 1985 Interim Revisions may be viewed at the Transportation Cabinet, Department of Highways, Division of Maintenance, Frankfort, Kentucky. Copies of the AASHTO Manual for Maintenance Inspection of Bridges, 1983 edition and 1984 and 1985 Interim Revisions may be obtained from the American Association of State Highway and Transportation Officials, 444 North Capitol Street, N.W., Suite 225, Washington, D.C. 20001.

C. LESLIE DAWSON, Secretary/Commissioner
APPROVED BY AGENCY: December 3, 1987
FILED WITH LRC: December 7, 1987 at 9 a.m.

## PUBLIC PROTECTION & REGULATION CABINET
### Department of Insurance
### (Amended After Hearing)

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

RELATES TO: KRS 304.4-010, 304.6-100
PURSUANT TO: KRS Chapter 13A, 304.2-110, 304.6-100
NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.6-100 authorizes the Commissioner of Insurance to make regulations for the computing of casualty insurance reserves. This regulation permits and regulates the discounting of loss reserves for certain types of casualty insurance.

Section 1. Definitions. As used in this regulation:
(1) "Annual or other financial statements" means the annual statement required by KRS 304.3-240 and all supplements thereto and any other financial statements required by the commissioner;
(2) "Casualty insurance" has the meaning set forth in KRS 304.5-070;
(3) "Commissioner" means the Commissioner of the Kentucky Department of Insurance;
(4) "Domestic insurer" has the meaning set forth in KRS 304.1-070(1);
[(5) "Loss adjustment expense reserves" means the amount set aside as of the annual statement date to provide for the future costs of settling claims, whether or not specifically allocated to a particular claim;]
(5) [(6)] "Loss reserves" and "loss adjustment expense reserves," hereinafter called "loss reserves," means the same as in the Annual Statement Convention Blank filed with the National Association of Insurance Commissioners [means the amount set aside as of the annual statement date to provide for the payment of future losses under casualty insurance policies];
(6) [(7)] "Medical malpractice insurance" means insurance as defined in KRS 304.5-070(1)(j) issued to health care providers, excess insurance issued to a medical malpractice self-insured plan, and reinsurance of medical malpractice insurance;
(7) [(8)] "Qualified actuary" means:
(a) A member of the American Academy of Actuaries; or
(b) A person who has demonstrated to the satisfaction of the commissioner educational background necessary for reserving and other actuarial sciences and has not less than seven (7) years of relevant actuarial experience;
(8) [(9)] "Workers' compensation insurance" has the meaning set forth in KRS 304.5-070(1)(c).

Section 2. Discounting of Casualty Insurance Loss Reserves. (1) Domestic insurers may discount loss reserves for medical malpractice insurance, workers' compensation insurance, and such other kinds of casualty insurance as may be approved by order of the commissioner.
(2) The reserves that may be discounted are loss reserves [and loss adjustment expense reserves], including reserves for incurred but not reported claims and case reserves. [Loss reserves and loss adjustment expense reserves

need not be discounted separately.]

(3) [Section 3. Prior Approval of the Commissioner Required. (1) A domestic insurer may discount loss reserves only upon approval of the commissioner.

(2)] All filings involving [for approval of loss] discounting of loss reserves shall contain the information required by this regulation [and be accompanied by a five (5) dollar filing fee].

Section 3. [4.] Actuarial Statement of Opinion. (1) All filings involving [requesting approval for] discounting of loss reserves shall be accompanied by an actuarial statement of opinion reflecting accurately the effect of discounting of loss reserves on the domestic insurer's financial condition. The actuarial statement of opinion shall be by a qualified actuary.

(2) The actuarial statement of opinion shall include the following:

(a) An assessment of the adequacy of the undiscounted reserve (i.e., full value reserve prior to discounting);

(b) An assessment of the appropriateness of the assumed interest rate, considering at least the following [including, but not limited to]:

1. Valuation basis of bonds (market value as opposed to amortized value);

2. Yield on assets;

3. Asset maturities (i.e., do they reasonably match the maturities of the corresponding liabilities?); and

4. Consistency with interest rate assumptions used in pricing.

(c) An assessment of the appropriateness of the anticipated payment schedule, considering at least the following [including, but not limited to]:

1. The domestic insurer's own paid loss development history to the extent available and credible;

2. To the extent that such history is not available or credible, the applicability of broader based industry experience, in particular with respect to the form of coverage (e.g., occurrence as opposed to claims made coverage forms) and retention level; and

3. The domestic insurer's reinsurance recoverables.

(d) A description of the formula(s) used for discounting, including any provision for adverse deviation;

(e) [(d)] Any other factors needed to reflect accurately the effect of discounting on the financial condition of the domestic insurer or required by the commissioner.

Section 4. [5.] Disclosure of Discounting of Loss Reserves in Annual and Other Financial Statements. (1) Domestic insurers discounting loss reserves shall disclose the discounting [use] of loss reserves in their annual and other financial statements in a manner which will reflect accurately the effect of discounting of loss reserves on the domestic insurer's financial condition. The commissioner may by order specify particular portions or schedules of the annual or other financial statements in which a specific type of disclosure is needed to reflect accurately the effect of discounting of loss reserves on a domestic insurer's financial condition.

(2) Insurers discounting loss reserves shall prepare schedule P, parts 1, 2, and 3, of the annual statement on an undiscounted basis, with schedule P, part 4, of the annual statement providing reconciliation between undiscounted loss reserves and discounted loss reserves. If schedule P of the annual statement is altered or replaced, insurers discounting loss reserves shall complete such schedules or other portions of the annual statement to disclose the discounting of loss reserves in accordance with the instructions of the commissioner. [An insurer discounting loss reserves shall submit with each annual or other financial statement an actuarial statement of opinion concerning the discounting of loss reserves, as described in Section 4 of this regulation.]

Section 5. [6.] Limitations on Discounting of Loss Reserves. In no event shall discounting of loss reserves by an insurer result in reserves which do not meet the requirements of KRS 304.6-100(3). [(1) The interest rate assumption used in discounting loss reserves shall not be greater than that prescribed by order of the commissioner.]

[(2) In no event shall an insurer discounting loss reserves allow its loss adjustment expense reserves and its loss reserves for losses in each of the most recent three (3) years to be less than sixty (60) percent of premiums earned during each year less the amount already paid for losses and expenses incidental thereto incurred during such year.]

Section 6. [7.] This regulation shall apply to financial statements covering the financial condition of an insurer on or after January 1, 1988. [become effective upon completion of its review pursuant to KRS Chapter 13A.]

GIL McCARTY, Commissioner
ROBERT M. DAVIS, Secretary
APPROVED BY AGENCY: December 4, 1987
FILED WITH LRC: December 7, 1987 at 10 a.m.

## CABINET FOR HUMAN RESOURCES
## Department for Health Servicese
## (Amended After Hearing)

902 KAR 17:010. State health plan.

RELATES TO: KRS Chapters 194, 216B, Executive Order 86-366

PURSUANT TO: KRS 194.050, Executive Order 86-366

NECESSITY AND FUNCTION: [The Health Planning and Resources Development Act, 42 USC 300 M-3 requires participating states to adopt by procedures set out in the United States Code, a state health plan.] The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to operate the programs and fulfill the responsibilities vested in the cabinet. The cabinet and the Statewide Health Coordinating Council are responsible for development of the state health plan. [implement programs mandated by federal law, or to qualify for the proper administration of the cabinet and its programs.] The Commission for Health Economics Control in Kentucky utilizes the state health plan in review of applications for certificates of need to establish and modify health services and

health facilities in the Commonwealth. The function of this regulation is to assist in the inventory of existing health resources and to set planning goals and guidelines.

Section 1. The Kentucky State Health Plan 1986-1988, was adopted by the Statewide Health Coordinating [State Health Planning] Council on November 8, 1985, amended on January 22, 1986, [and] January 9, 1987, and December 2 [11], 1987, and approved by Governor Martha Layne Collins as the document that sets out planning policies and guidelines for use by the Commission for Health Economics Control in Kentucky. A copy of the Kentucky State Health Plan 1986-1988 as amended on January 22, 1986, [and] January 9, 1987, and December 2 [11], 1987, is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621 and is open and available for public inspection during normal business hours.

Section 2. The Review Criteria and Standards Section, pages 175 [181] [167] through 198 [207] [190], of the Kentucky State Health Plan 1986-1988 is hereby adopted by reference as regulations of the Cabinet for Human Resources as if fully set out herein.

C. HERNANDEZ, M.D., Commissioner
FONTAINE BANKS, Deputy Secretary
APPROVED BY AGENCY: December 3, 1987
FILED WITH LRC: December 4, 1987 at 2 p.m.

# PROPOSED AMENDMENTS

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

**301 KAR 1:085. Mussel shell harvesting.**

RELATES TO: KRS 150.025, 150.110, 150.170, 150.175, 150.190, 150.510, 150.520
PURSUANT TO: KRS 13A.150, 150.025
NECESSITY AND FUNCTION: It is necessary to regulate the manner of taking mussels because of the value and susceptibility of these animals for overharvest. This amendment is necessary to establish a mussel sanctuary on the Ohio River as a result of the relocation of a downstream bed [reduce conflicts between mussel harvesters and other resource user groups and to increase the minimum size limit on selected mussel species].

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

Section 2. The mussel season is open year round in all streams and on all beds, except as specified in this section.
(1) Musseling is prohibited in the Tennessee River from Kentucky Dam downstream to river mile seventeen and eight-tenths (17.8), an area established as a mussel sanctuary.
(2) Musseling is prohibited within the stream segments 200 yards below any dam on any stream.
(3) Musseling is prohibited on the Cumberland River from Barkley Dam downstream to the U.S. Highway 62 bridge.
(4) Musseling is prohibited in all embayments on Barkley and Kentucky Lakes.
(5) Musseling is prohibited in the Ohio River between river mile 418 and river mile 419, an area established as a mussel sanctuary.

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

Section 4. The statewide size limits for taking of mussels shall be as follows. All mussels smaller than these minimum sizes must immediately be returned to the water from which taken.
(1) Washboard mussels, Megalonaias gigantea, shall be large enough so as not to be able to pass through a circular ring or opening having a diameter of three and three-fourths (3 3/4) inches.
(2) Three (3) ridge mussels, Amblema plicata, shall be large enough so as not to be able to pass through a circular ring or opening having a diameter of two and three-fourths (2 3/4) inches.
(3) All other mussels, except the Asiatic clam, Corbicula sp. shall be large enough so as not to be able to pass through a circular ring or opening having a diameter of two and one-half (2 1/2) inches.
(4) The Asiatic clam, Corbicula sp., may be taken at any size.

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

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

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

Section 8. The Commissioner may designate as disaster areas waters in which all live mussels have been killed, and may issue a special permit allowing the use of various harvest methods.

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

DON R. McCORMICK, Commissioner
G. WENDELL COMBS, Secretary
CHARLES E. PALMER, JR., Chairman
APPROVED BY AGENCY: October 12, 1987
FILED WITH LRC: December 10, 1987 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on January 27, 1988 at 1:30 p.m. in the meeting room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Peter W. Pfeiffer, Director, Division of Fisheries, Department of Fish & Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don McCormick, Commissioner
(1) Type and number of entities affected: Approximately 25 Ohio River mussel fishermen.
(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

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Water**
**(Proposed Amendment)**

**401 KAR 5:010. Certification of wastewater system operators.**

RELATES TO: KRS 224.135
PURSUANT TO: KRS 224.032, 224.033(17)
NECESSITY AND FUNCTION: The Secretary is directed to adopt regulations applicable to certification of wastewater system operators. This regulation establishes standards for classification of wastewater systems; qualifications of applicants; examination procedures; duties of the board; [and,] provisions relating to the issuance, renewal or revocation of certificates, fee schedule and other provisions necessary for certification of operators; and [. The February, 1985 amendments add a limited certification, revise the fee schedule, and make] other operational provisions [revisions] related to the functions of the wastewater operators certification board.

Section 1. Definitions. The following terms shall have the meanings set forth below unless the context clearly indicates otherwise:
(1) "Board" means the Kentucky Board of Certification of Wastewater System Operators.
(2) "Cabinet" means the Kentucky Natural Resources and Environmental Protection Cabinet.
(3) "Secretary" means the secretary of the cabinet.
(4) "Certificate" means a certificate of competency issued by the secretary stating that the operator has met all requirements for the specified operator classification as set by this regulation.
(5) "Division" means the Division of Water, Natural Resources and Environmental Protection Cabinet.
(6) "Operator" means the person having primary responsibility of a wastewater system or any portion thereof which may affect the performance of the system.
(7) "Primary responsibility" means having the authority to conduct or supervise the procedures and practices necessary to insure that the wastewater system or any portion thereof is operated in accordance with accepted practices, laws and regulations of the Commonwealth.
(8) "Wastewater system" means the system of pipes, structures, equipment and processes required to collect, carry and treat domestic and/or industrial wastewater, including solids handling. The term "wastewater system" is synonymous and interchangeable with the term "sewage system."
(9) "Association of Boards of Certification for Operating Personnel in Water and Wastewater Utilities (ABC)" means that organization which serves as an information center for certification activities, recommends minimum standards and guidelines for classification of water supply and wastewater systems and state programs, and assists authorities in establishing new certification programs and upgrading existing ones.

Section 2. General Provisions. (1) Each wastewater system must be operated under the supervision of an individual holding a current Kentucky operator's certificate for at least the class of system he/she supervises. Certified operators are required for the operation of all wastewater treatment facilities.
(2) In the event the operator with primary responsibility is not physically present while a system is operating, he/she must be reasonably available. Such availability shall be determined by the board on a case-by-case basis.
(3) An industrial certification is available for operators of pretreatment facilities. However, operators of such facilities are not required to obtain this or any other form of certification.

Section 3. Duties of the Board. (1) In carrying out its responsibilities the board shall among other things:
(a) [(1)] Examine the qualifications of applicants for certification.
(b) [(2)] Recommend qualified applicants for certification by the cabinet.
(c) Review and provide comments to the cabinet on proposed wastewater treatment plant operator regulations or revisions to regulations dealing with wastewater treatment plant operator certification.
(d) Review and make recommendations to the cabinet on training materials and methods dealing with the certification of wastewater treatment plant operators.
[(3) Maintain records of operator qualifications, certification and register of certified operators.]
(e) [(4)] Perform such other and further acts as may be necessary to carry out the duties and responsibilities as herein described.
(2) In carrying out its certification responsibilities, the board may establish minimum criteria and provide a general recommendation for certification for all applicants who exceed them.

Section 4. Application for Certification. (1) An operator desiring to be certified shall file application with the cabinet preceding examination on an application form provided by the cabinet.
(2) The executive secretary and treasurer of the board shall assemble all the information needed by the board or cabinet to determine eligibility of the applicant for examination and certification.
(3) The board or cabinet shall review applications and supporting documents, determine the eligibility of the applicant for examination and notify him/her of his/her status.

Section 5. Examinations. (1) The board and the

cabinet shall be jointly responsible for preparation of the examinations to be used in determining knowledge, ability and judgment of the applicants. The examination questions promulgated by the ABC shall be used as a guideline.

(2) Examinations shall be held at places and times set forth by the cabinet. The examinations shall be conducted at least semiannually.

(3) Except in cases which the board may decide represent proper exceptions, all examinations shall be written. All examinations will be graded by the board, or by the cabinet and the applicant notified of the outcome. Papers will not be returned to the applicant, but means will be provided to review the results with a member of the board or cabinet upon request by the applicant.

(4) Separate examinations will be prepared to cover basic differences in the duties and responsibilities of operators, types of facilities, variations in wastewater quality, conditions of receiving waters and other pertinent matters.

(5) Applicants who fail to pass an examination may reapply for the examination at a regularly scheduled examination or by appointment with the cabinet.

Section 6. Fees. (1) Fees for certification of operators of wastewater systems shall be as follows:

(a) Examination: fifteen (15) dollars.

(b) Renewal of certificate: twelve (12) dollars per biennium beginning April 9, 1985, and sixteen (16) dollars per biennium beginning March 1, 1987. Limited certificates: six (6) dollars per year beginning March 1, 1985 and eight (8) dollars per year beginning March 1, 1987.

(c) Certification by reciprocity: fifteen (15) dollars.

(2) Fees accompanying applications will not be returned to those who do not pass the examination.

Section 7. Issuance of Certificates. (1) Upon satisfactory fulfillment of the requirements provided herein and upon recommendation of the board of certification, the cabinet shall issue a suitable certificate to the applicant designating his/her competency. This certificate will indicate the classification of the wastewater system for which the operator is qualified.

(2) All certificates shall expire at midnight on February 28 of odd-numbered years. Certificates of operators in good standing will be renewed automatically [biennially on odd-numbered years beginning 1985,] upon written application and submission of applicable renewal fee to be received by the cabinet before June 1 of each renewal year. If the application and fee are not received by the cabinet prior to June 1, the certificate shall be invalid and the operator shall be required to obtain a new certificate as provided in subsection (5) of this section. Limited certificates shall expire each year on midnight of the last day of February [will be renewed annually] and may be renewed only after the cabinet has timely received the required written application and renewal fee, and certified [certifies] that the holder of the certificate has substantially complied with all requirements for properly operating the facility under his/her responsible charge.

(3) Certified operators who desire to become certified in a higher classification must first satisfactorily complete the requirements for the higher classification before a new certificate is issued. Experience under a limited certificate does not count toward fulfillment of qualifications for other classifications.

(4) Certificates shall be valid only so long as the holder uses reasonable care, judgment and application of his/her knowledge in the performance of his/her duties. No certificate will be valid if obtained through fraud, deceit or the submission of inaccurate data on qualifications.

(5) The certificates of operators who terminate their employment at a wastewater system will be valid for four (4) years providing they are renewed as required by subsection 2 of this section, except for limited certificate holders. After four (4) years, the certificate will be automatically invalidated. Limited certificates become invalid immediately if not renewed. Operators whose certificates are invalidated may be issued new certificates of like classification provided appropriate proof of competency is presented to the board. Successful completion of a written or oral examination shall be required by the board.

(6) Certificates may be issued at the discretion of the board in a comparable classification to any person who holds a valid certificate in any state, territory, or possession of the United States or any country provided the requirements for certification of operators under which the person's certificate was issued do not conflict with any provisions of KRS Chapter 224 and are of a comparable standard; and, providing further, that reciprocal privileges are granted to certified operators of this state.

(7) Certificates shall be prominently displayed in the office of the operator.

(8) Certificates heretofore issued by the cabinet shall continue in full force and effect, unless revoked for cause, until such time as the cabinet issues new certificates based upon the classifications provided herein.

(9) Training requirements.

(a) Class III and Class IV operators shall have accumulated twelve (12) hours per year of appropriate board approved training for certificate renewal. Class I and II operators shall complete six (6) hours of training per year for renewal. Such training shall include, but may not be limited to, correspondence courses, short courses, trade association meetings, and on-the-job training. However, at least one-half (1/2) of the training required for recertification shall be in process control and operation or in the basic sciences related to these topics. Training hours accumulated in any biennium [given year] in excess of the minimum requirement necessary for renewal may be carried forward to the next renewal [for a] period [not to exceed two (2) years]. No training is required for holders of limited or industrial certificates. [Requirements of this subsection shall be effective for certification renewal at midnight on April 9, 1985.]

(b) Certified operators who teach board-approved training courses may receive hour-per-hour credit for actual instruction time, provided, however, that for courses taught

more than once during a renewal period, credit will be allowed for only one (1) period of instruction.

(c) The criteria used for determining whether to approve training, other than the training provided by the cabinet, are:

1. The ability of the course to provide information that will enhance the proper operation and maintenance of wastewater treatment facilities; and

2. The ability of the instructor to properly present such information.

Therefore, in making its determination regarding approval of training courses the board will require that at least the following specifics about the course be submitted: the course name; the date, location, and the beginning and ending times of the course; a summary of the course content of sufficient detail to determine relevance and quality of the course; and the name and credentials of each instructor for the course.

(d) The board may waive any or all of the requirements of paragraph (a) of this subsection for all or portion(s) of a class of operators as defined in Section 11 of this regulation when the board has determined, based on information it has gathered, that such action is appropriate and justified.

Section 8. Revocation of Certificates. The cabinet may revoke the certificate of an operator, following a hearing before the board and upon recommendation by the board, when it is found that the operator has practiced fraud or deception; that reasonable care, judgment or the application of his/her knowledge was not used in the performance of his/her duties; or that the operator is incompetent or unable to properly perform his/her duties.

Section 9. Classification of Wastewater Systems. Wastewater systems shall be classified in one (1) of five (5) classes. These classifications shall be made according to population served, type of work, character and volume of wastes to be treated, and the use and nature of the waters receiving the system effluent. Classifications I through IV hall be based on the population served or for which the system is designed except that systems may be classified in a group higher than indicated at the discretion of the cabinet by reason of the incorporation in the system of special features of design or characteristics more difficult to operate than usual, or by reason of conditions of flow or use of the receiving water requiring an unusually high degree of system operation control, or for combinations of such conditions or circumstances. In addition, a limited classification is available for operators of wastewater facilities at schools. Classes I through IV are defined as:

(1) Class I: Systems with a design capacity of less than or equal to 300,000 gallons per day [serving a population of less than 2,000].

(2) Class II: Systems with a design capacity more than 300,000 gallons per day, but less than or equal to two (2) million gallons per day [serving a population between 2,000 and 10,000].

(3) Class III: Systems with a design capacity more than two (2) million gallons per day, but less than or equal to seven and one-half (7 1/2) million gallons per day [serving a population between 10,000 and 40,000].

(4) Class IV: Systems with a design capacity in excess of seven and one-half (7 1/2) million gallons per day [serving a population in excess of 40,000].

An industrial certification is available for operators of pretreatment facilities. However, operators of such facilities are not required to obtain this or any other form of certification.

Section 10. Classification of Wastewater System Operators. Five (5) classes of operators are hereby established and shall range from Class I through Class IV plus Limited. Each operator classification is intended to relate directly to the corresponding classification of wastewater system. In addition, there is hereby established an industrial classification for operators of facilities for pretreating wastewater prior to discharge into municipal sewers.

Section 11. Operator Qualifications: Experience, Education and Equivalencies. (1) Operators shall be examined by the board or cabinet as to education, experience, and knowledge as related to the classification of wastewater systems for which examined. Applicants may be required further to give evidence of good moral character, dependability, initiative, interest in his/her work, and other pertinent characteristics in relation to operation of the class of wastewater system for which certification is being applied.

(2) Experience and educational requirements of operators shall be as follows:

(a) Class I and industrial.

1. Completion of high school or equivalent; and

2. One (1) year of acceptable operation of applicable wastewater system.

(b) Class II.

1. Completion of high school or equivalent; and

2. Two (2) years of acceptable operation of applicable wastewater system of Class I or higher.

(c) Class III.

1. Completion of high school or equivalent; and

2. Three (3) years of acceptable operation of applicable wastewater system of Class II or higher.

(d) Class IV.

1. A baccalaureate degree in a standard curriculum in engineering, allied sciences or equivalent; and

2. At least five (5) years of acceptable operation of applicable wastewater system of Class III or higher.

(3) In evaluating qualifications of operators and experience/educational equivalencies the board shall be guided by the following:

(a) In order to establish how much experience will be accepted, the board must determine whether the work performed required [Experience requiring] some technical knowledge of the work and whether or not responsible charge of work was included. In wastewater systems, where responsibility is divided, supervisors of important divisions may be credited with having responsible charge. Experience accumulated under an industrial certificate will be equivalent to Class I. No experience credit will be allowed for operation under a limited certificate.

(b) Experience, to be acceptable, must be the result of satisfactory accomplishment of work. Evaluation may be based on reports of the cabinet or other agencies having appropriate

responsibilities for supervising wastewater systems.

(c) Partial credit may be given for operating experience in maintenance laboratories or other work of wastewater systems and allied trades such as plumbing.

(d) Where applicable, education may be substituted for a portion of experience requirements as specified below:

1. One (1) year of college work (limited to approved curricula in environmental engineering, environmental technology or related scientific fields) may be considered as equivalent to a maximum of two (2) years of experience or one (1) year of experience with responsible charge.

2. Where education is substituted for experience it shall not exceed an amount which would reduce the requirements of actual operating experience to less than six (6) months for Class I or less than one (1) year for Class II or two (2) years for Class III or three (3) years for Class IV.

3. Education applied to the experience requirement cannot also be applied to the education requirement.

(e) Where applicable, experience may be substituted for education requirements as specified below:

1. One (1) year of experience may be considered as equivalent to a maximum of <u>one (1) year</u> [two (2) years] of high school. <u>Four (4) years of board-approved experience may be considered equivalent to a high school degree.</u>

2. Each year of responsible charge or two (2) years experience in an important phase of operation, other than responsible charge, will be considered equivalent to one (1) year of college. <u>Four (4) years of responsible change approved by the board or eight (8) years of other board-approved experience may be considered equivalent to a baccalaureate degree.</u>

3. Experience applied to educational requirements may not also be applied to the experience requirement.

(f) Substitutions for formal education may be as follows:

1. Training credits (T.C.) for board approved operators training schools, seminars and technical courses may be substituted for high school and college requirements. One (1) year of college work equals thirty (30) semester hours or forty-five (45) quarter hours. Six (6) classroom hours of board approved courses shall equal one (1) T.C., and forty-five (45) T.C. equals eighteen (18) semester hours of college or one (1) year of high school.

2. An acceptable high school equivalency certificate may be used to substitute for graduation from high school.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at 11:30 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 25, 1988 at 10 a.m. in the Capital Plaza Tower. A person interested in attending this hearing or in submitting written comments regarding this proposed regulation shall submit a written request for hearing or the written comments to: John E. Hornback, Manager, Compliance/Enforcement Branch, Division of Water, 18 Reilly Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: John Hornback

(1) Type and number of entities affected:

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

1. First year: Reciprocity certification cost - $15 is an increase.

2. Continuing costs or savings: If renewal fee isn't received by June 1, 1987, reinstatement fees of $15 will be required.

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

(b) Reporting and paperwork requirements: The new classification, industrial certification, which is optional, will not require the same clerical and reporting as the required certifications. There will be additional work in order to implement the late fee or reinstatement fee.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The primary increase in cost to the cabinet will result from the creation of the industrial classification. Since this is not a required classification, there will not be as many operators involved.

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: See (2)(a)1 above.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The alternatives to these regulation revisions are no revisions, more limited revision, or more extensive revisions. Some degree of revision was required because of problems alluded to above: need for additional income for the program, need to improve efficiency of the program administration, need to provide a classification for industrial operators. Therefore, the alternative of no revisions or lesser revisions were rejected. The alternative for more extensive revisions was rejected because there are no additional problem areas identified at this time.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflict or duplication.

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. N/A

## NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
## Department for Environmental Protection
## Division of Water
## (Proposed Amendment)

**401 KAR 6:040. Water treatment plants; water distribution systems; certification of operators.**

RELATES TO: KRS Chapters 223, 224

PURSUANT TO: KRS 224.032(5), 224.033(17)
NECESSITY AND FUNCTION: The secretary is directed to adopt regulations applicable to certification of water treatment operators. This regulation establishes standards for classification of water treatment plants and water distribution systems; qualifications of applicants; examination procedures; duties of the board; and provisions relating to the issuance, renewal, revocation of certificates, fee schedule and other provisions necessary for certification of operators. [This amendment adds a limited certification, revises the fee schedule, and makes other operational revisions.]

Section 1. Definitions. The following terms shall have the meanings set forth below unless the content clearly indicates otherwise:
(1) "Board" shall be the Kentucky Board of Certification of Water Treatment Plant and Water Distribution System Operators.
(2) "Cabinet" shall be the Natural Resources and Environmental Protection Cabinet.
(3) "Consulting operator" shall mean a person who is not a direct employee of a water treatment plant or distribution system, but who from time to time is hired under contract to take responsible charge of such system or plant.
(4) [(3)] "Department" shall mean the Kentucky Department for Environmental Protection.
(5) [(4)] "Secretary" shall be the Secretary of the Cabinet.
(6) [(5)] "Certificate" shall mean a certificate of competency issued by the secretary or his designated agent stating that the operator has met all requirements for the specified operator classification as set by this regulation.
(7) [(6)] "Operator" shall mean any person who has responsibility and authority to conduct or supervise the procedures and practices necessary to ensure that the water supply system or any portion thereof is operated in accordance with laws and regulations of the Commonwealth. "Operator" includes all operating personnel who have day-to-day responsibility to make those decisions necessary to ensure that the water produced or distributed meets applicable standards and consulting operators as defined in this regulation. Maintenance personnel and others who do not deal directly with the production or distribution of potable water are not included in the term "operator."
(8) [(7)] "Public water system" means any system, irrespective of ownership, for the provision to the public of piped water for human consumption, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such terms include: the source of supply and all structures and appurtenances used for collection, treatment, storage and distribution facilities under control of the operator of such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. A public water system is either a "community water system" or a "noncommunity water system."
(a) "Community water system" means a public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents.
(b) "Noncommunity water system" means a public water system which serves at least fifteen (15) service connections used by individuals for a period less than year-round or which serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year but less than year-round.
(9) [(8)] "Semipublic water supply" means any water supply made available for drinking and/or domestic use which serves more than three (3) families but does not qualify as a public water system.
(10) [(9)] "Water treatment plant" shall mean that portion of the water supply system which is designed to alter the physical, chemical, or bacteriological quality of the water.
(11) [(10)] "Water distribution system" shall mean the portion of the water supply system in which water is conveyed from the water treatment plant or other supply point to the premises of a consumer.

Section 2. General Provisions. (1) Each public water system shall be operated by a certified operator at all times. The operator shall hold a valid and effective operator's certificate in a class equal to or higher than the system under his direction. Water treatment systems which operate more than one (1) shift per day may use an operator who is certified in the next lower classification for the additional shifts, provided that the operator with the appropriate classification is available should an emergency arise.
(2) Certified operators are not required by law for semipublic water systems. It is expected that such systems will be operated by competent operators.
(3) A consulting operator may operate a system for a fixed period of time, not to exceed six (6) months, as approved by the board on a case-by-case basis. The decision for assigning the allowable period shall be based on at least the size of the plant or system, any operational problems, and the degree of attention being provided by the consulting operator. A consulting operator shall hold a certificate in a class equal to or higher than the system which is to be under his/her direction.

Section 3. Duties of the Board. In carrying out its responsibilities the board shall:
(1) Examine the qualifications of applicants for certification;
(2) Review and approve all substitutions of education for experience;
(3) Review and assist in the preparation of examinations;
(4) Review the results of examinations;
(5) Recommend qualified applicants for certification by the cabinet;
(6) Maintain records;
(7) Recommend revocation of certificates for operators who fail to comply with applicable law and regulations;
(8) Review the regulations for certification of states which are seeking reciprocity with the Commonwealth; and
(9) Review applications and supporting documents and determine eligibility of applicants for examination and notify them of their status.
(10) Determine the length of time for which a consulting operator may be in responsible charge of a water treatment plant or distribution

system.

Section 4. Application for Certification. (1) An operator desiring to be certified shall file application with the board, preceding examination, on an application form provided by the board.

(2) The executive secretary-treasurer of the board shall assemble all the information needed by the board to determine eligibility of the applicant for examination and certification.

Section 5. Examinations. (1) The board and cabinet shall be jointly responsible for preparation of the examinations to be used in determining knowledge, ability and judgment of the applicants.

(2) Examinations shall be conducted at least semiannually at places and times set by the cabinet with suitable method of advance announcements made by the cabinet.

(3) Except in cases which the board may decide represent proper exceptions, all examinations shall be written. All examinations will be graded by the board, or by its designated representative and the applicant notified of the outcome. Applicants will be required to achieve a score of seventy (70) percent in order to pass the examination. Papers will not be returned to the applicant, but means will be provided to review the results with a member of the board or cabinet upon written request by the applicant.

(4) Applicants who fail to pass an examination are not eligible to repeat the examination until a period of ninety (90) days has elapsed.

Section 6. Fees. (1) Fees for certification of water treatment plant and water distribution system applicants for classes I through IV and limited shall be the following:

(a) Initial examination: fifteen (15) [ten (10)] dollars.

(b) Certification by reciprocity: fifteen (15) [ten (10)] dollars.

(c) Reexamination for a new certificate or to make up for failure to pass an examination: fifteen (15) [eight (8)] dollars for each reexamination.

(d) Reinstatement of a lapsed certificate: fifteen (15) [ten (10)] dollars plus renewal fee.

(e) [Initial] certificate [or] renewal: eight (8) [five (5)] dollars per year.

(2) All fees for consulting operators shall be at a rate twice that in subsection (1) of this section.

(3) [(2)] Fees accompanying applications will not be returned to those who fail to pass the examination.

Section 7. Issuance of Certificates. (1) Upon satisfactory fulfillment of the requirements provided herein and upon recommendation of the Board of Certification, the cabinet shall issue a suitable certificate to the applicant designating the classification of the water treatment plant or water distribution system for which the operator has demonstrated competency.

(2) Duration and renewal of certificates.

(a) Certificates for all operator classes, except limited, [I through IV] shall be valid for two (2) years after each renewal unless revoked for cause or replaced by one of a higher classification. Certificates of operators in good standing will expire on the last day of February of [be renewed without examination biennially in] even-numbered years, but may be renewed without examination [beginning 1986,] upon written application and submission of the applicable renewal fee.

(b) Limited certificates [certification] will be renewed annually and only after the cabinet certifies that the holder of the certificate has complied with all requirements for properly operating the facility under his charge.

(c) Certificates which are not renewed before June 1 of even-numbered years will be considered lapsed and may not be renewed without payment of an additional fee as specified in Section 6 of this regulation.

(3) Certified operators who desire to become certified in a higher classification shall satisfactorily complete the requirements for the higher classification before a new certificate is issued. Experience under a limited certificate does not count toward fulfillment of qualifications for other classifications.

(4) Certificates shall be valid only so long as the holder uses reasonable care, judgment and application of his/her knowledge in the performance of his/her duties. No certificate will be valid if obtained through fraud, deceit or the submission of inaccurate data on qualifications.

(5) Operators holding [The] certificates in any operator classes, except limited, [of operators] who terminate their employment as a water treatment plant or water distribution system operator will be considered to have a valid certificate for the unexpired portion of the renewal period. Upon expiration of this period, these certificates may be moved to inactive status, provided the operator continues to pay his certificate renewal fee and maintains proper continuing education credits. An inactive certificate may become active when the operator again is employed by a water treatment plant or distribution system and the operator submits to the board an application for reactivation containing at a minimum the name of the plant or system by which he/she is employed and provided the board determines that all other current requirements for certification are met. Consulting operators are considered to be on inactive status except for periods specifically designated by the board under the provisions of Section 2 of this regulation. Otherwise [two (2) years providing they are renewed as required by subparagraph (2) of this section, except for limited certificate holders. After two (2) years], the certificate will be automatically invalidated. Limited certificates become invalid immediately if not renewed.

(6) Operators whose certificates have been invalidated may have their certificates reinstated or be issued new certificates after passing an examination in the classification for which they are qualified.

(7) Certificates in a comparable classification may be issued without examination to any person who holds a certificate in any state, territory, or possession of the United States or any country provided the requirements for certification of operators under which the person's certificate was issued do not conflict with any provisions of KRS Chapter 223 and are of a standard not lower than that specified by regulations adopted under said chapter; and, providing further, that reciprocal privileges are granted to certified operators of this state.

(8) Wall certificates shall be prominently

displayed in the office of the operator.

(9) Wallet cards showing current certification status shall be carried by the operator at all times while on duty.

(10) Training requirements.

(a) Class II, III, and IV operators and all consulting operators shall complete twelve (12) hours of appropriate board-approved training for certificate renewal. Class I operators shall complete six (6) hours of training for renewal. Such training shall include, but is not limited to, correspondence courses, short courses, trade association meetings, and on-the-job training. Training hours completed in any given biennium in excess of the minimum requirement necessary for renewal may be carried forward for one (1) renewal [a] period [not to exceed two (2) years]. No training is required for holders of limited certificates.

(b) The board may waive any or all of the requirements of paragraph (a) of this subsection for all or portions of a class of operators as defined in Section 9 of this regulation.

(c) Requirements of this subsection shall be effective for certification renewal at midnight on February 28, 1988.

Section 8. Revocation of Certificates. The cabinet may revoke the certificate of an operator following a hearing before the cabinet or its designated representative when it is found that the operator has practiced fraud or deception, that reasonable care, judgment or the application of his/her knowledge was not used in the performance of his/her duties, or that the operator is incompetent, unable or unwilling to perform his/her duties properly.

Section 9. Classification of Water Treatment Plants and Water Distribution Systems. (1) Classification shall be generally in accordance with the following classes. However, the cabinet may make changes in classification in accordance with the needs created by particular complexities of any specific plant or distribution system by reason of special features of design, or by reason of a source of supply that is particularly hazardous or which has characteristics that may make operation more difficult than normal, or a combination of such conditions. Due notice of any such change shall be given to the owner of the treatment plant and/or water distribution system.

(2) Water treatment plants.

(a) Class I.

1. (Class IA-D) All plants using physical treatment and disinfection wherein the treatment plant operator is also responsible for the distribution system and which serves a population less than 500.

2. (Class IB-D) All plants using disinfection wherein the treatment plant operator is also responsible for the distribution system and which serves a population less than 500.

(b) Class II.

1. (Class IIA) All plants using physical and chemical treatment including chemical coagulation and/or water softening processes, filtration and disinfection and serving a population less than 3,000.

2. (Class IIB-D) All plants using physical treatment and disinfection wherein the treatment plant operator is also responsible for the distribution system and which serves a population equal to or greater than 500 but less than 3,000.

3. (Class IIC-D) All plants using disinfection wherein the treatment plant operator is also responsible for the distribution system and which serves a population equal to or greater than 500 but less than 3,000.

(c) Class III.

1. (Class IIIA) All plants using physical and chemical treatment including chemical coagulation and/or water softening processes, filtration and disinfection and serving a population equal to or greater than 3,000 and less than 15,000.

2. (Class IIIB) All plants using physical treatment and disinfection and serving a population equal to or greater then 3,000.

3. (Class IIIC) All plants using disinfection and serving a population equal to or greater than 3,000.

(d) Class IVA. All plants using physical and chemical treatment including chemical coagulation and/or water softening processes, filtration and disinfection and serving a population equal to or greater than 15,000.

(3) Water distribution system.

(a) Class ID. All distribution systems serving a population less than or equal to 1,500.

(b) Class IID. All distribution systems serving a population greater than 1,500 and less than or equal to 15,000.

(c) Class IIID. All distribution systems serving a population greater than 15,000 and less than or equal to 50,000.

(d) Class IVD. All distribution systems serving a population greater than 50,000.

(4) A limited classification is available to water treatment facilities for schools or semipublic water supplies.

(5) Special designation(s) may be added to any certificate when found necessary to show competency of the operator for a parameter of treatment or operation not covered by the basic requirements for standard classification contained herein.

Section 10. Classification of Water Treatment Plant and Water Distribution System Operators. Nine (9) [Five (5)] classes of operators are hereby established and are designated as [shall range from] Class I through Class IV, consulting operator Class I through Class IV, and [plus] limited. Each operator classification is intended to relate directly to the corresponding classification of water treatment plant or water distribution system.

Section 11. Operator Qualifications: Experience, Education and Equivalencies. (1) Operators shall be examined by the board as to education, experience, and knowledge as related to the classification of water treatment plants or water distribution systems for which examined. Applicants must pass the required written examinations.

(2) Experience and educational requirements of operators shall be based on the following classifications of plants or systems [as follows]:

(a) Class IA-D and Class IB-D.

1. Completion of high school or General Educational Development (GED) test; and

2. One (1) year of acceptable operation of applicable treatment plant and distribution system.

(b) Class IIA.

1. Completion of high school or GED; and
2. Two (2) years of acceptable operation of an applicable treatment plant with six (6) months in a Class IIA treatment plant or higher.
(c) Class IIB-D and Class IIC-D.
1. Completion of high school or GED; and
2. For Class IIB-D, two (2) years acceptable operation of a Class IA-D combined treatment and distribution system with six (6) months in a Class IIB-D treatment plant or higher; or
3. For Class IIC-D, two (2) years acceptable operation of a Class IB-D combined treatment and distribution system with six (6) months in a Class IIC-D [IIA] treatment plant or higher.
(d) Class IIIA.
1. Completion of high school or GED; and
2. Three (3) years of acceptable operation of applicable treatment plant of Class IIA or higher with [.
3.] six (6) months experience in a Class IIIA treatment plant.
(e) Class IIIB.
1. Completion of high school or GED; and
2. Three (3) years of acceptable operation of applicable treatment plant or Class IIB-D or higher with [.
3.] six (6) months experience in a Class IIIB treatment plant.
(f) Class IIIC.
1. Completion of high school or GED; and
2. Three (3) years of acceptable operation of applicable treatment plant of Class IIC-D or higher with [.
3.] six (6) months experience in a Class IIIC treatment plant.
(g) Class IVA.
1. A college degree in a standard curriculum in engineering, allied sciences or equivalent; and
2. At least two (2) years of acceptable operation of Class IIA treatment plant or higher with one (1) year in a Class IVA treatment plant.
(h) Limited classification. Under the provisions of KRS 223.160, an operator of a water treatment facility for a school or for a semipublic water supply shall be entitled to a limited certificate of competency for his particular facility provided he has demonstrated that he has the knowledge and experience required to operate properly the particular water treatment facility for which he is responsible.
(i) The qualifications for all consulting operator classifications shall be the same as those of the corresponding operator classifications contained in paragraphs (a) through (g) of this subsection.
(j) The following requirements shall apply to the certification of distribution system operators.
1. Class ID. Completion of high school or general educational development (GED) test; and one (1) year of acceptable operation of a distribution system.
2. Class IID. Completion of high school or GED; and two (2) years of acceptable operation of distribution system with six (6) months in a Class IID distribution system or higher.
3. Class IIID. Completion of high school or GED, three (3) years of acceptable operation of a distribution system of Class IIA or higher, and six (6) months experience in a Class IIID distribution system.
4. Class IVD. A high school diploma or GED, and at least two (2) years of acceptable operation of Class II distribution systems or higher with one (1) year in a Class IV distribution system.
(k) For operators who were certified in any classification on March 12, 1985, the requirement for a high school diploma or GED shall not preclude their advancing to the next higher classification than they held on that date.
(3) Where applicable, education may be substituted for a portion of experience requirements as specified below:
(a) No substitution for Class I.
(b) College credits earned in engineering, allied sciences or an associate degree in engineering technology may, as approved by the board, be substituted for experience limited to one (1) year for Class II, two (2) years for Class III, and three (3) years for Class IV. Education applied to the experience requirement cannot also be applied to the educational requirement.
(c) Where applicable, experience may be substituted for education requirements as specified below:
1. Two (2) years experience in an important phase of operation at a Class II level or above will be considered equivalent to one (1) year of college. Eight (8) years of such experience may be substituted for the requirement of a college degree by a high school graduate or recipient of a GED.
2. Experience applied to education requirements may not also be applied to the experience requirement.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at 11:30 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 25, 1988 at 10 a.m. in the Capital Plaza Tower. A person interested in attending this hearing or in submitting written comments regarding this proposed regulation shall submit a written request for hearing or the written comments to: John E. Hornback, Manager, Compliance/Enforcement Branch, Division of Water, 18 Reilly Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: John Hornback
(1) Type and number of entities affected: The proposed regulation revisions apply to certified operators of water treatment plants and distribution systems. Currently there are approximately 1800 such operators certified by the Commonwealth. The proposed changes establish a consulting operator classification of operators, allows for certified operators who are no longer employed by a plant or distribution system to maintain certification in an inactive status, and revises the fee schedule.
(a) Direct and indirect costs or savings to those affected:
1. First year: Although the fee for initial examination is changed, there is no fee increase involved. Instead, the initial certificate fee (at the current rate) is added to the current initial examination fee. By combining these fees the cabinet no longer will have to make a separate billing for certification fees after the initial examination has been taken and passed. Of course, if the operator fails the

initial examination, he would have paid $5 above what the current fee schedule would require (currently approximately 20% of those taking the tests fail). It should be recognized however, that even at the full $15, the fees collected cover less than the cost of the cabinet's time and materials in developing and processing examinations and in administering the certification program. The reexamination fee has also been combined with the initial certificate fee, though it is $2 higher than it would have been if only the current initial certification fee were added. It has been set at $15 to make the fee schedule more uniform and to simplify the billing procedure for clerical staff.

The fee for certificate renewal is proposed to be raised from $5 per year to $8 to help generate additional income (the fund for this program ran at a deficit for a portion of FY 86 even though the program is heavily underwritten by state executive budget funds) and to bring this certification program's renewal fee up to that of the wastewater operators certification program.

Finally, the fees for new classifications created by this regulatory revision (consulting operators) are established at twice the rate of other classifications because there will be substantially more time and effort required to make the case-by-case determinations on time of applicability (i.e., to determine for how long the certificates will be "active") that are associated with these classifications.

2. Continuing costs or savings: Same as above.

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

(b) Reporting and paperwork requirements: No new paperwork will be required of existing classifications of operators. The new classification, consulting operators, will have to meet all of the same reporting and paperwork requirements as other operators, plus they will be required to notify the board each time that they wish to activate their certificates.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The primary increase in cost to the cabinet will result from the creation of the consulting operators classification. Part of the provisions for this new classification is that the consulting operator obtain board approval prior to operating any system (i.e., the board must activate the certificate). Cabinet staff will be responsible for processing all paperwork and keeping all records on these activities. Since it is expected that many consultants will deal with multiple plants each year, this will lead to an increase in staff activity.

On the other hand, incorporating the initial certification fee into the examination fees will decrease the amount of time and effort (and therefore lower cost) involved in this portion of the certification process.

2. Continuing costs or savings: Same as above.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: See (2)(a)1 above.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The alternatives to these regulation revisions are no revisions, more limited revision, or more extensive revisions. Some degree of revision was required because of problems alluded to above: need for additional income for the program, need to improve efficiency of the program administration, need to provide a classification to accommodate consulting operators, and need to provide an inactive status for operators who, for whatever reason, are no longer employed by a treatment plant or distribution system. Therefore, the alternatives of no revisions or lesser revisions were rejected. The alternative for more extensive revisions was rejected because there are no additional problem areas identified at this time.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no conflict or duplication.

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. N/A

## NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
## Department for Environmental Protection
## Division of Waste Management
## (Proposed Amendment)

**401 KAR 30:010. Definitions.**

RELATES TO: KRS 224.033, 224.830 through 224.889, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033

NECESSITY AND FUNCTION: KRS 224.033 and the waste management provisions of KRS Chapter 224 require the Natural Resources and Environmental Protection Cabinet to adopt rules and regulations for the management of solid and hazardous wastes. This chapter establishes the general administrative procedures which are applicable to 401 KAR Chapters 31 through 49. This regulation defines essential terms used in connection with the waste management regulations.

Section 1. Definitions. Unless otherwise specifically defined in KRS Chapter 224 or otherwise clearly indicated by their context, terms in KRS Chapter 224 and in the waste management regulations shall have the meanings given in this regulation.

(1) "Accumulated speculatively" see Section 1 of 401 KAR 31:010.

(2) "Active fault" means a land area which, according to the weight of geological evidence, has a reasonable probability of being affected by movement along a fault to the extent that a hazardous waste site or facility would be damaged and thereby pose a threat to human health and the environment.

(3) "Active life of a facility" means the [that] period from the initial receipt of hazardous waste at the facility until the secretary receives certification of final closure. [of time for a facility between the beginning of construction and continuing through the closure period.]

(4) "Active portion" means any area of a facility where treatment, storage or disposal operations are being conducted. It includes the

treated area of a landfarm and the active face of a landfill. Covered, closed, or inactive portions of landfills, building roofs, and roads are excluded unless designated as "active portions" by the secretary.

(5) "Administrator" means the administrator of the United States Environmental Protection Agency, or his designee.

(6) "Admixed liner" means a liner made from a mixture of any of a multitude of materials, often asphalt or cement, with widely varying physical and chemical properties. Admixed liners must be demonstrated to be structurally sound and chemically resistant to the waste placed in it so as to be capable of supporting the waste without cracking or disintegrating or allowing waste or leachate to escape.

(7) "Agricultural waste" means any nonhazardous waste resulting from the production and processing of on-the-farm agricultural products, including manures, prunings and crop residues.

(8) "Ampule" means a small sealed glass container for one (1) dose of sterile medicine.

(9) "Ancillary equipment" means any device including but not limited to such devices as piping, fittings, flanges, valves, and pumps, that is used to distribute, meter, or control the flow of hazardous waste from its point of generation to hazardous waste management units including tanks between hazardous waste storage and treatment tanks to a point of disposal on site, or to a point of shipment for disposal off site.

(10) [(9)] "Aquifer" means a geologic formation, group of formations, or part of a formation capable of yielding a significant amount of groundwater to wells or springs.

(11) [(10)] "Attenuation" means any decrease in the maximum concentration or total quantity of an applied chemical or biological constituent in a fixed time or distance traveled resulting from a physical, chemical, and/or biological reaction or transformation occurring in the zone of aeration or zone of saturation.

(12) [(11)] "Authorized representative" means the person responsible for the overall operation of a facility or an operational unit (i.e., part of a facility), e.g., the plant manager, superintendent or person of equivalent responsibility.

(13) [(12)] "Base flood" means a flood that has a one (1) percent or greater chance of recurring in any year or a flood of a magnitude equaled or exceeded once in 100 years on the average over a significantly long period.

(14) [(13)] "Board" means the Kentucky regional integrated waste treatment and disposal facility siting board (KRS 224.2201).

(15) [(14)] "Boiler" see "hazardous waste site or facility-boiler."

(16) [(15)] "By-product" see Section 1 of 401 KAR 31:010.

(17) [(16)] "Cabinet" means the Natural Resources and Environmental Protection Cabinet (KRS 224.005).

(18) [(17)] "Cation exchange capacity" means the sum of exchangeable cations a soil can absorb expressed in milliequivalents per 100 grams of soil as determined by sampling the soil to the depth of cultivation or solid waste placement, whichever is greater, and analyzing by the summation method for distinctly acid soils or the sodium acetate method for neutral, calcareous or saline soils.

(19) [(18)] "Cell" means a portion of a landfill which is isolated, usually by means of an approved barrier.

(20) [(19)] "Certificate" means a certificate of environmental safety and public necessity (KRS 224.2201).

(21) [(20)] "Certification" means a statement of professional opinion based upon knowledge and belief.

(22) [(21)] "Closed portion" means that portion of a facility which an owner or operator has closed in accordance with the approved facility closure plan and all applicable closure requirements.

(23) [(22)] "Closure" means the time at which a waste treatment, storage or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for postclosure monitoring and maintenance or to make it suitable for other uses (KRS 224.005).

(24) [(23)] "Coal mining solid waste" means solid waste as defined by KRS 224.005 which is generated at, and is incidental to, a coal exploration operation or surface mining and reclamation operation regulated under KRS Chapter 350, and shall not include wastes generated by households, communities, cities, counties, or any person or business other than those regulated under KRS Chapter 350.

(25) [(24)] "Coal mining waste" means earth materials which are combustible, physically unstable, or acid-forming or toxic-forming, that are generated during and incidental to the mining and extraction of coal and to the washing and crushing of coal. The term does not include used oil, paints or flammable liquids. The term includes the following:

(a) Refuse which is that waste material in the raw coal which it is the object of cleaning to remove;

(b) Overburden which includes all of the earth and other geologic materials, excluding topsoil, which lie above a natural deposit of coal and also means such earth and other material after removal from their natural state in the process of mining; and

(c) Coal mining by-products which include any material that is not one (1) of the primary products of a particular coal mining operation, is a secondary and incidental product of the particular operation and would not be solely and separately mined by the particular operation. The term does not include an intermediate mining product which results from one (1) of the steps in a mining process and is processed through the next step of the process within a short time. An example of a coal mining by-product is that part of the ore deposit that is too low in grade to be of economic value at the time, but which is stored separately in the hope that it can be profitably treated later.

(26) [(25)] "Confined aquifer" means an aquifer bounded above and below by impermeable beds or by beds of distinctly lower permeability than that of the aquifer itself; an aquifer containing confined groundwater.

(27) [(26)] "Constituent" or "hazardous waste constituent" means a constituent which caused the cabinet to list the hazardous waste in 401 KAR 31:040, or a constituent listed in Section 5(3) of 401 KAR 31:030.

(28) [(27)] "Construction materials" means nonhazardous nonsoluble material, including but not limited to steel, concrete, brick, asphalt

roofing material, or lumber from a construction or demolition project. Mixture of construction and demolition debris with any amount of other types of waste may cause it to be classified as other than construction materials.

(29) [(28)] "Contained landfill" see "solid waste site or facility - contained landfill."

(30) [(29)] "Container" means any portable enclosure in which a material is stored, transported, treated, disposed, or otherwise handled.

(31) [(30)] "Contaminate" means introduce a substance that would cause:

(a) The concentration of that substance in the groundwater to exceed the maximum contaminant level specified in Section 2 of 401 KAR 30:030 and 401 KAR 34:060, Section 8.

(b) An increase in the concentration of that substance in the groundwater where the existing concentration of that substance exceeds the maximum contaminant level specified in 401 KAR 30:030, Section 2 or 401 KAR 34:060, Section 8.

(32) [(31)] "Contamination" means the degradation of naturally occurring water, air, or soil quality either directly or indirectly as a result of human activities.

(33) [(32)] "Contingency plan" means a document setting out an organized, planned, and coordinated course of action to be followed in the event of a fire, explosion or release of waste or waste constituents into the environment which has the potential for endangering human health and the environment. Financial planning to identify resources for initiation of such action is a part of contingency plan development.

(34) "Corrosion expert" means a person who by reason of his knowledge of the physical sciences and the principles of engineering and mathematics acquired by a professional education and related practical experience, is qualified to engage in the practice of corrosion control on buried or submerged metal piping systems and metal tanks documented by credentials submitted to the cabinet. Such a person must be certified as being qualified by the National Association of Corrosion Engineers (NACE) or be a registered professional engineer who has certification or licensing that includes education and experience in corrosion control on buried or submerged metal piping systems and metal tanks.

(35) [(33)] "Cover material" means soil or other suitable material that is spread and compacted on the top and side slopes of disposed waste in order to control disease vectors, gases, erosion, fires, and infiltration of precipitation or run-on; support vegetation; provide trafficability; or assure an aesthetic appearance.

(36) [(34)] "Designated facility" means a hazardous waste treatment, storage, or disposal facility which has received a hazardous waste site or facility permit (or a facility with interim status) in accordance with the requirements of 401 KAR Chapter 38, a permit from a state authorized in accordance with 40 CFR Part 271, and EPA permit (or a facility with interim status) in accordance with 40 CFR Parts 270 and 124, or that is regulated under Section 6(3)(b) of 401 KAR 31:010 or 401 KAR Chapter 36, 40 CFR 261.6(c)(2) or 40 CFR Part 266, and that has been designated on the manifest by the generator pursuant to Section 1 of 401 KAR 32:020.

(37) [(35)] "Destruction or adverse modification" means a direct or indirect alteration of critical habitat which appreciably diminishes the likelihood of the survival and recovery of threatened or endangered species using that habitat.

(38) [(36)] "Dike" means an embankment or ridge of either natural or manmade materials used to prevent the movement of liquids, sludges, solids, or other materials.

(39) [(37)] "Director" means the director of the cabinet's division of waste management.

(40) [(38)] "Discharge" means but is not limited to spilling, leaking, pumping, pouring, emitting, emptying, or dumping (KRS 224.877(a)).

(41) [(39)] "Disease vector" means all insects, birds or gnawing animals such as rats, mice or ground squirrels, which are capable of transmitting pathogens.

(42) [(40)] "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any solid waste or hazardous waste into or on any land or water so that such solid waste or hazardous waste or any constituent thereof may enter the environment, be emitted into the air or be discharged into any water, including groundwaters (KRS 224.005).

(43) [(41)] "Disposal facility" see "hazardous waste site or facility - disposal facility."

(44) [(42)] "Elementary neutralization unit" see "hazardous waste site or facility - elementary neutralization unit."

(45) [(43)] "Endangered or threatened species" means any species listed as such pursuant to Section 4 of the Endangered Species Act, as amended, 16 U.S.C. 1536.

(46) [(44)] "Environmental emergency" includes any release or threatened release of materials into the environment in such quantities or concentrations as to cause or threaten to cause an imminent and substantial danger to human health or the environment; the term includes, but is not limited to, discharges of oil and hazardous substances prohibited by section 311(b)(3) of the federal Clean Water Act (P.L. 92-500), as amended (KRS 224.877(1)(d).

(47) [(45)] "EPA hazardous waste number" means the number assigned by EPA and the cabinet to each hazardous waste listed in 401 KAR 31:040, and to each characteristic identified in 401 KAR 31:030.

(48) [(46)] "EPA identification number" means the number assigned by EPA or the cabinet to each generator, transporter, and treatment, storage, or disposal facility.

(49) [(47)] "EPA region" means the states and territories found in any one (1) of the following ten (10) regions:

Region I - Maine, Vermont, New Hampshire, Massachusetts, Connecticut, and Rhode Island.

Region II - New York, New Jersey, Puerto Rico, and the Virgin Islands.

Region III - Pennsylvania, Delaware, Maryland, West Virginia, Virginia, and the District of Columbia.

Region IV - Kentucky, Tennessee, North Carolina, Mississippi, Alabama, Georgia, South Carolina, and Florida.

Region V - Minnesota, Wisconsin, Illinois, Michigan, Indiana, and Ohio.

Region VI - New Mexico, Oklahoma, Arkansas, Louisiana, and Texas.

Region VII - Nebraska, Kansas, Missouri, and Iowa.

Region VIII - Montana, Wyoming, North Dakota, South Dakota, Utah, and Colorado.

Region IX - California, Nevada, Arizona,

Hawaii, Guam, American Samoa, and Commonwealth of Northern Mariana Islands.

Region X - Washington, Oregon, Idaho, and Alaska.

(50) [(48)] "Equivalent method" means any testing or analytical method, approved jointly by the administrator and the secretary under 401 KAR Chapter 31, or methods in 401 KAR 47:040 or 401 KAR 47:050, approved by the secretary of the cabinet.

(51) [(49)] "Existing hazardous waste site or facility" or "existing facility" means a hazardous waste facility which was in operation, or for which continuous construction had commenced, on or before November 19, 1980. A facility has commenced construction if:

(a) The owner or operator had obtained the federal, state and local approvals or permits necessary to begin physical construction; and

(b) Either:

1. A continuous on-site, physical construction program has begun; or

2. The owner or operator has entered into contractual obligations, which cannot be cancelled or modified without substantial loss, for physical construction of the facility to be completed within a reasonable time.

(52) [(50)] "Existing portion" means that land surface area of an existing hazardous waste management unit, included in the original Part A permit application, on which wastes have been placed prior to the issuance of a permit.

(53) [(51)] "Explosive gas" means methane ($CH_4$) in 401 KAR 30:030, Section 1(1).

(54) [(52)] "Facility" means all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of waste. A facility may consist of several treatment, storage, or disposal operational units (e.g., one (1) or more landfills, surface impoundments, or combination of them).

(55) [(53)] "Facility structures" means any buildings and sheds or utility or drainage lines on the solid waste site or facility.

(56) [(54)] "Federal agency" means any department, agency, or other instrumentality of the federal government, any independent agency or establishment of the federal government including any government corporation, and the United States Government Printing Office.

(57) [(55)] "Final closure" means the closure of all hazardous waste facilities in accordance with all applicable closure requirements so that hazardous waste management activities under 401 KAR Chapters 34 and 35 are no longer conducted at the facility unless subject to the provisions in Section 5 of 401 KAR 32:030. [of a waste facility" means the procedures which must be followed by a facility owner/operator when it is determined that the facility will no longer accept waste for treatment, storage, or disposal on the entire facility.]

(58) [(56)] "Final cover" means cover material, soil or other suitable material, that is applied upon closure of a landfill or sanitary landfill and is permanently exposed to the natural elements.

(59) [(57)] "Flood plain" means areas adjoining inland waters which are inundated by the base flood, unless otherwise specified in 401 KAR 47:040.

(60) [(58)] "Food chain crops" means tobacco, crops grown for human consumption, and crops grown for feed for animals whose products are consumed by humans.

(61) [(59)] "Freeboard" means the vertical distance between the top of a tank or surface impoundment dike and the surface of the waste contained therein.

(62) [(60)] "Free liquids" means liquids which readily separate from the solid portion of a waste under ambient temperature and pressure.

(63) [(61)] "Generator" means any person, by site, whose act or process produces hazardous waste identified or listed in 401 KAR Chapter 31 or whose act first causes a hazardous waste to become subject to regulation.

(a) "Small quantity generator" means a generator who generates more than 100 kilograms but less than 1000 kilograms of hazardous waste in a calendar month.

(b) "Limited quantity generator" means a generator who generates less than 100 kilograms of hazardous waste in a calendar month.

(c) If a limited quantity generator generates acutely hazardous waste listed in Sections 2, 3, and 4(5) of 401 KAR 31:040 in a calendar month in quantities greater than one (1) kilogram, all quantities of that acutely hazardous waste are subject to regulation under 401 KAR Chapters 32 through 39, and the notification and permitting requirements of KRS 224.855 and 224.864 through 224.877.

(64) [(62)] "Groundwater" means water which is in the zone of perennial saturation. It is differentiated from water held in the soil, from water in downward motion under the force of gravity in the perennially unsaturated zone, and from water held in chemical or electrostatic bondage. It is synonymous with the term "phreatic water."

(65) [(63)] "Groundwater table" means the upper boundary of the saturated zone in which the hydrostatic pressure of the groundwater is equal to the atmospheric pressure.

(66) [(64)] "Hazardous substance" means any substance or combination of substances including wastes of a solid, liquid, gaseous or semisolid form which, because of its quantity, concentration or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment. Such substances may include but are not limited to those which are, according to criteria established by the cabinet, toxic, corrosive, ignitable, irritants, strong sensitizers or explosive (KRS 224.877(b)).

(67) [(65)] "Hazardous waste constituent" means a constituent that caused the cabinet to list the hazardous waste in 401 KAR 31:040, or a constituent listed in Section 5(3) of 401 KAR 31:030.

(68) [(66)] "Hazardous waste management" means the systematic control of the collection, source separation, storage, transportation, processing, treatment, recovery, and disposal of hazardous waste.

(69) "Hazardous waste management unit" is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping

and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

(a) Hazardous waste tanks:

1. "Above-ground tank" means a device meeting the definition of "tank" in this regulation and that is situated in such a way that the entire surface area of the tank is completely above the plane of the adjacent surrounding surface and the entire surface area of the tank (including the tank bottom) is able to be visually inspected.

2. "Component" means either the tank or ancillary equipment of a tank system.

3. "Existing tank system" or "existing component" means a tank system or component that is used for the storage or treatment of hazardous waste and that is in operation, or for which installation has commenced on or prior to July 14, 1986. Installation will be considered to have commenced if the owner or operator has obtained all federal, state, and local approvals or permits necessary to begin physical construction of the site or installation of the tank system and if either:

a. A continuous on-site physical construction or installation program has begun; or

b. The owner or operator has entered into contractual obligations - which cannot be cancelled or modified without substantial loss - for physical construction of the site or installation of the tank system to be completed within a reasonable time.

4. "In-ground tank" means a device meeting the definition of "tank" in this regulation whereby a portion of the tank wall is situated to any degree within the ground, thereby preventing visual inspection of that external surface area of the tank that is in the ground.

5. "New tank system" or "new tank component" means a tank system or component that will be used for the storage or treatment of hazardous waste and for which installation has commenced after July 14, 1986 except, however, for purposes of Section 4(7)(b) of 401 KAR 34:190 and Section 4(7)(b) of 401 KAR 35:190, a new tank system is one for which construction commences after July 14, 1986. (See also "existing tank system".)

6. "On-ground tank" means a device meeting the definition of "tank" in this section and that is situated in such a way that the bottom of the tank is on the same level as the adjacent surrounding surface so that the external tank bottom cannot be visually inspected.

7. "Tank system" means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.

8. "Underground tank" means a device meeting the definition of "tank" in this regulation whose entire surface area is totally below the surface of and covered by the ground.

9. "Unfit-for-use tank system" means a tank system that has been determined through an integrity assessment or other inspection to be no longer capable of storing or treating hazardous waste without posing a threat of release of hazardous waste to the environment.

(70) [(67)] "Hazardous waste site or facility" means any place at which hazardous waste is treated, stored, and/or disposed of by landfilling, incineration, or any other method.

(a) "Boiler" means an enclosed device using control flame combustion and having the following characteristics:

1.a. The unit must have physical provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases; and

b. The unit's combustion chamber and primary energy recovery section(s) must be of integral design. To be of integral design, the combustion chamber and the primary energy recovery section(s) (such as water walls and superheaters) must be physically formed into one (1) manufactured or assembled unit. A unit in which the combustion chamber and the primary energy recovery section(s) are joined only by ducts or connections carrying flue gas is not integrally design, however, secondary energy recovery equipment (such as economizers or air preheaters) need not be physically formed into the same unit as the combustion chamber and the primary energy recovery section. The following units are not precluded from being boilers solely because they are not of integral design: process heaters (units that transfer energy directly to a process stream), and fluidized bed combustion units; and

c. While in operation, the unit must maintain a thermal energy recovery efficiency of at least sixty (60) percent, calculated in terms of the recovered energy compared with the thermal value of the fuel; and

d. The unit must export and utilize at least seventy-five (75) percent of the recovered energy, calculated on an annual basis. In this calculation, no credit shall be given for recovered heat used internally in the same unit. (Examples of internal use are the preheating of fuel or combustion air, and the driving of induced or forced draft fans or feedwater pumps); or

2. The unit is one (1) which the cabinet has determined, on a case-by-case basis, to be a boiler, after considering the standards in 401 KAR 30:080.

(b) "Disposal facility" means a facility or part of a facility at which hazardous waste is intentionally placed into or on any land or water and at which waste will remain after closure.

(c) "Elementary neutralization unit" means a tank, container, transport vehicle, or vessel which is used for neutralizing wastes which are hazardous wastes only because they exhibit the corrosivity characteristic defined in 401 KAR Chapter 31 or are wastes listed in 401 KAR Chapter 31 only for this reason.

(d) "Incinerator" means any enclosed device using controlled flame combustion that neither meets the criteria for classification as a boiler nor is listed as an industrial furnace.

(e) "Industrial furnace" means any of the following enclosed devices that are integral components of manufacturing processes and that use controlled flame devices to accomplish recovery of materials or energy:

1. Cement kilns.
2. Lime kilns.
3. Aggregate kilns.
4. Phosphate kilns.
5. Coke ovens.
6. Blast furnaces.
7. Smelting, melting, and refining furnaces (including pyrometallurgical devices such as cupolas, reverberator furnaces, sintering machines, roasters, and foundry furnaces).

8. Titanium dioxide chloride process oxidation reactors.
9. Methane reforming furnaces.
10. Pulping liquor recovery furnaces.
11. Combustion devices used in the recovery of sulfur values from spent sulfuric acid.
12. Such other devices as the cabinet may, after notice and comment, add to this list on the basis of criteria and Section 5 of 401 KAR 30:080.

(f) "Injection well" means a well into which fluids are injected to achieve subsurface emplacement.

(g) "Landfill" means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a land treatment facility, a surface impoundment, or an injection well.

(h) "Land treatment facility" means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure.

(i) "Pile" or "waste pile" means any noncontainerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage.

(j) "Storage facility" means a facility or part of a facility at which hazardous waste is held for a temporary period, at the end of which the hazardous waste is treated, disposed, or stored elsewhere. A generator who accumulates his own hazardous wastes in an approved manner for less than ninety (90) days for subsequent transport on site or off site is not operating or maintaining a storage facility.

(k) "Surface impoundment" means a facility or part of a facility which is a natural topographic depression, manmade excavation, or diked area formed primarily of earthen materials (although it may be lined with manmade materials), which is designed to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons.

(l) "Tank" means a stationary device designed to contain an accumulation of hazardous waste which is constructed primarily of nonearthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

(m) "Thermal treatment facility" means a facility or part of a facility which uses elevated temperatures as the primary means to change the chemical, physical or biological character or composition of hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge.

(n) "Totally enclosed treatment facility" means a facility for the treatment of hazardous waste which is directly connected to an industrial production process and which is constructed and operated in a manner which prevents the release of any hazardous waste or any constituent thereof into the environment during treatment. An example is a pipe in which acid is neutralized.

(o) "Treatment facility" means a facility or part of a facility using any method, technique or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any hazardous waste so as to neutralize such waste, or so as to recover energy or material resources from the waste, or so as to render such waste nonhazardous or less hazardous; safer to transport, store, or dispose of; or amenable for recovery, amenable for storage, or reduced in volume.

(p) "Wastewater treatment unit" means a tank which is part of a wastewater treatment facility which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act of 1972 and which receives, treats, stores, generates, or accumulates influent wastewater or receives, stores, treats, generates or accumulates wastewater treatment sludge, either of which is a hazardous waste.

(71) [(68)] "Holocene" means the most recent epoch of the quartenary period, extending from the end of the pleistocene to the present.

(72) [(69)] "Inactive portion" means that portion of a hazardous waste site or facility which is not operated after November 19, 1980.

(73) [(70)] "Incinerator" see "hazardous waste site or facility - incinerator."

(74) [(71)] "Incompatible waste" means a hazardous waste which is unsuitable for placement in a particular device or facility because it may cause corrosion or decay of containment materials, or unsuitable for commingling with another waste or material under uncontrolled conditions because the commingling might produce heat or pressure, fire or explosion, violent reaction, toxic dusts, mists, fumes, or gases, or flammable fumes or gases.

(75) [(72)] "Individual generation site" means the contiguous site at or on which one (1) or more hazardous wastes are generated. An individual generation site, such as a large manufacturing plant, may have one (1) or more sources of hazardous waste but is considered a single or individual generation site if the site or property is contiguous.

(76) [(73)] "Industrial furnace" see "hazardous waste site or facility - industrial furnace."

(77) [(74)] "Inert landfill" see "solid waste site or facility - inert landfill."

(78) [(75)] "Infectious waste" means those wastes which may cause disease or reasonably be suspected of harboring pathogenic organisms; included are wastes resulting from the operation of medical clinics, hospitals, and other facilities producing wastes which may consist of, but are not limited to, diseased human and animal parts, contaminated bandages, pathological specimens, hypodermic needles, contaminated clothing, and surgical gloves.

(79) [(76)] "Injection well" see "hazardous waste site or facility - injection well."

(80) [(77)] "Inner liner" means a continuous layer of material placed inside a tank or container which protects the construction materials of the tank or container from the contained hazardous waste or reagents used to treat the hazardous waste.

(81) [(78)] "In operation" refers to a facility which is treating, storing, or disposing of hazardous waste.

(82) "Installation inspector" means a person who, by reason of his knowledge of the physical sciences and the principles of engineering, acquired by a professional education and related practical experience, is qualified to supervise the installation of a hazardous wase management unit including tank systems.

(83) [(79)] "Interim status" means the designation of a hazardous waste site or facility which was in existence on November 19, 1980, and has submitted a Part A application under 401 KAR Chapter 38 or under 40 CFR Part 270 and is treated as having a permit until such time as final administrative disposition of such application is made.

(84) [(80)] "International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States.

(85) [(81)] "KPDES" means Kentucky Pollutant Discharge Elimination System.

(86) [(82)] "Labpack" means any large container equal to or smaller than fifty-five (55) gallons that holds many smaller containers of various content tightly secured with packing material.

(87) [(83)] "Landfarming facility" see "solid waste site or facility - landfarming facility."

(88) [(84)] "Landfill" see "hazardous waste site or facility - landfill."

(89) [(85)] "Landfill cell" means a discrete volume of a hazardous waste landfill which uses a liner to provide isolation of wastes from adjacent cells or wastes. Examples of landfill cells are trenches and pits.

(90) [(86)] "Land treatment facility" see "hazardous waste site or facility-land treatment facility."

(91) [(87)] "Leachate" means any liquid including any suspended components in the liquid, that has percolated through or drained from waste.

(92) "Leak-detection system" means a system capable of detecting the failure of either the primary or secondary containment system or the presence of a release of hazardous waste constituents or accumulated liquid in the secondary containment system. Such a system must employ operational controls (e.g., daily visual inspections for releases into the secondary containment system of above-ground tanks) or consist of an interstitial monitoring device designed to detect continuously and automatically the failure of the primary or secondary containment system or the presence of a release of hazardous waste constituents or accumulated liquids into the secondary containment system.

(93) [(88)] "Liner" means a continuous layer of natural or manmade material, beneath or on the sides of a hazardous waste site or facility, including but not limited to a waste pile, surface impoundment, landfill, or landfill cell, or beneath or on the sides of a solid waste site or facility which restricts the movement of the wastes, waste constituents, or leachate.

(94) [(89)] "Lower explosive limit" means the lowest percent by volume of a mixture of explosive gases which will propagate a flame in air at twenty-five (25) degrees Celsius and atmospheric pressure.

(95) [(90)] "Major modification" means a change in ownership where the cabinet determines that other changes in the permit are necessary as a result of the change in ownership or operational control, area occupied, disposal method, or other significant change in the operation of a waste management facility. (Note: Minor modifications are described in Section 3 of 401 KAR 38:040.)

(96) [(91)] "Manifest" means the shipping document form contained in Appendix A of 401 KAR 32:100, and if necessary the form contained in Appendix B of 401 KAR 32:100, originated and signed by the generator in accordance with the instructions included in 401 KAR 32:100.

(97) [(92)] "Manifest document number" means the U.S. EPA twelve (12) digit identification number assigned to the generator plus a unique, serially increasing, five (5) digit document number assigned to the manifest by the generator for recordkeeping and reporting purposes.

(98) [(93)] "Mining overburden returned to the mine site" means any material overlying an economic mineral deposit which is removed to gain access to that deposit and is then used for reclamation of a surface mine.

(99) [(94)] "Monitoring" means the act of systematically inspecting and collecting data on operational parameters or on the quality of the air, soil, groundwater, or surface water.

(100) [(95)] "Monitoring well" means a well used to obtain water samples for water quality and quantity analysis and groundwater levels.

(101) [(96)] "Movement" means that hazardous waste transported to a facility in an individual vehicle.

(102) [(97)] "NPDES" means National Pollutant Discharge Elimination System (KRS 224.005(29)).

(103) [(98)] "New" means any hazardous waste site or facility that commenced construction after November 19, 1980.

(104) [(99)] "Off-site" means properties noncontiguous to the generation site.

(105) [(100)] "On-site" means on the same or geographically contiguous property which may be divided by public or private right-of-way, provided the entrance and exit between the properties is at a crossroads intersection, and access is by crossing, as opposed to going along the right-of-way. Noncontiguous properties owned by the same person but connected by a right-of-way which he controls and to which the public does not have access is also considered on-site property.

(106) [(101)] "100 year flood" means a flood that has a one (1) percent or one (1) in 100 or greater chance of recurring in any year, or a flood of a magnitude equaled or exceeded once in 100 years on the average over a significantly long period, taking into consideration the present engineering aspect of the flood plain.

(107) [(102)] "Open burning" means the combustion of any material without:

(a) Control of combustion air to maintain adequate temperature for efficient combustion;

(b) Containment of the combustion reaction in an enclosed device to provide sufficient residence time and mixing for complete combustion; and

(c) Control of emission of the gaseous combustion products.

(108) [(103)] "Open dump" means any facility or site for the disposal of solid waste which does not meet the criteria for a sanitary landfill under regulations promulgated by the cabinet which shall be consistent with regulations promulgated under section 4004, Resource Conservation and Recovery Act of 1976, as amended (P.L. 94-580), and which is not a facility for disposal of hazardous waste (KRS 224.005).

(109) [(104)] "Operational plan" means the approved plan of operations filed with the cabinet which describes the method of operation that the permittee will use in the treatment, storage, and/or disposal of wastes.

(110) [(105)] "Owner/operator of a waste

facility" means the owner of an on-site or off-site waste treatment, storage, or disposal facility, as well as any person with whom rests ultimate decision-making authority over the facility.

(111) [(106)] "Part A of the application" or "Part A" means the standard forms or format for applying for a hazardous waste site or facility permit as required in 401 KAR 38:080.

(112) [(107)] "Part B of the application" or "Part B" means the standard format for applying for a hazardous waste site or facility permit as required in 401 KAR 38:090 through 401 KAR 38:210. Specifically, Part B consists of submitting all of the information required in 401 KAR 38:090 through 401 KAR 38:210; there are no official forms for the submission.

(113) [(108)] "Partial closure [of a hazardous waste facility]" means the closure of a hazardous waste management unit [discrete part of a facility] in accordance with the applicable closure requirements of 401 KAR Chapter 34 and [or] 35 at a facility that contains other active hazardous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other hazardous waste management unit, while other units of the same facility continue to operate.

(114) [(109)] "Periodic application of cover material" means the application and compaction of soil or other suitable material over disposed waste at a solid waste site or facility at the end of each operating day or at such frequencies and in such a manner as to reduce the risks of fire and to impede disease vector's access to the waste.

(115) [(110)] "Permit" means the authorization or other control document issued by the cabinet to implement the requirements of the waste management regulations. The term "permit" includes also "permit by rule," and "emergency permit." However, the term "permit" does not include "draft permit" or a "proposed permit."

(a) "Emergency permit" means a permit issued by the cabinet to temporarily store, treat or dispose of hazardous waste in accordance with the provisions of 401 KAR 38:060, Section 2.

(b) "Permit by rule" means that certain classes of sites or facilities are presumed to hold a permit so long as the operations of such sites or facilities do not present a threat of imminent hazard to public health or a substantial environmental impact, in violation of any of the environmental performance standards specified in 401 KAR 30:020 or 30:030 or the maximum groundwater contaminant levels specified in Section 5 of 401 KAR 34:060. Both hazardous and solid waste sites or facilities may be considered to hold a permit by rule.

1. Examples of hazardous waste sites or facilities which are permitted by rule include facilities operating under an interim status permit and facilities identified in Section 1 of 401 KAR 38:060.

2. Examples of solid waste sites or facilities which are permitted by rule include facilities identified in Section 1(4) of 401 KAR 47:020 and Section 1(2) of 401 KAR 47:050.

(116) [(111)] "Permittee" means any person holding a valid permit issued by the cabinet to manage, treat, store, and/or dispose of waste.

(117) [(112)] "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body (KRS 224.005).

(118) [(113)] "Personnel" or "facility personnel" means all persons who work at or oversee the operations of a waste facility, and whose actions or failure to act may result in noncompliance with the requirements of the waste management regulations.

(119) [(114)] "Pile" see subsection (63)(g) of this section.

(120) [(115)] "Point source" means any discernible, confined, and discrete conveyance including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture.

(121) [(116)] "Postclosure care" means the manner in which a facility must be maintained when it no longer accepts hazardous waste for disposal.

(122) [(117)] "Postclosure monitoring and maintenance" means the routine care, maintenance and monitoring of a solid waste disposal facility or hazardous waste treatment, storage, or disposal facility following closure of the facility.

(123) [(118)] "Preventive measures" means the installation or testing of equipment or devices, designated way of performing a specified operation or the preparation of an emergency response plan (KRS 224.877(c)).

(124) [(119)] "Publicly owned treatment works" or "POTW" means any device or system used in the treatment (including recycling and recovery) of any municipal sewage or industrial wastes of a liquid nature which is owned by the Commonwealth or a political subdivision of the Commonwealth (KRS 224.005).

(125) [(120)] "Putrescible" means susceptible to rapid decomposition by bacteria, fungi, or oxidation sufficient to cause nuisances such as odors, gases, or other offensive conditions.

(126) [(121)] "Recharge zone" means an area supplying the water which enters an underground drinking water source.

(127) [(122)] "Reclaimed" see Section 1 of 401 KAR 31:010.

(128) [(123)] "Recovered material" means waste material and by-products which have been recovered or diverted from waste, but does not include those materials and by-products generated from, and commonly reused within, an original manufacturing process (KRS 224.005).

(129) [(124)] "Recycling" means any treatment process for the reclamation of material or energy from waste (KRS 224.005). See also Section 1 of 401 KAR 31:010.

(130) [(125)] "Regional Administrator" means the regional administrator for the EPA region in which the facility is located, or his designee.

(131) [(126)] "Regional integrated waste treatment and disposal demonstration facility" means a model hazardous waste facility receiving wastes from a region larger than the county boundaries in which it is located, from more than one (1) person, and utilizing multiple treatment and disposal technologies, one (1) of which must be a secure landfill, and one (1) of which must be a high technology incinerator, and

designed so as to promote resource recovery and energy generation from hazardous waste and the use of state-of-the-art techniques for rendering waste nonhazardous, and the disposal of waste in a manner that minimizes the risk to public health and long term environmental impacts (KRS 224.2201(4)).

(132) [(127)] "Regulated unit" means hazardous waste land disposal sites or facilities, or portions of existing hazardous waste land disposal sites or facilities that continue to receive waste after January 26, 1983.

(133) [(128)] "Residential landfill" see "solid waste site or facility - residential landfill."

(134) [(129)] "Residual landfill" see "solid waste site or facility - residual landfill."

(135) [(130)] "Representative sample" means a sample of a universe or whole (e.g., waste pile, lagoon, groundwater) which can be expected to exhibit the average properties of the universe or whole.

(136) [(131)] "Resource recovery" means the recovery of material or energy from waste.

(137) [(132)] "Run-off" means any rainwater, leachate, or other liquid that drains overland from any part of a facility.

(138) [(133)] "Run-on" means any rainwater, leachate, or other liquid that drains overland onto any part of a facility.

(139) [(134)] "Salvaging" means the controlled removal of waste materials for utilization in a manner approved by the cabinet.

(140) [(135)] "Sanitary landfill" means a facility for the disposal of solid waste which complies with the "environmental performance standards" specified in 401 KAR 30:030.

(141) [(136)] "Saturated zone (zone of saturation)" means that part of the earth's crust containing groundwater in which all voids, large and small, are filled with liquid.

(142) [(137)] "Scavenging" means the removal of waste materials from a waste management site or facility in a manner deemed by the cabinet to be dangerous to the health and safety of any person.

(143) [(138)] "Scrap metal" see Section 1 of 401 KAR 31:010.

(144) [(139)] "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet (KRS 224.005).

(145) [(140)] "Sludge" means any solid, semisolid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility exclusive of the treated effluent from a wastewater treatment plant or any other such waste having similar characteristics and effects.

(146) [(141)] "Solid waste management" means the administration of solid waste activities: collection, source separation, storage, transportation, transfer, processing, treatment and disposal, which shall be in accordance with a departmentally approved county or multicounty solid waste management plan (KRS 224.005).

(147) [(142)] "Solid waste management area" or "area" means any county or group of counties so designated by the cabinet by approval of the local solid waste management plan (KRS 224.005).

(148) [(143)] "Solid waste management facility" means any resource recovery system or component thereof, any system, program or facility for resource conservation, and any facility for collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise (KRS 224.005).

(149) [(144)] "Solid waste site or facility" means one (1) of the four (4) categories of sanitary landfills or a land farming facility permitted by the cabinet for the disposal of solid waste involving the placement of solid waste on or into the land surface as follows:

(a) "Inert landfill" means a facility for the proper disposal of inert, nonsoluble and nonputrescible solid waste, including construction materials, certain industrial or special wastes, and other waste material with specific approval from the cabinet. Certain putrescible wood product wastes (such as cardboard, paper, sawdust, wood chips, and tree trimmings, etc.) may be considered by the cabinet for disposal at inert landfills.

(b) "Residential landfill" means a facility for the proper disposal of solid waste including residential waste, commercial waste, institutional waste, and those sludges, industrial or special waste with specific approval from the cabinet.

(c) "Contained landfill" means a facility for the proper disposal of solid waste including those industrial wastes, special wastes, or hazardous wastes exempted by regulation and any nonhazardous waste without case-by-case approval from the cabinet.

(d) "Residual landfill" means a facility for the disposal of specific solid waste(s), including special waste, which is located, designed, constructed, operated, maintained and closed in conformance with the "Environmental performance standards" in 401 KAR 30:030, Section 1(1) and which receives a case-by-case design review by the cabinet.

(e) "Landfarming facility" means a facility for land application of sludges or other residual waste by any method for purposes of disposal. It can be on any piece or pieces of land and may improve the physical and chemical qualities of the land for agricultural purposes, but does not alter the topography of the application area as revealed by contours and will not disturb the soil below three (3) feet from the surface.

(150) [(145)] "Special wastes" means those wastes of high volume and low hazard which include, but are not limited to, mining waste, utility wastes (fly ash, bottom ash, scrubber sludge), sludge from water treatment facilities and waste water treatment facilities, cement kiln dust, gas and oil drilling muds and oil production brines (KRS 224.868(1)(a)).

(151) [(146)] "Spent material" see Section 1 of 401 KAR 31:010.

(152) [(147)] "Spill" means any accidental spilling, leaking, pumping, pouring, emitting, or dumping of hazardous wastes or materials which, when spilled, become hazardous wastes into or on any land or water.

(153) [(148)] "State" means any of the fifty (50) states, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Northern Mariana Islands or Guam but does not include any foreign country.

(154) [(149)] "Storage facility" see "hazardous waste site or facility - storage facility."

(155) [(150)] "Storage of hazardous waste"

means the holding of hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed, or stored elsewhere.

(156) "Sump" means any pit or reservoir that meets the definition of tank and those troughs/trenches connected to it that serves to collect hazardous waste for transport to hazardous waste management units.

(157) [(151)] "Surface impoundment" see "hazardous waste site or facility - surface impoundment."

(158) [(152)] "Tank" see "hazardous waste site or facility - tank."

(159) [(153)] "Termination" means the final actions taken by the cabinet as to a solid waste or hazardous waste treatment, storage or disposal site or facility when formal responsibilities for postclosure monitoring and maintenance cease (KRS 224.005).

(160) [(154)] "Thermal treatment" means the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge (see also "incinerator" and "open burning").

(161) [(155)] "Thermal treatment facility" see "hazardous waste site or facility - thermal treatment facility."

(162) [(156)] "Totally enclosed treatment facility" see "hazardous waste site or facility - totally enclosed treatment facility."

(163) [(157)] "Transfer facility" means any transportation related facility including loading docks, parking areas, storage areas, and other similar areas where shipments of hazardous waste are held during the normal course of transportation.

(164) [(158)] "Transport vehicle" means a motor vehicle or rail car used for the transportation of cargo by any mode. Each cargo-carrying body (trailer, railroad freight car, etc.) is a separate transport vehicle.

(165) [(159)] "Transportation" means any off-site movement of waste by any mode, and any loading, unloading, or storage incidental thereto (KRS 224.005).

(166) [(160)] "Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway or water.

(167) [(161)] "Treatment" means any method, technique, or process including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous (KRS 224.005).

(168) [(162)] "Treatment facility" see "hazardous waste site or facility - treatment facility."

(169) [(163)] "Treatment zone" means a soil area of the unsaturated zone of a land treatment unit within which hazardous constituents are degraded, transformed, or immobilized.

(170) [(164)] "Trenching or burial operation" means the placement of sewage sludge or septic tank pumpings in a trench or other natural or manmade depression and the covering with soil or other suitable material at the end of each operating day such that the waste does not migrate to the surface.

(171) [(165)] "Underground drinking water source" means:

(a) An aquifer supplying drinking water for human consumption; or

(b) An aquifer in which the groundwater contains less than 10,000 mg/l total dissolved solids.

(172) [(166)] "Underground injection" means the subsurface emplacement of fluids through a bored, drilled or driven well; or through a dug well, where the depth of the dug well is greater than the largest surface dimension. (See also "hazardous waste site or facility, injection well.")

(173) [(167)] "Unsaturated zone (zone of aeration)" means that region of the soil or rock between the land surface and the nearest saturated zone in which the interstices are occupied partially by air.

(174) [(168)] "Uppermost aquifer" means the geologic formation nearest the natural ground surface that is an aquifer, as well as lower aquifers that are hydraulically interconnected with this aquifer within the facility's property boundary.

(175) [(169)] "Used or reused" see Section 1 of 401 KAR 31:010.

(176) [(170)] "Vapor recovery system" means that equipment, device, or apparatus capable of collecting vapors and gases discharged from a storage tank, and a vapor processing system capable of affecting such vapors and gases so as to prevent their emission into the atmosphere.

(177) [(171)] "Vessel" includes every description of watercraft used or capable of being used as a means of transportation on the water.

(178) [(172)] "Washout" means the carrying away of waste by waters of the base flood.

(179) [(173)] "Waste" means:

(a) "Solid waste" means any garbage, refuse, sludge and other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse and overburden) and agricultural operations, and from community activities, but does not include solid or dissolved material in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under section 402 of the federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923) (KRS 224.005);

(b) "Hazardous waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise

managed; nothing in this chapter shall be construed to apply to any activity or substance which is subject to the federal Atomic Energy Act of 1954, as amended (68 Stat. 923) except as provided in KRS 224.867 [(KRS 224.005)].

(180) [(174)] "Waste boundary" means:

(a) The outermost perimeter of the waste (projected in the horizontal plane) as it would exist at completion of the disposal activity; or

(b) An alternative boundary for a solid waste disposal facility which may be used in lieu of paragraph (a) when the cabinet finds that such a change would not result in the contamination of groundwater which may be needed or used for human consumption. Such a finding shall be based on an analysis and consideration of all the factors identified in the following subparagraphs of this paragraph that are relevant:

1. The hydrogeological characteristics of the facility and surrounding land including any natural attenuation and dilution characteristics of the aquifer;

2. The volume and physical and chemical characteristics of the leachate;

3. The quantity, quality, and direction of flow of groundwater underlying the facility;

4. The proximity and withdrawal rates of groundwater users;

5. The availability of alternative drinking water supplies;

6. The existing quality of the groundwater, including other sources of contamination and their cumulative impacts on the groundwater; and

7. Public health, safety, and welfare effects.

(181) [(175)] "Waste management district" means any county or group of counties electing to form under the provisions of KRS 109.071 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended (P.L. 94-580) (KRS 224.005).

(182) [(176)] "Wastewater treatment unit" see "hazardous waste site or facility - wastewater treatment unit."

(183) [(177)] "Water (bulk shipment)" means the bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.

(184) [(178)] "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction (KRS 224.005).

(185) [(179)] "Well" means any shaft or pit dug or bored into the earth, generally of cylindrical form, and often walled with bricks or tubing to prevent the earth from caving in.

(186) [(180)] "Wetlands" means those areas that are inundated by surface water or groundwater with a frequency and duration sufficient to support a prevalence of vegetation or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands include swamps, marshes, bogs, and similar areas, such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.

(187) "Zone of engineering control" means an area under the control of the owner/operator that upon detection of a hazardous waste release, can be readily cleaned up prior to the release of hazardous waste or hazardous constituents to waters of the Commonwealth.

(188) [(181)] "Zone of incorporation" means the depth to which the soil on a landfarm is plowed, tilled, or otherwise designed to receive waste.

Section 2. Acronyms and Abbreviations. The acronyms and abbreviations used in 401 KAR Chapters 30 through 49 can be found in Table 1.

Table 1. Acronyms and Abbreviations

| | |
|---|---|
| Am. | Amended |
| C | Corrosive waste |
| CAA | Clean Air Act |
| CFR | Code of Federal Regulations |
| cm | Centimeter |
| $cm^2$ | Centimeter squared |
| CO | Carbon monoxide |
| $CO_2$ | Carbon dioxide |
| CWA | Clean Water Act |
| DOT | United States Department of Transportation |
| DRE | Destruction and removal efficiency |
| E | Explosive waste |
| eff. | Effective |
| EPA | United States Environmental Protection Agency |
| EP Toxicity | Extraction procedure toxicity |
| FIA | Federal Insurance Administration |
| FR | Federal Register |
| H | Acutely hazardous waste |
| ha | Hectare |
| I | Ignitable waste |
| KAR | Kentucky Administrative Regulation |
| kg | Kilogram |
| KPDES | Kentucky Pollution Discharge Elimination System |
| KRS | Kentucky Revised Statute |
| Ky.R. | Administrative Register of Kentucky |
| l | Liter |
| LC | Lethal concentration |
| LD | Lethal dose |
| ml | Milliliter |
| mm | Millimeter |
| N | Normal |
| NESHAPS | National Emissions Standards for Hazardous Air Pollutants |
| NPDES | National Pollutant and Discharge Elimination System |
| PCB | Polychlorinated biphenyl |
| pCi/l | Picocuries per liter |
| PHC | Principal hazardous constituent |
| Permit POHC | Permitted principal organic hazardous constituent |
| POHC | Principal organic hazardous constituent |
| ppm | parts per million |
| Trial POHC | Trial burn principal organic hazardous constituent |
| POTW | Publicly owned treatment works |
| PSD | Prevention of significant deterioration |
| psi | Pounds per square inch |
| psig | Pounds per square inch gauge |
| R | Reactive waste |
| RCRA | Resource Conservation and Recovery Act, as amended (P.L. 94-580) |
| SDWA | Safe Drinking Water Act |
| SEC | Securities and Exchange Commission |
| SIC | Standard Industrial Classification Code |
| SPCC | Spill Prevention, Control, and Countermeasures Plan |

| | |
|---|---|
| T | Toxic waste |
| UIC | Underground Injection Control |
| UICP | Underground Injection Control Program |
| USC | United States Code |
| USEPA | United States Environmental Protection Agency |
| USPS | United States Postal Service |

Section 3. References. Title 401 Chapters 30 through 49, incorporate certain publications by reference. The publications listed in 40 CFR Part 260.11 are adopted and filed herein by reference. Copies of these publications may be obtained as follows:

(1) "ASTM Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester," ASTM Standard D-3278-78, available from American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103.

(2) "Flammable and Combustible Liquids Code" (1977 or 1981), available from the National Fire Protection Association, Battery March Park, Quincy, Massachusetts 02269.

(3) "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," EPA Publication SW-846 (Second Edition, 1982 as amended by Update I (April 1984), and Update II (April 1985)). The second edition of SW-846 and Updates I and II are available from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, (703) 487-4600, as document no. PB87-120-291. [Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401, (202) 783-3238, on a subscription basis.]

(4) Appendix X of 40 CFR 261 on the method of analysis for chlorinated dibenzo-p-dioxins and dibenzofurans is adopted by reference and included in "The Test Methods for Evaluating Solid Waste, Physical/Chemical Methods."

(5) Appendix I of 40 CFR 268 on Toxicity Characteristics Leaching Procedure (TCLP) a method used to determine whether a solvent waste or a dioxin containing waste requires treatment or when a treated waste meets the applicable treatment standards of Section 1 of 401 KAR 37:100.

(6) The paint filter liquid test is Method 9095 and is a part of EPA publication SW 846 incorporated by reference in subsection (3) of this section.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: This regulation affects all persons, counties, or urban-county governments who manage hazardous or solid wastes.

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

1. First year: This regulation has no economic effect. It is for informational purposes only.

2. Continuing costs or savings: None.

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The amendment to this regulation defines the terms that are essential in interpreting the waste management regulations.

Alternative 1. Less stringent. Kentucky cannot be less stringent and maintain equivalency with the federal program.

2. More stringent. The cabinet chose not to adopt more stringent standards than the federal because the federal requirements will adequately protect public health and the environment.

3. Present proposal. The present proposal adequately defines essential terms used in connection with the waste management regulations.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. The definitions are tiered by identifying waste management entities, compliance dates etc. Those definitions are used throughout the waste management regulations to tier the regulatory requirements according to the type of facility.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 260.10 promulgated on March 24, 1986 (51 FR 10174), May 2, 1986 (51 FR 16443), August 14, 1986 (51 FR 25471) and 260.11 promulgated March 16, 1987 (52 FR 8073).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: The proposed amendments adopt requirements which are identical to those

standards adopted by the U.S. Environmental Protection Agency. In addition there were two technical changes made (not based on federal regulations) to clarify the existing requirements for the regulated community. No standards or responsibilities are imposed which are more strict than those imposed by the U.S. EPA.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations. Technical changes were made to improve the clarity and consistency of the regulation.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 30:020. General provisions.**

RELATES TO: KRS 224.033, 224.036, 224.830 through 224.889, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033

NECESSITY AND FUNCTION: KRS 224.033 and the waste management provisions of KRS Chapter 224 require the cabinet to adopt rules and regulations for the generation, treatment, storage, recycling and disposal of hazardous wastes and the disposal of solid wastes. This chapter establishes the general administrative procedures which are applicable 401 KAR Chapters 31 through 49. This regulation sets forth general provisions which apply to the waste management regulations with regard to applicability, scope, exceptions, variances, general prohibitions, compatibility, conflicting provisions, [and] severability, availability and confidentiality of information.

Section 1. Applicability. The waste management regulations shall apply to the disposal of solid waste and the management of all liquid, semisolid, solid, or gaseous waste defined or identified as hazardous in KRS Chapter 224 or the appropriate regulations (401 KAR 30:010, 401 KAR Chapter 31) by all persons and state and federal agencies who engage in the generation, treatment, storage, or disposal of such wastes, including hazardous substances spilled into the environment, thereby meeting the criteria of hazardous waste.

(1) The waste management regulations apply to all waste disposal sites or facilities with the following exceptions:

(a) Domestic sewage and any mixture of domestic sewage and other wastes that pass through a sewer system to a publicly-owned treatment works for treatment. (Note: these exemptions do not apply to sludges generated by the treatment of domestic sewage.)

(b) Industrial wastewater discharges that are point source discharges subject to regulation under Section 402 of the Clean Water Act, as amended. (Note: these exemptions do not apply to sludges generated by the treatment of industrial wastewater.)

(c) Solid or dissolved materials in irrigation return flows.

(d) Source special nuclear or by-product material as defined by the Atomic Energy Act, as amended 42 U.S.C. 2011 et seq.

(e) Materials subjected to in situ mining techniques which are not removed from the ground as part of the extraction process.

(2) Any waste that is not excepted by subsection (1) of this section and that is identified or listed under 401 KAR Chapter 31 is subject to the waste management regulations pertaining to hazardous waste.

(3) Any waste which is not excepted by subsection (1) of this section or granted a variance under the conditions of 401 KAR 30:080, or Sections 8 and 9 of 401 KAR 31:010, and which is not subject to subsection (2) of this regulation is subject to the waste management regulations pertaining to solid waste except for:

(a) Agricultural wastes including manures and crop residues, returned to the soil as fertilizers or soil conditioners.

(b) Overburden resulting from mining operations intended for return to the mine site and coal mining wastes, refuse, overburden and coal mining by-products.

(c) The location and operation of septic tanks. These regulations do, however, apply to the disposal of septic tank pumpings.

(d) Disposal of waste by underground well injection subject to the regulations (40 CFR Part 146) for the Underground Injection Control Program (UICP) under the Safe Drinking Water Act, as amended, 42 U.S.C. 3007 et seq.

Section 2. Variance. A variance, except as provided in 401 KAR Chapter 38, is a written waiver from any provision of the waste management regulations, upon the finding by the cabinet that the absence of such provision(s) will provide adequate protection to health and the environment in a manner consistent with the purpose of the waste management regulations and KRS Chapter 224. Variances may be granted for recycling operations in accordance with the standards contained in 401 KAR 30:080.

(1) The cabinet may grant a variance or permit modification from the requirements of the waste management regulations if a waste permit requirement, or the process and equipment used is determined by the cabinet to be either:

(a) Insignificant as a potential hazard to public health or the environment because of its small quantity; low concentration; physical, biological, or chemical characteristics; or method of operation used; or

(b) Handled, processed, or disposed of pursuant to regulations of another governmental agency, providing the regulations of other agencies meet the requirements of the waste management regulations, including federal exemption rule-making actions pertaining to hazardous waste management.

(2) A request for variance from a requirement of the waste management regulations shall be submitted in a report as prescribed by the cabinet in sufficient detail to describe clearly the analyses, procedures, controls, and other pertinent data necessary to support the request. The granting of such a request by the cabinet shall be in writing and shall specify appropriate conditions such as duration, limitations, and review procedures.

(3) The cabinet will not grant any request for

a variance which:
(a) Would make the program less stringent than the federal hazardous waste management program; or
(b) Would be in conflict with Kentucky Revised Statutes; or
(c) Would be in conflict with a regulatory provision stating that no variance shall be granted; or
(d) Would vary the requirements of 401 KAR 30:030; or
(e) Would vary the financial responsibility requirements in a manner conflicting with Section 1 of 401 KAR 34:080 or Section 1 of 401 KAR 35:080.

Section 3. Compatibility with the Federal Acts. The regulations promulgated pursuant to the waste management provisions of KRS Chapter 224 are intended to be compatible with federal regulations adopted pursuant to Public Law 94-580, the "Resource Conservation and Recovery Act of 1976," as amended.

Section 4. Conflicting Provisions. The provisions of the waste management regulations are to be construed as being compatible with and complimentary to each other. In the event that any of these regulations are found to be contradictory, the more stringent provisions shall apply.

Section 5. Severability. In the event that any provision of KRS Chapter 224 or any regulation promulgated pursuant thereto is found to be invalid, the remaining waste management regulations shall not be affected or diminished thereby.

Section 6. Use of Number and Gender. As used in 401 KAR Chapters 30 through 49:
(1) Words in masculine gender also include the feminine and neuter genders; and
(2) Words in the singular include the plural; and
(3) Words in the plural include the singular.

Section 7. Applicability of Regulations. (1) At the time of permit issuance, the applicable regulations shall be those waste management regulations which are in effect upon the date of permit issuance.
(2) For permit modifications, revocation and reissuance, or termination, the applicable regulations shall be those regulatory provisions which are in effect upon the date that the cabinet makes a final determination (i.e., approval of a permit modification) upon the permit action and are applicable to those specific permit conditions being modified or revoked and reissued. The procedures which shall be used for permit modifications, revocation and reissuance, or termination shall be those regulatory procedures which are in effect upon the date of the cabinet's final determination.

Section 8. Availability of Information; Confidentiality of Information. (1) Any information provided to the cabinet under 401 KAR Chapters 30 through 35 and 37 will be made available to the public to the extent and in the manner authorized by the Freedom of Information Act, 5 U.S.C. section 552, KRS 224.886 and Chapter 61 and EPA regulations implementing the Freedom of Information Act and 400 KAR 1:060 as applicable.
(2) Any person who submits information to the cabinet in accordance with 401 KAR Chapters 30 through 37 and 400 KAR 1:060 may assert a claim of business confidentiality or trade secret covering part or all of that information by following the procedures set forth in 400 KAR 1:060. Information covered by such a claim will be disclosed by the cabinet only to the extent, and by means of the procedures, set forth in 400 KAR 1:060 and KRS Chapter 61 except that information required by Section 4(1) of 401 KAR 32:050 which is submitted in notification of intent to export a hazardous waste will be provided to the Department of State and the appropriate authorities in a receiving country regardless of any claims of confidentiality. However, if no such claim accompanies the information when it is received by the cabinet, it may be made available to the public without further notice to the person submitting it.

Section 9. Compliance Deadlines. After promulgation of regulations under 401 KAR Chapter 31 identifying by its characteristics or listing any substance as hazardous waste subject to the hazardous waste management regulations, any person generating or transporting such substance or owning or operating a facility for treatment, storage, disposal or recycling of such substance shall register with the cabinet. Such registration shall be filed within ninety (90) days after promulgation or revision of the regulations unless another notification date is specified.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at noon.
PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director
(1) Type and number of entities affected: This regulation contains general requirements which affect all persons and facilities who are regulated under the provisions of 401 KAR Chapters 30-49.
(a) Direct and indirect costs or savings to those affected:
1. First year: The proposed amendments deal with confidential information contained in a notification of intent to export a hazardous waste and its disclosure to authorities in receiving countries and the Department of State. The amendments will not result in any costs or savings to 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: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of the regulation.
(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The proposed amendments allow confidential information in a notification of intent to export a hazardous waste to be provided to appropriate authorities in countries receiving hazardous waste and to the Department of State, regardless of the claims of confidentiality. A reference to 401 KAR Chapter 37 was added in Sections 6 and 8 and the RCRA 3010(a) provisions were used as a model to identify the compliance dates.
Alternative. 1. Less stringent. The cabinet could have chosen to be less stringent by not incorporating the federal regulations. However, Kentucky could not have been less stringent and still have maintained authorization to administer the RCRA hazardous waste program.
2. More stringent. The cabinet could have chosen to be more stringent by placing additional requirements on exporters of hazardous waste. However, the present proposal is adequate to protect the public health and environment in Kentucky.
3. Present proposal. The present proposal allows that confidential information contained in notification of intent to export a hazardous waste will be provided to appropriate authorities in receiving countries and to the Department of State. The present proposal adds a reference to 401 KAR Chapter 37 in Sections 6 and 8. Also, the RCRA 3010(a) provisions were used as a model to identify the compliance dates.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: The impact of this regulation has not been analyzed for those requirements which are equivalent to those found in the corresponding federal regulation, 40 CFR 260.2 and 40 CFR 260.3. The impact of the federal program was analyzed in 51 FR 40632-40636, November 7, 1986. A copy of the November 7, 1986 federal register has been filed with the regulations compiler of the Legislative Research Commission.
TIERING: Was tiering applied? Yes. This regulation applies only to those persons and facilities which manage solid or hazardous waste.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 260.2 and 40 CFR 260.3 promulgated on August 8, 1986 (51 FR 28664-28686) and November 7, 1986 (51 FR 40572-40654.)
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments adopt requirements which are identical to those standards adopted by the U.S. Environmental Protection Agency on August 8, 1986 and November 7, 1986.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 30:070. Reference documents.**

RELATES TO: KRS 13A.130, 13A.190, 224.005, 224.033, 224.830 through 224.889, 224.994
PURSUANT TO: KRS 13A.210, 224.033
NECESSITY AND FUNCTION: KRS 224.033 and the waste management provisions of KRS Chapter 224 require the Natural Resources and Environmental Protection Cabinet to promulgate regulations for the management of solid and hazardous wastes. This chapter establishes the general administrative procedures which are applicable to 401 KAR Chapters 30 through 49. This regulation incorporates by reference as provided under 1 KAR 1:010 essential documents used in connection with the waste management regulations.

Section 1. Documents Incorporated by Reference. The documents listed in subsections (1) through (8) of this section are adopted and filed herein by reference. Copies of these documents may be obtained from the Natural Resources and Environmental Protection Cabinet, Department for Environmental Protection, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601.
(1) Waste Management Policy I.2.a., "Closure of Permitted Solid Waste Sites," (July 29, 1983).
(2) Waste Management Policy IV.1.a., "Sampling Procedure-splitting Samples," (September 15, 1983).
(3) Waste Management Policy VI.1.b., "Regulatory Interpretation: Sham Recycling," (November 8, 1985).
[(4) Waste Management Policy VI.1.c., "Regulatory .Interpretation: Mixture of "F" Listed Solvents," (April 6, 1984).]
(4) [(5)] Waste Management Policy VI.1.d., "Regulatory Interpretation: EPA Guidance on K061 Listing," (April 6, 1984).
(5) [(6)] Waste Management Policy VI.1.e., "Regulatory Interpretation: Plating Waste Generators," (April 6, 1984).
(6) [(7)] Waste Management Policy VI.1.f. (AMENDMENT), "Regulatory Interpretation: Empty Containers," (July 9, 1984).

(7) Waste Management Policy VI.1.g. "Regulatory Interpretation: The Scope of the F006 Hazardous Waste Listing," (December 14, 1987). This policy incorporates the December 2, 1986 (51 FR 43350-43351) Interpretive Rule adopted by the U.S. Environmental Protection Agency which narrows the scope of the F006 waste listing.

(8) Waste Management Policy VI.1.h. "Regulatory Interpretation: Status of Sludges from Land Treatment of Wood Preserving Wastewaters," (December 14, 1987). This policy incorporates a memorandum from John H. Skinner, Office of Solid Waste, U.S. Environmental Protection Agency to James H. Scarbrough, Chief, Residuals Management Branch, Region IV, Environmental Protection Agency regarding the Regulatory Status of Sludges From Land Treatment of Wood Preserving Wastewaters dated November 23, 1984. This policy states that spray irrigation units or any other land spreading of wastewaters from wood preserving operations is considered hazardous waste treatment of K001 wastes.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber

(1) Type and number of entities affected: There are 73 hazardous waste generators who could potentially be affected by the proposed amendments to this regulation. One of the amendments deletes a policy on mixtures of "F" listed solvents; the deletion of this policy will clarify the requirements for generators of spent solvents and will affect the majority of hazardous waste generators. Adoption of the policy clarifying the F006 listing may affect 71 generators, and at least two generators - Ford Motor Company in Louisville, Kentucky and Whirlpool Corporation in Danville, Kentucky - will be directly affected. Both of these companies applied to the U.S. Environmental Protection Agency for Temporary Exclusions from the list of hazardous wastes and Whirlpool Corporation received a Temporary Exclusion. With the adoption of this policy, neither company will be required to apply for Permanent Exclusions for their wastes. Adoption of the policy including wood preserving wastewaters as K001 waste when land treated may affect as many as two generators; however, currently no wood preserving wastewaters are being land treated in Kentucky.

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

1. First year: There will be no cost or savings to the regulated community from deleting the policy on "F" listed solvent mixtures. There will be no immediate cost or savings from adoption of the policy on wood preserving wastewaters since there are currently no companies engaged in land treatment of wood preserving wastes (K001). There will be a significant savings to at least two companies because of the adoption of the policy on F006 waste. Because of existing requirements to test for all Appendix VIII constituents (401 KAR 31:170), the savings to these two companies will be approximately $15,000 to $18,000 each (assuming four representative samples are analyzed at $3,000 each plus the cost of the written petition) since they will not be required to submit petitions for Permanent Exclusions.

2. Continuing costs or savings: At least two companies will realize a significant savings of approximately $65 to $125/yard of waste since the excluded F006 wastes will no longer need to be sent to a permitted hazardous waste facility for disposal. No other continuing cost or savings will result from deletion of the policy on mixtures of "F" listed solvents or addition of the wood preserving wastewaters policy.

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

(b) Reporting and paperwork requirements: The amendments made to this regulation do not increase the reporting or paperwork requirements for the regulated community. Because of the addition of the policy on F006 waste, at least two companies will have a reduced requirement to submit a petition for Permanent Exclusion of their waste streams from the list.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. The amendments made to this regulation clarify the requirements which identify hazardous waste numbers F001-F005, F006, and K001. There will be no impact on the promulgating administrative body resulting exclusively from the proposed amendments. However, if the two companies directly affected had submitted petitions for Permanent Exclusions, it would have cost the cabinet approximately $3000 each in sampling and analysis costs in excess of the $2000 fee charged (401 KAR 39:020) to review the petition. Thus, the cabinet will realize a savings of approximately $6000 by adopting this policy.

2. Continuing costs or savings: None. See note in (2)(a)1.

3. Additional factors increasing or decreasing costs: None. See note in (2)(a)1.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) Waste Management Policy VI.1.c. Regulatory Interpretation: Mixture of "F" Listed Solvents has been removed from this regulation.

Alternative: 1. Less Stringent: The cabinet could have chosen to revise this policy to be less stringent by exempting from regulation mixtures of "F" listed solvents. However, this

would have been in conflict with the statutory mandate in KRS 224.964(3) to adopt a list and criteria for identifying hazardous waste which is identical to the list and criteria adopted by the U.S. Environmental Protection Agency.

2. More stringent: The cabinet could have chosen to be more stringent by revising this policy to include all mixtures of "F" listed solvents as hazardous wastes. However this would have been in conflict with KRS 224.864(3) which requires the state to adopt a list and criteria for identifying hazardous waste which is identical to the U.S. Environmental Protection Agency's list and criteria, and 401 KAR 31:040 which stipulates that a minimum of 10% by volume of an "F" listed solvent within a mixture of other solvents requires the mixture to be considered "F" listed.

3. Present proposal: The present proposal removes this existing policy from the regulations because (1) mixtures of "F" listed solvents has been clearly addressed in 401 KAR 31:040; and (2) this policy, adopted prior to the "F" listing requirements in 401 KAR 31:040 regarding mixtures is no longer appropriate or necessary.

(b) A new policy on the Regulatory Interpretation of the Scope of the F006 Hazardous Waste Listing has been added to this regulation.

Alternatives: 1. Less Stringent: The cabinet could have chosen to be less stringent by altering this policy to further limit the scope of the F006 listing. However, this would have resulted in the state list and criteria for identifying hazardous waste being in conflict with the U.S. Environmental Protection Agency's list and criteria. Because of the statutory mandate in KRS 224.864(3), the Cabinet rejected this alternative.

2. More stringent: The cabinet could have chosen to be more stringent by not adopting this policy since it narrows the scope of the F006 listing and thus would have caused additional industries to be regulated as generators of F006 waste. However, KRS 224.864(3) requires the state to adopt a list and criteria for identifying hazardous waste which is identical to the list and criteria adopted by the U.S. Environmental Protection Agency.

3. Present proposal: The present proposal adopts verbatim the U.S. Environmental Protection Agency Interpretive Rule which narrows the scope of the F006 listing. This ensures compliance with KRS 224.864(3) which mandates that the state adopt a list and criteria which is identical to the U.S. Environmental Protection Agency's list and criteria.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. The proposed amendments to this regulation affect only those entities producing F001-F005, F006 and K001 hazardous waste streams.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The proposed amendments to this regulation are in conformance with federal listing and criteria to identify hazardous wastes (40 CFR Part 261). Although the U.S. Environmental Protection Agency routinely issues policy statements, the State of Kentucky is limited to adopting regulatory standards pursuant to KRS 13A.130 and cannot adopt policies except within the regulations. Thus, two documents issued by the U.S. Environmental Protection Agency as policy statements are being adopted in this regulation to ensure compliance with the requirement in KRS 224.864(3) to adopt a list and criteria for identifying hazardous waste that is identical to the list and criteria adopted by the U.S. Environmental Protection Agency. The inclusion of these two policies within this regulation will ensure that the Kentucky listing of F006 and K001 waste is maintained identical to the U.S EPA's.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No, the proposed regulatory amendments will impose requirements which are identical to those requirements imposed by the U.S. Environmental Protection Agency.

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

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management
(Proposed Amendment)

401 KAR 30:080. Standards for variances.

RELATES TO: KRS 224.033, 224.830 through 224.889, 224.994

PURSUANT TO: KRS 13A.210 [Chapter 13A], 224.033, [224.081,] 224.855, 224.867

NECESSITY AND FUNCTION: KRS 224.033 and the waste management provisions of KRS Chapter 224 require the cabinet to adopt rules and regulations for the generation, treatment, storage, recycling and disposal of hazardous wastes and the disposal of solid wastes. KRS 224.867 authorizes the cabinet to exclude a waste generated at a particular facility from being regulated as a hazardous waste and to regulate production, burning and transportation of hazardous waste derived fuels. This chapter establishes the general administrative procedures which are applicable to 401 KAR Chapters 31 through 49. This regulation sets forth standards and procedures which enable a recycled material to be granted a variance from classification as a waste, and an enclosed-flame device to be classified as a boiler or an industrial furnace.

Section 1. Types of Variances. (1) As referenced in the waste management regulations, a variance is a written waiver from a specific regulatory requirement issued by the cabinet. A variance must be requested in writing and must

include all appropriate information required by the cabinet. All variances issued by the cabinet are subject to the conditions specified in the approved variance.

(2) Individual types of variances are specified in this regulation, in Section 2 of 401 KAR 30:020, and in Sections 8 and 9 of 401 KAR 31:010.

Section 2. Variances from Classification as a Waste. In accordance with the standards and criteria in Section 3 of this regulation and the procedures in Section 6 of this regulation and Section 2 of 401 KAR 30:020, the cabinet may determine on a case-by-case basis that the following recycled materials are not wastes:

(1) Materials that are accumulated speculatively without sufficient amounts being recycled [(as defined in Section 1(3)(h) of 401 KAR 31:010)]; or

(2) Materials that are reclaimed and then reused within the original primary production process in which they were generated; or

(3) Materials that have been reclaimed but must be reclaimed further before the materials are completely recovered.

Section 3. Standards and Criteria for Variances from Classification as a Waste. (1) The cabinet may grant requests for a variance from classifying as a waste those materials that are accumulated speculatively without sufficient amounts being recycled if the applicant demonstrates that sufficient amounts of the material will be recycled or transferred for recycling in the following year. If a variance is granted, it is valid only for the following year, but can be renewed on an annual basis by filing a new application. The cabinet's decision will be based on the following standards and criteria:

(a) The manner in which the material is expected to be recycled, when the material is expected to be recycled, and whether this expected disposition is likely to occur (for example, because of past practice, market factors, the nature of the material, or contractual arrangements for recycling);

(b) The reason that the applicant has accumulated the material for one (1) or more years without recycling seventy-five (75) percent of the volume accumulated at the beginning of the year;

(c) The quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled;

(d) The extent to which the material is handled to minimize loss; and

(e) Other relevant factors.

(2) The cabinet may grant requests for a variance from classifying as a waste those materials that are reclaimed and then reused as feedstock within the original primary production process in which the materials were generated if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:

(a) How economically viable the production process would be if it were to use virgin materials rather than reclaimed materials;

(b) The prevalence of the practice on an industry-wide basis;

(c) The extent to which the material is handled before reclamation to minimize loss;

(d) The time periods between generating the material and its reclamation and between reclamation and return to the original primary production process;

(e) The location of the reclamation operation in relation to the production process;

(f) Whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process and whether it is returned to the process in substantially its original form;

(g) Whether the person who generates the material also reclaims it; and

(h) Other relevant factors.

(3) The cabinet may grant requests for a variance from classifying as a waste those materials that have been reclaimed but must be reclaimed further before recovery is completed if, after initial reclamation, the resulting material is commodity-like (even though it is not yet a commercial product, and has to be reclaimed further). This determination will be based on the following factors:

(a) The degree of processing the material has undergone and the degree of further processing that is required;

(b) The value of the material after is has been reclaimed;

(c) The degree to which the reclaimed material is like an analogous raw material;

(d) The extent to which an end market for the reclaimed material is guaranteed;

(e) The extent to which the reclaimed material is handled to minimize loss; and

(f) Other relevant factors.

Section 4. Variance to be Classified as a Boiler. In accordance with the standards and criteria in Section 1 of 401 KAR 30:010 (definition of "boiler"), and the procedures in Section 6 of this regulation the cabinet may determine on a case-by-case basis that certain enclosed devises using controlled flame combustion are boilers, even though they do not otherwise meet the definition of boiler contained in Section 1 of 401 KAR 30:010 after considering the following criteria:

(1) The extent to which the unit has provisions for recovering and exporting thermal energy in the form of steam, heated fluids, or heated gases;

(2) The extent to which the combustion chamber and energy recovery equipment are of integral design;

(3) The efficiency of energy recovery, calculated in terms of the recovered energy compared with the thermal value of the fuel;

(4) The extent to which exported energy is utilized;

(5) The extent to which the device is in common and customary use as a "boiler" functioning primarily to produce steam, heated fluids, or heated gases; and

(6) Other factors as appropriate.

Section 5. Variance to be Classified as an Industrial Furnace. In accordance with the standards and criteria in Section 1 of 401 KAR 30:010 (definition of "industrial furnace"), and the procedures in Section 6 of this regulation the cabinet may determine on a case-by-case basis that certain enclosed devices using controlled flame combustion are industrial furnaces, even though they do not otherwise meet the definition of industrial furnace contained in Section 1 of 401 KAR 30:010 after considering the following criteria:

(1) The design and use of the device primarily to accomplish recovery of material products;
(2) The use of the device to burn or reduce raw materials to make a material product;
(3) The use of the device to burn or reduce secondary materials as effective substitutes for raw materials, in processes using raw materials as principal feedstocks;
(4) The use of the device to burn or reduce secondary materials as ingredients in an industrial process to make a material product;
(5) The use of the device in common industrial practice to produce a material product; and
(6) Other factors, as appropriate.

Section 6. Procedures for Variances from Classification as a Waste or to be Classified as a Boiler or an Industrial Furnace. The cabinet will use the following procedures in evaluating applications for variances from classification as a waste or applications to classify particular enclosed flame combustion devices as boilers or industrial furnaces:
(1) For applicants [recyclers] requesting a variance under Section 1 of this regulation from classification as a waste:
(a) The applicant must apply to the cabinet; and
(b) The application must address the relevant criteria contained in Section 3 of this regulation.
(2) For persons requesting a variance for classifying a particular enclosed flame combustion device as a boiler or an industrial furnace:
(a) The applicant must apply to the cabinet; and
(b) The application must address the relevant criteria contained in Sections 4 and 5 [3] of this regulation.
(3) The cabinet will evaluate the application and issue a draft notice tentatively granting or denying the application. Notification of this tentative decision will be provided by newspaper advertisement and radio broadcast in the locality where the recycler is located. The cabinet will accept comment on the tentative decision for thirty (30) days and may also hold a public hearing upon request or at its discretion. The cabinet will issue a decision after receipt of comments and after the hearing, if any.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at noon.
PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director
(1) Type and number of entities affected: Amendments to this regulation are technical corrections to the existing requirements and serve only to clarify the existing language. Although this regulation has an impact on recyclers, the proposed amendments will have no impact on those entities subject to the existing requirements.
(a) Direct and indirect costs or savings to those affected:
1. First year: None. The amendments make the state language identical to the federal language and make technical corrections. The amendments do not change the standards for variances.
2. Continuing costs or savings: None. See note (1)(a)1 above.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None. See note (1)(a)1 above.
(b) Reporting and paperwork requirements: None. See note (1)(a)1 above.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None. See note (1)(a)1 above.
2. Continuing costs or savings: None. See note (1)(a)1 above.
3. Additional factors increasing or decreasing costs: None. See note (1)(a)1 above.
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.
(4) Assessment of alternative methods; reasons why alternatives were rejected: The amendments to this regulation correct incorrect references and make the state language identical to the federal language; they do not change the standards for variances. Because the proposed amendments are strictly technical clarifications to the existing standards, no alternatives were considered.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: The amendments to this regulation correct incorrect references; they do not incorporate any new federal regulations, nor do they impose any new requirements or standards.
TIERING: Was tiering applied? Yes. This regulation is tiered to apply to recyclers of hazardous waste and includes the standards which will enable some to obtain variances from specific hazardous waste regulations.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: Three technical clarifications have been made which do not alter existing requirements but change the language to make it identical to the federal language; correct an erroneous regulations cite; delete an incorrect KRS reference; and identify statutory authority enacted in 1986.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Three technical corrections, not based on federal regulations, were made. These technical amendments do not impose standards or responsibilities which are more stringent than those imposed by the U.S. EPA. They serve only to clarify existing requirements.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations. Technical corrections were made to this regulation to improve the clarity and consistency of the waste management regulations in 401 KAR Chapters 30 through 40.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 31:010. General provisions for hazardous wastes.**

RELATES TO: KRS 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.864

NECESSITY AND FUNCTION: KRS 224.864(3) requires the Natural Resources and Environmental Protection Cabinet to identify the characteristics of and to list hazardous wastes. This chapter identifies and list hazardous waste. This regulation establishes the general provisions necessary for identification and listing of a hazardous waste.

Section 1. Purpose and Scope. (1) This chapter identifies those wastes which are subject to regulation as hazardous wastes under 401 KAR Chapters 32 through 40 and which are subject to the notification and permitting requirements of KRS 224.830 through 224.877. In this chapter:

(a) This regulation defines the terms "waste" and "hazardous waste," identifies those wastes which are excluded from regulation under 401 KAR Chapters 32 through 40 and establishes special management requirements for hazardous waste produced by <u>limited</u> [small] quantity generators and hazardous waste which is [used, reused,] recycled [or reclaimed].

(b) 401 KAR 31:020 sets forth the criteria used by the cabinet to identify characteristics of hazardous waste and to list particular hazardous wastes.

(c) 401 KAR 31:030 identifies characteristics of hazardous waste.

(d) 401 KAR 31:040 lists particular hazardous wastes.

(2)(a) The definition of waste contained in this chapter applies only to wastes that are also hazardous for purposes of the regulations implementing those provisions of KRS Chapter 224 relating to hazardous waste management. This chapter identifies only some of the materials which are hazardous wastes under KRS 224.033(10), 224.071, and 224.877. For example, it does not apply to materials (such as nonhazardous scrap, paper, textiles, or rubber) that are not otherwise hazardous wastes and that are recycled.

(b) This chapter identifies only some of the materials which are wastes and hazardous wastes under KRS 224.033(10), 224.071, and 224.877. A material which is not defined as a waste in this chapter, or is not a hazardous waste identified or listed in this chapter is still a waste and a hazardous waste for purposes of this regulation if:

1. In the case of KRS 224.033(10), the cabinet has reason to believe that the material may be a waste within the meaning of KRS 224.005 and a hazardous waste within the meaning of KRS 224.005 ; or

2. In the case of KRS 224.071, the statutory elements are established.

(3) For the purposes of Sections 2, 6, 8 and 9 of this regulation:

(a) A "spent material" is any material that has been used and as a result of contamination can no longer serve the purpose for which it was produced without processing;

(b) "Sludge" has the same meaning used in Section 1 of 401 KAR 30:010;

(c) A "by-product" is a material that is not one (1) of the primary products of a production process and is not solely or separately produced by the production process. Examples are process residues such as slags or distillation column bottoms. The term does not include a coproduct that is produced for the general public's use and is ordinarily used in the form it is produced by the process.

(d) A material is "reclaimed" if it is processed to recover a usable product, or if it is regenerated. Examples are recovery of lead values from spent batteries and regeneration of spent solvents.

(e) A material is "used or reused" if it is either:

1. Employed as an ingredient (including use as an intermediate) in an industrial process to make a product (for example, distillation bottoms from one (1) process used as feedstock in another process). However, a material will not satisfy this condition if distinct components of the material are recovered as separate end products (as when metals are recovered from metal-containing secondary materials); or

2. Employed in a particular function or application as an effective substitute for a commercial product (for example, spent pickle liquor used as phosphorous precipitant and sludge conditioner in wastewater treatment).

(f) "Scrap metal" is bits and pieces of metal parts (e.g., bars, turnings, rods, sheets, wire) or metal pieces that may be combined together with bolts or soldering (e.g., radiators, scrap automobiles, railroad boxcars), which when worn or superfluous can be recycled.

(g) A material is "recycled" if it is used, reused, or reclaimed.

(h) A material is "accumulated speculatively" if it is accumulated before being recycled.

1. A material is not accumulated speculatively, if the person accumulating it can show:

a. That the material is potentially recyclable and has a feasible means of being recycled; and

b. That - during the calendar year (commencing on January 1) - the amount of material that is recycled, or transferred to a different site for

recycling, equals at least seventy-five (75) percent by weight or volume of the amount of that material accumulated at the beginning of the calendar year (including any material accumulated from previous years).

2. In calculating the percentage of turnover, the seventy-five (75) percent requirement is to be applied to each material of the same type that is recycled in the same way. Materials accumulating in units that would be exempt from regulation under Section 4(3) of this regulation are not to be included in making the calculation. (Materials that are already defined as wastes also are not to be included in making the calculation.) Materials are no longer in this category once they are removed from accumulation for recycling.

Section 2. Definition of a Waste. (1)(a) A "waste" is any discarded material that is not excluded by Section 4(1) of this regulation or that is not excluded by a variance granted under Section 1 or 2 of 401 KAR 30:080, or Section 8 or 9 of this regulation.

(b) A "discarded material" is any material which is:

1. "Abandoned," as explained in subsection (2) of this section; or

2. "Recycled," as explained in subsection (3) of this section; or

3. Listed in subsection (4) of this section.

(2) Materials are waste if they are "abandoned" by being:

(a) Disposed of; or

(b) Burned or incinerated; or

(c) Accumulated, stored, or treated (but not recycled) before or in lieu of being abandoned by being disposed of, burned, or incinerated.

(3) The following materials are wastes if they are "recycled" - or accumulated, stored, or treated before recycling - as specified in paragraphs (a) through (d) of this subsection.

(a) "Used in a manner constituting disposal."

1. Materials noted with a "(waste)" in column (1) of Table 1 in paragraph (e) of this subsection are wastes when they are:

a. Applied to or placed on the land in a manner that constitutes disposal; or

b. Used to produce products that are applied to or placed on the land or are otherwise contained in products that are applied to or placed on the land (in which case the product itself remains a waste).

2. However, commercial chemical products listed in Section 4 of 401 KAR 31:040 are not wastes if they are applied to the land and that is their ordinary manner of use.

(b) The following materials are "burned for energy recovery:"

1. Materials noted with a "(waste)" in column (2) of Table 1 in paragraph (e) of this subsection are wastes when they are:

a. Burned to recover energy;

b. Used to produce a fuel or are otherwise contained in fuels (in which cases the fuel itself remains a solid waste).

2. However, commercial chemical products listed in Section 4 of 401 KAR 31:040 are not wastes if they are themselves fuels.

(c) The following materials are "reclaimed." Materials noted with a "(waste)" in column (3) of Table 1 in paragraph (e) of this subsection are wastes when reclaimed.

(d) The following materials are "accumulated speculatively." Materials noted with a "(waste)" in column (4) of Table 1 in paragraph (e) of this subsection are wastes when accumulated speculatively.

(e) The following Table 1 identifies materials which are wastes when "used in a manner constituting disposal," "burned for energy recovery," "reclaimed," or "accumulated speculatively." Materials noted with the word "(waste)" in Table 1 are considered to be wastes for the purposes of 401 KAR Chapters 32 through 40 and KRS Chapter 224. Materials noted with a dash "-" in Table 1 are not considered to be a waste for the purposes of 401 KAR Chapters 32 through 40 and KRS Chapter 224.

(See Table 1 on following page)

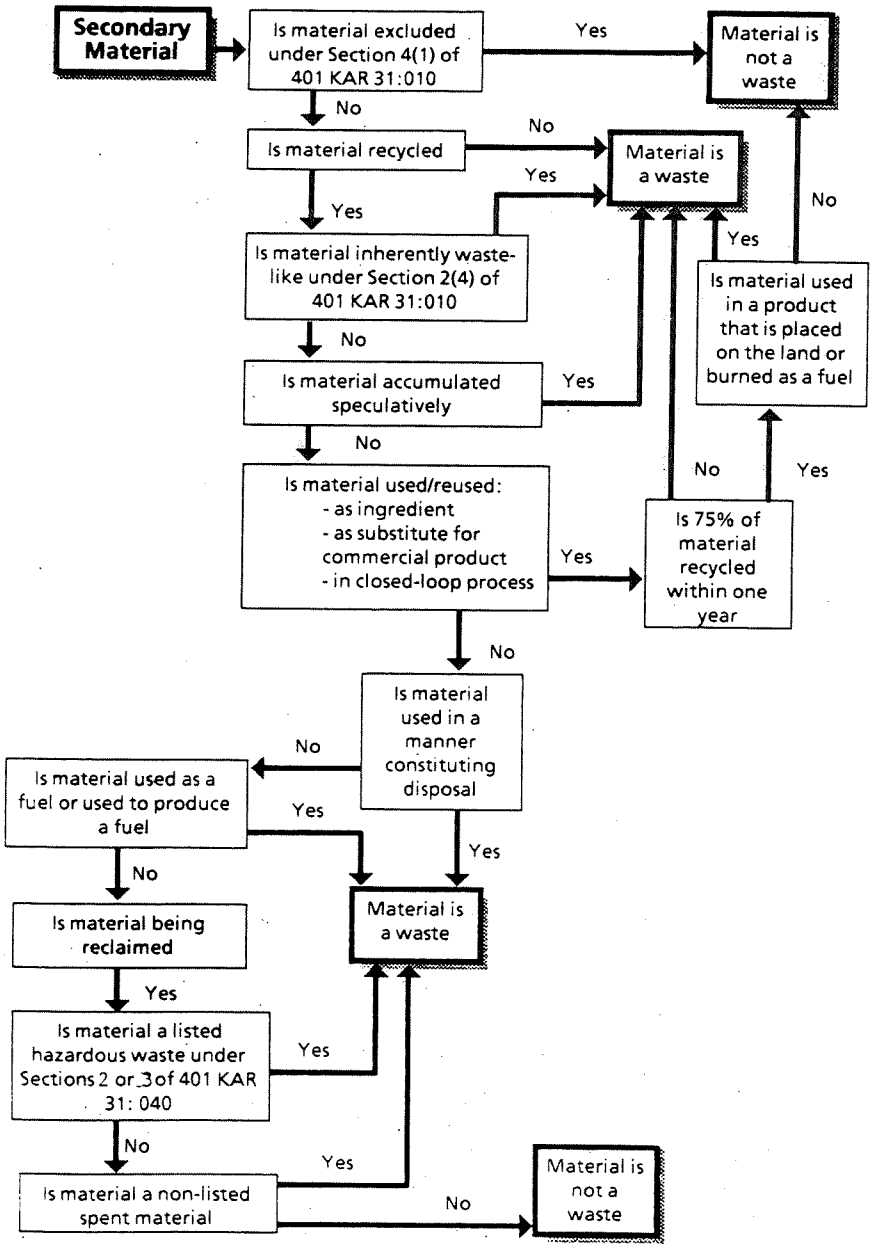
TABLE 1

| | Use constituting disposal 401 KAR 31:010 Section 2(3)(a) (1) | Energy recovery/ fuel 401 KAR 31:010 Section 2(3)(b) (2) | Reclamation 401 KAR 31:010 Section 2(3)(c) (3) | Speculative accumulation 401 KAR 31:010 Section 2(3)(d) (4) |
|---|---|---|---|---|
| Spent materials | (waste) | (waste) | (waste) | (waste) |
| Sludges (listed in Sections 2 or 3 of 401 KAR 31:040) | (waste) | (waste) | (waste) | (waste) |
| Sludges exhibiting a characteristic of hazardous waste | (waste) | (waste) | - | (waste) |
| By-products (listed in Sections 2 or 3 of 401 KAR 31:040) | (waste) | (waste) | (waste) | (waste) |
| By-products exhibiting a characteristic of hazardous waste | (waste) | (waste) | - | (waste) |
| Commercial chemical products listed in Section 4, 401 KAR 31:040 | (waste) | (waste) | - | - |
| Scrap metal | (waste) | (waste) | (waste) | (waste) |

NOTE - The terms "spent materials," "sludges," "by-products," and "scrap metal" are defined in Section 1 of this regulation.

(f) The following Table 2 is a decision tree for deciding which secondary materials are wastes when recycled.

TABLE 2. Decision Tree for Deciding Which Secondary Materials Are Wastes When Recycled



(4) The following materials are wastes when they are recycled in any manner:

(a) Hazardous Waste Numbers F020, F021 (unless used as an ingredient to make a product at the site of generation), F022, F023, F026, and F028 (chlorinated dioxins, chlorinated dibenzofurans and chlorinated phenols).

(b) The cabinet will use the following criteria to add wastes to the list in paragraph (a) of this subsection:

1.a. The materials are ordinarily disposed of, burned, or incinerated; or

b. The materials contain toxic constituents listed in Section 1 of 401 KAR 31:170 and these constituents are not ordinarily found in raw materials or products for which the material substitute (or are found in raw materials or products in smaller concentrations) and are not used or reused during the recycling process; and

2. The material may pose a substantial hazard to human health and the environment when recycled.

(5) "Materials that are not wastes when recycled."

(a) Materials are not wastes when they can be shown to be recycled by being:

1. Used or reused as ingredients in an industrial process to make a product, provided the materials are not being reclaimed; or

2. Used or reused as effective substitutes for commercial products; or

3. Returned to the original process from which they are generated, without first being reclaimed. The material must be returned as a substitute for raw material feedstock, and the process must use raw materials as principal feedstocks.

(b) The following materials are wastes, even if the recycling involves use, reuse, or return to the original process (described in paragraph (a)1 through 3 of this subsection):

1. Materials used in a manner constituting disposal, or used to produce products that are applied to the land; or

2. Materials burned for energy recovery, used to produce a fuel, or contained in fuels; or

3. Materials accumulated speculatively; or

4. Materials listed in subsection (4)(a) of this section.

(6) "Documentation of claims that materials are not wastes or are conditionally exempt from regulation." Respondents in actions to enforce regulations implementing the provisions in KRS Chapter 224 relating to hazardous waste management who raise a claim that a certain material is not waste, or is conditionally exempt from regulation, must demonstrate that there is a known market or disposition for the material, and that they meet the terms of the exclusion or exemption. In doing so, they must provide appropriate documentation (such as contracts showing that a second person uses the material as an ingredient in a production process) to demonstrate that the material is not a waste, or is exempt from regulation. In addition, owners or operators of facilities claiming that they actually are recycling materials must show that they have the necessary equipment to do so.

Section 3. Definition of a Hazardous Waste. (1) A waste, as defined in Section 2 of this regulation is a hazardous waste if:

(a) It is not excluded from regulation as a hazardous waste under Section 4(2) of this regulation; and

(b) It meets any of the following criteria:

1. It exhibits any of the characteristics of hazardous waste identified in 401 KAR 31:030.

2. It is listed in 401 KAR 31:040 and has not been excluded from the lists under 401 KAR 31:060 and 401 KAR 31:070.

3. It is a mixture of any waste and a hazardous waste that is listed in 401 KAR 31:040 solely because it exhibits one (1) or more of the characteristics of hazardous waste identified in 401 KAR 31:040, unless the resultant mixture no longer exhibits any characteristics of hazardous waste identified in 401 KAR 31:030.

4. It is a mixture of any waste and one (1) or more hazardous wastes listed in 401 KAR 31:040 and has not been excluded from this paragraph under Section 1(2) of 401 KAR 31:040, however, the following mixtures of wastes and hazardous wastes listed in 401 KAR 31:040 are not hazardous wastes (except by application of subparagraph 1 or 2 of this paragraph) if the generator can demonstrate that the mixture consists of wastewater the discharge of which is subject to regulation under either Section 402 or Section 307(b) of the Clean Water Act (including wastewater at facilities which have eliminated the discharge of wastewater) and:

a. One (1) or more of the following spent solvents listed in Section 3 of 401 KAR 31:040, carbon tetrachloride, tetrachloroethylene, trichloroethylene provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed one (1) part per million; or

b. One (1) or more of the following spent solvents listed in Section 3 of 401 KAR 31:040, methylene chloride, 1,1,1-trichloroethane, chlorobenzene, o-dichlorobenzene, cresols, cresylic acid, nitrobenzene, toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, spent chlorofluorocarbon solvents provided that the maximum total weekly usage of these solvents (other than the amounts that can be demonstrated not to be discharged to wastewater) divided by the average weekly flow of wastewater into the headworks of the facility's wastewater treatment or pretreatment system does not exceed twenty-five (25) parts per million; or

c. One (1) of the following wastes listed in Section 4 of 401 KAR 31:040, heat exchanger bundle cleaning sludge from the petroleum refining industry (EPA Hazardous Waste No. K050); or

d. A discarded commercial chemical product, or chemical intermediate listed in Section 5 of 401 KAR 31:040, arising from de minimis losses of these materials from manufacturing operations in which these materials are used as raw materials or are produced in the manufacturing process. For purposes of this paragraph, "de minimis" losses include those from normal material handling operations (e.g., spills from the unloading or transfer of materials from bins or other containers, leaks from pipes, valves or other devices used to transfer materials); minor leaks of process equipment, storage tanks or containers; leaks from well-maintained pump packings and seals; sample purgings; relief

device discharges; discharges from safety showers and rinsing and cleaning of personal safety equipment; and rinsate from empty containers or from containers that are rendered empty by that rinsing; or

e. Wastewater resulting from laboratory operations containing toxic (T) wastes listed in 401 KAR 31:040, provided that the annualized average flow of laboratory wastewater does not exceed one (1) percent of total wastewater flow into the headworks of the facility's wastewater treatment or pretreatment system, or provided the wastes' combined annualized average concentration does not exceed one (1) part million in the headworks of the facility's wastewater treatment or pretreatment facility. Toxic (T) wastes used in laboratories that are demonstrated not to be discharged to wastewater are not to be included in this calculation.

(2) A waste which is not excluded from regulation under subsection (1), paragraph (a) of this section becomes a hazardous waste when any one (1) of the following events occur:

(a) In the case of a waste listed in 401 KAR 31:040 of this regulation when the waste first meets the listing description set forth in 401 KAR 31:040;

(b) In the case of a mixture of solid waste (including wastes subject to the Atomic Energy Act) and one (1) or more hazardous wastes when a hazardous waste listed in 401 KAR 31:040 is first added to the waste; or

(c) In the case of any other waste (including a waste mixture or wastes subject to the Atomic Energy Act) when the waste exhibits any of the characteristics identified in 401 KAR 31:030.

(3) Unless and until it meets the criteria of subsection (4) of this section:

(a) A hazardous waste will remain a hazardous waste.

(b)1. Except as otherwise provided in subparagraph 2 of this paragraph, any waste generated from the treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust, or leachate (but not including precipitation run-off) is a hazardous waste. (However, materials that are reclaimed from wastes and that are used beneficially are not wastes and hence are not hazardous wastes under this provision unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.)

2. The following wastes are not hazardous even though they are generated from the treatment, storage, or disposal of hazardous waste, unless they exhibit one (1) or more of the characteristics of hazardous waste:

a. Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC Codes 331 and 332).

b. Waste burning any of the materials exempted from regulation by Section 6(1)(c)5-9 [4, 6, 7 or 8] of this regulation.

(4) Any waste described in subsection (3) of this section is not a hazardous waste if it meets the following criteria:

(a) In the case of any waste, it does not exhibit any of the characteristics of hazardous waste identified in 401 KAR 31:030.

(b) In the case of a waste which is a listed waste under 401 KAR 31:040, contains a waste listed under 401 KAR 31:040 or is derived from a waste listed in 401 KAR 31:040, it also has been excluded from Section 1(3) of 401 KAR 31:060 and 401 KAR 31:070.

Section 4. Exclusions. (1) The following materials are not wastes for the purpose of this chapter:

(a) Domestic sewage and any mixture of domestic sewage and other wastes that pass through a sewer system to a publicly-owned treatment works for treatment;

(b) Industrial wastewater discharges that are point source discharges subject to regulation under Section 402 of the Clean Water Act, as amended; however, this exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment;

(c) Irrigation return flows;

(d) Source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended, 42 USC 2011 et seq. except as provided in Section 3 of this regulation;

(e) Materials subjected to in situ mining techniques which are not removed from the ground as part of the extraction process;

(f) Pulping liquors (i.e., black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless they are accumulated speculatively as defined in Section 1(3) of this regulation.

(g) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively as defined in Section 1(3) of this regulation.

(h) Mining overburden returned to the mine site; and

(i) Material from the extraction, beneficiation and processing of ores and minerals (including coal), including phosphate rock and overburden from the mining of uranium ore.

(j) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated where they are reused in the production process provided:

1. Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

2. Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);

3. The secondary materials are never accumulated in such tanks for over twelve (12) months without being reclaimed; and

4. The reclaimed material is not used to produce a fuel, or used to produce products that are used in a manner constituting disposal, as provided in 401 KAR Chapter 36.

(2) Any waste which meets the requirements of this subsection is not a hazardous waste.

(a) Household waste, including household waste that has been collected, transported, stored, treated, disposed, recovered (e.g., refuse derived fuel) or reused. "Household waste" means any waste material (including garbage, trash and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). A resource recover facility managing municipal solid waste shall not be

deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under the waste management regulations, if such facility:

1. Receives and burns only:

a. Household waste (from single and multiple dwellings, hotels, motels, and other residential sources); or

b. Waste from commercial or industrial sources that does not contain hazardous waste; and

2. Such facility does not accept hazardous wastes and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.

(b) Agricultural wastes generated by any of the following and which are returned to the soils as fertilizers:

1. The growing and harvesting of agricultural crops.

2. The raising of animals, including animal manures.

(c) Mining overburden returned to the mine site.

(d) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels.

(e) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas or geothermal energy.

(f)1. Wastes which fail the test for the characteristic of EP toxicity because chromium is present or are listed in 401 KAR 31:040 due to the presence of chromium, which do not fail the test for the characteristic of EP toxicity for any other constituent or are not listed due to the presence of any other constituent, and which do not fail the test for any other characteristic, if it is shown by a waste generator or by waste generators that:

a. The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium; and

b. The waste is generated from an industrial process which uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and

c. The waste is typically and frequently managed in nonoxidizing environments.

2. Specific wastes which meet the standard in subparagraph 1a, b and c of this paragraph (so long as they do not fail the test for any other characteristic) are:

a. Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beam house; through-the-blue; and shearling.

b. Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beam house; through-the-blue; and shearling.

c. Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beam house; through-the-blue.

d. Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beam house; through-the-blue; and shearling.

e. Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; retan/wet finish; no beam house; through-the-blue; and shearling.

f. Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish; hair save/chrome tan/retan/wet finish; and through-the-blue.

g. Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries.

h. Wastewater treatment sludges from the production of TiO2 pigment using chromium-bearing ores by the chloride process.

(g) Waste from the extraction, beneficiation and processing of ores and minerals (including coal), including phosphate rock and overburden from the mining of uranium ore.

(h) Cement kiln dust waste.

(i) Waste which consists of discarded wood or wood products which fails the test for the characteristic of EP toxicity and which is not a hazardous waste for any other reason if the waste is generated by persons who utilize the arsenical-treated wood and wood products for these materials' intended end use.

(3) A hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated nonwaste-treatment-manufacturing unit, is not subject to regulation under 401 KAR Chapters 32, 33, 34, 35, 37, 38 and 39 until it exits the unit in which it was generated unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than ninety (90) days after the unit ceases to be operated for manufacturing, or for storage or transportation of product or raw materials.

(4) Samples.

(a) Except as provided in paragraph (b) of this subsection, a sample of waste or a sample of water, soil, or air, which is collected for the sole purpose of testing to determine its characteristics or composition, is not subject to any requirements of this chapter or 401 KAR Chapter 32, 33, 34, 35, 37, 38 and 39 or to the notification requirements of 401 KAR Chapter 32 and 38 when:

1. The sample is being transported to a laboratory for the purpose of testing; or

2. The sample is being transported back to the sample collector after testing; or

3. The sample is being stored by the sample collector before transport to a laboratory for testing; or

4. The sample is being stored in a laboratory before testing; or

5. The sample is being stored in a laboratory after testing but before it is returned to the sample collector; or

6. The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a

court case or enforcement action where further testing of the sample may be necessary).

(b) In order to qualify for the exemption in paragraphs (a)1 and 2 of this subsection, a sample collector shipping samples to a laboratory and a laboratory returning samples to a sample collector must:

1. Comply with U.S. Department of Transportation (DOT), U.S. Postal Service (USPS), or any other applicable shipping requirements; or

2. Comply with the following requirements if the sample collector determines that DOT, USPS, or other shipping requirements do not apply to the shipment of the sample:

a. Assure that the following information accompanies the sample:

(i) The sample collector's name, mailing address, and telephone number;

(ii) The laboratory's name, mailing address, and telephone number;

(iii) The quantity of the sample;

(iv) The date of shipment; and

(v) A description of the sample.

b. Package the sample so that it does not leak, spill, or vaporize from its packaging.

c. This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in paragraph (a) of this subsection.

Section 5. Special Requirements for Hazardous Waste Generated by Limited Quantity Generators. (1) A generator is a limited quantity generator in a calendar month if he generates less than 100 kilograms of hazardous waste in that month.

(2) Except for those wastes identified in subsections (5), (6), (7), and (10) of this section, a limited quantity generator's hazardous wastes are not subject to regulation under 401 KAR Chapters 32 through 39 and the notification requirements of KRS 224.864(3) provided the generator complies with the regulations of subsections (6), (7), and (10) of this section.

(3) Hazardous waste that is recycled and that is excluded from regulation under Sections 6(2) and (3) [(1)(b)3 and (1)(b)5, or 6(1)(c)] of this regulation and [or] Section 1 through 6 [7] of 401 KAR 36:040 is not included in the quantity determinations of this section and is not subject to any requirements of this section. Hazardous waste that is subject to the requirements of Sections 6(2) and (3) of this regulation and 401 KAR 36:030, 401 KAR 36:040, and 401 KAR 36:060 is included in the quantity determination of this section, and is subject to the requirements of this section.

(4) In determining the quantity of hazardous waste he generates, a generator need not include:

(a) His hazardous waste when it is removed from on-site storage; or

(b) Hazardous waste produced by on-site treatment of his hazardous waste.

(5) If a limited quantity generator generates acutely hazardous waste in a calendar month in quantities greater than set forth below, all quantities of that acutely hazardous waste are subject to regulation under 401 KAR Chapters 32 through 39, and the notification and permitting requirements of KRS 224.855 and 224.864 through 224.877:

(a) A total of one (1) kilogram of acute hazardous wastes listed in Sections 2, 3, and 4(5) of 401 KAR 31:040.

(b) A total of 100 kilograms of any residue or contaminated soil, waste or other debris resulting from the cleanup of a spill, into or on any land or water, of any acute hazardous wastes listed in Sections 2, 3 and 4(5) of 401 KAR 31:040.

(6) A limited quantity generator may accumulate hazardous waste on-site. If he accumulates at any time more than a total of 1000 kilograms of his hazardous waste, or his acutely hazardous wastes in quantities greater than set forth in subsection (5)(a) or (b) of this section, all of those accumulated wastes for which the accumulation limit was exceeded are subject to regulation under 401 KAR Chapters 32 through 39 and the notification and permitting requirements of KRS 224.830 through 224.877. The time period set out in 401 KAR 32:030, Section 5 for accumulation of wastes on-site begins for a limited quantity generator when the accumulated wastes exceed the applicable exclusion level.

(7) In order for hazardous waste generated by a limited quantity generator to be excluded from full regulations under this section, the generator must:

(a) Comply with the requirements of 401 KAR 32:010, Section 2;

(b) If he stores his hazardous waste on-site, stores it in compliance with the requirements of subsection (6) of this section; and

(c) Either treat or dispose of his hazardous waste in an on-site facility, or ensure delivery to an off-site storage, treatment, or disposal facility. To ensure delivery of a waste, the manifested or unmanifested shipment shall be sent to a registered or permitted facility, either of which is:

1. Permitted under 401 KAR Chapter 38;

2. In interim status under 401 KAR Chapters 35 and 38;

3. Located outside of Kentucky and is permitted under 40 CFR Part 270 or in interim status under 40 CFR Parts 270 and 265;

4. Located outside of Kentucky and is authorized to manage hazardous waste by a state with a hazardous waste management program approved under 40 CFR Part 271;

5. Permitted to manage municipal or industrial solid waste and is specifically approved for that waste; or

6. A facility which:

a. Beneficially uses or reuses, or legitimately recycles or reclaims his waste; or

b. Treats his waste prior to beneficial use or reuse, or legitimate recycling or reclamation.

(8) Hazardous waste subject to the reduced requirements of this section may be mixed with nonhazardous waste and remain subject to these reduced requirements even though the resultant mixture exceeds the quantity limitations identified in this section unless the mixture meets any of the characteristics of hazardous wastes identified in 401 KAR 31:030.

(9) If a limited quantity generator mixes a solid waste with a hazardous waste that exceeds the quantity exclusion level of this section, the mixture is subject to full regulation.

(10) If a limited quantity generator's hazardous wastes are mixed with used oil, the mixture is subject to Sections 1 through 5 [7 through 11] of 401 KAR 36:050 [040] if it is destined to be burned for energy recovery. Any material produced from such a mixture by

processing, blending, or other treatment is also so regulated if it is destined to be burned for energy recovery.

Section 6. Requirements for Recyclable Materials.

(1)(a) Hazardous wastes that are recycled are subject to the requirements for generators, transporters, and storage facilities of subsections (2) and (3) of this section, except for the materials listed in paragraphs (b) and (c) of this subsection. Hazardous wastes that are recycled will be known as "recyclable materials."

(b) The following recyclable materials are not subject to the requirements of this section but are regulated under 401 KAR Chapter 36 and all applicable provisions of [in] 401 KAR Chapters 38 and 39:

1. Recyclable materials used in a manner constituting disposal (see 401 KAR 36:030);

2. Hazardous wastes burned for energy recovery in boilers and industrial furnaces that are not regulated under 401 KAR 34:240 or 401 KAR 35:240 (see 401 KAR 36:040);

3. Used oil that exhibits one (1) or more of the characteristics of hazardous waste and is burned for energy recovery in boilers and industrial furnaces that are not regulated under 401 KAR 34:240 and 35:240 (see 401 KAR 36:040);

4. Recyclable materials from which precious metals are reclaimed (see 401 KAR 36:060); and

5. Spent lead-acid batteries that are being reclaimed (see 401 KAR 36:070).

(c) The following recyclable materials are not subject to regulation under 401 KAR Chapters 32 through 38, and are not subject to the notification requirements of KRS 224.864(3):

1. Industrial ethyl alcohol that is reclaimed except that, unless provided otherwise in an international agreement as specified in 401 KAR 32:050:

a. A person initiating a shipment for reclamation in a foreign country and any intermediary arranging for the shipment, must comply with the requirements applicable to a primary exporter in Sections 4, 7(1)(a) through (d), (f), and (2) and Section 8 of 401 KAR 32:050, export such materials only upon consent of the receiving country and in conformance with the EPA Acknowledgment of Consent as defined in 401 KAR 32:050, and provide a copy of the EPA Acknowledgment of Consent to the shipment to the transporter transporting the shipment for export;

b. Transporters transporting a shipment for export may not accept a shipment if he knows the shipment does not conform to the EPA Acknowledgment of Consent, must ensure that a copy of the EPA Acknowledgment of Consent accompanies the shipment and must ensure that it is delivered to the facility designated by the person initiating the shipment.

2. Used batteries (or used battery cells) returned to a battery manufacturer for regeneration;

3. Used oil that exhibits one (1) or more of the characteristics of hazardous waste but is recycled in some other manner than being burned for energy recovery;

4. Scrap metal;

5. Fuels produced from the refining of oil-bearing hazardous wastes along with normal process streams at a petroleum refining facility if such wastes result from normal petroleum refining, production, and transportation practices;

6. Oil reclaimed from hazardous waste resulting from normal petroleum refining, production, and transportation practices, which oil is to be refined along with normal process streams at a petroleum refining facility;

7. Coke and coal tar from the iron and steel industry that contains EPA Hazardous Waste No. K087 (Decanter tank tar sludge from coking operations) from the iron and steel production process;

8.a. Hazardous waste fuel produced from oil-bearing hazardous wastes from petroleum refining, production, or transportation practices, or produced from oil reclaimed from such hazardous wastes, where such hazardous wastes are reintroduced into a process that does not use distillation or does not produce products from crude oil so long as the resulting fuel meets the used oil specification under Section 7(5) of 401 KAR 36:040 and so long as no other hazardous wastes are used to produce the hazardous waste fuel;

b. Hazardous waste fuel produced from oil-bearing hazardous waste from petroleum refining production, and transportation practices, where such hazardous wastes are reintroduced into a refining process after a point at which contaminants are removed, so long as the fuel meets the used oil fuel specification under Section 7(5) of 401 KAR 36:040; and

c. Oil reclaimed from oil-bearing hazardous wastes from petroleum refining, production, and transportation practices, which reclaimed oil is burned as a fuel without reintroduction to a refining process, so long as the reclaimed oil meets the used oil fuel specification under Section 7(5) of 401 KAR 36:040; and

9. Petroleum coke produced from petroleum refinery hazardous wastes containing oil at the same facility at which such wastes were generated, unless the resulting coke product exceeds one (1) or more of the characteristics of hazardous waste in 401 KAR 31:030.

(2) Generators and transporters of recyclable materials are subject to the applicable requirements of 401 KAR Chapters 32 and 33 and the notification requirements under KRS 224.864(3) and 224.873, except as provided in subsection (1) of this section.

(3)(a) Owners or operators of facilities that store recyclable materials before they are recycled are regulated under all applicable provisions of 401 KAR 34:010 through 34:210; 401 KAR 35:010 through 35:210; [and] 401 KAR Chapters 36 through 38 and the notification requirements under KRS 224.864(3) and 224.866, except as provided in subsection (1) of this section. (The recycling process itself is exempt from regulation.)

(b) Owners or operators of facilities that recycle recyclable materials without storing them before they are recycled are subject to the following requirements, except as provided in subsection (1) of this section:

1. The owner or operator shall submit a notification to the cabinet; and

2. Sections 2 and 3 of 401 KAR 35:050 (dealing with the use of the manifest and manifest discrepancies).

Section 7. Residues of Hazardous Waste in Empty Containers. (1)(a) Any hazardous waste remaining in either an empty container or an

inner liner removed from an empty container, as defined in subsection (2) of this section, is not subject to regulation under 401 KAR Chapters 32, 33, 34, 35, 37, 38 and 39 but is subject to regulations under 401 KAR Chapter 47.

(b) Any hazardous waste in either a container that is not empty or an inner liner removed from a container that is not empty, as defined in subsection (2) of this section is subject to regulations under 401 KAR Chapters 32, 33, 34, 35, 37, 38 and 39, and 401 KAR 30:020 and 30:030.

(2)(a) A container or an inner liner removed from a container that has held any hazardous waste, except a waste that is a compressed gas or that is identified as an acute hazardous waste listed in Sections 2, 3, or 4(5) of 401 KAR 31:040, is empty if:

1. All wastes have been removed that can be removed using the practices commonly employed to remove materials from that type of container, e.g., pouring, pumping, and aspirating; and

2. No more than 2.5 centimeters (one (1) inch) of residue remain on the bottom of the container or inner liner; or

3.a. No more than three (3) percent by weight of the total capacity of the container remains in the container or inner liner if the container is less than or equal to 110 gallons in size; or

b. No more than 0.3 (three tenths) percent by weight of the total capacity of the container remains in the container or inner liner if the container is greater than 110 gallons in size.

(b) A container that has held a hazardous waste that is a compressed gas is empty when the pressure in the container approaches atmospheric.

(c) A container or an inner liner removed from a container that has held an acute hazardous waste listed in Sections 2, 3, or 4(5) of 401 KAR 31:040 is empty if:

1. The container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate;

2. The container or inner liner has been cleaned by another method that has been shown in the scientific literature, or by test conducted by the generator, to achieve equivalent removal; or

3. In the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container has been removed.

Section 8. Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-case Basis. (1) The cabinet may decide on a case-by-case basis that persons accumulating or storing the recyclable materials described in Section 6(1)(b)3 of 401 KAR 31:010 should be regulated under Section 6(2) and (3) of this regulation. The basis for this decision is that the materials are being accumulated or stored in a manner that does not protect human health and the environment because the materials or their toxic constituents have not been adequately contained or because the materials being accumulated or stored together are incompatible. In making this decision, the cabinet will consider the following factors:

(a) The types of materials accumulated or stored and the amounts accumulated or stored;

(b) The method of accumulation or storage;

(c) The length of time the materials have been accumulated or stored before being reclaimed;

(d) Whether any contaminants are being released into the environment, or are likely to be so released; and

(e) Other relevant factors.

(2) The procedures for this decision are set forth in Section 9 of this regulation.

Section 9. Procedures for Case-by-case Regulation of Hazardous Waste Recycling Activities. The cabinet will use the following procedures when determining whether to regulate hazardous waste recycling activities described in Section 6(1)(b)3 of 401 KAR 31:010 under the provisions of Section 6(2) and (3) of 401 KAR 31:010 rather than under the provisions of 401 KAR 36:060 (spent lead-acid batteries being reclaimed).

(1) If a generator is accumulating the waste, the cabinet will issue a notice setting forth the factual basis for the decision and stating that the person must comply with the applicable requirements of 401 KAR 32:010, 32:030, 32:040, and 32:050. The notice will become final within thirty (30) days, unless the person served requests a public hearing to challenge the decision. Upon receiving such a request, the cabinet will hold a public hearing. The cabinet will provide notice of the hearing to the public and allow public participation at the hearing. The cabinet will issue a determination after the hearing stating whether or not compliance with 401 KAR Chapter 32 is required. The order becomes effective thirty (30) days after service of the determination unless the cabinet specifies a later date.

(2) If the person is accumulating the recyclable material as a storage facility, the notice will state that the person must obtain a permit in accordance with all applicable provisions of 401 KAR Chapter 38. The owner or operator of the facility must apply for a permit within no more than six (6) months of notice. If the owner or operator of the facility wishes to challenge the cabinet's decision, he may do so in his permit application, in a public hearing held on the draft permit, or in comments filed on the draft permit or on the notice of intent to deny the permit. The fact sheet accompanying the permit will specify the reasons for the cabinet's determination. The question of whether the cabinet's decision was proper will remain open for consideration during the public comment period discussed under Section 8 of 401 KAR 38:050 and in any subsequent hearing.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The amendments to this regulation may affect hazardous waste generators and treatment, storage, and disposal facilities. There are 420 generators and 45 facilities in Kentucky.

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

1. First year: None. The proposed amendments to this regulation will not result in any direct or indirect costs or savings to 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: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The amendments to this regulation correct the language of the recyclable materials exemption to indicate that it applies only to EPA Hazardous Waste No. K087; they add an exclusion granted under certain circumstances to secondary materials that are reclaimed and returned to the original process in which they were generated; and they make technical corrections to the regulation.

Alternative. 1. Less stringent. Kentucky could not have been less stringent on this requirement and still have maintained authorization to administer the RCRA hazardous waste program. To have adopted less stringent provisions would have afforded Kentucky's public health and environment less protection than that provided under the national program.

2. More stringent. The cabinet could have chosen to be more stringent by not allowing the exclusion granted to the specified secondary materials. However, the present proposal is adequate to protect the public health and environment in Kentucky.

3. Present proposal. The present proposal corrects the language of the recyclable materials exemption to indicate that it applies only to EPA Hazardous Waste K087. The present proposal adds an exclusion granted under certain circumstances to secondary materials that are reclaimed and returned to the original process in which they were generated. Technical corrections were also made to the regulation.

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

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

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

(6) Any additional information or comments: The impact of this regulation has not been analyzed for those requirements which are equivalent to those found in the corresponding federal regulation, 40 CFR 261.1, 40 CFR 261.4, 40 CFR 261.6, and 40 CFR 261.7. The impact of the federal program was analyzed in 51 FR 40572-40654. A copy of the November 7, 1986 federal register has been filed with the regulations compiler of the Legislative Research Commission.

TIERING: Was tiering applied? Yes. This regulation applies to all hazardous waste generators, and all treatment, storage, and disposal facilities.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulation at 40 CFR 261.1, 40 CFR 261.3, 40 CFR 261.4, 40 CFR 261.6, and 40 CFR CFR 261.7 promulgated on November 7, 1986 (51 FR 40572-40654) and April 13, 1987 (52 FR 11819-11822). In addition, technical clarifications have been made which do not alter existing requirements but remove or add language to eliminate conflicts within the waste management regulations.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments adopt requirements which are identical to those standards adopted by the U.S. Environmental Protection Agency on November 7, 1986 and April 13, 1987. In addition, some technical corrections were made (not based on federal regulations) to eliminate conflicts within the waste management regulations.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations. Technical clarifications were made to this regulation to improve the clarity and consistency of the waste management regulations in 401 KAR Chapters 30 through 40.

## NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
## Department for Environmental Protection
## Division of Waste Management
## (Proposed Amendment)

**401 KAR 31:030. Characteristics of hazardous waste.**

RELATES TO: KRS 224.830 through 224.877, 224.994

PURSUANT TO: KRS 13A.210, 224.017, 224.864

NECESSITY AND FUNCTION: KRS 224.864(3) requires the cabinet to identify the characteristics of and to list hazardous wastes. This chapter identifies and lists hazardous waste. This regulation establishes the characteristics of a hazardous waste.

Section 1. General. (1) A waste, as defined in Section 2 of 401 KAR 31:010 which is not excluded from regulation as a hazardous waste

under Section 4(2) of 401 KAR 31:010, is a hazardous waste if it exhibits any of the characteristics identified in this regulation [section].

(2) A hazardous waste which is identified by a characteristic in this regulation [section], but is not listed as a hazardous waste in 401 KAR 31:040, is assigned the EPA Hazardous Waste Number set forth in the respective characteristics in this regulation [section]. This number must be used in complying with the notification requirements of 401 KAR Chapters 32 and 38 and certain recordkeeping and reporting requirements under the waste management regulation relating to hazardous waste.

(3) For purposes of this regulation [section], the cabinet will consider a sample obtained using any of the applicable sampling methods specified in 401 KAR 31:100 to be a representative sample within the meaning of 401 KAR 30:010.

Section 2. Characteristic of Ignitability. (1) A waste exhibits the characteristic of ignitability if a representative sample of the waste has any of the following properties:

(a) It is a liquid, other than an aqueous solution containing less than twenty-four (24) percent alcohol by volume and has a flash point less than sixty (60) degrees C 140 degrees Fahrenheit), as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM Standard D-93-79 or D-93-80 (incorporated by reference, see Section 3 of 401 KAR 30:010), or a Setaflash Closed Cup Tester, using the test method specified in ASTM Standard D-3278-78 (incorporated by reference, see Section 3 of 401 KAR 30:010), or as determined by an equivalent test method approved by the director and the administrator under procedures set forth in Section 2 of 401 KAR 30:020.

(b) It is not a liquid and is capable, under standard temperature and pressure, of causing fire through friction, absorption of moisture or spontaneous chemical changes and, when ignited, burns so vigorously and persistently that it creates a hazard.

(c) It is an ignitable compressed gas as defined in 49 CFR 173.300 and as determined by the test methods described in that regulation or equivalent test methods approved by the director and the administrator under Section 2 of 401 KAR 30:020.

(d) It is an oxidizer as defined in 49 CFR 173.151.

(2) A waste that exhibits the characteristic of ignitability, but is not listed as a hazardous waste in 401 KAR 31:040, has the EPA hazardous waste number of D001.

Section 3. Characteristic of Corrosivity. (1) A waste exhibits the characteristic of corrosivity if a representative sample of the waste has either of the following properties:

(a) It is aqueous and has a pH less than or equal to two (2) or greater than or equal to twelve and five-tenths (12.5), as determined by a pH meter using either an EPA test method or an equivalent test method approved by the director and the administrator under the procedures set forth in Section 2 of 401 KAR 30:020. The EPA test method for pH is specified as Method 5.2 in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods" (incorporated by reference, see Section 3 of 401 KAR 30:010).

(b) It is a liquid and corrodes steel (SAE 1020) at a rate greater than 6.35 mm (approximately 0.250 inch) per year at a test temperature of fifty-five (55) degrees Centigrade (approximately 130 degrees Fahrenheit) as determined by the test method specified in NACE (National Association of Corrosion Engineers) Standard TM-01-69 as standardized in "Test Methods for the Evaluation of Solid Waste, Physical/Chemical Methods" (incorporated by reference, see Section 3 of 401 KAR 30:010) or an equivalent test method approved by the director and the administrator under the procedures set forth in Section 2 of 401 KAR 30:020.

(2) A waste that exhibits the characteristic of corrosivity, but is not listed as a hazardous waste in 401 KAR 31:040, has the EPA Hazardous Waste Number of D002.

Section 4. Characteristic of Reactivity. (1) A waste exhibits the characteristic of reactivity if a representative sample of the waste has any of the following properties:

(a) It is normally unstable and readily undergoes violent change without detonating.

(b) It reacts violently with water.

(c) It forms potentially explosive mixtures with water.

(d) When mixed with water, it generates toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment.

(e) It is a cyanide or sulfide bearing waste which, when exposed to pH conditions between two (2) or twelve and five-tenths (12.5), can generate toxic gases, vapors or fumes in a quantity sufficient to present a danger to human health or the environment.

(f) It is capable of detonation or explosive reaction if it is subjected to a strong initiating source or if heated under confinement.

(g) It is readily capable of detonation or explosive decomposition or reaction at standard temperature and pressure.

(h) It is a forbidden explosive as defined in 49 CFR 173.51, or a Class A explosive as defined in 49 CFR 173.53 or a Class B explosive as defined in 49 CFR 173.88.

(2) A waste that exhibits the characteristic of reactivity, but is not listed as a hazardous waste in 401 KAR 31:040, has the EPA Hazardous Waste Number of D003.

Section 5. Characteristic of EP Toxicity. (1) A waste exhibits the characteristic of EP toxicity if, using the test methods described in 401 KAR 31:110 or equivalent methods approved by the director and the administrator under the procedures set forth in Section 2 of 401 KAR 30:020, the extract from a representative sample of the waste contains any of the contaminants listed in Table 1 (see subsection (3) of this section) at a concentration equal to or greater than the respective value given in that Table. Where the waste contains less than five-tenths (0.5) percent filterable solids, the waste itself, after filtering, is considered to be the extract for the purposes of this section.

(2) A waste that exhibits the characteristic of EP toxicity, but is not listed as a hazardous waste in 401 KAR 31:040, has the EPA Hazardous Waste Number specified in Table 1 which corresponds to the toxic contaminant causing it to be hazardous.

(3) Table 1. Maximum Concentration of Contaminants for Characteristic of EP Toxicity

| EPA Hazardous Waste Number | Contaminant | Maximum Concentration (milligrams per liter) |
|---|---|---|
| D004 | Arsenic | 5.0 |
| D005 | Barium | 100.0 |
| D006 | Cadmium | 1.0 |
| D007 | Chromium | 5.0 |
| D008 | Lead | 5.0 |
| D009 | Mercury | 0.2 |
| D010 | Selenium | 1.0 |
| D011 | Silver | 5.0 |
| D012 | Endrin (1,2,3,4,10, hexachloro-1,7-epoxy-1, 4,4a,5,6,7,8,8a-octahydro-1,4-endo,endo-5,8-dimethano naphthalene) | 0.02 |
| D013 | Lindane (1,2,3,4,5, 6-hexachlorocyclohexane, gamma isomer) | 0.4 |
| D014 | Methoxychlor (1,1,1-Trichloro-2, 2-bis(p-methoxyphenyl) ethane) | 10.0 |
| D015 | Toxaphene($C_{10}H_{10}Cl_8$ technical chlorinated camphene, 67-69 percent chlorine) | 0.5 |
| D016 | 2,4-D,(2,4-Dichloro phenoxyacetic acid) | 10.0 |
| D017 | 2,4,5-TP Silvex (2,4, 5-Trichlorophenoxypropionic acid) | 1.0 |

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The proposed amendment to this regulation affects all generators of hazardous waste and all owners and operators of treatment, storage, and disposal facilities.

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

1. First year: None. The proposed amendment makes a technical correction to the regulation; it does not change any of the requirements of the regulation.

2. Continuing costs or savings: None. See note in (1)(a)1.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None. See note in (1)(a)1.

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. See note in (1)(a)1.

2. Continuing costs or savings: None. See note in (1)(a)1.

3. Additional factors increasing or decreasing costs: None. See note in (1)(a)1.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The proposed amendment to this regulation does not change any of the requirements regarding the characteristics of hazardous waste. The amendment makes a technical correction to the regulation. Therefore it was unnecessary to consider more or less stringent alternatives.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. This regulation applies to generators of hazardous waste and owners and operators of treatment, storage, and disposal facilities.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendment to this regulation makes a technical correction which does not alter exisiting requirements.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; a technical correction, not based on federal regulations, was made to this regulation. This correction does not impose standards or responsibilities which are more stringent than those imposed by the U.S. EPA.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

## NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
## Department for Environmental Protection
## Division of Waste Management
## (Proposed Amendment)

**401 KAR 31:040. Lists of hazardous wastes.**

RELATES TO: KRS 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.864(3), 224.867

NECESSITY AND FUNCTION: KRS 224.864(3) requires the cabinet to identify the characteristics of and to list hazardous wastes. This chapter identifies and lists hazardous waste. This regulation establishes the lists of hazardous wastes.

Section 1. General Applicability and Delisting Procedures. (1) A waste is a hazardous waste if it is listed in any section of this regulation unless it has been excluded from that list under 401 KAR 31:060 and 31:070.

(2) The cabinet will indicate the basis for listing the classes or types of wastes listed in this regulation by employing one (1) or more of the following Hazard Codes:

| Hazard Code | Class or Type of Waste |
|---|---|
| (I) | Ignitable waste |
| (C) | Corrosive waste |
| (R) | Reactive waste |
| (E) | EP toxic waste |
| (H) | Acute hazardous waste |
| (T) | Toxic waste |

401 KAR 31:160 identifies the constituent which caused the cabinet to list the waste as an EP toxic waste (E) or toxic waste (T) in Sections 2 and 3 of this regulation.

(3) Each hazardous waste listed in this regulation is assigned an EPA Hazardous Waste Number, which precedes the name of the waste. This number must be used in complying with the notification requirements of KRS 224.864 and certain recordkeeping and reporting requirements under 401 KAR Chapters 32 through 40.

(4) The following hazardous wastes listed in Section 2 or 3 of this regulation are subject to the exclusion limits for acutely hazardous wastes established in Section 5 of 401 KAR 31:010: EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027.

Section 2. Hazardous Wastes from Nonspecific Sources. Hazardous wastes from nonspecific sources are:

| Industry and EPA Hazardous Waste No. | Hazardous Waste | Hazard Code |
|---|---|---|
| Generic: | | |
| F001 | The following spent halogenated solvents used in degreasing: tetrachloroethylene, trichloroethylene, methylene chloride, 1,1,1-trichloroethane, carbon tetrachloride, and chlorinated fluorocarbons; all spent solvent mixtures/blends used in degreasing containing, before use, a total of ten (10) percent or more (by volume) of one (1) or more of the above halogenated solvents or those solvents listed in F002, F004, and F005; and still bottoms from the recovery of these spent solvents and spent solvent mixtures. | (T) |
| F002 | The following spent halogenated solvents: tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane chlorobenzene, 1,1,2-trichloro-1,2,2-trifluoroethane, ortho-dichlorobenzene, [and] trichlorofluoromethane, and 1,1,2-trichloroethane; all spent solvent mixtures/blends containing, before use, a total of ten (10) percent or more (by volume) of one (1) or more of the above halogenated solvents or those solvents listed in F001, F004, and F005; and the still bottoms from the recovery of these spent solvents and spent solvent mixtures. | (T) |
| F003 | The following spent nonhalogenated solvents: xylene, acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, n-butyl alcohol, cyclohexanone, and methanol; all spent solvent mixtures/blends containing, before use, only the above spent nonhalogenated solvents; and all spent solvent mixtures/blends containing, before use, one (1) or more of the above nonhalogenated solvents, and, a total of ten (10) percent or more (by volume) of one (1) or more of those solvents listed in F001, F002, F004, and F005; and the still bottoms from the recovery of these spent solvents and spent solvent mixtures. | (I)* |
| F004 | The following spent nonhalogenated solvents: cresols and cresylic acid, and nitrobenzene; all spent solvent mixtures/blends containing, before use, a total of ten (10) percent or more (by volume) of one (1) or more of the above nonhalogenated solvents or those solvents listed in F001, F002, and F005; and the still bottoms from the recovery of these spent solvents and spent solvent mixtures. | (T) |
| F005 | The following spent nonhalogenated solvents: toluene, methyl ethyl ketone, carbon disulfide, isobutanol, [and] pyridine, benzene, 2-ethoxyethanol, and 2-nitropropane; all spent solvent mixtures/blends containing, before use, a total of ten (10) percent or more (by volume) of one (1) or more of the above nonhalogenated solvents, or those solvents listed in F001, F002, and F004; and the still bottoms from the recovery of these spent solvents and spent solvent mixtures. | (I,T) |
| F006 | Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon | (T) |

| | | |
|---|---|---|
| | steel; (5) cleaning/stripping associated with tin, zinc and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum. | |
| F007 | Spent cyanide plating bath solutions from electroplating operations. | (R,T) |
| F008 | Plating bath residues from the bottom of plating baths from electroplating operations where cyanides are used in the process. | (R,T) |
| F009 | Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process. | (R,T) |
| F010 | Quenching bath residues from oil baths from metal heat treating operations where cyanides are used in the process. | (R,T) |
| F011 | Spent cyanide solutions from salt bath pot cleaning from metal heat treating operations. | (R,T) |
| F012 | Quenching wastewater treatment sludges from metal heat treating operations where cyanides are used in the process. | (T) |
| F019 | Wastewater treatment sludges from the chemical conversion coating of aluminum. | (T) |
| F020 | Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives. (This listing does not include wastes from the production of Hexachlorophene from highly purified 2,4,5-trichlorophenol.) | (H) |
| F021 | Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of pentachlorophenol, or of intermediates used to produce its derivatives. | (H) |
| F022 | Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzenes under alkaline conditions. | (H) |
| F023 | Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- or tetrachlorophenols. (This listing does not include wastes from equipment used only for the production or use of Hexachlorophene from highly purified 2,4,5-trichlorophenol.) | (H) |
| F024 | Wastes, including but not limited to distillation residues, heavy ends, tars, and reactor clean-out wastes from the production of chlorinated aliphatic hydrocarbons, having carbon content from one (1) to five (5), utilizing free radical catalyzed processes. (This listing does not include light ends, spent filters and filter aids, spent desiccants, wastewater, wastewater treatment sludges, spent catalysts, and wastes listed in Section 2 of this regulation.) | (T) |
| F026 | Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production of materials on equipment previously used for the manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tetra-, penta-, or hexachlorobenzene under alkaline conditions. | (H) |
| F027 | Discarded unused formulations containing tri-, tetra-, or pentachlorophenol or discarded unused formulations containing compounds derived from these chlorophenols. (This listing does not include formulations containing Hexachlorophene synthesized from prepurified 2,4,5-trichlorophenol as the sole component.) | (H) |
| F028 | Residues resulting from the incineration or thermal treatment of soil contaminated with EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027. | (T) |

* (I,T) should be used to specify mixtures containing ignitable and toxic constituents.

Section 3. Hazardous Wastes from Specific Sources. Hazardous wastes from specific sources are:

| Industry and EPA Hazardous Waste No. | Hazardous Waste | Hazard Code |
|---|---|---|
| Wood Preservation: | | |
| K001 | Bottom sediment sludge from the treatment of wastewaters from wood preserving processes that use creosote and/or pentachlorophenol. | (T) |
| Inorganic Pigments: | | |
| K002 | Wastewater treatment sludge from the production of chrome yellow and orange pigments. | (T) |
| K003 | Wastewater treatment sludge from the production of molybdate orange pigments. | (T) |
| K004 | Wastewater treatment sludge from the production of zinc yellow pigments. | (T) |
| K005 | Wastewater treatment sludge from the production of chrome green pigments. | (T) |
| K006 | Wastewater treatment sludge from the production of chrome oxide green pigments (anhydrous and hydrated). | (T) |
| K007 | Wastewater treatment sludge from the production of iron blue pigments. | (T) |
| K008 | Oven residue from the production of chrome oxide green pigments. | (T) |
| Organic Chemicals: | | |
| K009 | Distillation bottoms from the production of acetaldehyde from ethylene. | (T) |

| | | |
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| K010 | Distillation side cuts from the production of acetaldehyde from ethylene. | (T) |
| K011 | Bottom stream from the wastewater stripper in the production of acrylonitrile. | (R,T) |
| K013 | Bottom stream from the acetonitrile column in the production of acrylonitrile. | (R,T) |
| K014 | Bottoms from the acetoniltrile purification column in the production of acrylonitrile. | (T) |
| K015 | Still bottoms from the distillation of benzyl chloride. | (T) |
| K016 | Heavy ends or distillation residues from the production of carbon tetrachloride. | (T) |
| K017 | Heavy ends (still bottoms) from the purification column in the production of epichlorohydrin. | (T) |
| K018 | Heavy ends from the fractionation column in ethyl chloride production. | (T) |
| K019 | Heavy ends from the distillation of ethylene dichloride in ethylene dichloride production. | (T) |
| K020 | Heavy ends from the distillation of vinyl chloride in vinyl chloride monomer production. | (T) |
| K021 | Aqueous spent antimony catalyst waste from fluoromethanes production. | (T) |
| K022 | Distillation bottom tars from the production of phenol/acetone from cumene. | (T) |
| K023 | Distillation light ends from the production of phthalic anhydride from naphthalene. | (T) |
| K024 | Distillation bottoms from the production of phthalic anhydride from naphthalene. | (T) |
| K093 | Distillation light ends from the production of phthalic anhydride from ortho-xylene. | (T) |
| K094 | Distillation bottoms from the production of phthalic anhydride from ortho-xylene. | (T) |
| K025 | Distillation bottoms from the production of nitrobenzene by the nitration of benzene. | (T) |
| K026 | Stripping still tails from the production of methy ethyl pyridines. | (T) |
| K027 | Centrifuge and distillation residues from toluene diisocyanate production. | (R,T) |
| K028 | Spent catalyst from the hydrochlorinator reactor in the production of 1,1,1-trichloroethane. | (T) |
| K029 | Waste from the product steam stripper in the production of 1,1,1-trichloroethane. | (T) |
| K095 | Distillation bottoms from the production of 1,1,1-trichloroethane. | (T) |
| K096 | Heavy ends from the heavy ends column from the production of 1,1,1-trichloroethane. | (T) |
| K030 | Column bottoms or heavy ends from the combined production of trichloroethylene and perchloroethylene. | (T) |
| K083 | Distillation bottoms from aniline production. | (T) |
| K103 | Process residues from aniline extraction from the production of aniline. | (T) |
| K104 | Combined wastewater streams generated from nitrobenzene/aniline production. | (T) |
| K085 | Distillation or fractionation column bottoms from the production of chlorobenzenes. | (T) |
| K105 | Separated aqueous stream from the reactor product washing step in the production of chlorobenzenes. | (T) |
| K111 | Product wash waters from the production of dinitrotoluene via nitration of toluene. | (C,T) |
| K112 | Reaction by-product water from the drying column in the production of toluenediamine via hydrogenation of dinitrotoluene. | (T) |
| K113 | Condensed liquid light ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene. | (T) |
| K114 | Vicinals from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene. | (T) |
| K115 | Heavy ends from the purification of toluenediamine in the production of toluenediamine via hydrogenation of dinitrotoluene. | (T) |
| K116 | Organic condensate from the solvent recovery column in the production of toluene diisocyanate via phosgenation of toluenediamine. | (T) |
| K117 | Wastewater from the reactor vent gas scrubber in the production of ethylene dibromide via bromination of ethene. | (T) |
| K118 | Spent adsorbent solids from purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene. | (T) |
| K136 | Still bottoms from the purification of ethylene dibromide in the production of ethylene dibromide via bromination of ethene. | (T) |

Inorganic Chemicals:

| | | |
|---|---|---|
| K071 | Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used. | (T) |
| K073 | Chlorinated hydrocarbon waste from the purification step of the diaphragm cell process using graphite anodes in chlorine production. | (T) |
| K106 | Wastewater treatment sludge from the mercury cell process in chlorine production. | (T) |

Pesticides:

| | | |
|---|---|---|
| K031 | By-product salts generated in the production of MSMA and cacodylic acid. | (T) |
| K032 | Wastewater treatment sludge from the production of chlordane. | (T) |
| K033 | Wastewater and scrub water from the chlorination of cyclopentadiene in the production of chlordane. | (T) |
| K034 | Filter solids from the filtration of hexachlorocyclopentadiene in the production of chlordane. | (T) |
| K097 | Vacuum stripper discharge from the chlordane chlorinator in the production of chlordane. | (T) |
| K035 | Wastewater treatment sludges generated in the production of creosote. | (T) |
| K036 | Still bottoms from toluene reclamation distillation in the production of disulfoton. | (T) |

| | | |
|---|---|---|
| K037 | Wastewater treatment sludges from the production of disulfoton. | (T) |
| K038 | Wastewater from the washing and stripping of phorate production. | (T) |
| K039 | Filter cake from the filtration of diethylphosphorodithioic acid in the production of phorate. | (T) |
| K040 | Wastewater treatment sludge from the production of phorate. | (T) |
| K041 | Wastewater treatment sludge from the production of toxaphene. | (T) |
| K098 | Untreated process wastewater from the production of toxaphene. | (T) |
| K042 | Heavy ends or distillation residues from the distillation of tetrachlorobenzene in the production of 2,4,5-T. | (T) |
| K043 | 2,6-Dichlorophenol waste from the production of 2,4-D. | (T) |
| K099 | Untreated wastewater from the production of 2,4-D. | (T) |
| K123 | Process wastewater (including supernates, filtrates, and washwaters) from the production of ethylenebisdithiocarbamic acid and its salts. | (T) |
| K124 | Reactor vent scrubber water from the production of ethylenebisdithiocarbamic acid and its salts. | (C,T) |
| K125 | Filtration, evaporation, and centrifugation solids from the production of ethylenebisdithiocarbamic acid and its salts. | (T) |
| K126 | Baghouse dust and floor sweepings in milling and packaging operations from the production or formulation of ethylenebisdithiocarbamic acid and its salts. | (T) |

Explosives:

| | | |
|---|---|---|
| K044 | Wastewater treatment sludges from the manufacturing and processing of explosives. | (R) |
| K045 | Spent carbon from the treatment of wastewater containing explosives. | (R) |
| K046 | Wastewater treatment sludges from the manufacturing, formulation and loading of lead-based initiating compounds | (T) |
| K047 | Pink/red water from TNT operations. | (T) |

Petroleum Refining:

| | | |
|---|---|---|
| K048 | Dissolved air flotation (DAF) float from the petroleum refining industry. | (T) |
| K049 | Slop oil emulsion solids from the petroleum refining industry. | (T) |
| K050 | Heat exchanger bundle cleaning sludge from the petroleum refining industry. | (T) |
| K051 | API separator sludge from the petroleum refining industry. | (T) |
| K052 | Tank bottoms (leaded) from the petroleum refining industry. | (T) |

Iron and Steel:

| | | |
|---|---|---|
| K061 | Emission control dust/sludge from the primary production of steel in electric furnaces. | (T) |
| K062 | Spent pickle liquor generated by [from] steel finishing operations of facilities within the iron and steel industry (SIC Codes 331 and 332). | (C,T) |

Secondary Lead:

| | | |
|---|---|---|
| K069 | Emission control dust/sludge from secondary lead smelting. | (T) |
| K100 | Waste leaching solution from acid leaching of emission control dust/sludge from secondary lead smelting. | (T) |

Veterinary Pharmaceuticals:

| | | |
|---|---|---|
| K084 | Wastewater treatment sludges generated during the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds. | (T) |
| K101 | Distillation tar residues from the distillation of aniline-based compounds in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds. | (T) |
| K102 | Residue from the use of activated carbon for decolorization in the production of veterinary pharmaceuticals from arsenic or organo-arsenic compounds. | (T) |

Ink Formulation:

| | | |
|---|---|---|
| K086 | Solvent washes and sludges, caustic washes and sludges, or water washes and sludges from cleaning tubs and equipment used in the formulation of ink from pigments, driers, soaps, and stabilizers containing chromium and lead. | (T) |

Coking:

| | | |
|---|---|---|
| K060 | Ammonia still lime sludge from coking operations. | (T) |
| K087 | Decanter tank tar sludge from coking operations. | (T) |

Section 4. Discarded Commercial Chemical Products, Off-specification Species, Container Residues, and Spill Residues Thereof. The following materials or items are hazardous wastes if and when they are discarded or intended to be discarded as described in Section 2(1)(b)1 of 401 KAR 31:010, when they are mixed with waste oil or used oil or other material and applied to the land for dust suppression or road treatment, when they are otherwise applied to the land in lieu of their original intended use or when they are contained in products that are applied to the land in lieu of their original intended use, or when in lieu of their original intended use, they are produced for use as (or as a component of) a fuel, distributed for use as a fuel, or burned as a fuel.

(1) Any commercial chemical product or manufacturing chemical intermediate having the generic name listed in subsection (5) or (6) of this section.

(2) Any off-specification commercial chemical product or manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in subsection (5) or (6) of this section.

(3) Any container or inner liner removed from a container that has been used to hold any commercial chemical product or manufacturing chemical intermediate having the generic names listed in subsection (5) of this section, or any container or inner liner removed from a container that has been used to hold any off-specification chemical product and manufacturing chemical intermediate which, if it met specifications, would have the generic name listed in subsection (5) of this section unless:

(a) The container or inner liner has been triple rinsed using a solvent capable of removing the commercial chemical product or manufacturing chemical intermediate; or

(b) The container or inner liner has been cleansed by another method that has been shown in the scientific literature, or by tests conducted by the generator, to achieve equivalent removal; or

(c) In the case of a container, the inner liner that prevented contact of the commercial chemical product or manufacturing chemical intermediate with the container has been removed.

(4) Any residue or contaminated soil, water or other debris resulting from the cleanup of a spill into or on any land or water of any commercial chemical product or manufacturing chemical intermediate having the generic name listed in subsection (5) or (6) of this section, or any residue or contaminated soil, water or other debris resulting from the cleanup of a spill into or on any land or water of any off-specification chemical intermediate which, if it met specification, would have the generic name listed in subsection (5) or (6) of this section.

(5) The commercial chemical products, manufacturing chemical intermediate or off-specification commercial chemical products or manufacturing chemical intermediates referred to in subsections (1) through (4) of this section, are identified as acute hazardous wastes (H) and are subject to the limited [small] quantity generator exclusion defined in Section 5 of 401 KAR 31:010.

(NOTE: The primary hazardous properties of these materials have been indicated by the letters T (Toxicity), and R (Reactivity). Absence of a letter indicates that the compound is only listed for acute toxicity.) These wastes and their corresponding EPA Hazardous Waste Numbers are:

| Hazardous Waste No. | Substance | Chemical Abstracts No. |
|---|---|---|
| P023 | Acetaldehyde, chloro- | 107-20-0 |
| P002 | Acetamide, N-(Aminothioxo-methyl)- | 591-08-2 |
| P057 | Acetamide, 2-fluoro- | 640-19-7 |
| P058 | Acetic acid, fluoro-, sodium salt | 62-74-8 |
| P066 | Acetimidic acid, N-((methyl-carbamoyl)-oxy)thio-, methyl ester | 16752-77-5 |
| P001 | 3-(alpha-acetonyl-benzyl)-4-hydroxycoumarin and salts, when present at concentrations greater than 0.3% | 81-81-2 |
| P002 | 1-acetyl-2-thiourea | 591-08-2 |
| P003 | Acrolein | 107-02-8 |
| P070 | Aldicarb | 116-06-3 |
| P004 | Aldrin | 309-00-2 |
| P005 | Allyl alcohol | 107-18-6 |
| P006 | Aluminum phosphide (R,T) | 20859-73-8 |
| P007 | 5-(aminomethyl)-3-isoxazolol | 2763-96-4 |
| P008 | 4-alpha-[a]Aminopyridine | 504-24-5 |
| P009 | Ammonium picrate (R) | 131-74-8 |
| P119 | Ammonium vanadate | 7803-55-6 |
| P010 | Arsenic acid | 7778-39-4 |
| P012 | Arsenic [(III)] oxide $As_2O_3$ | 1327-53-3 |
| P011 | Arsenic [(V)] oxide $As_2O_5$ | 1303-28-2 |
| P011 | Arsenic pentroxide | 1303-28-2 |
| P012 | Arsenic trioxide | 1327-53-3 |
| P038 | Arsine, diethyl[-] | 692-42-2 |
| P036 | Arsonous dichloride, phenyl- | 696-28-6 |
| P054 | Aziridine | 151-56-4 |
| P013 | Barium cyanide | 542-62-1 |
| P024 | Benzenamine, 4-chloro- | 106-47-8 |
| P077 | Benzenamine, 4-nitro- | 100-01-6 |
| P028 | Benzene, (chloromethyl)- | 100-44-7 |
| P042 | 1,2-Benzenediol, 4-(1-hydroxy-2-(methylamino)ethyl)-, (R)- | 51-43-4 |
| P046 | Benzeneethanamine, alpha, alpha-dimethyl- | 122-09-8 |
| P014 | Benzenethiol | 108-98-5 |
| P001 | 2H-1-Benzopyran-2-one, 4-hydroxy-3-(3-oxo-1-phenyl-butyl)-, and salts when present at concentrations greater than 0.3% | 81-81-2 |
| P028 | Benzyl chloride | 100-44-7 |
| P015 | Beryllium dust | 7440-41-7 |
| P016 | Bis(chloromethyl) ether | 542-88-1 |
| P017 | Bromoacetone | 598-31-2 |
| P018 | Brucine | 357-57-3 |
| P021 | Calcium cyanide | 592-01-8 |
| [P123 | Camphene, octachloro- | |
| P103 | Carbamimidoselenoic acid] | |
| P022 | Carbon bisulfide | 75-15-0 |
| P022 | Carbon disulfide | 75-15-0 |
| P095 | Carbonic [yl] dichloride | 75-44-5 |
| [P033 | Chlorine cyanide] | |
| P023 | Chloroacetaldehyde | 107-20-0 |
| P024 | p-Chloroaniline | 106-47-8 |
| [P026 | 1-(o-Chlorophenyl)thiourea | |
| P027 | 3-Chloropropionitrile] | |
| P029 | Copper cyanide | 544-92-3 |
| P030 | Cyanides (soluble cyanide salts), not otherwise [elsewhere] specified | ======== |
| P031 | Cyanogen | 460-19-5 |
| P033 | Cyanogen chloride | 506-77-4 |
| P034 | 2-Cyclohexyl-4,6-dinitrophenol | 131-89-5 |
| P036 | Dichlorophenylarsine | 696-28-6 |
| P037 | Dieldrin | 60-57-1 |
| P038 | Diethylarsine | 692-42-2 |
| [P039 | O,O-Diethyl S-(2-(ethylthio) ethyl) phosphorothioate] | |
| P041 | Diethyl-p-nitrophenyl phosphate | 311-45-5 |
| P040 | O,O-Diethyl O-pyrazinyl phosphorothioate | 297-97-2 |
| P043 | Diisopropyl fluorophosphate (DEP) | 55-91-4 |
| P004 | 1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a- hexahydro-, (1alpha, 4alpha, 4abeta, 5alpha, 8alpha, 8abeta)- | 309-00-2 |
| P060 | 1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a- hexahydro-, (1alpha, 4alpha, 4abeta, 5beta, 8beta, 8abeta)- | 465-73-6 |
| P037 | 2,7:3,6-Dimethanonaphth(2,3b) oxirane,3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-, (1aalpha, 2beta, 2aalpha, 3beta, 6beta, 6aalpha, 7beta, 7aalpha)- | 60-57-1 |
| P051 | 2,7:3,6-Dimethanonaphth(2,3b) oxirane, octahydro-, (1aalpha, 2beta, 2abeta, 3alpha, 6alpha, 6abeta, 7beta, 7aalpha)- | 72-20-8 |
| P044 | Dimethoate | 60-51-5 |
| P045 | 3,3-Dimethyl-1-(methylthio)-2-butanone, O-((methylamino)-carbonyl) oxime | 39196-18-4 |
| [P071 | O,O-Dimethyl O-p-nitrophenyl phosphorothioate | |
| P082 | Dimethylnitrosamine] | |

| | | |
|---|---|---|
| P046 | alpha, alpha-Dimethylphenethylamine | 122-09-8 |
| P047 | 4,6-Dinitro-o-cresol and salts | 534-52-1 |
| [P034 | 4,6-Dinitro-o-cyclohexyphenol] | |
| P048 | 2,4-Dinitrophenol | 51-28-5 |
| P020 | Dinoseb | 88-85-7 |
| P085 | Diphosphoramide, octamethyl- | 152-16-9 |
| P039 | Disulfoton | 298-04-4 |
| P049 | 2,4-Dithiobiuret | 541-53-7 |
| [P109 | Dithiopyrophosphoric acid, tetraethyl ester] | |
| P050 | Endosulfan | 115-29-7 |
| P088 | Endothall | 145-73-3 |
| P051 | Endrin | 72-20-8 |
| P042 | Epinephrine | 51-43-4 |
| [P046 | Ethanamine, 1,1-dimethyl-2-phenyl- | |
| P084 | Ethenamine, N-methyl-N-nitroso-] | |
| P101 | Ethyl cyanide | 107-12-0 |
| P054 | Ethylenimine | 151-56-4 |
| P097 | Famphur | 52-85-7 |
| P056 | Fluorine | 7782-41-4 |
| P057 | Fluoroacetamide | 640-19-7 |
| P058 | Fluoroacetic acid, sodium salt | 62-74-8 |
| P065 | Fulminic acid, mercury (2+ [II]) salt (R,T) | 628-86-4 |
| P059 | Heptachlor | 76-44-8 |
| [P051 | 1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4,4a, 5,6,7,8,8a-octahydro-endo, endo-1,4:5,8-dimethanonaphthalene | |
| P037 | 1,2,3,4,10,10-Hexachloro-6,7-epoxy-1,4, 4a,5,6,7,8,8a-octahydro-endo, exo-1, 4:5, 8-demethanonaphthalene | |
| P060 | 1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo, endo-dimethanophthalene | |
| P004 | 1,2,3,4,10,10-Hexachloro-1,4,4a,5,8,8a-hexahydro-1,4:5,8-endo, exodimethanonaphthalene] | |
| P060 | Hexachlorohexahydro-endo,endo [exo-exo]-dimethanonaphthalene | 465-73-6 |
| P062 | Hexaethyl tetraphosphate | 757-58-4 |
| P116 | Hydrazinecarbothioamide | 79-19-6 |
| P068 | Hydrazine, methyl | 60-34-4 |
| P063 | Hydrocyanic acid | 74-90-8 |
| P063 | Hydrogen cyanide | 74-90-8 |
| P096 | Hydrogen phosphide | 7803-51-2 |
| P064 | Isocyanic acid, methyl ester | 624-83-9 |
| P060 | Isodrin | 465-73-6 |
| P007 | 3(2H)-Isoxazolone,5-(aminomethyl)- | 2763-96-4 |
| P092 | Mercury, (acetato-O) phenyl- | 62-38-4 |
| P065 | Mercury fulminate (R,T) | 628-86-4 |
| P082 | Methamine,N-methyl-N-nitroso- | 62-75-9 |
| P016 | Methane, oxybis (chloro-[)] | 542-88-1 |
| P112 | Methane, tetranitro-(R) | 509-14-8 |
| P118 | Methanethiol, trichloro- | 75-70-7 |
| P050 | 6,9-Methano-2,4,3-benzodioxathiepen, 6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-,3-oxide | 115-29-7 |
| P059 | 4,7-Methano-1H-indene,1,4,5,6, 7,8,8-heptachloro-3a,4,7,7a-tetrahydro- | 76-44-8 |
| P066 | Methomyl | 16752-77-5 |
| P067 | 2-Methylaziridine | 75-55-8 |
| P068 | Methyl hydrazine | 60-34-4 |
| P064 | Methyl isocyanate | 624-83-9 |
| P069 | 2-Methyllactonitrile | 75-86-5 |
| P071 | Methyl parathion | 298-00-0 |
| P072 | alpha-Naphthylthiourea | 86-88-4 |
| P073 | Nickel carbonyl | 13463-39-3 |
| P073 | Nickel carbonyl, (T-4)- | 13463-39-3 |
| [P074 | Nickel cyanide | |
| P074 | Nickel (II) cyanide | |
| P073 | Nickel tetracarbonyl] | |
| P075 | Nicotine and salts | 54-11-5 |
| P076 | Nitric oxide | 10102-43-9 |
| P077 | p-Nitroaniline | 100-01-6 |
| P078 | Nitrogen dioxide | 10102-44-0 |
| P076 | Nitrogen [(II)] oxide NO | 10102-43-9 |
| P078 | Nitrogen [(IV)] oxide $NO_2$ | 10102-44-0 |
| P081 | Nitroglycerine (R) | 55-63-0 |
| P082 | N-Nitrosodimethylamine | 62-75-9 |
| P084 | N-Nitrosomethylvinylamine | 4549-40-0 |
| P074 | Nickel cyanide | 557-19-7 |
| [P050 | 5-Norbornene-2,3-dimethanol,1,4,5,6,7, 7-hexachloro, cyclic sulfite] | |
| P085 | Octamethylpyrophosphoramide | 152-16-9 |
| P087 | Osmium oxide | 20816-12-0 |
| P087 | Osmium tetroxide | 20816-12-0 |
| P088 | 7-Oxabicyclo (2.2.1)heptane-2,3-dicarboxylic acid | 145-73-2 |
| P089 | Parathion | 56-38-2 |
| P034 | Phenol, 2-cyclohexyl-4, 6-dinitro- | 131-89-5 |
| P048 | Phenol, 2, 4-dinitro | 51-28-5 |
| P047 | Phenol, 2[,4-dinitro-6]-methyl-4,6-dinitro- and salts | 534-52-1 |
| [P020 | Phenol, 2,4-dinitro-6-(1-methylpropyl)-] | |
| P020 | Phenol, 2-(1-methylpropyl)-4, 6-dinitro- | 88-85-7 |
| P009 | Phenol, 2,4,6-trinitro-, ammonium salt (R) | 131-74-8 |
| [P036 | Phenyl dichloroarsine] | |
| P092 | Phenylmercury [ic] acetate | 62-38-4 |
| P093 | [N-]Phenylthiourea | 103-85-5 |
| P094 | Phorate | 298-02-2 |
| P095 | Phosgene | 75-44-5 |
| P096 | Phosphine | 7803-51-2 |
| P041 | Phosphoric acid, diethyl 4 [p]-nitrophenyl ester | 311-45-5 |
| P039 | Phosphorodithioic acid, 0,0-diethyl S-(2-(ethylthio)ethyl) ester | 298-04-4 |
| P094 | Phosphorodithioic acid, 0,0-diethyl S-((ethylthio)methyl) ester | 298-02-2 |
| P044 | Phosphorodithioic acid, 0, 0-dimethyl S-(2(methylamino)-2-oxoethyl) ester | 60-51-5 |
| P043 | Phosphorofluoric acid, bis (1-methylethyl) ester | 55-91-4 |
| [P094 | Phosphorothioic acid, 0, 0-diethyl S-(ethylthio) methyl ester] | |
| P089 | Phosphorothioic acid, 0, 0-diethyl 0-(p-nitrophenyl) ester | 56-38-2 |
| P040 | Phosphorothioic acid, 0, 0-diethyl 0-pyrazinyl ester | 297-97-2 |
| P097 | Phosphorothioic acid, 0[,0]-(4-((dimethylamino) [0-(p((dimethylamino)-] sulfonyl)phenyl) 0,0-dimethyl ester | 52-85-7 |
| P071 | Phosphorothioic acid, 0,0-dimethyl 0-(4-nitrophenyl) ester | 298-00-0 |
| P110 | Plumbane, tetraethyl- | 78-00-2 |
| P098 | Potassium cyanide | 151-50-8 |
| P099 | Potassium silver cyanide | 506-61-6 |
| P070 | Propanal, 2-methyl-2-(methylthio)-,0-((methylamino)carbonyl)oxime | 116-06-3 |
| P101 | Propanenitrile | 107-12-0 |
| P027 | Propanenitrile, 3-chloro- | 542-76-7 |
| P069 | Propanenitrile, 2-hydroxy-2-methyl- | 75-86-5 |
| P081 | 1,2,3-Propanetriol, trinitrate-(R) | 55-63-0 |

| | | |
|---|---|---|
| P017 | 2-Propanone, 1-bromo- | 598-31-2 |
| P102 | Propargyl alcohol | 107-19-7 |
| P003 | 2-Propenal | 107-02-8 |
| P005 | 2-Propen-1-ol | 107-18-6 |
| P067 | 1,2-Propylenimine | 75-55-8 |
| P102 | 2-Propyn-1-ol | 591-08-2 |
| P008 | [4-]Pyridinamine | 504-24-5 |
| P075 | Pyridine, (S)-3-(1-methyl-2-pyrroli- dinyl)- and salts | 54-11-5 |
| P111 | Pyrophosphoric acid, tetra-ethyl ester | 107-49-3 |
| P103 | Selenourea | 630-10-4 |
| P104 | Silver cyanide | 506-64-9 |
| P105 | Sodium azide | 26628-22-8 |
| P106 | Sodium cyanide | 143-33-9 |
| P107 | Strontium sulfide | 1314-96-1 |
| P108 | Strychnidin-10-one, and salts | 57-24-9 |
| P018 | Strychnidin-10-one, 2, 3-dimethoxy | 357-57-3 |
| P108 | Strychnine and salts | 57-24-9 |
| P115 | Sulfuric acid, thallium(I) salt | 10031-59-1 |
| P109 | Tetraethyldithiopyrophosphate | 3689-24-5 |
| P110 | Tetraethyl lead | 78-00-2 |
| P111 | Tetraethylpyrophosphate | 107-49-3 |
| P112 | Tetranitromethane (R) | 509-14-8 |
| P062 | Tetraphosphoric acid, hexa-ethyl ester | 757-58-4 |
| P113 | Thallic oxide | 1314-32-5 |
| P113 | Thallium (III) oxide | 1314-32-5 |
| P114 | Thallium (I) selenide [selenite] | 12039-52-0 |
| P115 | Thallium (I) sulfate | 10031-59-1 |
| P109 | Thiodiphosphoric acid, tetra-ethyl ester | 3689-24-5 |
| P045 | Thiofanox | 39196-18-4 |
| P049 | Thioimidodicarbonic diamide | 541-53-7 |
| P014 | Thiophenol | 108-98-5 |
| P116 | Thiosemicarbazide | 79-19-6 |
| P026 | Thiourea, (2-chlorophenyl)- | 5344-82-1 |
| P072 | Thiourea, 1-naphthalenyl- | 86-88-4 |
| P093 | Thiourea, phenyl- | 103-85-5 |
| P123 | Toxaphene | 8001-35-2 |
| P118 | Trichloromethanethiol | 75-70-7 |
| P119 | Vanadic acid, ammonium salt | 7803-55-6 |
| [P120 | Vanadium pentoxide] | |
| P120 | Vanadium (V) oxide | 1314-62-1 |
| P084 | Vinylamine, N-methyl-N-nitroso- | 4549-40-0 |
| P001 | Warfarin, when present at concentrations greater than 0.3% or in unknown concentrations | 81-81-2 |
| P121 | Zinc cyanide | 557-21-1 |
| P122 | Zinc phosphide (R,T), when present at concentrations greater than 10% or in unknown concentrations | 1314-84-7 |

(6) The commercial chemical products, manufacturing chemical intermediates, or off-specification commercial chemical products referred to in subsections (1) through (4) of this section, are identified as toxic wastes (T), unless otherwise designated and are subject to the limited [small] quantity generator exclusion defined in Section 5(1), [and] (6), and (7) of 401 KAR 31:010.

(NOTE: The primary hazardous properties of these materials have been indicated by the letters T (Toxicity), R (Reactivity), I (Ignitability) and C (Corrosivity). Absence of a letter indicates that the compound is only listed for toxicity.) These wastes and their corresponding EPA Hazardous Waste Numbers are:

| Hazardous Waste No. | Substance | Chemical Abstracts No. |
|---|---|---|
| U001 | Acetaldehyde (I) | 75-07-0 |
| U034 | Acetaldehyde, trichloro- | 75-87-6 |
| U187 | Acetamide, N-(4-ethoxyphenyl)- | 62-44-2 |
| U005 | Acetamide, N-9H-fluoren-2-yl- | 53-96-3 |
| U112 | Acetic acid, ethyl ester (I) | 141-78-6 |
| U144 | Acetic acid, lead salt | 301-04-2 |
| U214 | Acetic acid, thallium (1+) [(I)] salt | 563-68-8 |
| U232 | Acetic acid, (2,4,5-trichloro-phenoxy)- | 93-76-5 |
| U002 | Acetone (I) | 67-64-1 |
| U003 | Acetonitrile (I,T) | 75-05-8 |
| U004 | Acetophenone | 98-86-2 |
| U005 | 2-Acetylaminofluorene | 53-96-3 |
| U006 | Acetyl chloride (C,R,T) | 75-36-5 |
| U007 | Acrylamide | 79-06-1 |
| U008 | Acrylic acid (I) | 79-10-7 |
| U009 | Acrylonitrile | 107-13-1 |
| [U150 | Alanine, 3-(p-bis(2-chlorethyl)amino) phenyl-,L- | |
| U248 | 3-(alpha-Acentonylbenzyl)-4-hydroxycoumarin and salts, when present at concentrations of 0.3% or less | |
| U328 | 2-Amino-1-methylbenzene | |
| U353 | 4-Amino-1-methylbenzene] | |
| U011 | Amitrole | 61-82-5 |
| U012 | Aniline (I,T) | 62-53-3 |
| U014 | Auramine | 492-80-8 |
| U015 | Azaserine | 115-02-6 |
| U010 | Azirino (2',3':3,4) pyrrolo (1,2-a) indole-4, 7-dione, 6-amino-8-(((aminocarbonyl) oxy) methyl)-1,1a,2,8,8a,8b-hexahydro-8a-methoxy-5-methyl- | 50-07-7 |
| U157 | Benz(j)aceanthrylene, 1,2-dihydro-3-methyl- | 50-49-5 |
| [U016 | Benz(c)acridine] | |
| U016 | 3,4-Benzacridine | 225-51-4 |
| U017 | Benzal chloride | 98-87-3 |
| U192 | Benzamide, 3,5-dichloro-N-(1,1-diethyl-2-propynyl)- | 23950-58-5 |
| [U018 | Benz(a)anthracene] | |
| U018 | 1,2-Benzanthracene | 56-55-3 |
| U094 | [1,2-]Benz(a)anthracene, 7,12-dimethyl- | 57-97-6 |
| U012 | Benzenamine (I,T) | 62-53-3 |
| U014 | Benzenamine, 4,4'-carbon-imidoylbis (N,N-dimethyl-[)] | 492-80-8 |
| U049 | Benzenamine, 4-chloro-2-methyl- | 3165-93-3 |
| U093 | Benzenamine, N, N[']-dimethyl-4-(phenylazo-) | 60-11-7 |
| U328 | Benzenamine, 2-methyl- | 95-53-4 |
| U353 | Benzenamine, 4-methyl- | 106-49-0 |
| U158 | Benzenamine, 4,4'-methylenebis (2-chloro-[)] | 101-14-4 |
| U222 | Benzenamine, 2-methyl-, hydrochloride | 636-21-5 |
| U181 | Benzenamine, 2-methyl-5-nitro | 99-55-8 |
| U019 | Benzene [(I,T)] | 71-43-2 |
| U038 | Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy, ethyl ester | 510-15-6 |
| U030 | Benzene, 1-bromo-4-phenoxy- | 101-55-3 |
| U035 | Benzenebutanoic acid, 4-(bis (2-chloroethyl)amino)- | 305-03-3 |
| U037 | Benzene, chloro- | 108-90-7 |
| U221 | Benzenediamine, ar-methyl- | 25376-45-8 |
| [U190 | 1,2-Benzenedicarboxylic acid anhydride] | |
| U028 | 1,2-Benzenedicarboxylic acid, (bis(2-ethylhexy[l])) ester | 117-81-7 |

| | | |
|---|---|---|
| U069 | 1,2-Benzenedicarboxylic acid, dibutyl ester | 84-74-2 |
| U088 | 1,2-Benzenedicarboxylic acid, diethyl ester | 84-66-2 |
| U102 | 1,2-Benzenedicarboxylic acid, dimethyl ester | 131-11-3 |
| U107 | 1,2-Benzenedicarboxylic acid, di-n-octyl ester | 117-84-0 |
| U070 | Benzene, 1,2-dichloro- | 95-50-1 |
| U071 | Benzene, 1,3-dichloro- | 541-73-1 |
| U072 | Benzene, 1,4-dichloro- | 106-46-7 |
| U060 | Benzene, 1,1'-(2,2-dichloro-ethylidene)bis(4-chloro- | 72-54-8 |
| U017 | Benzene, (dichloromethyl)- | 98-87-3 |
| U223 | Benzene, 1,3-diisocyanato-methyl- (R,T) | 26471-62-5 |
| U239 | Benzene, dimethyl- (I,T) | 1330-20-7 |
| U201 | 1,3-Benzenediol | 106-46-3 |
| U127 | Benzene, hexachloro- | 118-74-1 |
| U056 | Benzene, hexahydro (I)- | 110-82-7 |
| [U188 | Benzene, hydroxy-] | |
| U220 | Benzene, methyl- | 108-88-3 |
| U105 | Benzene, 1-methyl-[1-]2, 4-dinitro- | 121-14-2 |
| [U106 | Benzene, 1-methyl-2,6-dinitro-] | |
| U106 | Benzene, 2-methyl-1,3-dinitro- | 606-20-2 |
| [U203 | Benzene, 1,2-methylenedioxy-4-allyl- | |
| U141 | Benzene, 1,2-methylenedioxy-4-propenyl- | |
| U090 | Benzene, 1,2-methylenedioxy-4-propyl-] | |
| U055 | Benzene, (1-methylethyl),(I) | 98-82-8 |
| U169 | Benzene, nitro- (I,T) | 98-95-3 |
| U183 | Benzene, pentachloro- | 608-93-5 |
| U185 | Benzene, pentachloronitro- | 82-68-8 |
| U020 | Benzenesulfonic acid chloride (C,R) | 98-09-9 |
| U020 | Benzenesulfonyl chloride (C,R) | 98-09-9 |
| U207 | Benzene, 1,2,4,5-tetrachloro- | 95-94-3 |
| U061 | Benzene),1,1'-(2,2,2-tri-chloroethylidene)bis(4-chloro- | 50-29-3 |
| U247 | Benzene), 1,1'-(2,2,2-tri-chloroethylidene)(4-methoxy- | 72-43-5 |
| U023 | Benzene, (trichloromethyl)- (C,R,T) | 98-07-7 |
| U234 | Benzene, 1,3,5-trinitro- (R,T) | 99-35-4 |
| U021 | Benzidine | 92-87-5 |
| U202 | 1,2-Benzisothiazilin-3-one,1, 1-dioxide, and salts | 81-07-2 |
| U202 | 1,2-Benzisothiazol-3-(2H)-one, 1,1-dioxide and salts | 81-07-02 |
| U203 | 1,3-Benzodioxole, 5-(2-propenyl)- | 94-59-7 |
| U141 | 1,3-Benzodioxole, 5-(1-propenyl)- | 120-58-1 |
| U090 | 1,3-Benzodioxole, 5-propyl- | 94-58-6 |
| [U120 | Benzo(j,k)fluorene] | |
| U064 | Benzo(rst)pentaphene | 189-55-9 |
| U022 | Benzo(a)pyrene | 50-32-8 |
| [U022 | 3,4-Benzopyrene] | |
| U197 | p-Benzoquinone | 106-51-4 |
| U023 | Benzotrichloride (C,R,T) | 98-07-7 |
| [U050 | 1,2-Benzphenanthrene] | |
| U085 | 2,2'-Bioxirane (I,T) | 1464-53-5 |
| U021 | (1,1-Biphenyl)-4,4'-diamine | 92-87-5 |
| U073 | (1,1'-Biphenyl)-4,4'-diamine, 3,3'-dichloro- | 91-94-1 |
| U091 | (1,1'-Biphenyl)-4,4'-diamine, 3,3',dimethoxy- | 119-90-4 |
| U095 | (1,1'-Biphenyl)-4,4'-diamine, 3,3',dimethyl- | 119-93-7 |
| [U024 | Bis(2-chloroethoxy) methane] | |
| U027 | Bis(2-chloroisopropyl) ether | 39638-32-9 |
| U024 | Bis(2-chloromethoxy) ethane | 111-91-1 |
| [U244 | Bis(dimethylthiocarbamoyl) disulfide] | |
| U028 | Bis(2-ethyhexyl) phthalate | 117-81-7 |
| [U246 | Bromine cyanide] | |
| U225 | Bromoform | 75-25-2 |
| U030 | 4-Bromophenyl phenyl ether | 101-55-3 |
| U128 | 1,3-Butadiene,1,1,2,3,4,4-hexachloro- | 87-68-3 |
| U172 | 1-Butanamine, N.-butyl-N-nitroso | 924-16-3 |
| U035 | Butanoic acid, 4-(Bis(2-chloroethyl)amino benzene- | 305-03-3 |
| U031 | 1-Butanol (I) | 71-36-3 |
| U159 | 2-Butanone (I,T) | 78-93-3 |
| U160 | 2-Butanone peroxide (R,T) | 1338-23-4 |
| U053 | 2-Butenal | 4170-30-3 |
| U074 | 2-Butene,1,4-dichloro- (I,T) | 764-41-0 |
| U143 | 2-Butenoic acid, 2-methyl-,7-((2,3-dihydroxy-2-(1-methoxy-ethyl)-3-methyl-1-oxobutoxy) methyl)-2,3,5,7a-tetrahydro-1-pyrrolizin-1-yl ester, (1S-(1alpha(Z),7(2S,3R),7aalpha))- | 303-34-4 |
| U031 | n-Butyl alcohol (I) | 71-36-3 |
| U136 | Cacodylic acid | 75-60-5 |
| U032 | Calcium chromate | 13765-19-0 |
| U238 | Carbamic acid, ethyl ester | 51-79-6 |
| U178 | Carbamic acid, methylnitroso-, ethyl ester | 615-53-2 |
| U097 | Carbamic chloride, dimethyl- | 79-44-7 |
| [U176 | Carbamide, N-ethyl-N-nitroso- | |
| U177 | Carbamide, N-methyl-N-nitroso- | |
| U219 | Carbamide, thio-] | |
| U114 | Carbamodithioic acid, 1,2-ethanediylbis-, salts and esters | 111-54-6 |
| U062 | Carbamothioic acid, bis(1-methylethyl)-S-(2,3-dichloro-2-propenyl) ester | 2303-16-4 |
| [U097 | Carbamoyl chloride, dimethyl-] | |
| U215 | Carbonic acid, dithallium (1+) [(I)] salt | 6533-73-9 |
| U033 | Carbonic difluoride | 353-50-4 |
| U156 | Carbonochloridic acid, methyl ester (I,T) | 79-22-1 |
| U033 | Carbon oxyfluoride (R,T) | 353-50-4 |
| U211 | Carbon tetrachloride | 56-23-5 |
| [U033 | Carbonyl fluoride (R,T)] | |
| U034 | Chloral | 75-87-6 |
| U035 | Chlorambucil | 305-03-3 |
| U036 | Chlordane[, technical] | 12789-03-6 |
| U026 | Chlornaphazine | 494-03-1 |
| U037 | Chlorobenzene | 108-90-7 |
| U039 | p[4]-Chloro-m-cresol | 59-50-7 |
| U041 | 1-Chloro-2,3-epoxypropane | 106-89-8 |
| U042 | 2-Chlorethyl vinyl ether | 110-75-8 |
| U044 | Chloroform | 67-66-3 |
| U046 | Chloromethyl methyl ether | 107-30-2 |
| U047 | beta-Chloronaphthalene | 91-58-7 |
| U048 | o-Chlorophenol | 95-57-8 |
| U049 | 4-Chloro-o-toluidine, hydro-chloride | 3165-93-3 |
| U032 | Chromic acid, calcium salt | 13765-19-0 |
| U050 | Chrysene | 218-01-9 |
| U051 | Creosote | 8021-39-4 |
| U052 | Cresols (Cresylic acid) | 1319-77-3 |
| [U052 | Cresylic acid] | |
| U053 | Crotonaldehyde | 4170-30-3 |
| U055 | Cumene (I) | 98-82-8 |
| U246 | Cyanogen bromide | 506-68-3 |
| U197 | 2,5-Cyclohexadiene-1,4-dione | 106-51-4 |
| [U197 | 1,4-Cyclohexadienedione] | |
| U056 | Cyclohexane (I) | 110-82-7 |
| U057 | Cyclohexanone (I) | 108-94-1 |
| U130 | 1,3-Cyclopentadiene,1,2,3,4,5, 5-hexachloro- | 77-47-4 |
| U058 | Cyclophosphamide | 50-18-0 |
| U240 | 2,4-D, salts and esters | 94-75-7 |
| U059 | Daunomycin | 20830-81-3 |

| | | |
|---|---|---|
| U060 | DDD | 72-54-8 |
| U061 | DDT | 50-29-3 |
| [U142 | Decachlorooctahydro-1,3,4-metheno-2H-cyclobuta (c,d)-pentalen-2-one] | |
| U062 | Diallate | 2303-16-4 |
| [U133 | Diamine (R,T) | |
| U221 | Diaminotoluene] | |
| U063 | Dibenz(a,h) anthracene | 53-70-3 |
| [U063 | 1,2:5,6-Dibenzanthracene | |
| U064 | 1,2:7,8-Dibenzopyrene] | |
| U064 | Dibenzo(a,i) pyrene | 189-55-9 |
| U066 | 1,2-Dibromo-3-chloropropane | 96-12-8 |
| U069 | Dibutyl phthalate | 84-74-2 |
| [U062 | S-(2,3-Dichloroallyl) diisopropyl-thiocarbamate] | |
| U070 | o-Dichlorobenzene | 95-50-1 |
| U071 | m-Dichlorobenzene | 541-73-1 |
| U072 | p-Dichlorobenzene | 106-46-7 |
| U073 | 3,3'-Dichlorobenzidine | 91-94-1 |
| U074 | 1,4-Dichloro-2-butene (I,T) | 764-41-0 |
| U075 | Dichlorodifluoromethane | 75-71-8 |
| [U192 | 3,5-Dichloro-N-(1,1-dimethyl-2-propynyl) benzamide | |
| U060 | Dichloro diphenyl dichloroethane | |
| U061 | Dichloro diphenyl trichloroethane] | |
| U078 | 1,1-Dichloroethylene | 75-35-4 |
| U079 | 1,2-Dichloroethylene | 156-60-5 |
| U025 | Dichloroethyl ether | 111-44-4 |
| U081 | 2,4-Dichlorophenol | 120-83-2 |
| U082 | 2,6-Dichlorophenol | 87-65-0 |
| U240 | 2,4-Dichlorophenoxyacetic acid, salts and esters | 94-75-7 |
| U083 | 1,2-Dichloropropane | 78-87-5 |
| U084 | 1,3-Dichloropropene | 542-75-6 |
| U085 | 1,2:3,4-Diepoxybutane (I,T) | 1464-53-5 |
| [U108 | 1,4-Diethylene dioxide] | |
| U108 | 1,4-Diethyleneoxide | 123-91-1 |
| U086 | N, N-Diethylhydrazine | 1615-80-1 |
| U087 | O, O-Diethyl-S-methyl-dithio-phosphate | 3288-58-2 |
| U088 | Diethyl phthalate | 84-66-2 |
| U089 | Diethylstilbestrol | 56-53-1 |
| [U148 | 1,2-Dihydro-3,6-pyradizinedione] | |
| U090 | Dihydrosafrole | 94-58-6 |
| U091 | 3,3'-Dimethoxybenzidine | 119-90-4 |
| U092 | Dimethylamine (I) | 124-40-3 |
| U093 | Dimethylaminoazobenzene | 60-11-7 |
| U094 | 7,12-Dimethylbenz(a)anthracene | 57-97-6 |
| U095 | 3,3'-Dimethylbenzidine | 119-93-7 |
| U096 | alpha, alpha-Dimethylbenzyl-hydroperoxide (R) | 80-15-9 |
| U097 | Dimethylcarbamoyl chloride | 79-44-7 |
| U098 | 1,1-Dimethythydrazine | 57-14-7 |
| U099 | 1,2-Dimethylhydrazine | 540-73-8 |
| U101 | 2,4-Dimethylphenol | 105-67-9 |
| U102 | Dimethyl phthalate | 131-11-3 |
| U103 | Dimethyl sulfate | 77-78-1 |
| U105 | 2,4-Dinitrotoluene | 121-14-2 |
| U106 | 2,6-Dinitrotoluene | 606-20-2 |
| U107 | Di-n-octyl phthalate | 117-84-0 |
| U108 | 1,4-Dioxane | 123-91-1 |
| U109 | 1,2-Diphenylhydrazine | 122-66-7 |
| U110 | Dipropylamine (I) | 142-84-7 |
| U111 | Di-n[N]-propylnitrosamine | 621-64-7 |
| U001 | Ethanal (I) | 75-07-0 |
| U174 | Ethanamine, N-ethyl-N-nitroso- | 55-18-5 |
| U155 | 1,2-Ethanediamine, N,N-dimethyl-N'-2-pyridinyl-N'-(2-thienylmethyl)- | 91-80-5 |
| U067 | Ethane, 1,2-dibromo- | 106-93-4 |
| U076 | Ethane, 1,1-dichloro- | 75-34-3 |
| U077 | Ethane, 1,2-dichloro- | 107-06-2 |
| [U114 | 1,2-Ethanediylbiscarbamodithioic acid] | |
| U131 | Ethane, [1,1,1,2,2,2-] hexachloro- | 67-72-1 |
| U024 | Ethane, 1,1'-(methylenebis (oxy))bis(2-chloro-) | 111-91-1 |
| [U003 | Ethanenitrile (I,T)] | |
| U117 | Ethane, 1,1'-oxybis- (I) | 60-29-7 |
| U025 | Ethane, 1,1'-oxybis(2-chloro-) | 111-44-4 |
| U184 | Ethane, pentachloro- | 76-01-7 |
| U208 | Ethane, 1,1,1,2-tetrachloro- | 630-20-6 |
| U209 | Ethane, 1,1,2,2-tetrachloro- | 79-34-5 |
| U218 | Ethanethioamide | 62-55-5 |
| [U227 | Ethane, 1,1,2-trichloro-] | |
| [U247 | Ethane,1,1,1,-trichloro-2,2-bis(p-methoxyphenyl)] | |
| U227 | Ethanol, 2-ethoxy- | 110-80-5 |
| U359 | Ethane, 1,1,2-trichloro- | 79-00-5 |
| U173 | Ethanol, 2,2'-(nitrosoimino) bis- | 1116-54-7 |
| U004 | Ethanone, 1-phenyl | 98-86-2 |
| [U006 | Ethanoyl chloride (C,R,T)] | |
| U043 | Ethene, chloro- | 75-01-4 |
| U042 | Ethene, 2-chlorethoxy- | 110-75-8 |
| U078 | Ethene, 1,1-di[s]chloro | 75-35-4 |
| U079 | Ethene, 1,2-dichloro- (E) | 156-60-5 |
| [U079 | Ethene, trans-1,2-dichloro- | |
| U210 | Ethene, 1,1,2,2-tetrachloro-] | |
| U210 | Ethene, tetrachloro | 127-18-4 |
| U228 | Ethene, trichloro | 79-01-6 |
| U112 | Ethyl acetate (I) | 141-78-6 |
| U113 | Ethyl acrylate (I) | 140-88-5 |
| U238 | Ethyl carbamate [(urethane)] | 51-79-6 |
| U038 | Ethyl 4,4'-dichlorobenzilate | 510-15-6 |
| U114 | Ethylenebis (dithiocarbamic acid), salts and esters | 111-54-6 |
| U067 | Ethylene dibromide | 106-93-4 |
| U077 | Ethylene dichloride | 107-06-2 |
| U359 | Ethylene glycol monoethyl ether | 110-80-5 |
| U115 | Ethylene oxide [(I,T)] | 75-21-8 |
| U116 | Ethylene thiourea | 96-45-7 |
| U117 | Ethyl ether (I) | 60-29-7 |
| U076 | Ethylidene dichloride | 75-34-3 |
| U118 | Ethylmethacrylate | 97-63-2 |
| U119 | Ethyl methanesulfonate | 62-50-0 |
| [U139 | Ferric dextran] | |
| U120 | Fluoranthene | 206-44-0 |
| U122 | Formaldehyde | 50-00-0 |
| U123 | Formic acid (C,T) | 64-18-6 |
| U124 | Furan (I) | 110-00-9 |
| U125 | 2-Furancarboxaldehyde (I) | 98-01-1 |
| U147 | 2,5-Furandione | 108-31-6 |
| U213 | Furan, tetrahydro- (I) | 109-99-9 |
| U125 | Furfural (I) | 98-01-1 |
| U124 | Furfuran (I) | 110-00-9 |
| U206 | D-Glucopyranose, 2-deoxy-2(3-methyl-3-nitrosoureido)- | 18883-66-4 |
| U126 | Glycidylaldehyde | 765-34-4 |
| U163 | Guanidine, N-nitroso-N-methyl-N'-nitro- | 70-25-7 |
| U127 | Hexachlorobenzene | 118-74-1 |
| U128 | Hexachlorobutadiene | 87-68-3 |
| U129 | Hexachlorocyclohexane (gamma isomer) | 58-88-9 |
| U130 | Hexachlorocyclopentadiene | 77-47-4 |
| U131 | Hexachloroethane | 67-72-1 |
| U132 | Hexachlorphene | 70-30-4 |
| U243 | Hexachloropropene | 1888-71-7 |
| U133 | Hydrazine (R,T) | 302-01-2 |
| U086 | Hydrazine,1,2-diethyl | 1615-80-1 |
| U098 | Hydrazine,1,1-dimethyl- | 57-14-7 |
| U099 | Hydrazine,1,2-dimethyl | 540-73-8 |
| U109 | Hydrazine,1,2-diphenyl | 122-66-7 |
| U134 | Hydrofluoric acid (C,T) | 7664-39-3 |
| U134 | Hydrogen fluoride (C,T) | 7664-39-3 |
| U135 | Hydrogen sulfide | 7783-06-4 |
| U096 | Hydroperoxide, 1-methyl-1-phenylethyl (R) | 80-15-9 |

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|---|---|---|
| U136 | Hydroxydimethylarsine oxide | 75-60-5 |
| U116 | 2-Imidazolidinethione | 96-45-7 |
| U137 | Indeno(1,2,3[-]cd) pyrene | 193-39-5 |
| U139 | Iron dextran | 9004-66-4 |
| U190 | 1,3-Isobenzofurandione | 85-44-9 |
| U140 | Isobutyl alcohol (I,T) | 78-83-1 |
| U141 | Isosafrole | 120-58-1 |
| U142 | Kepone | 143-50-0 |
| U143 | Lasiocarpine | 303-34-4 |
| U144 | Lead acetate | 301-04-2 |
| U146 | Lead, bis(acetato-O-)tetra-hydroxytri- | 1335-32-6 |
| U145 | Lead phosphate | 7446-27-7 |
| U146 | Lead subacetate | 1335-32-6 |
| U129 | Lindane | 58-89-9 |
| U147 | Maleic anhydride | 108-31-6 |
| U148 | Maleic hydrazide | 123-33-1 |
| U149 | Malononitrile | 109-77-3 |
| U150 | Melphalan | 148-82-3 |
| U151 | Mercury | 7439-97-6 |
| U152 | Methacrylonitrile (I,T) | 126-98-7 |
| U092 | Methanamine, N-methyl- (I) | 124-40-3 |
| U029 | Methane, bromo- | 74-83-9 |
| U045 | Methane, chloro- (I,T) | 74-87-3 |
| U046 | Methane, chloromethoxy- | 107-30-2 |
| U068 | Methane, dibromo- | 74-95-3 |
| U080 | Methane, dichloro- | 75-09-2 |
| U075 | Methane, dichlorodifluoro- | 75-71-8 |
| U138 | Methane, iodo- | 74-88-4 |
| U119 | Methanesulfonic acid, ethyl ester | 62-50-0 |
| U211 | Methane, tetrachloro- | 56-23-5 |
| [U121 | Methane, trichlorofluoro-] | |
| U153 | Methanethiol (I,T) | 74-93-1 |
| U225 | Methane, tribromo- | 75-25-2 |
| U044 | Methane, trichloro- | 67-66-3 |
| U121 | Methane, trichlorofluoro- | 75-69-4 |
| [U121 | Methane, trichlorofluoro-] | |
| U123 | Methanoic acid (C,T) | 64-18-6 |
| [U036 | 4,7-Methanoindan,1,2,4,5,6,7,8,8-octachloro-3a,4,7,7a-tetahydro-] | |
| U154 | Methanol (I) | 67-56-1 |
| U155 | Methapyrilene | 91-80-5 |
| U142 | 1,3,4-Metheno-2H,cyclobuta (cd)pentalen-2-one, 1,1a,3, 3a,4,5,5,5a,5b,6-decachloro-octahydro- | 143-50-0 |
| U247 | Methoxychlor | 72-43-5 |
| U154 | Methyl alcohol (I) | 67-56-1 |
| U029 | Methyl bromide | 74-83-9 |
| U186 | 1-Methylbutadiene (I) | 504-60-9 |
| U045 | Methyl chloride (I,T) | 74-87-3 |
| U156 | Methyl chlorocarbonate (I,T) | 79-22-1 |
| U226 | Methylchloroform | 71-55-6 |
| U157 | 3-Methylcholanthrene | 56-49-5 |
| U158 | 4,4'-Methylenebis (2-chloro-aniline) | 101-14-4 |
| [U132 | 2,2'-Methylenebis (3,4,6-trichloro-phenol)] | |
| U068 | Methylene bromide | 74-95-3 |
| U080 | Methylene chloride | 75-09-2 |
| [U122 | Methylene oxide] | |
| U159 | Methyl ethyl ketone (MEK) (I,T) | 78-93-3 |
| U160 | Methyl ethyl ketone peroxide (R,T) | 1338-23-4 |
| U138 | Methyl iodide | 74-88-4 |
| U161 | Methyl isobutyl ketone (I) | 108-10-1 |
| U162 | Methyl methacrylate (I,T) | 80-62-6 |
| U163 | N-Methyl-N'-nitro-N-nitro-soguanidine | 70-25-7 |
| U161 | 4-Methyl-2-pentanone (I) | 108-10-1 |
| U164 | Methylthiouracil | 56-04-2 |
| U010 | Mitomycin C | 50-07-7 |
| U059 | 5,12-Naphthacenedione, (8S-cis)-8-acetyl-10-((3-amino-2,3,6-trideoxy)-alpha-L-lyxo-hexopyranosyl)oxyl)-7,8, 9,10,tetrahydro-6,8,11-tri-hydroxy-1-methoxy- | 20830-81-3 |
| U165 | Naphthalene | 91-20-3 |
| U047 | Naphthalene, 2-chloro- | 91-58-7 |
| U166 | 1,4-Naphthalenedione | 130-15-4 |
| U236 | 2,7-Naphthalenedisulfonic acid, 3,3'-((3,3'-dimethyl-(1,1'-biphenyl)-4,4'diyl)) bis(azo)bis(5)-amino-4-hydroxy),-tetrasodium salt | 72-57-1 |
| U166 | 1,4,Naphthoquinone | 130-15-4 |
| U167 | alpha-Naphthylamine | 134-32-7 |
| U168 | beta-Naphthylamine | 91-59-8 |
| U026 | 2-Naphthylamine,N,N[']-bis(2-chloro[m]ethyl)- | 494-03-1 |
| U167 | 1-Naphthylenamine | 134-32-7 |
| U168 | 2-Naphthylenamine | 91-59-8 |
| U217 | Nitric acid, thallium(1+) salt | 10102-45-1 |
| U169 | Nitrobenzene (I,T) | 98-95-3 |
| U170 | p-Nitrobenzene | 100-02-7 |
| U171 | 2-Nitropropane (I,T) | 79-46-9 |
| U172 | N-Nitrosodi-n-butylamine | 924-16-3 |
| U173 | N-Nitrosodiethanolamine | 1116-54-7 |
| U174 | N-Nitrosodiethylamine | 55-18-5 |
| U111 | N-Nitrosodi-n[N]-propylamine | 621-64-7 |
| U176 | N-Nitroso-N-ethylurea | 759-73-9 |
| U177 | N-Nitroso-N-methylurea | 684-93-5 |
| U178 | N-Nitroso-N-methylurethane | 615-53-2 |
| U179 | N-Nitrosopiperidine | 100-75-4 |
| U180 | N-Nitrosopyrrolidine | 930-55-2 |
| U181 | 5-Nitro-o-toluidine | 99-55-8 |
| U193 | 1,2-Oxathiolane,2,2-dioxide | 1120-71-4 |
| U058 | 2H-1,3,2-Oxazaphosphorine-2-amine,N,N-bis(2-chloroethyl) tetrahydro-, 2-oxide | 50-18-0 |
| U058 | 2H-1,3,2-Oxazaphosphorine,2-(bis(2-chloroethyl)amino)-tetrahydro-, [oxide] 2-oxide | 50-18-0 |
| U115 | Oxirane (I,T) | 75-21-8 |
| U126 | Oxiranecarboxyaldehyde | 765-34-4 |
| U041 | Oxirane,[2-](chloromethyl)- | 106-89-8 |
| U182 | Paraldehyde | 123-63-7 |
| U183 | Pentachlorobenzene | 608-93-5 |
| U184 | Pentachloroethane | 76-01-7 |
| U185 | Pentachloronitrobenzene | 82-68-8 |
| U242 | Pentachlorophenol | 87-86-5 |
| [See F027] | | |
| U186 | 1,3-Pentadiene (I) | 504-60-9 |
| U187 | Phenacetin | 62-44-2 |
| U188 | Phenol | 108-95-2 |
| U048 | Phenol,2-chloro- | 95-57-8 |
| U039 | Phenol,4-chloro-3-methyl- | 59-50-7 |
| U081 | Phenol,2,4-dichloro- | 120-83-2 |
| U082 | Phenol,2,6-dichloro- | 87-65-0 |
| U089 | Phenol,4,4'-(1,2-diethyl-1,2-ethenediyl)bis-,(E)- | 56-53-1 |
| U101 | Phenol,2,4-dimethyl- | 105-67-9 |
| U052 | Phenol, methyl- | 1319-77-3 |
| U132 | Phenol,2,2'-methylenebis (3,4,6-trichloro- | 70-30-4 |
| U170 | Phenol,4-nitro- | 100-02-7 |
| U242 | Phenol, pentachloro- | 87-86-5 |
| [See F027] | | |
| U212 | Phenol,2,3,4,6-tetrachloro- | 58-90-2 |
| [See F027] | | |
| U230 | Phenol,2,4,5-trichloro- | 95-94-4 |
| [See F027] | | |
| U231 | Phenol,2,4,6-trichloro | 88-06-2 |
| [See F027] | | |
| U150 | L-phenylalanine, 4-(bis(2-chloroethyl)amino)- | 148-82-3 |

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|---|---|---|
| U137 | 1,10-(1,2-phenylene) pyrene | 193-39-5 |
| U145 | Phosphoric acid, Lead salt | 7446-27-7 |
| U087 | Phosphorodithioic acid,0,0-diethyl-,S-methylester | 3288-58-2 |
| U189 | Phosphorus sulfide [(R)] | 1314-80-3 |
| U190 | Phthalic anhydride | 85-44-9 |
| U191 | 2-Picoline | 109-06-8 |
| U179 | Piperidine, 1-nitroso- | 100-75-4 |
| U192 | Pronamide | 23950-58-5 |
| U194 | 1-Propanamine, (I,T) | 107-10-8 |
| U111 | 1-Propanamine, N-nitroso-N-propyl- | 621-64-7 |
| U110 | 1-Propanamine, N-propyl- (I) | 142-84-7 |
| U066 | Propane, 1,2-dibromo-3-chloro- | 96-12-8 |
| U149 | Propanedinitrile | 109-77-3 |
| U171 | Propane, 2-nitro- (I,T) | 79-46-9 |
| U027 | Propane,2,2'oxybis (2-chloro-) | 39638-32-9 |
| U193 | 1,3-Propane sultone | 1120-71-4 |
| U235 | 1-Propanol,2,3-dibromo-, phosphate (3:1) | 126-72-7 |
| [U126 | 1-Propanol,2,3-epoxy] | |
| U140 | 1-Propanol, 2-methyl- (I,T) | 78-83-1 |
| U002 | 2-Propanone (I) | 67-64-1 |
| U084 | 1-Propane, 1,3-dichloro- | 542-75-6 |
| U152 | 2-Propanenitrile, 2-methyl- (I,T) | 126-98-7 |
| U007 | 2-Propenamide | 79-06-1 |
| [U084 | Propene,1,3-dichloro-] | |
| U243 | 1-Propene, hexachloro | 1888-71-7 |
| [U243 | 1-Propene,1,1,2,3,3,3-hexachloro-] | |
| U009 | 2-Propenenitrile | 107-13-1 |
| [U152 | 2-Propenenitrile, 2-methyl- (I,T)] | |
| U008 | 2-Propenoic acid (I) | 79-10-7 |
| U113 | 2-Propenoic acid, ethyl ester (I) | 140-88-5 |
| U118 | 2-Propenoic acid, 2-methyl-, ethyl ester | 97-63-2 |
| U162 | 2-Propenoic acid, 2-methyl, methyl ester (I,T) | 80-66-2 |
| U233 | Propionic acid, 2-(2,4,5,-trichlorophenoxy)- | 93-72-1 |
| [See F027] | | |
| U194 | n-Propylamine (I,T) | 107-10-8 |
| U083 | Propylene dichloride | 78-87-5 |
| U148 | 3,6-Pyridazinedione,1,2-dihydro- | 123-33-1 |
| U196 | Pyridine | 110-86-1 |
| U155 | Pyridine, 2-((2-[(]dimethyl-amino)ethyl)-2-p[t]henyl-amino[])- | 91-80-5 |
| [U179 | Pyridine, hexahydro-N-nitroso-] | |
| U191 | Pyridine, 2-methyl | 109-06-8 |
| U237 | 2,4(1H,3H)-Pyrimidinedione, 5-(bis(2-chloroethyl)amino)- | 66-75-1 |
| U164 | 4(1H)-Pyrimidinone,2,3-dihydro-6-methyl-2-thioxo- | 56-04-2 |
| [U180 | Pyrrole, tetrahydro-N-nitroso] | |
| U180 | Pyrrolidine, 1-nitroso- | 930-55-2 |
| U200 | Reserpine | 50-55-5 |
| U201 | Resorcinol | 108-46-3 |
| U202 | Saccharin and salts | 81-07-2 |
| U203 | Safrole | 94-59-7 |
| U204 | Selenious acid | 7783-00-8 |
| U204 | Selenium dioxide | 7783-00-8 |
| [U205 | Selenium disulfide (R,T)] | |
| U205 | Selenium sulfide (R,T) | 7446-34-6 |
| U015 | L-Serine, diazoacetate (ester) | 115-02-6 |
| U223 | Silvex | 93-72-1 |
| [See F027] | | |
| [U089 | 4,4'-Stilbenediol,alpha, alpha'-diethyl-] | |
| U206 | Streptozotocin | 18883-66-4 |
| [U135 | Sulfur hydride] | |
| U103 | Sulfuric acid, dimethyl ester | 77-78-1 |
| U189 | Sulfur phosphide (R) | 1314-80-3 |
| [U205 | Sulfur selenide (R,T)] | |
| U232 | 2,4,5-T | 93-76-5 |
| [See F027] | | |
| U207 | 1,2,4,5,-Tetrachlorobenzene | 95-94-3 |
| U208 | 1,1,1,2-Tetrachloroethane | 630-20-6 |
| U209 | 1,1,2,2-Tetrachloroethane | 79-34-5 |
| U210 | Tetrachloroethylene | 127-18-4 |
| U212 | 2,3,4,6-Tetrachlorophenol | 58-90-2 |
| [See F027] | | |
| U213 | Tetrahydrofuran (I) | 109-99-9 |
| U214 | Thallium (I) acetate | 15843-14-8 |
| U215 | Thallium (I) carbonate | 6533-73-9 |
| U216 | Thallium (I) chloride | 7791-12-0 |
| U217 | Thallium (I) nitrate | 10102-45-1 |
| U218 | Thioacetamide | 62-55-5 |
| U153 | Thiomethanol (I,T) | 74-93-1 |
| U244 | Thioperoxydicarbonic diamide, tetramethyl- | 137-26-8 |
| U219 | Thiourea | 62-56-6 |
| U244 | Thiuram | 137-26-8 |
| U220 | Toluene | 108-88-3 |
| U221 | Toluenediamine | 25376-45-8 |
| U223 | Toluene diisocyantate (R,T) | 26471-62-5 |
| U328 | o-Toluidine | 95-53-4 |
| U353 | p-Toluidine | 106-49-0 |
| U222 | o-Toluidine hydrochloride | 636-21-5 |
| U011 | 1H-1,2,4-Triazol-3-amine | 61-82-5 |
| U232 | 2,4,5-Trichloroacetic acid, salts and esters | 93-76-5 |
| U226 | 1,1,1-Trichloroethane | 71-55-6 |
| U227 | 1,1,2-Trichloroethane | 79-00-5 |
| [U228 | Trichloroethene] | |
| U228 | Trichloroethylene | 79-01-6 |
| U121 | Trichloromonofluoromethane | 75-69-4 |
| U230 | 2,4,5-Trichlorophenol | 95-95-4 |
| [See F027] | | |
| U231 | 2,4,6-Trichlorophenol | 88-06-2 |
| [See F027] | | |
| U232 | 2,4,5-Trichlorophenoxyacetic acid | |
| [See F027] | | |
| U233 | 2,4,5-Trichlorophenoxypropionic acid, salts and esters | 93-72-1 |
| U234 | sym-Trinitrobenzene (R,T) | 99-35-4 |
| U182 | 1,3,5-Trioxane,2,4,6[5]-trimethyl- | 123-63-7 |
| U235 | Tris(2,3-dibromopropyl) phosphate | 126-72-7 |
| U236 | Trypan blue | 72-57-1 |
| U237 | Uracil, 5-(bis(2-chloro-[m]ethyl) amino) | 66-75-1 |
| U237 | Uracil mustard | 66-75-1 |
| U176 | Urea, N-ethyl-N-nitroso- | 759-73-9 |
| U177 | Urea, N-methyl-N-nitroso- | 684-93-5 |
| U043 | Vinyl chloride | 75-01-4 |
| U248 | Warfarin, when present at concentrations of 0.3% or less | 81-81-2 |
| U239 | Xylene (I) | 1330-20-7 |
| U200 | Yohimban-16-carboxylic acid, 11, 17-dimethoxy-18((3,4,5-trimethoxybenzoyl)oxy)-, methyl ester | 50-55-5 |
| U249 | Zinc phosphide, when present at concentrations of 10% or less | 1314-84-7 |

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at noon.
PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber,

Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: This regulation applies to hazardous waste generators and owners and operators of treatment, storage, and disposal facilities. There are 406 hazardous waste generators, 626 small quantity hazardous waste generators, 519 limited quantity generators, and 66 hazardous waste treatment, storage or disposal facilities in Kentucky.

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

1. First year: The majority of the amendments to this regulation are for informational purposes only. The amendments to this regulation add new information to the lists and revise current information contained in the lists. These amendments will not result in a cost to the regulated industry. However, the regulated community will realize a savings due to the informational amendments made to the list of hazardous wastes. The majority of the amendments made to this regulation involve the addition of CAS Registry Numbers for each waste. The CAS registry system numbers will allow the regulated community to quickly access detailed chemical information on each specific waste and should eliminate confusion as to which listing is correct. Since numerous chemical nomenclature systems are employed to identify specific chemicals, the inclusion of the CAS registry numbers will enhance the regulated community's ability to identify their waste streams correctly and provide access to a wealth of health and safety information under the CAS registry system. The promulgating agency is unaware of any regulated entitity affected by the addition of new waste streams to the list of hazardous waste. Any companies generating these new waste streams would experience substantial costs to comply with existing hazardous waste standards located in other hazardous waste management regulations. However, the savings and liability for improper or careless disposal of these wastes would also be significant. The federal regulatory impact analysis concerning the new waste streams generated during the production of ethylene bromide indicates that only four facilities are affected nationwide; none of these are in Kentucky. An unknown number of Kentucky generators may be affected by the inclusion of four new substances in the spent solvent listings. The clarification to the K062 waste listing (spent pickle liquor from the iron and steel industry) may result in a substantial savings to the regulated community since the clarifications explicitly remove the applicability to all noniron and steel facilities for listing their wastes as K062. For Kentucky companies not in the steel and iron industry that protectively filed as generators of K062 (i.e., porcelinizing companies) the savings will be substantial. The inclusion of waste streams from the production of ethylenebisdithiocarbamic acid will not affect any companies in Kentucky to the knowledge of the promulgating agency.

2. Continuing costs or savings: None. See note in item (1)(a)1.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None. See note in item (1)(a)1.

(b) Reporting and paperwork requirements: No reporting or paperwork requirements are found in this regulation.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. The majority of the changes made to this regulation involved the inclusion of CAS registry system numbers for each waste. Although no cost to the promulgating agency will result from inclusion of these CAS registry numbers, a substantial savings will be realized by the promulgating agency. Because numerous chemical nomenclature systems are used to identify listed hazardous wastes, the use of CAS registry numbers to cross-reference listed wastes with highly specific chemical data will reduce the staff time needed to research specific wastestreams. It will enhance the promulgating agencies' ability to enforce the regulations since each listed waste will be clearly and completely identified under the CAS registry system.

2. Continuing costs or savings: None. See note in item (2)(a)1.

3. Additional factors increasing or decreasing costs: None. See note in item (2)(a)1.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The amendment to this regulation add new information to the lists and revise current information contained in the lists of hazardous wastes. The amendments serve to make the lists more uniform, add new waste streams to the list of hazardous wastes, and clarify the listing of one waste stream.

Alternative. 1. Less stringent. The cabinet's list and criteria for identifying hazardous wastes must be identical to the federal list and criteria in accordance with KRS 224.864(3). Kentucky could not have been less stringent on this requirement and still have maintained authorization to administer the RCRA hazardous waste program. To have adopted less stringent provisions would have afforded Kentucky's public health and environment less protection than that provided by the national program.

2. More stringent. The cabinet's list and criteria for identifying hazardous wastes must be identical to the federal list and criteria in accordance with KRS 224.864(3). Thus the cabinet could not have chosen to be more stringent since it is prohibited by law.

3. Present proposal. The present proposal revises the lists of hazardous wastes in an attempt to make the lists uniform and adds new waste streams to the list to maintain compliance with the statutory mandate in KRS 224.864(3).

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

(a) Necessity of proposed regulation if in

conflict: Not applicable.

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. The regulation applies only to hazardous waste generators and owners and operators of treatment, storage, and disposal facilities.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 261.30, 261.31, 261.32, and 261.33 promulgated on February 13, 1986 (51 FR 5327-5331), February 25, 1986 (51 FR 6537-6542), March 24, 1986 (51 FR 10146-10176), May 28, 1986 (51 FR 19320-19322), August 6, 1986 (51 FR 28296-28310), September 22, 1986 (51 FR 33612), October 24, 1986 (51 FR 37725-37729), November 7, 1986 (51 FR 40572-40654) and June 5, 1987 (52 FR 21306-21307). Also, one technical correction has been made which corrects the reference to "small quantity" exclusion to read "limited quantity" exclusion.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments adopt requirements which are identical to those standards adopted by the U.S. Environmental Protection Agency on February 13, 1986, February 25, 1986, March 24, 1986, May 28, 1986, August 6, 1986, September 22, 1986, October 24, 1986, November 7, 1986 and June 5, 1987. In addition one technical correction was made (not based on federal regulations) which corrects the reference to "small quantity" exclusion to read "limited quantity" exclusion.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations. One technical correction was made to this regulation to improve the clarity and consistency of the waste management regulations in 401 KAR Chapters 30 through 40.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 31:060. Rule-making petitions for hazardous waste.**

RELATES TO: KRS 224.033, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.864(3)

NECESSITY AND FUNCTION: KRS 224.864(3) requires the cabinet to identify the characteristics of and to list hazardous wastes. This chapter identifies and lists hazardous wastes. This regulation establishes the procedures <u>to add a testing or analytical method to 401 KAR Chapters 31, 34, 35, 37 or</u> to exclude a waste at a particular site or facility from Section 3 of 401 KAR 31:010 or the lists of hazardous wastes in 401 KAR 31:040.

Section 1. General Procedures. (1) This regulation sets forth requirements for petitions <u>to add a testing or analytical method to 401 KAR Chapters 31, 34, 35, 37 or</u> to exclude a waste at a particular facility from Section 3 of 401 KAR 31:010 or the lists of hazardous wastes in 401 KAR 31:040.

(2) Each petition must be submitted to the cabinet by certified mail and must include:

(a) The petitioner's name and address;

(b) A statement of the petitioner's interest in the proposed action;

(c) A description of the proposed action, including (where appropriate) suggested regulatory language;

(d) A statement of the need and justification for the proposed action, including any supporting tests, studies, or other information; and

(e) A check payable to the Kentucky State Treasurer in the amount required by 401 KAR Chapter 39.

(3) The cabinet will make a tentative decision to grant or deny a petition. If the tentative decision is to deny, the cabinet will notify the petitioner. If the tentative decision is to grant the petition, the cabinet will propose an amendment to 401 KAR 31:070.

(4) Upon the written request of any interested person, the cabinet will hold a public hearing as specified in KRS 13A.270.

(5) After evaluating all public comments the cabinet will either file the proposed amendment with the Legislative Research Commission for adoption or deny the petition.

Section 2. Petitions to Amend 401 KAR Chapter 31 to Exclude a Waste Produced at a Particular Facility. (1) Any person seeking to exclude a waste at a particular generating facility from the lists in 401 KAR 31:040 may petition for an amendment to the regulation under this section and Section 1 of this regulation. To be successful:

(a) The petitioner must demonstrate to the satisfaction of the cabinet that the waste produced by a particular generating facility does not meet any of the criteria under which the waste was listed as a hazardous waste or an acutely hazardous waste; and

(b) Based on a complete application the cabinet must determine, where it has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. A waste which is so excluded, however, still may be a hazardous waste by operation of 401 KAR 31:030.

(2) The procedures in this section and Section 1 of this regulation may also be used to petition the cabinet for a regulatory amendment to exclude from Section 3 of 401 KAR 31:010, a waste which is described in those sections and is either a waste listed in 401 KAR 31:040, contains a waste listed in 401 KAR 31:040, or is

derived from a waste listed in 401 KAR 31:040. This exclusion may only be issued for a particular generating, storage, treatment, or disposal facility. The petitioner must make the same demonstration as required by subsection (1) of this section, except that where the waste is a mixture of solid waste and one (1) or more listed hazardous wastes or is derived from one (1) or more hazardous wastes, his demonstration may be made with respect to each constituent listed waste or the waste mixture as a whole. A waste which is so excluded may still be a hazardous waste in accordance with 401 KAR 31:030.

(3) If the waste is listed with codes "I," "C," "R," or "E" in 401 KAR 31:040,

(a) The petitioner must show that the waste does not exhibit the relevant characteristic for which the waste was listed as defined in Sections 2, 3, 4, or 5 of 401 KAR 31:030 using any applicable methods prescribed therein. The petitioner also must show that the waste does not exhibit any of the other characteristics defined in Sections 2, 3, 4, or 5 of 401 KAR 31:030 using any applicable methods prescribed therein; and

(b) Based on a complete application, the cabinet must determine where it has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. A waste which is so excluded, however, still may be a hazardous waste by operation of 401 KAR 31:030.

(4) If the waste is listed with code "T" in 401 KAR 31:040,

(a) The petitioner must demonstrate that the waste:

1. Does not contain the constituent or constituents (as defined in 401 KAR 31:160) that caused the cabinet to list the waste, using the appropriate test methods prescribed in 401 KAR 31:120; or

2. Although containing one (1) or more of the hazardous constituents (as defined in 401 KAR 31:160) that caused the cabinet to list the waste, does not meet the criterion of Section 2(1)(c) of 401 KAR 31:020 when considering the factors used by the cabinet in Section 2(1)(c)1 through 11 of 401 KAR 31:020 under which the waste was listed as hazardous; and

(b) Based on a complete application, the cabinet must determine, where it has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste;

(c) The petitioner must demonstrate that the characteristics defined in Sections 2, 3, 4 and 5 of 401 KAR 31:030 using any applicable methods prescribed therein; and

(d) A waste which is so excluded, however, still may be a hazardous waste by operation of 401 KAR 31:030.

(5) If the waste is listed with the code "H" in 401 KAR 31:040,

(a) The petitioner must demonstrate that the waste does not meet criterion of subsection (1)(b) of 401 KAR 31:020;

(b) Based on a complete application, the cabinet must determine, where it has a reasonable basis to believe that additional factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste;

(c) The petitioner must demonstrate that the waste does not exhibit any of the characteristics defined in Sections 2, 3, 4 and 5 of 401 KAR 31:030 using any applicable methods prescribed therein; and

(d) A waste which is so excluded, however, still may be a hazardous waste by operation of 401 KAR 31:030.

(6) Demonstration samples must consist of enough representative samples, but in no case less than four (4) samples, taken over a period of time sufficient to represent the variability or the uniformity of the waste.

(7) Each petition must include, in addition to the information required by Section 1(2) of this regulation:

(a) The name and address of the laboratory facility performing the sampling or tests of the waste;

(b) The names and qualifications of the persons sampling and testing the waste;

(c) The dates of sampling and testing;

(d) The location of the generating facility;

(e) A description of the manufacturing processes or other operations and feed materials producing the waste and an assessment of whether such processes, operations, or feed materials can or might produce a waste that is not covered by the demonstration;

(f) A description of the waste and an estimate of the average and maximum monthly and annual quantities of waste covered by the demonstration;

(g) Pertinent data on and discussion of the factors delineated in the respective criterion for listing a hazardous waste, where the demonstration is based on the factors in Section 2(1)(c) of 401 KAR 31:020;

(h) A description of the methodologies and equipment used to obtain the representative samples;

(i) A description of the sample handling and preparation techniques, including techniques used for extraction, containerization and preservation of the samples;

(j) A description of the tests performed (including results);

(k) The names and model numbers of the instruments used in performing the tests; and

(l) The following statement signed by the generator of the waste or his authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this demonstration and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(8) After receiving a petition for an exclusion, the cabinet may request any additional information which the cabinet may reasonably require to evaluate the petition.

(9) An exclusion will only apply to the waste generated at the individual facility covered by the demonstration and will not apply to waste

from any other facility.

(10) The cabinet may exclude only the part of the waste for which the demonstration is submitted where there is reason to believe that variability of the waste justifies a partial exclusion.

Section 3. Requirements for Excluded Wastes. Upon approval by the cabinet of a petition to exclude waste from a particular facility, the excluded waste shall thereby be listed as a solid waste and be subject to the requirements for solid waste disposal in 401 KAR Chapter 47 and the conditions as specified in the approved exclusion.

Section 4. Repeal or Modification of an Exclusion. The cabinet shall repeal or modify an exclusion granted to any generator or petitioner for a waste or to any generator or petitioner for an equivalent testing or analytical method whenever:

(1) The cabinet has obtained information, which was not available at the time the petition for exclusion was granted, which leaves the cabinet to believe that reasonable probability exists that the waste:

(a) Should not have been excluded from regulation in accordance with Section 2 of this regulation;

(b) Should be regulated as a hazardous waste because it contains a hazardous constituent which was listed as a hazardous waste subsequent to approval of a petition to delist the waste at a particular facility; or

(c) Should be regulated as a hazardous waste because new studies or analysis have been performed which indicate the waste meets the definition of a hazardous waste in KRS 224.005.

(2) The cabinet has obtained information, which was not available at the time the petition for an equivalent testing or analytical method was granted, which leaves the cabinet to believe that reasonable probability exists that the equivalent testing or analytical method should not have been approved in accordance with Section 6 of this regulation.

(3) [(2)] The cabinet has obtained information that a petition for an exclusion was incomplete, inaccurate or based on erroneous data or calculations.

(4) [(3)] The cabinet has obtained information from any other agency of state or federal government, including the EPA, that the waste should be regulated as a hazardous waste consistent with the Resource Conservation and Recovery Act (P.L. 94-580), as amended (including P.L. 98-616, the 1984 Hazardous and Solid Waste Amendments), and pursuant to KRS Chapter 224.

(5) The cabinet has obtained information from any other agency of a state or the federal government, including the EPA, that the testing or analytical method is not equal to or superior to the corresponding method prescribed in 401 KAR Chapter 31, 34, 35, or 37 in terms of its sensitivity, accuracy, and precision.

Section 5. Requirements for Approval. In accordance with Section 3 of 401 KAR 30:020, the cabinet shall not approve a petition to exclude a waste at a particular facility unless:

(1) Exclusion of the waste would be consistent with the requirements in KRS 224.864(3);

(2) Petitioning fees have been paid in accordance with 401 KAR 39:020; and

(3) All the requirements of this regulation are satisfied.

Section 6. Petitions for Equivalent Testing or Analytical Methods. (1) Any person seeking to add a testing or analytical method to 401 KAR Chapter 31, 34, 35, or 37 may petition for a regulatory amendment under this section and Section 1 of this regulation. To be successful, the person must demonstrate to the satisfaction of the director that the proposed method is equal to or superior to the corresponding method prescribed in 401 KAR Chapter 31, 34, 35, or 37 in terms of its sensitivity, accuracy, and precision (i.e., reproducibility).

(2) Each petition must include, in addition to the information required by Section 1(2) of this regulation:

(a) A full description of the proposed method, including all procedural steps and equipment used in the method;

(b) A description of the types of wastes or waste matrices for which the proposed method may be used;

(c) Comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods prescribed in 401 KAR Chapter 31, 34, 35, or 37;

(d) An assessment of any factors which may interfere with, or limit the use of, the proposed method; and

(e) A description of the quality control procedures necessary to ensure the sensitivity, accuracy and precision of the proposed method.

(3) After receiving a petition for an equivalent method, the director may request any additional information on the proposed method which he may reasonably require to evaluate the method.

(4) If the director amends the regulations to permit use of a new testing method, the method will be incorporated by reference in Section 3 of 401 KAR 30:010.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The proposed amendment to this regulation affects those facilities seeking to add a testing or analytical method to 401 KAR Chapter 31, 34, 35, or 37.

(a) Direct and indirect costs or savings to

those affected:

1. First year: For companies which elect to petition for an alternate testing or analytical method, the petition preparation will result in significant cost.

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: The companies that petition to use an alternate test or analytical method must prepare the written petition.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The promulgating administrative body anticipates no major changes in workload as the result of this regulation since it is anticipated that few facilities will petition for an alternate method.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The amendment to this regulation details what must be included in a petition to add a testing or analytical method to 401 KAR Chapter 31, 34, 35, or 37. The amendment adds Section 6 in which the petition requirements are included.

Alternative. 1. Less stringent. Kentucky could not have been less stringent on this requirement and still have maintained authorization to administer the RCRA hazardous waste program. To have adopted less stringent provisions would have afforded Kentucky's public health and environment less protection than that provided by the national program.

2. More stringent. The cabinet could have been more stringent by not allowing variances from the testing or analytical methods or by placing additional requirements on generators or treatment facilities submitting petitions for a variance. However, the present proposal is adequate to protect the public health and environment in Kentucky.

3. Present proposal. The present proposal specifies that a generator or treatment facility may submit a petition for a variance from the testing or analytical methods in 401 KAR Chapters 31, 34, 35, and 37.

Alternative. 1. Less stringent. Section 2 clarifies the conditions under which the use of an equivalent testing or analytical method can be repealed. The cabinet could have omitted criteria to be used for repealing the use of an equivalent test or analytic method; however, the regulated community would have been uninformed of the procedures to be used by the cabinet.

2. More stringent. The cabinet could have included additional conditional circumstances under which the use of an equivalent testing or analytical method could be repealed. However, additional circumstances would be burdensome and not have increased the equivalency or superiority of the test.

3. Present proposal. The existing conditions under which an equivalent testing or analytic method can be repealed are adequate to ensure that these tests or method are equivalent to or superior to the existing tests or methods in 401 KAR Chapters 31, 34, 35, or 37.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. This regulation applies to those facilities requesting a delisting of a waste stream or those facilities seeking to add a testing or analytical method to 401 KAR Chapter 31, 34, 35, or 37.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 260.21 promulgated on May 19, 1980 and December 4, 1984. The proposed amendments also contain a provision not based on the federal mandate. This provision clarifies the conditions under which the use of an equivalent testing or analytical method can be repealed.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: The proposed amendments adopt requirements which are identical to those standards adopted by the U.S. EPA on May 19, 1980 and December 4, 1984. In addition to the requirements which were adopted identically to the federal requirements, the proposed amendments contain a provision which is not required by the federal mandate. This provision allows that the use of an equivalent testing method may be repealed if certain requirements are not met.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: The proposed amendment contains a provision not imposed by the federal mandate. This provision clarifies the conditions under which the use of an equivalent testing or analytical method can be repealed.

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management
(Proposed Amendment)

**401 KAR 31:120. Appendix on chemical analysis test methods.**

RELATES TO: KRS 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.864(3), 224.867

NECESSITY AND FUNCTION: KRS 224.864(3) requires the cabinet to identify the characteristics of and to list hazardous wastes. This chapter identifies and lists hazardous waste. This regulation contains the appendix to

this chapter concerning the chemical analysis test methods.

Section 1. Chemical Analysis Test Methods. (1) Tables 1, 2, and 3 specify the appropriate analytical procedures described in "Test Methods for the Evaluation of [Evaluating] Solid Waste, Physical/Chemical Methods," SW-846, (incorporated by reference in Section 3 of 401 KAR 30:010), which shall be used in determining whether the waste in question contains a toxic constituent given in 401 KAR 31:160 or 31:170.

(2) Table 1 identifies each organic constituent in 401 KAR 31:160 or 31:170 along with the approved measurement method. Table 2 identifies the corresponding methods for the inorganic species. Table 3 summarizes the contents of SW-846 and supplies specific section and method numbers for sampling and analysis methods.

(3) Prior to final sampling and analysis method selection the analyst should consult the specific section or method described in SW-846 for additional guidance on which of the approved methods should be employed for a specific sample analysis situation.

(4) Table 1. Analytical Characteristics of Organic Chemicals in SW-846

| Compound | Method Numbers [Second Edition Methods] |
|---|---|
| Acetonitrile | 8030, 8240 |
| Acrolein | 8030, 8240 |
| Acrylamide | 8015, 8240 |
| Acrylonitrile | 8030, 8240 |
| 2-Amino-1-methylbenzene (O-Toluidine) | 8250 |
| 4-Amino-1-methylbenzene (p-Toluidine) | 8250 |
| Aniline | 8250 |
| Benzene | 8020, 8024 |
| Benz(a)anthracene | 8100, 8250, 8310 |
| Benzo(a)pyrene | 8100, 8250, 8310 |
| Benzotrichloride | 8120, 8250 |
| Benzyl chloride | 8120, 8250 |
| Benzo(b)fluoanthene | 8100, 8250, 8310 |
| Bis(2-chloroethoxymethane) | 8010, 8240 |
| Bis(2-chloroethyl)ether | 8010, 8240 |
| Bis(2-chloroisopropyl)ether | 8010, 8240 |
| Carbon disulfide | 8015, 8240 |
| Carbon tetrachloride | 8010, 8240 |
| Chlordane | 8080, 8250 |
| Chlorinated biphenyls | 8080, 8250 |
| Chlorinated dibenzo-p-dioxins | 8280 |
| Chlorinated dibenzofurans | 8280 |
| Chloroacetaldehyde | 8010, 8240 |
| Chlorobenzene | 8020, 8240 |
| Chloroform | 8010, 8240 |
| Chloromethane | 8010, 8240 |
| 2-Chlorophenol | 8040, 8250 |
| Chrysene | 8100, 8250, 8310 |
| Creosote* | 8100, 8250 |
| Cresol(s) | 8040, 8250 |
| Cresylic acid(s) | 8040, 8250 |
| Dichlorobenzene(s) | 8010, 8120, 8250 |
| Dichloroethane(s) | 8010, 8240 |
| Dichloromethane | 8010, 8240 |
| Dichlorophenoxy-acetic acid | 8150, 8250 |
| Dichloropropanol | 8120, 8250 |
| 2,4-Dimethylphenol | 8040, 8250 |
| Dinitrobenzene | 8090, 8250 |
| 4,6-Dinitro-o-cresol | 8040, 8250 |
| 2,4-Dinitrotoluene | 8090, 8250 |
| 2,6-Dinitrotoluene | 8060, 8250 |
| Endrin | 8080, 8250 |
| 2-Ethoxyethanol | 8030, 8240 |
| Ethyl ether | 8015, 8240 |
| Ethylene dibromide | 8010, 8240 |
| Ethylene thiourea | 8250, 8330 |
| Formaldehyde | 8015, 8240 |
| Formic acid | 8250 |
| Heptachlor | 8080, 8250 |
| Hexachlorobenzene | 8120, 8250 |
| Hexachlorobutadiene | 8120, 8250 |
| Hexachloroethane | 8010, 8240 |
| Hexachlorocyclopentadiene | 8120, 8250 |
| Lindane | 8080, 8250 |
| Maleic anhydride | 8250 |
| Methanol | 8010, 8240 |
| Methomyl | 8250 |
| Methyl ethyl ketone | 8015, 8240 |
| Methyl isobutyl ketone | 8015, 8240 |
| Napththalene | 8100, 8250 |
| Napthoquinone | 8090, 8250 |
| Nitrobenzene | 8090, 8250 |
| 4-Nitrophenol | 8040, 8240 |
| 2-Nitropropane | 8030, 8240 |
| Paraldehyde (trimer of acetaldehyde) | 8015, 8240 |
| Pentachlorophenol | 8040, 8250 |
| Phenol | 8040, 8250 |
| Phorate | 8140 |
| Phosphorodithioic acid esters | 8140 |
| Phthalic anhydride | 8090, 8250 |
| 2-Picoline | 8090, 8250 |
| Pyridine | 8090, 8250 |
| Tetrachlorobenzene(s) | 8120, 8250 |
| Tetrachloroethane(s) | 8010, 8240 |
| Tetrachloroethene | 8010, 8240 |
| Tetrachlorophenol | 8040, 8250 |
| Toluene | 8020, 8024 |
| Toluenediamine | 8250 |
| 2,4-Toluenediamine | 8250 |
| 2,6-Toluenediamine | 8250 |
| 3,4-Toluenediamine | 8250 |
| Toluene diisocyanate(s) | 8250 |
| Toxaphene | 8080, 8250 |
| Trichloroethane | 8010, 8240 |
| Trichloroethene(s) | 8010, 8240 |
| Trichlorofluoromethane | 8010, 8240 |
| Trichlorophenol(s) | 8040, 8250 |
| 2,4,5-Trichlorophenoxy propionic acid | 8150, 8250 |
| Trichloropropane | 8010, 8240 |
| Vinyl chloride | 8010, 8240 |
| Vinylidene chloride | 8010, 8240 |
| Xylene | 8020, 8240 |

*Analyze for phenanthrene and carbazole; if these are present in a ratio between 1.4:1 and 5:1, creosote should be considered present.

(5) Table 2. Analytical Characteristics of Inorganic Species Contained in SW-846

| Species | Second Edition Methods |
|---|---|
| Antimony | 7040, 7041 |
| Arsenic | 7060, 7061 |
| Barium | 7080, 7081 |
| Cadmium | 7090, 7091 |
| Chromium | 7190, 7191 |
| Chromium: hexavalent | 7195, 7196, 7197 |
| Cyanides | 9010 |

| | |
|---|---|
| Lead | 7420, 7421 |
| Mercury | 7470, 7471 |
| Nickel | 7520, 7521 |
| Selenium | 7740, 7741 |
| Silver | 7760, 7761 |
| Sulfides | 9030 |
| Total organic halogen | 9020 |

(6) Table 3. Sampling and Analysis Methods Contained in SW-846

| Title | Section No. | Method No. |
|---|---|---|
| Sampling of Solid Wastes | 1.0 | |
| Development of Appropriate Sampling Plans | 1.1 | |
| Regulatory and Scientific Objectives | 1.1.1 | |
| Fundamental Statistical Concepts | 1.1.2 | |
| Basic Statistical Strategies | 1.1.3 | |
| Simple Random Sampling | 1.1.3.1 | |
| Stratified Random Sampling | 1.1.3.2 | |
| Systematic Random Sampling | 1.1.3.3 | |
| Special Considerations | | |
| Composite Sampling | 1.1.4.1 | |
| Subsampling | 1.1.4.2 | |
| Cost and Loss Functions | 1.1.4.3 | |
| Implementation of Sampling Plan | 1.2 | |
| Selection of Sampling Equipment | 1.2.1 | |
| Composite Liquid Waste Sampler | 1.2.1.1 | |
| Weighted Bottle | 1.2.1.2 | |
| Dipper | 1.2.1.3 | |
| Thief | 1.2.1.4 | |
| Trier | 1.2.1.5 | |
| Auger | 1.2.1.6 | |
| Scoop and Shovel | 1.2.1.7 | |
| Selection of Sample Containers | 1.2.2 | |
| Processing and Storage of Samples | 1.2.3 | |
| Documentation of Chain of Custody | 1.3 | |
| Sample Labels | 1.3.1 | |
| Sample Seals | 1.3.2 | |
| Field Log Book | 1.3.3 | |
| Chain-of-Custody Record | 1.3.4 | |
| Sample Analysis Request Sheet | 1.3.5 | |
| Sample Delivery to Laboratory | 1.3.6 | |
| Shipping of Samples | 1.3.7 | |
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MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The proposed amendments to this regulation affect persons who manage the compounds added to Table 1. Although the cabinet has no estimate of the number of affected entities, it is likely that few companies will be affected.

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

1. First year: For those companies that manage one of the eleven wastes added to Table 1, the proposed amendments specify the exact test method which must be used to determine whether the constituents are present in a sample. While there will be a cost associated with the analysis, KRS 224.864 requires all persons who generate waste to identify whether or not it is hazardous. By identifying the test methods which are deemed appropriate to use for this determination, the proposed amendments will result in a savings to those affected. This is because there are numerous test methods and pieces of equipment available to assess whether specific constituents are present in a sample and by specifying the appropriate test method(s), companies will not need to use numerous test methods to prove or disprove a specific constituent is present in their waste stream.

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. The proposed amendments identify specific test methods which must be used to identify whether or not the waste contains hazardous constituents. Reporting and recordkeeping requirements found in other regulations include maintaining analysis results and methods.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. The inclusion of appropriate test methods for eleven new chemicals will result in no new costs to the promulgating administrative body. Some savings will be realized for enforcement cases; specifying the appropriate test methods will eliminate the need for negotiating whether or not a waste is hazardous based upon the use of different test methods.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The proposed amendments add eleven organic constituents along with their respective approved measurement methods to Table 1 of this regulation.

Alternative. 1. Less stringent. The cabinet could have chosen to be less stringent by not adding the eleven constituents and test methods to Table 1. However, the cabinet's list and criteria for identifying hazardous wastes must be identical to the federal list and criteria in accordance with KRS 224.864(3). Kentucky could not have been less stringent on this requirement and still have maintained authorization to administer the RCRA hazardous waste program. To have adopted less stringent provisions would have afforded Kentucky's public health and environment less protection than that provided by the national program.

2. More stringent. The cabinet could have chosen to be more stringent by requiring additonal testing requirements. However, the present proposal is adequate to protect public health and the environment in Kentucky.

3. Present proposal. The proposed amendments are identical to the federal regulations at 40 CFR Part 261 Appendix III. The amendments add 11 organic constituents and their test methods to Table 1 of 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: Not applicable.

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

(6) Any additional information or comments: The amendments made to this regulation are proposed as the result of amendments made to 401 KAR 31:040. The Regulatory Impact Analysis for 401 KAR 31:040 identifies additional factors relating to the amendments proposed to this regulation.

TIERING: Was tiering applied? Yes. The amendments to this regulation apply only to persons who manage the new 11 hazardous wastes listed in Table 1 of the regulation.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR Appendix III to Part 261 promulgated on October 23, 1985 (50

FR 42936-42943), February 13, 1986 (51 FR 5327-5331), February 25, 1986 (51 FR 6537-6542), and October 24, 1986 (51 FR 37725-37729).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments to this regulation adopt requirements which are identical to those standards adopted by the U.S. Environmental Protection Agency on October 23, 1985, February 13, 1986, February 25, 1986, and October 24, 1986.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 31:160. Appendix on basis for listing hazardous waste.**

RELATES TO: KRS 224.830 through 224.877, 224.994

PURSUANT TO: KRS 13A.210 [Chapter 13A], 224.033, 224.864(3)

NECESSITY AND FUNCTION: KRS 224.864(3) requires the cabinet to identify the characteristics of and to list hazardous wastes. This chapter identifies and lists hazardous waste. This regulation contains the appendix to this chapter concerning the basis for listing a hazardous waste.

Section 1. Basis for Listing Hazardous Waste. The basis for listing hazardous waste are:

| EPA Hazardous Waste No. | Hazardous Constituents for Which Listed |
|---|---|
| F001 | Tetrachloroethylene, methylene chloride trichloroethylene, 1,1,1-trichloroethane, carbon tetrachloride, chlorinated fluorocarbons. |
| F002 | Tetrachloroethylene, methylene chloride, trichloroethylene, 1,1,1-trichloroethane, 1,1,2-trichloroethane, chlorobenzene, 1,1,2-trichloro-1,2,2,-trifluoroethane, ortho-dichlorobenzene, trichlorofluoromethane. |
| F003 | Not Applicable (hereafter N.A.). |
| F004 | Cresols and cresylic acid, nitrobenzene. |
| F005 | Toluene, methyl ethyl ketone, carbon disulfide, isobutanol, pyridine, 2-ethoxyethanol, benzene, 2-nitropropane. |
| F006 | Cadmium, hexavalent chromium, nickel, cyanide (complexed). |
| F007 | Cyanide (salts). |
| F008 | Cyanide (salts). |
| F009 | Cyanide (salts). |
| F010 | Cyanide (salts). |
| F011 | Cyanide (salts). |
| F012 | Cyanide (complexed). |
| F019 | Hexavalent chromium, cyanide (complexed) |
| F020 | Tetra- and pentachlorodibenzo-p-dioxins; tetra and pentachlorodibenzofurans; tri- and tetrachlorophenols and their chlorophenoxy derivative acids, esters, ethers, amines, and other salts. |
| F021 | Penta- and hexachlorodibenzo-p-dioxins; penta- and hexachlorodibenzofurans; pentachlorophenol and its derivatives. |
| F022 | Tetra-, penta-, and hexachlorodibenzo-p-dioxins; tetra-, penta-, and hexachlorodibenzofurans. |
| F023 | Tetra-, and pentachlorodibenzo-p-dioxins; tetra- and pentachlorodibenzofurans; tri- and tetrachlorophenols and their chlorophenoxy derivative acids, esters, ethers, amines and other salts. |
| F024 | Chloromethane, dichloromethane, trichloromethane, carbon tetrachloride, chloroethylene, 1,1-dichloroethane, 1,2-dichloroethane, trans-1,2-dichloroethylene,1,1-dichloroethylene, 1,1,1-trichloroethane,1,1,2-trichloroethane, trichloroethylene, 1,1,1,2-tetrachloroethane, 1,1,2,2-tetrachloroethane, tetrachloroethylene,pentachloroethane, hexachloroethane, allylchloride (3-chloropropene), dichloro-propane, dichloropropene, 2-chloro-1,3-butadiene, hexachloro-1,3-butadiene, hexachlorocyclopentadiene, hexachlorocyclohexane, benzene, chlorobenzene, dichlorobenzenes, 1,2,4-trichlorobenzene, tetrachlorobenzene, pentachlorobenzene, hexachlorobenzene, toluene, naphthalene. |
| F026 | Tetra-, penta-, and hexachlorodibenzo-p-dioxins; tetra-, penta-, and hexachlorodibenzofurans. |
| F027 | Tetra-, penta-, and hexachlorodibenzo-p-dioxins; tetra-, penta-, and hexachlorodibenzofurans; tri-, tetra-, and pentachlorophenols and their chlorophenoxy derivative acids, esters, ethers, amines and other salts. |
| F028 | Tetra-, penta-, and hexachlorodibenzo-p-dioxins; tetra-, penta-, and hexachlorodibenzofurans; tri-, tetra-, and pentachlorophenols and their chlorophenoxy derivative acids, esters, ethers, amines and other salts. |
| K001 | Pentachlorophenol, phenol,2-chlorophenol, p-chloro-m-cresol, 2,4-dimethylphenyl, 2,4-dinitrophenol, trichlorophenols, tetrachlorophenols, 2,4-dinitrophenol, creosote, chrysene, naphthalene, fluoranthene, benzo(b)fluoranthene, benzo(a)-pyrene, indenol(1,2,3-cd)pyrene, benz(a) anthracene, dibenz(a)anthracene, acenaphthalene. |
| K002 | Hexavalent chromium, lead. |
| K003 | Hexavalent chromium, lead. |
| K004 | Hexavalent chromium. |
| K005 | Hexavalent chromium, lead. |
| K006 | Hexavalent chromium. |
| K007 | Cyanide (complexed), hexavalent chromium. |

| | |
|---|---|
| K008 | Hexavalent chromium. |
| K009 | Chloroform, formaldehyde, methylene chloride, methyl chloride,paraldehyde, formic acid. |
| K010 | Chloroform, formaldehyde, methylene chloride, methylchloride,paraldehyde, formic acid, chloroacetaldehyde. |
| K011 | Acrylonitrile, acetonitrile, hydrocyanic acid. |
| K013 | Hydrocyanic acid, acrylonitrile, acetonitrile. |
| K014 | Acetonitrile, acrylamide. |
| K015 | Benzyl chloride, chlorobenzene, toluene, benzotrichloride. |
| K016 | Hexachlorobenzene, hexachlorobutadiene, carbon tetrachloride,hexachloroethane, perchloroethylene. |
| K017 | Epichlorohydrin, chloroethers, (bis(chloromethyl) ether and bis(2-chloroethyl) ethers), trichloropropane, dichloropropanols. |
| K018 | 1,2-dichloroethane, trichloroethylene, hexachlorobutadiene,hexachlorobenzene. |
| K019 | Ethylene dichloride, 1,1,1-trichloroethane, 1,1,2-trichloroethane, tetrachloroethanes (1,1,2,2-tetrachloroethane and 1,1,1,2-tetrachloroethane), trichloroethylene, tetrachloroethylene, carbon tetrachloride, chloroform, vinyl chloride, vinylidene chloride. |
| K020 | Ethylene dichloride, 1,1,1-trichloroethane, 1,1,2-trichloroethane, tetrachloroethanes (1,1,2,2-tetrachloroethane and 1,1,1,2-tetrachloroethane), trichloroethylene, tetrachloroethylene, carbon tetrachloride, chloroform, vinyl chloride, vinylidene chloride. |
| K021 | Antimony, carbon tetrachloride, chloroform. |
| K022 | Phenol, tars (polycyclic aromatic hydrocarbons). |
| K023 | Phthalic anhydride, maleic anhydride. |
| K024 | Phthalic anhydride, 1,4-naphthoquinone. |
| K025 | Meta-dinitrobenzene, 2,4-dinitrotoluene. |
| K026 | Paraldehyde, pyridines, 2-picoline. |
| K027 | Toluene diisocyanate, toluene-2,4-diamine. |
| K028 | 1,1,1-trichloroethane, vinyl chloride. |
| K029 | 1,2-dichloroethane, 1,1,1-trichloroethane, vinyl chloride, vinylidene chloride, chloroform. |
| K030 | Hexachlorobenzene, hexachlorobutadiene, hexachloroethane,1,1,1,2-tetrachloro-ethane, 1,1,2,2-tetrachloroethane, ethylene dichloride. |
| K031 | Arsenic. |
| K032 | Hexachlorocyclopentadiene. |
| K033 | Hexachlorocyclopentadiene. |
| K034 | Hexachlorocyclopentadiene. |
| K035 | Creosote, chrysene, naphthalene, fluoranthene benzo(b)fluoranthene, benzo(a)pyrene, indeno(1,2,2-cd) pyrene, benzo(a)anthracene, dibenzo (a)anthracene, acenaphthalene. |
| K036 | Toluene, phosphorothioic acid esters. |
| K037 | Toluene, phosphorodithioic and phosphorothioic acid esters. |
| K038 | Phorate, formaldehyde, phosphorodithioic and phosphorothioic acid esters. |
| K039 | Phosphorodithioic and phosphorothioic acid esters. |
| K040 | Phorate, formaldehyde, phosphorodithioic and phosphorothioic acid esters. |
| K041 | Toxaphene. |
| K042 | Hexachlorobenzene, ortho-dichlorobenzene |
| K043 | 2,4-dichlorophenol, 2,6-dichlorophenol, 2,4,6-trichlorophenol. |
| K044 | N.A. |
| K045 | N.A. |
| K046 | Lead |
| K047 | N.A. |
| K048 | Hexavalent chromium, lead. |
| K049 | Hexavalent chromium, lead. |
| K050 | Hexavalent chromium. |
| K051 | Hexavalent chromium, lead. |
| K052 | Lead. |
| K060 | Cyanide, naphthalene, phenolic compounds, arsenic. |
| K061 | Hexavalent chromium, lead, cadmium. |
| K062 | Hexavalent chromium, lead. |
| K069 | Hexavalent chromium, lead, cadmium. |
| K071 | Mercury. |
| K073 | Chloroform, carbon tetrachloride, hexachloroethane, trichloroethane, tetrachloroethylene, dichloroethylene, 1,1,2,2-tetrachloroethane. |
| K083 | Aniline, diphenylamine, nitrobenzene, phenylenediamine. |
| K084 | Arsenic. |
| K085 | Benzene, dichlorobenzenes, trichlorobenzenes, tetrachlorobenzenes, pentachlorobenzene, hexachlorobenzene, benzyl chloride. |
| K086 | Lead, hexavalent chromium. |
| K087 | Phenol, naphthalene. |
| K093 | Phthalic anhydride, maleic anhydride. |
| K094 | Phthalic anhydride. |
| K095 | 1,1,2-trichloroethane, 1,1,1,2-tetrachloroethane, 1,1,2,2-tetrachloroethane. |
| K096 | 1,2-dichloroethane, 1,1,1-trichloroethane, 1,1,2-trichloroethane. |
| K097 | Chlordane, heptachlor. |
| K098 | Toxaphene. |
| K099 | 2,4-dichlorophenol, 2,4,6-trichlorophenol. |
| K100 | Hexavalent chromium, lead, cadmium. |
| K101 | Arsenic. |
| K102 | Arsenic. |
| K103 | Aniline, nitrobenzene, phenylenediamine. |
| K104 | Aniline, benzene, diphenylamine, nitrobenzene, phenylenediamine. |
| K105 | Benzene, monochlorobenzene, dichlorobenzenes, 2,4,6-trichloro-phenol. |
| K106 | Mercury. |
| K111 | 2,4-Dinitrotoluene. |
| K112 | 2,4-Toluenediamine, o-toluidine, p-toluidine, aniline. |
| K113 | 2,4-Toluenediamine, o-toluidine, p-toluidine, aniline. |
| K114 | 2,4-Toluenediamine, o-toluidine, p-toluidine. |
| K115 | 2,4-Toluenediamine. |
| K116 | Carbon tetrachloride, tetrachloroethylene, chloroform, phosgene. |
| K117 | Ethylene dibromide |
| K118 | Ethylene dibromide |
| K123 | Ethylene thiourea |
| K124 | Ethylene thiourea |
| K125 | Ethylene thiourea |
| K126 | Ethylene thiourea |
| K136 | Ethylene dibromide |

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at noon.
PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director
(1) Type and number of entities affected: Only 4 ethylene dibromide manufacturers have been identified nationwide; none are known to be located in Kentucky so the impact of listing ethylene dibromide wastes will not cause an impact unless a new manufacturer of the chemical sites in Kentucky. The revisions to the F002 and F005 waste listings will have little or no impact on Kentucky generators. In the February 25, 1986 federal register (51 FR 6537), the U.S. EPA states that they "believe that most, if not all, persons who manage these wastes have already notified..." the government. Kentucky is unaware of any new entities that will be affected by the revisions to these listings. The listing of wastes from the manufacturing of ethylenebisdithiocarbamic acid (for the hazardous constituent ethylene thiourea) will have no impact on Kentucky generators. The U.S. EPA has estimated that most if not all generators of these wastes have already notified the government and Kentucky is unaware of any existing or new generators who will be affected by the waste listing. The effect of this listing will impact only new industries manufacturing ethylenebisdithiocarbamic acid which locate in Kentucky in the future.
(a) Direct and indirect costs or savings to those affected:
1. First year: None. This regulation identifies the basis for listing each specific substance as a hazardous waste in 401 KAR 31:040. The regulation clarifies why a particular waste is considered hazardous by identifying the specific constituents within each waste that are considered to be the source of the hazard. The regulation has no impact on the regulated community since it imposes no standards. It is used exclusively in conjunction with 401 KAR 31:040, Lists of hazardous waste, to clarify why a particular hazardous waste was listed. Although it will result in no costs to the regulated community, it is beneficial since it clarifies the extent of the hazardous waste listing for compliance purposes.
2. Continuing costs or savings: None. See note in (1)(a)1.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None. See note in (1)(a)1.
(b) Reporting and paperwork requirements: None. This regulation provides information as to why specific wastes are listed as hazardous wastes in 401 KAR 31:040. It imposes no recordkeeping or paperwork requirements.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None. This regulation identifies the actual hazardous constituents which caused specific wastes to be listed in 401 KAR 31:040. Although it will result in no cost or tangible savings to the promulgating agency, the regulation provides explicit reasoning as to why any particular waste stream is considered hazardous. It is useful in compliance monitoring and essential in defining the parameters of a violation in enforcement actions.
2. Continuing costs or savings: None. See note in (2)(a)1.
3. Additional factors increasing or decreasing costs: None. See note in (2)(a)1.
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.
(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The following concerns the inclusion ethylene dibromide, ethylene thiourea, 1,1,2-trichloroethane, 1,1,2-trichloro-1,2,2-trifluoroethane, 2-ethoxyethanol, benzene, and 2-nitropropane as hazardous constituents for which hazardous wastes are listed.
Alternative. 1. Less stringent. The cabinet could have chosen not to include ethylene dibromide, ethylene thiourea, 1,1,2-trichloroethane, 1,1,2-trichloro-1,2,2-trifluoroethane, 2-ethoxyethanol, benzene, and 2-nitropropane as hazardous constituents for which hazardous wastes are listed. However, this would have made the state program less stringent than the federal program. Since the standards would be applicable in Kentucky under the federal program, the cabinet chose to adopt the requirement. In addition, the cabinet's list and criteria for identifying hazardous wastes must be identical to the federal list and criteria in accordance with KRS 224.864(3).
2. More stringent. The cabinet could have chosen to include additional constituents. However, this would have been in conflict with the mandate in KRS 224.864(3) to adopt a list and criteria for identifying hazardous waste for which is identical to the federal list and criteria.
3. Present proposal. The present proposal is identical to the federal requirement for listing ethylene dibromide, ethylene thiourea, 1,1,2-trichloroethane, 1,1,2-trichloro-1,2,2-trifluoroethane, 2-ethoxyethanol, benzene, and 2-nitropropane as hazardous constituents which hazardous wastes are listed.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments:

None

TIERING: Was tiering applied? Yes. This regulation applies only to those facilities which generate the listed hazardous wastes.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR Appendix VII to Part 261 promulgated on February 13, 1986 (51 FR 5327-5331), February 25, 1986 (51 FR 6537-6542), and October 24, 1986 (51 FR 37725-37729).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: The proposed amendments to this regulation adopt requirements which are identical to those standards adopted by the U.S. Environmental Protection Agency on February 13, 1986, February 25, 1986, and October 24, 1986. No standards or responsibilities are imposed which are more strict than those imposed by the U.S. EPA.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 31:170. Appendix on hazardous waste constituents.**

RELATES TO: KRS 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.864(3)

NECESSITY AND FUNCTION: KRS 224.864(3) requires the cabinet to identify the characteristics of and to list hazardous wastes. This chapter identifies and lists hazardous wastes. This regulation contains the appendix to this chapter concerning the hazardous waste constituents.

Section 1. Hazardous Waste Constituents. The list of hazardous waste constituents for use in interpreting any requirement in this chapter or any other hazardous waste regulation is:

| COMMON NAME | CHEMICAL ABSTRACTS NAME | CHEMICAL ABSTRACTS NO. |
|---|---|---|
| Acetonitrile | Same[(Ethanenitrile)] | 75-05-8 |
| Acetophenone | [(]Ethanone, 1-phenyl[)] | 98-86-2 |
| [3-(alpha-Acetonylbenzyl)-4-hydroxycoumarin and salts (Warfarin)] | | |
| 2-Acetylaminofluorene | [(]Acetamide, N-[(]9H-fluoren-2-yl[)]-[)] | 53-96-3 |
| Acetyl chloride | Same[(Ethanoyl chloride)] | 75-36-5 |
| 1-Acetyl-2-thiourea | [(]Acetamide, N-(aminothioxomethyl)-[)] | 591-08-2 |
| Acrolein | [(]2-Propenal[)] | 107-02-8 |
| Acrylamide | [(]2-Propenamide[)] | 79-06-1 |
| Acrylonitrile | [(]2-Propenenitrile[)] | 107-13-1 |
| Aflatoxins | Aflatoxin | 1402-68-2 |
| Aldicarb | Propanal, 2-methy-2-(methylthio)-,O-((methylamino) carbonyl)oxime | 116-06-3 |
| Aldrin | 1,4:5,8-Dimethanonaphthalene (1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-(1alpha, 4alpha, 4abeta, 5alpha, 8alpha, 8abeta)-[endo,exo-1,4:5,8-Dimethanonaphthalene)] | 309-00-02 |
| Allyl alcohol | [(]2-Propen-1-ol[)] | 107-18-6 |
| Allyl chloride | 1-Propane, 3-chloro- | 107-05-1 |
| Aluminum phosphide | Same | 20859-73-8 |
| 4-Aminobiphenyl | [(](1,1'-Biphenyl)-4-amine[)] | 92-67-1 |
| [6-Amino-1,1a,2,8,8a,8b-Hexahydro-8-(hydroxy methyl)-8a-methoxy-5-methyl-carbomate azirino (2',3':3,4)pyrrolo(1,2-a) indole-4,7-dione, (ester) (Mitomycin C) (Azirino(2', 3':3,4)pyrrolo(1,2-a)indole-4,7-dione,6-amino-8-(((amino-carbonyl)oxy)methyl)-1,1a,2,8, 8a,8b-hexahydro-8a-methoxy-5 -methyl)] | | |
| 5-(Aminomethyl)-3-isoxazolol | [(]3(2H)-Isoxazolone,5-(aminomethyl)-[)] | 2763-96-4 |
| 4-Aminopyridine | [(]4-Pyridineamine[)] | 504-24-5 |
| Amitrole | [(]1H-1,2,4-Triazol-3-amine[)] | 61-82-5 |
| Ammonium vanadate | vanadic acid, ammonium salt | 7803-55-6 |
| Aniline | [(]Benzenamine[)] | 62-53-3 |

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| Antimony and compounds, N.O.S.* | Antimony | 7440-36-0 |
| Aramite | [(]Sulfurous acid, 2-chloroethyl-,2-(4-(1,1-dimethylethyl)phenoxy)-1-methylethyl ester[)] | 140-57-8 |
| Arsenic and compounds, N.O.S.* | Arsenic | 7440-38-2 |
| Arsenic acid | Arsenic acid $AsH_3O_4$[(Orthoarsenic acid)] | 7778-39-4 |
| Arsenic pentoxide | [(]Arsenic [(V)] oxide $As_2O_5$[)] | 1303-28-2 |
| Arsenic trioxide | [(]Arsenic [(III)] oxide $As_2O_3$[)] | 1327-53-3 |
| Auramine | [(]Benz[en]amine, 4,4'-carbonimidoylbis(N,N-Dimethyl-[monohydrochloride)] | 492-80-8 |
| Azaserine | [(]L-Serine, diazoacetate (ester)[)] | 115-02-6 |
| Barium and compounds, N.O.S.* | Barium | 7440-39-3 |
| Barium cyanide | Same | 542-62-1 |
| Benz(c)acridine | Same [(3,4-Benzacridine)] | 225-51-4 |
| Benz(a)anthracene | Same [(1,2-Benzanthracene)] | 56-55-3 |
| Benzal chloride | Benzene, (dichloromethyl)- | 98-87-3 |
| [Benzene, 2-amino-1-methyl (o-toluidine)] | | |
| [Benzene, 4-amino-1-methyl (p-toluidine)] | | |
| Benzene | Same [(Cyclohexatriene)] | 71-43-2 |
| Benzenearsonic acid | [(]Arsonic acid, phenyl-[)] | 98-05-5 |
| [Benzene, dichloromethyl-(Benzal chloride)] | | |
| [Benzenethiol (Thiophenol)] | | |
| Benzidine | [(](1,1'-Biphenyl)-4,4'diamine[)] | 92-87-5 |
| Benzo(b)fluoranthene | Benz(e)acephenanthrylene [(2,3-Benzofluoranthene)] | 205-99-2 |
| Benzo(j)fluoranthene | Same [(7,8-Benzofluoranthene)] | 205-82-3 |
| Benzo(a)pyrene | Same [(3,4-Benzopyrene)] | 50-32-8 |
| p-Benzoquinone | 2,5 [(1,4]-Cyclohexadiene-1,4-dione[)] | 106-51-4 |
| Benzotrichloride | [(]Benzene, (trichloromethyl)-[)] | 98-07-7 |
| Benzyl chloride | [(]Benzene, (chloromethyl)-[)] | 100-44-7 |
| Beryllium and compounds, N.O.S.* | Beryllium | 7440-41-7 |
| Bis(2-chloromethoxy)[m]ethane | [(]Ethane,1,1'-(methylenebis(oxy))bis(2-chloro-)[)] | 111-91-1 |
| Bis(2-chloroethyl) ether | [(]Ethane,1,1'-oxybis(2-chloro-)[)] | 111-44-4 |
| [N,N-Bis(2-chloroethyl)-2-naphthylamine (Chloro-naphazine)] | | |
| Bis(2-chloroisopropyl) ether | [(]Propane,2,2'-oxybis(2-chloro-[)] | 39638-32-9 |
| Bis(chloromethyl) ether | [(]Methane, oxybis(chloro-)[)] | 542-88-1 |
| Bis(2-ethylhexyl) phthalate | [(]1,2-Benzenedicarboxylic acid, bis(2-ethylhexyl) ester[)] | 117-81-7 |
| Bromoacetone | [(]2-Propanone, 1-Bromo-[)] | 598-31-2 |
| Bromoform | Methane, tribromo | 75-25-2 |
| [Bromomethane (Methyl bromide)] | | |
| 4-Bromophenyl phenyl ether | [(]Benzene, 1-bromo-4-phenoxy[-)] | 101-55-3 |
| Brucine | [(]Strychnidin-10-one,2,3-dimethoxy[-)] | 357-57-3 |
| [2-Butanone peroxide (Methyl ethyl ketone, peroxide)] | | |
| [Butyl benzyl phthalate (1,2-Benzenedicarboxylic acid, butylphenylmethyl ester)] | | |
| [2-sec-Butyl-4,6-dinitrophenol (DNBP) (Phenol,2,4-dinitro-6-(1-methylpropyl)-)] | | |
| Cacodylic acid | Arsenic acid, dimethyl- | 75-60-5 |
| Cadmium and compounds N.O.S.* | Cadmium | 7440-43-9 |
| Calcium chromate | (Chromic acid, calcium salt) | 13765-19-0 |
| Calcium cyanide | Same | 592-01-8 |
| Carbon disulfide | [(]Carbon bisulfide[)] | 75-15-0 |
| Carbon oxyfluoride | Carbonic difluoride [(Carbonyl fluoride)] | 353-50-4 |
| Carbon tetrachloride | Methane,tetrachloro- | 56-23-5 |
| Chloral | [(]Acetaldehyde, trichloro-[)] | 75-87-6 |
| Chlorambucil | [(]Benzene butanoic acid, 4-(bis(2-chloroethyl) amino)[benzene]-[)] | 305-03-3 |
| Chlordane (alpha and gamma) | [(]4,7-Methano-1H-indene[indan],1,2,4,5,6,7,8,8-octachloro-2,3,3a,4,7,7a-hexa[tetra]hydro-[)](alpha and gammaisomers)] | 57-74-9 |
| Chlorinated benzenes, N.O.S.* | ---------- | ------- |
| Chlorinated ethane, N.O.S.* | ---------- | ------- |
| Chlorinated fluorocarbons, N.O.S.* | ---------- | ------- |
| Chlorinated naphthalene, N.O.S.* | ---------- | ------- |
| Chlorinated phenol, N.O.S.* | ---------- | ------- |
| Chlornaphazine | 2-Naphthalenamine,N,N-bis(2-chloroethyl)- | 494-03-1 |
| Chloroacetaldehyde | [(]Acetaldehyde, chloro-[)] | 107-20-0 |

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| Chloroalkyl ethers, N.O.S.* | ========== | ======= |
| p-Chloroaniline | [()Benzenamine 4-chloro-[)] | 106-47-8 |
| Chlorobenzene | [()Benzene, chloro-[)] | 108-90-7 |
| Chlorobenzilate | [()Benzeneacetic acid, 4-chloro-alpha-(4-chlorophenyl)-alpha-hydroxy-ethyl ester[)] | 510-15-6 |
| [2-Chloro-1,3-butadiene (chloroprene)] | | |
| p-Chloro-m[in]-cresol | [()Phenol, 4-chloro-3-methyl[)] | 59-50-7 |
| 1-Chloro-2,3-epoxypropane | [()Oxirane,[2-]chloromethyl[ethoxy])-[)] | 106-89-8 |
| 2-Chloroethyl vinyl ether | [()Ethene, (2-chloroethyoxy)-[)] | 110-75-8 |
| Chloroform | [()Methane, trichloro-[)] | 67-66-3 |
| [Chloromethane (Methyl chloride)] | | |
| Chloromethyl methyl ether | [()Methane, chloro-methoxy-[)] | 107-30-2 |
| Beta-chloronaphthalene | Napthalene,2-chloro- | 91-58-7 |
| [2-Chloronaphthalene (Naphthalene, betachloro-)] | | |
| [2-Chlorophenol (Phenol,o-chloro-)] | | |
| o-Chlorophenol | Phenol, 2-chloro- | 95-57-8 |
| 1-(o-Chlorophenyl)thiourea | [()Thiourea, (2-chlorophenyl)-[)] | 5344-82-1 |
| Chloroprene | 2-Chloro-1,3-butadiene | 126-99-8 |
| [3-Chloropropene (allyl chloride)] | | |
| 3-Chloropropionitrile | [()Propanenitrile, 3-chloro-[)] | 542-76-7 |
| Chromium and compounds, N.O.S.* | Chromium | 7440-47-3 |
| Chrysene | Same [(1,2-Benzphenanthrene)] | 218-01-9 |
| Citrus red No. 2 | [()2-Naphthalenol, 1-((2,5-dimethoxyphenyl)axo)-[)] | 6358-53-8 |
| Coal tars | ========== | 8005-45-2 |
| Copper cyanide | Copper cyanide CuCN | 544-92-3 |
| Creosote | Same [(Creosote, wood)] | 8001-58-9 |
| Cresols (Cresylic acid) | [()Phenol, methyl-[)] | 1319-77-3 |
| Crotonaldehyde | [()2-Butenal[)] | 4170-30-3 |
| Cyanides (soluble salts and complexes), N.O.S.* | ========== | ======== |
| Cyanogen | [()Ethanedinitrile[)] | 460-19-5 |
| Cyanogen bromide | Same [(Bromine cyanide)] | 506-68-3 |
| Cyanogen chloride | Same [(Chlorine cyanide)] | 506-77-4 |
| [Cyansin (beta-D-Glucopyranoside, (methyl-ONN-azoxy)methyl-)] | | |
| Cycasin | beta-D-Glucopyranoside, (Methyl-ONN-azoxy)methyl | 14901-08-7 |
| 2-Cyclohexyl-4,6-dinitrophenol | [()Phenol, 2-cyclohexyl-4,6-dinitro-[)] | 131-89-5 |
| Cyclophosphamide | [()2H-1,3,2,-Oxazaphosphorin-2-amine, N,N-bis)[e], [(bis] (2-chloroethyl)[amino)-]tetrahydro-,2-oxide[)] | 50-18-0 |
| 2,4-D, salts and esters | Acetic acid, (2,4-dichlorophenoxy)-, salts and esters | 94-75-7 |
| Daunomycin | [()5,12-Naphthacenedione, (8s-cis)-8-acetyl-10-((3-amino-2,3,6-trideoxy[)]-alpha-L-lyxo-hexopyranosyl) oxy)-7,8,9,10-tetrahydro-6,8,11-trihydroxy-1-methoxy-[)] | 20830-81-3 |
| DDD | Benzene,1,1'-(2,2-dichloroethylidene)bis(4-chloro- [(Dichlorodiphenyldichloroethane) (Ethane,1,1-dichloro-2,2-bis(p-chlorophenyl)-)] | 72-54-8 |
| DDE | Benzene,1,1'-(dichloroethenylindene)bis(4-chloro- [(Ethylene,1,1-dichloro-2,2-bis(4-chlorophenyl)-)] | 72-55-9 |
| DDT | Benezene,1,1'-(2,2,2-trichloroethylidene)(bis(4-chloro- [(Dichlorodiphenyltrichloroethane) (Ethane, 1,1,1-trichloro-2,2-bis(p-chlorophenyl)-)] | 50-29-3 |
| Diallate | Carbamothioic acid, bis(1-methylethyl)-S-(2,3-dichloro-2-propenyl) ester [(S-(2,3-dichloroallyl) diisopropylthiocarbamate)] | 2303-16-4 |
| Dibenz(a,h)acridine | Same [(1,2,5,6-Dibenzacridine)] | 226-36-8 |
| Dibenz(a,j)acridine | Same [(1,2,7,8-Dibenzacridine)] | 224-42-0 |
| Dibenz(a,h)anthracene | Same [(1,2,5,6-Dibenzanthracene)] | 53-70-3 |
| 7H-Dibenzo(c,g)carbazole | Same [(3,4,5,6-Dibenzcarbazole)] | 194-59-2 |
| Dibenzo(a,e)pyrene | Naphtho(1,2,3,4-def)chrysene [(1,2,4,5-Dibenzpyrene)] | 192-65-4 |
| Dibenzo(a,h)pyrene | Dibenzo(b,def)chrysene [(1,2,5,6-Dibenzpyrene)] | 189-64-0 |
| Dibenzo(a,i)pyrene | Benzo(rst)pentaphene [(1,2,7,8-Dibenzpyrene)] | 189-55-9 |
| 1,2-Dibromo-3-chloropropane | [()Propane,1,2-dibromo-3-chloro-[)] | 96-12-8 |
| [1,2-Dibromoethane (Ethylene dibromide)] | | |
| [Dibromomethane (Methylene bromide)] | | |
| Di[-n-]butyl phthalate | [()1,2-Benzenedicarboxylic acid,dibutyl ester[)] | 84-74-2 |
| o-Dichlorobenzene | [()Benzene, 1,2-dichloro-[)] | 95-50-1 |
| m-Dichlorobenzene | [()Benzene, 1,3-dichloro-[)] | 541-73-1 |
| p-Dichlorobenzene | [()Benzene, 1,4-dichloro-[)] | 106-46-7 |

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| Dichlorobenzene, N.O.S.* | [(]Benzene, dichloro-[, N.O.S.*)] | 25321-22-6 |
| 3,3'-Dichlorobenzidine | [(](1,1'-Biphenyl)-4,4'-diamine,3,3'-dichloro-[)] | 91-94-1 |
| 1,4-Dichloro-2-butene | [(]2-Butene,1,4-dichloro-[)] | 764-41-0 |
| Dichlorodifluoromethane | [(]Methane, dichlorodifluoro-[)] | 75-71-8 |
| [1,1-Dichloroethane (Ethylidene dichloride)] | | |
| [1,2-Dichloroethane (Ethylene dichloride)] | | |
| [trans-1,2-Dichloroethene (1,2 -Dichloroethylene)] | | |
| 1,2,-Dichloroethylene | Ethene, 1,2-dichloro-,(E)- | 156-60-5 |
| Dichloroethylene, N.O.S.* | Dichloroethylene [(Ethene, dichloro- N.O.S.*)] | 25323-30-2 |
| 1,1-Dichloroethylene | Ethene, 1,1-dichloro- | 75-35-4 |
| [Dichloromethane (Methylene chloride)] | | |
| 2,4-Dichlorophenol | [(]Phenol, 2,4-dichloro-[)] | 120-83-2 |
| 2,6-Dichlorophenol | [(]Phenol, 2,6-dichloro-[)] | 87-65-0 |
| [2,4-Dichlorophenoxyacetic acid (2,4-D), salts and esters (Acetic acid, 2,4-dichlorophenoxy-, salts and esters)] | | |
| Dichlorophenylarsine | Arsonous dichloride, phenyl- [(Phenyl dichloroarsine)] | 696-28-6 |
| Dichloropropane, N.O.S.* | [(]Propane, dichloro- [N.O.S.*)] | 26638-19-7 |
| [1,2-Dichloropropane (Propylene dichloride)] | | |
| Dichloropropanol, N.O.S.* | [(]Propanol dichloro-, [N.O.S.*)] | 26545-73-3 |
| Dichloropropene, N.O.S.* | [(]1-Propene, dichloro-, [N.O.S.*)] | 26952-23-8 |
| 1,3-Dichloropropene | [(]1-Propene, 1,3-dichloro-[)] | 542-75-6 |
| Dieldrin | 2,7:3,6-Dimethanonaphth-(2,3-b)oxirene, 3,4,5,6,9, 9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-,(1aalpha, 2beta, 2aalpha, 3beta, 6beta, 6aalpha, 7beta, 7aalpha)- [(1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4, 4a,5,6,7,8,8a-octa-hydro-endo,exo-1,4:5,8-Dimethanonaphthalene]) | 60-57-1 |
| 1,2:3,4-Diepoxybutane | [(]2,2'-Bioxirane[)] | 1464-53-5 |
| Diethylarsine | [(]Arsine, diethyl-[)] | 692-42-2 |
| 1,4 Diethyleneoxide | 1,4 Dioxane | 123-91-1 |
| N,N-Diethylhydrazine | [(]Hydrazine, 1,2-diethyl[)] | 1615-80-1 |
| O,O-Diethyl S-methyl dithiophosphate [ester of phosphorodithioic acid] | [(]Phosphorodithioic acid, O,O-diethyl S-methyl ester | 3288-58-2 |
| O,O-Diethylphosphoric acid, O-p-nitrophenyl ester | [(]Phosphoric acid, diethyl p-nitrophenyl ester[)] | |
| Diethyl-p-nitro phenyl phosphate | Phosphoric acid, diethyl-4-nitrophenyl ester | 311-45-5 |
| Diethylphthlate | [(]1,2-Benzenedicarboxylic acid, diethyl ester[)] | 84-66-2 |
| O,O-Diethyl O-[2-]pyrazinyl phosphorothioate | [(]Phosphorothioic acid, O,O-diethyl O-pyrazinyl ester | 297-97-2 |
| Diethylstilbesterol | Phenol,4, 4'-(1,2-diethyl-1,2-ethenediyl) bis,(E)- [(4,4'-Stilbenediol, alpha, alpha-diethyl, bis (dihydrogen phosphate, (E)-)] | 56-53-1 |
| Dihydrosafrole | 1,3 Benzodioxole, 5-propyl- [(Benzene, 1,2-methylenedioxy-4-propyl-)] | 94-58-6 |
| 3,4-Dihydroxy-alpha-(methyl-amino)methyl benzyl alcohol | [(](+-)-1,2-Benzenediol, 4-(1-hydroxy-2-(methyl-amino)ethyl)-[)] | 329-65-7 |
| Diisopropylfluorophosphate (DFP) | [(]Phosphorofluoridic acid, bis(1-methylethyl) ester[)] | 55-91-4 |
| Dimethoate | [(]Phosphorodithioic acid, O,O-dimethyl S-(2-[(methylamino)-2-oxoethyl) ester] | 60-51-5 |
| 3,3'-Dimethoxybenzidine | [(](1,1'-Biphenyl)-4,4'diamine, 3,3'-dimethoxy-[)] | 119-90-4 |
| p-Dimethylaminoazobenzene | [(]Benzenamine, N,N-dimethyl-4-(phenylazo)-[)] | 60-11-7 |
| 7,12-Dimethylbenz(a)anthracene | [(1,2-]Benz(a)nthracene, 7,12-dimethyl[-)] | 57-97-6 |
| 3,3'-Dimethylbenzidine | [(](1,1'-biphenyl)-4,4'-diamine, 3,3'-dimethyl-[)] | 119-93-7 |
| Dimethylcarbamoyl chloride | Carbamic [(carbamoyl] chloride, dimethyl-[)] | 79-44-7 |
| 1,1-Dimethylhydrazine | [(]Hydrazine, 1,1-dimethyl-[)] | 57-14-7 |
| 1,2-Dimethylhydrazine | [(]Hydrazine, 1,2-dimethyl-[)] | 540-73-8 |
| [3,3-Dimethyl-1-(methylthio)-2-butanone, O-((methylamino) carbonyl)oxime (Thiofanox)] | | |
| alpha, alpha-Dimethylphene-thylamine | Benzeneethanamine, alpha, alpha-dimethyl- [(Ethanamine, 1,1-dimethyl-2-phenyl-)] | 122-09-8 |
| 2,4-Dimethylphenol | [(]Phenol,2,4-dimethyl-[)] | 105-67-9 |
| Dimethyl phthalate | [(]1,2-Benzenedicarboxylic acid, dimethyl ester[)] | 131-11-3 |
| Dimethyl sulfate | [(]Sulfuric acid, dimethyl ester[)] | 77-78-1 |

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| Dinitrobenzene, N.O.S.* | [()Benzene, dinitro-[, N.O.S.*)] | 25154-54-5 |
| 4,6-Dinitro-o-cresol and salts | [()Phenol, 2-methyl-4,6 [2,4]-dinitro-[6-methyl-,] and salts[)] | 534-52-1 |
| 2,4-Dinitrophenol | [()Phenol, 2,4-dinitro-[)] | 51-28-5 |
| 2,4-Dinitrotoluene | [()Benzene, 1-methyl-2,4-dinitro-[)] | 121-14-2 |
| 2,6-Dinitrotoluene | [()Benzene, 2[1]-methyl-1,3 [2,6]-dinitro-[)] | 606-20-2 |
| Dinoseb | Phenol,2-(1-methylpropyl)-4-6-dinitro- | 88-85-7 |
| Di-n-octylphthalate | [()1,2-Benzenedicarboxylic acid, dioctyl ester[)] | 117-84-0 |
| 1,4-Dioxane | [()1,4-Diethylene oxide[)] | |
| Diphenylamine | [()Benzenamine, N-phenyl-[)] | 122-39-4 |
| 1,2-Diphenylhydrazine | [()Hydrazine, 1,2-diphenyl-[)] | 122-66-7 |
| Di-n-propylnitrosamine | [()1-Propanamine, N-Nitroso-N-propyl-[di-n-propylamine)] | 621-64-7 |
| Disulfoton | Phosphorodithioic acid, O,O-diethyl S-(2-(ethylthio) ethyl)ester) [(O,O-diethyl S-(ethylthio)ethyl) phosphorodithioate)] | 298-04-4 |
| [2,4-]Dithiobiuret | [()Thioimidodicarbonic diamide[)] | 541-53-7 |
| Endosulfan | 6,9-Methano-2,4,3-benzodioxathiepen,6,7,8,9,10,10-hexachloro-1,5,5a,6,9,9a-hexahydro-, 3-oxide [(5-Norbornene, 2,3-dimethanol, 1,4,5, 6,7,7-hexachloro-, cyclic sulfite)] | 115-29-7 |
| Endothal | 7-Oxabicyclo(2.2.1)heptane-2,3-dicarboxylic acid | 145-73-3 |
| Endrin [and metabolites] | 2,7:3,6-Dimethanonaphth-(2,3-b)oxirene,3,4,5,6,9,9-hexachloro-1a,2,2a,3,6,6a,7,7a-octahydro-,(1aalpha, 2beta, 2abeta, 3alpha, 6alpha, 6abeta, 7beta, 7aalpha)- [(1,2,3,4,10,10-hexachloro-6,7-epoxy-1,4,4a,5,6,7,8,8a-octahydro-endo,endo-1,4:5,8-dimethanonaphthalene, and metabolites)] | 72-20-8 |
| Ethyl carbamate (Urethane) | (Carbamic acid, ethyl ester) | 51-79-6 |
| Ethyl cyanide | [()propanenitrile[)] | 107-12-0 |
| Ethylenebisdithiocarbamic acid, salts and esters | [()Carbamodithioic acid, 1,2-Ethanediylbis- [carbamodithioic acid,] salts and esters[)] | 111-54-6 |
| Ethylene dibromide | Ethane, 1,2-dibromo- | 106-93-4 |
| Ethylene dichloride | Ethane, 1,2-dichloro- | 107-06-2 |
| Ethylene glycol monethyl ether | Ethanol, 2-ethoxy | 110-80-5 |
| Ethyleneimine | [()Aziridine[)] | 151-56-4 |
| Ethylene oxide | [()Oxirane[)] | 75-21-8 |
| Ethylenethiourea | [()2-Imidazolidinethione[)] | 96-45-7 |
| Ethylidene dichloride | Ethane, 1,1-dichloro- | 75-34-3 |
| Ethyl methacrylate | [()2-Propenoic acid, 2-methyl-, ethyl ester[)] | 97-63-2 |
| Ethylmethane sulfonate | [()Methanesulfonic acid, ethyl ester[)] | 62-50-0 |
| Famphur | Phosphorothioic acid,O-(4-((dimethylamino)) sulfonyl)phenyl)O,O-dimethyl ester | 52-85-7 |
| Fluoranthene | Same [(Benzo(j,k)fluorene)] | 206-44-0 |
| Fluorine | Same | 7782-41-4 |
| [2-]Fluoroacetamide | [()Acetamide, 2-fluoro-[)] | 640-19-7 |
| Fluoroacetic acid, sodium salt | [()Acetic acid, fluoro-, sodium salt[)] | 62-74-8 |
| Formaldehyde [Formic acid (Methanoic acid)] | Same [(methylene oxide)] | 50-00-0 |
| Glycidylaldehyde | Oxiranecarboxyaldehyde [(1-Propanol-2,3-epoxy)] | 765-34-4 |
| Halomethane, N.O.S.* | ---------- | ------- |
| Heptachlor | [()4,7-Methano-1H-indene, 1,4,5,6,7,8,8-heptachloro-3a,4,7,7a-tetrahydro-[)] | 76-44-8 |
| Heptachlor epoxide | [()2,5-Methano-2H-indeno(1,2b) oxirene,2,3,4,5,6,7,7-heptachloro-1a, 1b, 5, 5a, 6, 6a-hexahydro-alpha, beta, and gamma isomers[)] | 1024-57-3 |
| Hexachlorobenzene | [()Benzene, hexachloro-[)] | 118-74-1 |
| Hexachlorobutadiene | [()1,3-Butadiene, 1,1,2,3,4,4-hexachloro-[)] | 87-68-3 |
| Hexachlorocyclohexane (all isomers) (Lindane and isomers) | | |
| Hexachlorocyclopentadiene | [()1,3-Cyclopentadiene, 1,2,3,4,5,5-hexachloro-[)] | 77-47-4 |
| Hexachlorodibenzo-p-dioxins | ---------- | ------- |
| Hexachlorodibenzofurans | ---------- | ------- |
| Hexachloroethane | [()Ethane, 1,1,1,2,2,2-hexachloro-[)] | 67-72-1 |
| 1,2,3,4,10,10-Hexachloro-1,4,4a, 5,8,8a-hexahydro-1,4:5,8-endo, endo-dimethanonaphthalene | [()Hexachlorohexahydro-endo,endo-dimethanonaphthalene[)] | |
| Hexachlorophene | [()Phenol,2,2'-Methylenebis(3,4,6-trichloro- [phenol))] | 70-30-4 |
| Hexachloropropene | [()1-Propene, 1,1,2,3,3,3-hexachloro-[)] | 1888-71-7 |
| Hexaethyl tetraphosphate | [()Tetraphosphoric acid, hexaethyl ester[)] | 757-58-4 |
| Hydrazine | Same) [(Diamine)] | 302-01-2 |

| | | |
|---|---|---|
| [Hydrocyanic acid (Hydrogen cyanide)] | | |
| [Hydrofluoric acid (Hydrogen fluoride)] | | |
| Hydrogen cyanide | Hydrocyanic acid | 74-90-8 |
| Hydrogen fluoride | Hydrofluoric acid | 7664-39-3 |
| Hydrogen sulfide | Same [(Sulfur hydride)] | 7783-06-4 |
| Hydroxydimethylarsine oxide | [(]Cacodylic acid[)] | |
| Indeno(1,2,3[-] cd)pyrene | Same [(1,10-(1,2-phenylene) pyrene)] | 193-39-5 |
| [Iodomethane (Methyl iodide)] | | |
| Iron dextran | Same [(Ferric dextran)] | 9004-66-4 |
| [Isocyanic acid, methyl ester (Methyl isocyanate)] | | |
| Isobutyl alcohol | [(]1-Propanol, 2-methyl-[)] | 78-83-1 |
| Isodrin | 1,4:5,8-Dimethanonaphthalene, 1,2,3,4,10,10-hexachloro-1,4,4a,5,8,8a-hexahydro-alpha,4alpha,4abeta,5beta,8beta,8abeta | |
| Isosafrole | 1,3-Benzodioxole,5-(1-propenyl)- [(Benzene, 1,2-methylenedioxy-4-allyl-)] | 120-58-1 |
| Kepone | 1,3,4-Metheno-2H-cyclobuta-(cd)pentalen-2-one,1,1a,3,3a,4,5,5,5a,5b,6-decachloro-octahydro- [(Decachlorooctahydro-1,3,4-Methano-2H-cyclobuta(cd) pentalen-2-one)] | 143-50-0 |
| Lasiocarpine | [(]2-Butenoic acid, 2-methyl-,7-((2,3-dihydroxy-2-(1-methoxyethyl)-3-methyl-1-oxobutoxy)methyl)-2,3,5,7a-tetrahydro-1H-pyrrolizin-1-yl ester, (1S-(1alpha(z),7(2s,3R),7aalpha))-[)] | 303-34-4 |
| Lead and compounds, N.O.S.* | ---------- | 7439-92-1 |
| Lead acetate | [(]Acetic acid, lead (2+) salt[)] | 301-04-2 |
| Lead phosphate | [(]Phosphoric acid, lead (2+) salt[)] | 7446-27-7 |
| Lead subacetate | [(]Lead, bis(acetato-O)tetrahydroxytri-[)] | 1335-32-6 |
| Lindane | Cyclohexane, 1, 2, 3, 4, 5, 6-Hexachloro- | 58-89-9 |
| Maleic anhydride | [(]2,5-Furandione[)] | 108-31-6 |
| Maleic hydrazide | [(]1,2-Dihydro-3,6-pyridazinedione[)] | 123-33-1 |
| Malononitrile | [(]Propanedinitrile[)] | 109-77-3 |
| Melphalan | L-Phenylalanine, 4-(bis(2-chloroethyl)amino)- [(Alanine, 3-(p-bis)2-chloroethyl)amino)phenyl-,L-)] | 148-82-3 |
| Mercury fulminate | [(]Fulminic acid, mercury (2+) salt[)] | 628-86-4 |
| Mercury and compounds, N.O.S.* | Same | 7439-97-6 |
| Methacrylonitrile | [(]2-Propanenitrile, 2-methyl-[)] | 126-98-7 |
| [Methanethiol (Thiomethanol)] | | |
| Methapyrilene | 1,2-Ethanediamine, N,N-dimethyl-N'-2-pyridinyl-N'-(2-thienylmethyl [(Pyridine, 2-((2-dimethylamino) ethyl)-2-thenylamino-)] | 91-80-5 |
| Metho[l]myl | [(]Acetimidic acid, N-((methylcarbamoyl)oxy)thio-, methyl ester | 16752-77-5 |
| Methoxychlor | Benzene, 1, 1'-(2,2,2-trichloroethylidene)(4-methoxy-[(Ethane, 1,1,1-trichloro-2,2'-bis(p-methoxyphenyl)-)] | 72-43-5 |
| [2-Methylaziridine (1,2-Propylenimine)] | | |
| [3-Methylcholanthrene (Benz(j) aceanthrylene, 1,2-dihydro-3-methyl-)] | | |
| Methyl bromide | Methane, bromo- | 74-83-9 |
| Methyl chloride | Methane, chloro- | 74-87-3 |
| Methyl chlorocarbonate | [(]Carbonochloridic acid, methyl ester[)] | 79-22-1 |
| Methyl chloroform | Ethane,1,1,1-trichloro- | 71-55-6 |
| 3-Methylcholanthrene | Benz(j)aceanthrylene,1,2-dihydro-3-methyl- | 56-49-5 |
| 4,4'-Methylenebis(2-chloroaniline) | [(]Benzenamine, 4,4'-methylenebis-(2-chloro-[)] | 101-14-4 |
| Methylene bromide | Methane,dibromo- | 74-95-3 |
| Methylene chloride | Methane, dichloro- | 75-09-2 |
| Methyl ethyl ketone (MEK) | [(]2-Butanone[)] | 78-93-3 |
| Methyl ethyl ketone peroxide | 2-Butanone, peroxide | 1338-23-4 |
| Methyl hydrazine | [(]Hydrazine, methyl-[)] | 60-34-4 |
| Methyl iodide | Methane, iodo- | 74-88-4 |
| Methyl isocyanate | Methane, isocyanato- | 624-83-9 |
| 2-Methyllactonitrile | [(]Propanenitrile, 2-hydroxy-2-methyl-[)] | 75-86-5 |
| Methyl methacrylate | [(]2-Propenoic acid, 2-methyl-, methyl ester[)] | 80-62-6 |
| Methyl methanesulfonate | [(]Methanesulfonic acid, methyl ester[)] | 66-27-3 |
| [2-Methyl-2-(methylthio) propionaldehyde-o-(methyl-carbonyl) oxime] | | |

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|---|---|---|
| [N-Methyl-N'-nitro-N-nitroso guanidine (Guanidine,N-nitroso-N-methyl-N'-nitro-)] | | |
| Methyl parathion | Phosphorothioic acid, 0,0-Dimeth]0-(4-nitrophenyl)ester [(0-0-dimethyl 0-(4-nitrophenyl) phosophorothioate)] | 298-00-0 |
| Methylthiouracil | [(]4[-](1H)-Pyrimidinone, 2,3-dihydro-6-methyl-2-thioxo-[)] | 56-04-2 |
| Mitomycin C | Azirino(2', 3':3,4)pyrrolo-(1,2-a)indole-4,7-dione-6-amino-8-(((aminocarbonyl)oxy)-methyl)-1,1a,2,8,8a,8b,-hexahydro-8a-methoxy-5-methyl-(1aR-(1aalpha,8beta,8aalpha,8balpha))- | 50-07-7 |
| MNNG | Guanidine,N-methyl-N'-nitro-N-nitroso- | 70-25-7 |
| Mustard gas | Ethane,1,1'-thiobis(2-chloro- [(Sulfide, bis(2-chloroethyl)-)] | 505-60-2 |
| Naphthalene | Same | 91-20-3 |
| 1,4-Naphthoquinone | [(]1,4-Naphthalenedione[)] | 130-15-4 |
| alpha-Naphthylamine | 1-Naphthalenamine | 134-32-7 |
| beta-Naphthylamine | 2-Naphthalenamine | 91-59-8 |
| 1-Naphthylamine | [(]alpha-Naphthylamine[)] | |
| 2-Naphthylamine | [(]beta-Naphthylamine[)] | |
| alpha-Naphthylthiourea | Thiourea,1-naphthalenyl- | 86-88-4 |
| 1-Nanphthyl-2-thiourea | [(]Thiourea, 1-naphthalenyl-[)] | |
| Nickel and compounds, N.O.S.* | Same | 7440-02-0 |
| Nickel carbonyl | [(]Nickel [tetra]carbonyl,(T-4)-[)] | 13463-39-3 |
| Nickel cyanide | Same [(Nickel (II) cyanide)] | 557-19-7 |
| Nicotine and salts | [(]Pyridine, (S)-3-(1-methyl-2-pyrrolidinyl)-, and salts[)] | 54-11-5 |
| Nitric oxide | [(]Nitrogen [(II)] oxide NO[)] | 10102-43-9 |
| p-Nitroaniline | [(]Benzenamine, 4-nitro-[)] | 100-01-06 |
| Nitrobenzene | Benzene, nitro- | 98-95-3 |
| Nitrobenzine | [(]Benzene, nitro-[)] | |
| Nitrogen dioxide | [(]Nitrogen [(IV)] oxide $NO_2$[)] | 10102-44-0 |
| Nitrogen mustard and hydrochloride salt | [(]Ethanamine,2-chloro-, N-(2-chloroethyl)-N-methyl-, and hydrochloride salt[)] | 51-75-2 |
| Nitrogen mustard N-Oxide and hydrochlororide salt | [(]Ethanamine, 2-chloro-, N-(2-chloroethyl)-N-methyl-, N-oxide, and hydrochloride salt[)] | 126-85-2 |
| Nitroglycerin[e] | [(]1,2,3-Propanetriol, trinitrate[)] | 55-63-0 |
| [4-Nitrophenol (Phenol, 4-nitro-)] | | |
| p-Nitrophenol | Phenol, 4-nitro- | 100-02-7 |
| 2-Nitropropane | Propane, 2-nitro | 79-46-9 |
| 4-Nitroquinoline-1-oxide | [(]Quinoline, 4-nitro-,oxide-[)] | 56-57-5 |
| Nitrosamine, N.O.S.* | ---------- | 35576-91-1 |
| N-Nitrosodi-n-butylamine | [(]1-Butanamine, N-butyl-N-nitroso-[)] | 924-16-3 |
| N-Nitrosodiethanolamine | [(]Ethanol, 2,2'-(nitrosoimino)bis-[)] | 1116-54-7 |
| N-Nitrosodiethylamine | [(]Ethanamine, N-ethyl-N-nitroso-[)] | 55-18-5 |
| N-Nitrosodimethylamine | Methamine, N-methyl-N-nitroso-[(Dimethylnitrosamine)] | 62-75-9 |
| N-Nitroso-N-ethyl urea | Urea [(Carbamide], N-ethyl-N-nitroso-[)] | 759-73-9 |
| N-Nitrosomethylethylamine | [(]Ethanamine, N-methyl- N-nitroso-[)] | 10595-95-6 |
| N-Nitroso-N-methylurea | Urea [(carbamide], N-methyl-N-nitroso-[)] | 684-93-5 |
| N-Nitroso-N-methylurethane | [(]Carbamic acid, methylnitroso-, ethyl ester[)] | 615-53-2 |
| N-Nitrosomethylvinylamine | Vinyl [(Ethen]amine, N-methyl-N-nitroso-[)] | 4549-40-0 |
| N-Nitrosomorpholine | [(]Morpholine, N-nitroso-[)] | 59-89-2 |
| N-Nitrosonornicotine | Pyridine, 3-(1-nitroso-2-pyrrolidinyl)-(s)- [(Nornicotine, N-nitroso-)] | 16543-55-8 |
| N-Nitrosopiperidine | Piperidine, 1-nitroso- [(Pyridine, hexahydro-, N-nitroso-)] | 100-75-4 |
| Nitrosopyrrolidine | Pyrrolidine,1-nitroso- | 930-55-2 |
| N-Nitrososarcosine | Glycine, N-methyl-N-nitroso-[(Sarcosine, N-nitroso-)] | 13256-22-9 |
| 5-Nitro-o-toluidine | [(]Benzenamine, 2-methyl-5-nitro-[)] | 99-55-8 |
| Octamethylpyrophosphoramide | [(]Diphosphoramide, octamethyl-[)] | 152-16-9 |
| Osmium tetroxide | [(]Osmium [(VIII)] oxide $O_sO_4$[)] | 20816-12-0 |
| [7-Oxabicyclo(2,2,1)heptane-2,3-dicarboxylic acid (Endothal)] | | |
| Paraldehyde | [(]1,3,5--Trioxane, 2,4,6-trimethyl-[)] | 123-63-7 |
| Parathion | [(]Phosphorothioic acid, 0,0-diethyl 0-(4[p]-nitrophenyl) ester[)] | 56-38-2 |
| Pentachlorobenzene | [(]Benzene, pentachloro-[)] | 608-93-5 |
| Pentachlorodibenzo-p-dioxins | ---------- | ------- |
| Pentachlorodibenzofurans | ---------- | ------- |
| Pentachloroethane | [(]Ethane, pentachloro-[)] | 76-01-7 |
| Pentachloronitrobenzene (PCNB) | [(]Benzene, pentachloronitro-[)] | 82-68-8 |

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|---|---|---|
| Pentachlorophenol | [()Phenol, pentachloro-[)] | 87-86-5 |
| Phenacetin | [()Acetamide, N-(4-ethoxyphenyl)-[)] | 62-44-2 |
| Phenol | Same [(Benzene, hydroxy-)] | 108-95-2 |
| Phenylenediamine | [()Benzenediamine[)] | 25265-76-3 |
| Phenylmercury acetate | [()Mercury, (acetato-o)phenyl-[)] | 62-38-4 |
| [N-]Phenylthiourea | [()Thiourea, phenyl-[)] | 103-85-5 |
| Phorate | Phosphorodithioic acid, O,O-diethyl S-((ethylthio) methyl)ester | 298-02-2 |
| Phosgene | Carbonic dichloride [(Carbonyl chloride)] | 75-44-5 |
| Phosphine | Same [(Hydrogen phosphide)] | 7803-51-2 |
| Phosphorodithioic acid, O,O-dimethyl O-(p- ((dimethylamino) sulfonyl)phenyl) ester | [()Famphur[)] | |
| Phthalic acid esters, N.O.S.* | [(Benzene, 1,2-di-carboxylic acid, esters, N.O.S.*)] | ------- |
| Phthalic anhydride | 1,3-Isobenzofurandione [(1,2-Benzenedicarboxylic acid anhydride)] | 85-44-9 |
| 2-Picoline | [()Pyridine,2-methyl-[)] | 109-06-8 |
| Polychlorinated biphenyls, N.O.S.* | ---------- | ------- |
| Potassium cyanide | Same | 151-50-8 |
| Potassium silver cyanide | [()Argentate(1-),bis(cyano-c)[dicyano]-,potassium[)] | 506-61-6 |
| Pronamide | [(3,5-Dichloro-N-(1,1-dimethyl-2-propynyl) benzamide,[)] | 23950-58-5 |
| 1,3-Propane sultone | [()1,2-Oxathiolane, 2,2-dioxide[)] | 1120-71-4 |
| Propargyl alcohol | 2-Propyn-1-ol | 107-19-7 |
| n-Propylamine | [()1-Propanamine[)] | 107-10-8 |
| Propylene dichloride | Propane,1,2-dichloro- | 78-87-5 |
| 1,2-Propylenimine | Aziridine, 2-methyl- | 75-55-8 |
| Propylthiouracil | 4(1H)-Pyrimidinone,2,3-dihydro-6-propyl-2-thioxo | 51-52-5 |
| | [(Undecamethylenediamine, N,N'-bis(2-chlorobenzyl)-, dihydrochloride)2-Propyn-1-ol(propargyl alcohol)] | |
| Pyridine | Same | 110-86-1 |
| Reserpinen | [()Yohimban-16-carboxylic acid, 11,17-dimethoxy-18-((3,4,5-trimethoxybenzoyl)oxy)-, methyl ester[)] | 50-55-5 |
| Resorcinol | [()1,3-Benzenediol[)] | 108-46-3 |
| Saccharin and salts | [()1,2-Benzisothiazol[in]-3(2H)-one, 1,1-dioxide and salts[)] | 81-07-2 |
| Safrole | 1,3-Benzodioxole,5-(2-propenyl)- [(Benzene, 1,2-methylenedioxy-4-allyl-)] | 94-59-7 |
| Selenious acid | [()Selenium dioxide[)] | |
| Selenium and compounds, N.O.S.* | Selenium | 7782-49-2 |
| Selenium dioxide | Selenious acid | 7783-00-8 |
| Selenium sulfide | Same [(Sulfur selenide)] | 7446-34-6 |
| Selenourea | Same [(Carbamimidoselenoic acid)] | 630-10-4 |
| Silver and compounds, N.O.S.* | Silver | 7440-22-4 |
| Silver cyanide | Same | 506-64-9 |
| Silvex (2,4,5-TP) | Propanoic acid, 2-(2,4,5-trichlorophenoxy)- | 93-72-1 |
| Sodium cyanide | Same | 143-33-9 |
| Streptozotocin | [()D-Glucopyranose, 2-deoxy-2-(3-methyl-3-nitrosoureido)-[)] | 18883-66-4 |
| Strontium sulfide | Same | 1314-96-1 |
| Strychnine and salts | [()Strychnidin-10-one and salts[)] | 57-24-9 |
| TCDD | Dibenzo(b,e)(1,4)dioxin,2,3,7,8,-tetrachloro- | 1746-01-6 |
| 1,2,4,5-Tetrachlorobenzene | [()Benzene, 1,2,4,5-tetrachloro-[)] | 95-94-3 |
| [2,3,7,8-Tetrachlorodibenzo-p-dioxin (TCDD) (Di-benzo-p-dioxin, 2,3,7,8-tetrachloro-)] | | |
| Tetrachlorodibenzo-p-dioxins | ---------- | ------- |
| Tetrachlorodibenzofurans | ---------- | ------- |
| Tetrachloroethane, N.O.S.* | [()Ethane, tetrachloro-, N.O.S.*[)] | 25322-20-7 |
| 1,1,1,2-Tetrachlorethane | [()Ethane, 1,1,1,2-tetrachloro-[)] | 630-20-6 |
| 1,1,2,2-Tetrachlorethane | [()Ethane, 1,1,2,2-tetrachloro-[)] | 79-34-5 |
| Tetrachloroethylene | [()Ethene, [1,1,2,2-]tetrachloro-[)] | 127-18-4 |
| [Tetrachloromethane (Carbon tetrachloride)] | | |
| 2,3,4,6-Tetrachlorophenol | [()Phenol, 2,3,4,6-tetrachloro-[)] | 58-90-2 |
| Tetraethyldithiopyrophosphate | Thiodiphosphoric acid, tetraethyl [(Dithiopyro-phosphoric acid, tetraethyl-ester)] | 3689-24-5 |
| Tetraethyl lead | [()Plumbane, tetraethyl-[)] | 78-00-2 |
| Tetraethylpyrophosphate | Di[(Pyro)phosphoric acid, tetraethyl ester[)] | 107-49-3 |
| Tetranitromethane | [()Methane, tetranitro-[)] | 509-14-8 |
| Thallium and compounds, N.O.S.* | Thallium | 7440-28-0 |
| Thallic oxide | [()Thallium (III) oxide[)] | 1314-32-5 |
| Thallium (I) acetate | [()Acetic acid, thallium (1+) [(I)] salt[)] | 563-68-8 |
| Thallium (I) carbonate | [()Carbonic acid, dithallium (1+) [(I)] salt[)] | 6533-73-9 |

| | | |
|---|---|---|
| Thallium (I) chloride | Thallium chloride | 7791-12-0 |
| Thallium (I) nitrate | [(]Nitric acid, thallium (1+) [(I)] salt[)] | 10102-45-1 |
| Thallium selenite | Thallium selenide | 12039-52-0 |
| Thallium (I) sulfate | [(]Sulfuric acid, thallium [(I)] salt[)] | 10031-59-1 |
| Thioacetamide | [(]Ethanethioamide[)] | 62-55-5 |
| Thiofanox | 2-Butanone,3,3-dimethyl-1-(methylthio)-0-((methyl-amino) carbonyl)oxime | 39196-18-4 |
| Thiomethanol | Methanethiol | 74-93-1 |
| Thiophenol | Benzenethiol | 108-98-5 |
| Thiosemicarbazide | [(]Hydrazinecarbothioamide[)] | 79-19-6 |
| Thiourea | Same [(Carbamide thio-)] | 62-56-6 |
| Thiram | Thioperoxydicarbonic diamide, Tetramethyl- | 137-26-8 |
| [Thiuram (Bis(dimethylthiocar-bamoyl) disulfide)] | | |
| Toluene | [(]Benzene, methyl-[)] | 108-88-3 |
| Toluenediamine [N.O.S.] | Benzenediamine,ar-methyl- | 25376-45-8 |
| 2,4-Toluenediamine | 1,3-Benzenediamine,4-methyl- | 95-80-7 |
| 2,6-Toluenediamine | 1,3-Benzenediamine, 2-methyl- | 823-40-5 |
| 3,4-Toluenediamine | 1,2-Benzenediamine,4-methyl- | 496-72-0 |
| Toluene diisocyanate | Benzene,2,4-diisocyanato-1-methyl- | 584-84-9 |
| p-Toluidine | Benzenamine,4-methyl- | 106-49-0 |
| o-Toluidine hydrochloride | [(]Benzenamine, 2-methyl-, hydrochloride[)] | 636-21-5 |
| [Tolylene diisocyanate (Benzene, 1,3-diisocyanatomethyl-)] | | |
| Toxaphene | Same [(Camphene, octachloro-)] | 8001-35-2 |
| [Tribromomethane (Bromoform)] | | |
| 1,2,4-Trichlorobenzene | [(]Benzene,1,2,4-trichloro-[)] | 120-82-1 |
| [1,1,1-Trichloroethane (Methyl chloroform)] | | |
| 1,1,2-Trichloroethane | [(]Ethane, 1,1,2-trichloro-[)] | 79-00-5 |
| [Trichloroethene (Trichloro-ethylene)] | | |
| Trichloroethylene | Ethene, trichloro | 79-01-6 |
| Trichloromethanethiol | [(]Methanethiol, trichloro-[)] | 75-70-7 |
| Trichloromonofluoromethane | [(]Methane, trichlorofluoro-[)] | 75-69-4 |
| 2,4,5-Trichlorophenol | [(]Phenol, 2,4,5-trichloro-[)] | 95-95-4 |
| 2,4,6-Trichlorophenol | [(]Phenol, 2,4,6-trichloro-[)] | 88-06-2 |
| 2,4,5-T | [(]Acetic acid(,2,4,5-trichlorophenoxy)-[)] | 93-76-5 |
| [2,4,5-Trichlorophenoxypropionic acid (2,4,5-TP) (Silvex) (Propionic acid, 2-(2,4,5-trichloro-phenoxy)-)] | | |
| Trichloropropane, N.O.S.* | [(Propane, trichloro-, N.O.S.*)] | ------- |
| 1,2,3-Trichloropropane | [(]Propane, 1,2,3-trichloro-[)] | 96-18-4 |
| 0,0,0-Triethyl phosphorothioate | [(]Phosphorothioic acid, 0,0,0-triethyl ester[) | 126-68-1 |
| sym-Trinitrobenzene | sym-Trinitrobenzene (Benzene, 1,3,5-trinitro-)] Benzene,1,3,5-trinitro | 99-35-4 |
| Tris(1-aziridinyl)-phosphine sulfide | Aziridine,1,1',1"-phosphino-thioylidynetris- [(Phosphine sulfide, tris(1-aziridinyl-)] | 52-24-4 |
| Tris(2,3-dibromopropyl) phosphate | [(]1-Propanol, 2,3-dibromo-, phosphate (3:1)[)] | 126-72-7 |
| Trypan blue | [(]2,7-Naphthalenedisulfonic acid, 3-((3,3'-dimethyl(1,1'-biphenyl)-4,4'-diyl)bis(azo))bis(5-amino-4-hydroxy-, tetrasodium salt[)] | 72-57-1 |
| Undecamethylenediamine, N,N'-bis-(2-chlorobenzyl)-,dihydro-chloride | Same | 2056-25-9 |
| Uracil mustard | 2,4(1H,3H)-Pyrimidinedione, [(Uracil] 5-(bis(2-chloroethyl)amino)-[)] | 66-75-1 |
| [Vanadic acid, ammonium salt (ammonium vanadate)] | | |
| Vanadium pentoxide | [(]Vanadium [(V)] oxide $V_2O_5$[)] | 1314-62-1 |
| Vinyl chloride | [(]Ethene, chloro-[)] | 75-01-4 |
| Warfarin | 2H-1-Benzopyran-2-one,4-hydroxy-3-(3-oxo-1-phenylbutyl)- | 81-81-2 |
| Zinc cyanide | Same | 557-21-1 |
| Zinc phosphide | Zinc phosphide $P_2Zn_3$ | 1314-84-7 |

*The abbreviation N.O.S. (not otherwise specified) signifies those members of the general class not specifically listed by name in this appendix.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at noon.
PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director
(1) Type and number of entities affected: Only a small number of persons who generate, store, treat, or dispose of Ethylene glycol monoethyl ether (Ethanol, 2-ethoxy) and 2-Nitropropane (Propane, 2-nitro) will be affected by this proposed amendment. The majority of the amendments made to this regulation are technical corrections and improvements in clarity; all hazardous waste generators; treatment, storage and disposal facilities; and recyclers will be affected by these amendments. Currently, the state of Kentucky regulates: 420 hazardous waste generators, 629 hazardous waste small quantity generators, 479 hazardous waste limited quantity generators, 45 hazardous waste facilities and hazardous waste recyclers.
(a) Direct and indirect costs or savings to those affected:
1. First year: The majority of the proposed amendments are for informational purposes only and will result in a benefit to regulated entities in improved clarity. However, two new chemicals have been added to the list of hazardous constituents - 2-ethoxyethanol and 2-nitropropane. The amendments made to this regulation will not affect many generators or facilities in Kentucky (note: the actual number is unknown), however, any individual managing either of these two chemicals will be subject to the entire set of hazardous waste management regulations. Costs associated with compliance would vary depending upon quantities generated and types of management utilized. Companies affected will experience significant costs associated with compliance, but should also experience a significant savings in liability since the imposition of standards will enhance protection of public health and the environment.
2. Continuing costs or savings: See note in item (1)(a)1.
3. Additional factors increasing or decreasing costs (note any effects upon competition): See note in item (1)(a)1.
(b) Reporting and paperwork requirements: Companies affected by the new listings of 2-nitropropane and 2-ethoxyethanol will be subject to applicable hazardous waste reporting and recordkeeping requirements.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None. The amendments made to this regulation are not anticipated to influence the current workload of the promulgating agency. The technical clarifications should result in a savings in research time to the promulgating agency since the CAS Registry system provides a wealth of easily accessible information and the amendments include a cross-reference to the CAS system.
2. Continuing costs or savings: None. See note in item (2)(a)1.
3. Additional factors increasing or decreasing costs: None. See note in item (2)(a)1.
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.
(4) Assessment of alternative methods; reasons why alternatives were rejected: The majority of the proposed amendments are made to improve the clarity and accuracy of the existing hazardous constituents list. The Chemical Abstracts Service (CAS) registry numbers are added as an identification aid. Chemical names have been changed to correspond to the name in the CAS registry handbook-number section for the listed CAS number. This corresponds to the CAS Ninth Collective Index nomenclature for most compounds. In addition, two new constituents (2-nitropropane and 2-ethoxyethanol) were added to the existing list of hazardous constituents. Alternative: Not applicable. This regulation lists hazardous constituents for identifying hazardous wastes, which by statute KRS 224.864(3) must be identical to the federal list and criteria for identifying hazardous waste. Thus, no alternatives were considered.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: None
TIERING: Was tiering applied? Yes. This regulation applies only to persons who generate, store, treat, or dispose of the hazardous constituents in the list.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR Appendix III to Part 261 promulgated on February 25, 1986 (51 FR 6537-6542), and August 6, 1986 (51 FR 28296-28310). In addition, one technical clarification has been made which does not alter the existing requirements but clarifies a chemical name.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments adopt requirements which are identical to those standards adopted by the U.S. EPA on February 25, 1986 and August 6, 1986. Also, one technical clarification was made (not based on federal regulations) to correct a chemical name.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations. A technical correction was made to this regulation to improve the clarity and consistency of the waste management regulations in 401 KAR Chapters 30 through 40.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 32:010. General provisions for generators.**

RELATES TO: KRS 224.071, 224.830 through 224.877, 224.994
PURSUANT TO: KRS Chapter 13A, 224.033, 224.864
NECESSITY AND FUNCTION: KRS 224.864 requires the Natural Resources and Environmental Protection Cabinet to promulgate regulations to establish standards for the generation of hazardous waste. This chapter establishes standards for the generators of hazardous waste. This regulations establishes the applicable general provisions for generators.

Section 1. Purpose, Scope, and Applicability. (1) These regulations establish standards for generators of hazardous waste.

(2) A generator who treats, stores, or disposes of hazardous waste on-site must only comply with the following sections of this regulation with respect to that waste; Section 2 of this regulation for determining whether or not he has a hazardous waste, Section 3 of this regulation for obtaining an identification number; 401 KAR 32:030, Section 5, for accumulation of hazardous waste; 401 KAR 32:040, Section 1(3) and (4), for recordkeeping; 401 KAR 32:040, Section 4, for additional reporting; and, if applicable, 401 KAR 32:050, Section 2, for farmers.

(3) Any person who imports hazardous waste from outside the United States into Kentucky must comply with the standards applicable to generators established in this chapter.

(4) A farmer who generates waste pesticides which are hazardous waste and who complies with all of the requirements of 401 KAR 32:050, Section 2 is not required to comply with other standards in this chapter or 401 KAR Chapters 34, 35, and 38 with respect to such pesticides.

(5) A person who generates a hazardous waste as defined by 401 KAR Chapter 31 is subject to the compliance requirements and penalties prescribed in KRS Chapter 224 if he does not comply with the requirements of this chapter.

(6) An owner or operator who initiates a shipment of hazardous waste from a treatment, storage, or disposal facility must comply with the generator standards established in this chapter.

(7) A small quantity generator (i.e., one who generates between 100 and 1,000 kg/mo of hazardous waste) must comply with the generator standards established in this chapter.

(8) A limited quantity generator (i.e., one who generates no more than 100 kilograms of hazardous waste a month or less than one (1) kilogram of acute hazardous waste) must comply with the requirements of 401 KAR 31:010, Section 5.

Section 2. Hazardous Waste Determination. A person who generates a waste, as defined in 401 KAR 31:010, Section 2, must determine if that waste is a hazardous waste using the following method:

(1) He should first determine if the waste is excluded from regulation under 401 KAR 31:010, Section 4.

(2) He must then determine if the waste is listed as a hazardous waste in 401 KAR 31:040.

(3) If the waste is not listed as a hazardous waste in 401 KAR 31:040 he must determine whether the waste is identified in 401 KAR 31:030, by either:

(a) Testing the waste according to the methods set forth in 401 KAR 31:030, or according to an equivalent method approved by the secretary; or

(b) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

(4) If the waste is determined to be hazardous, the generator must refer to 401 KAR Chapters 34, 35, and 37 for possible exclusions or restrictions pertaining to management of his specific waste.

Section 3. Registration and Identification Number. (1) A generator must not treat, store, dispose, transport, or offer for transportation, hazardous waste without having registered with the cabinet and received an EPA identification number. Such registration shall be filed within ninety (90) days after promulgation or revision of regulations under 401 KAR Chapter 31 identifying by its characteristics or listing any substance as a hazardous waste. Not more than one (1) such registration shall be required to be filed with respect to the same substance. The registration shall include:

(a) Known or anticipated types, potential sources, general characteristics, and weights or volumes of hazardous wastes generated annually;

(b) The place of generation and the name and address of a contact agent; and

(c) If the waste is a special waste, generators shall, either individually or collectively as a categorical group, within ninety (90) days after promulgation or revision of regulations under 401 KAR Chapter 31, file a report, according to procedures previously approved by the cabinet, which details, by geographic area, the known or anticipated types, potential sources, general characteristics, and weights or volumes of special wastes generated annually. Not more than one (1) registration shall be required to be filed with respect to the same substance.

(2) A generator who has not received an EPA identification number may obtain one by registering with the cabinet as described above, using forms provided by the cabinet. Upon receiving the request and reviewing the information the cabinet will assign an EPA identification number to the generator.

(3) A generator must not offer his hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an

EPA identification number.

(4) Hazardous waste generation and on-site management of hazardous waste must be consistent with registration. Any changes in waste streams, on-site management methods, or other information submitted on the registration form requires the generator to submit a modified registration form. The registrant shall timely file a modified registration form with the cabinet. A required modification shall be considered timely filed if it is received by the cabinet not later than thirty (30) days following the change requiring the submittal of the modification. If a [registrant requires a] modification to a [his] registration is required to add an additional waste stream, or change the name of the registrant [company] or the contact person, the registrant [he] must submit a fee to the cabinet in accordance with Section 3 of 401 KAR 39:010.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: This regulation affects hazardous waste generators in Kentucky. Currently there are 420 hazardous waste generators, 629 small quantity generators, and 479 limited quantity generators regulated in Kentucky.

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

1. First year: There are no added costs incurred by this amendment. One amendment was adopted to be identical to the federal changes contained in 40 CFR 262.11 published November 7, 1986. This amendment and two other technical amendments made to this regulation serve as regulatory notice to generators of existing standards which may apply to them, but which are located in other Chapters of the regulations.

2. Continuing costs or savings: None.

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

(b) Reporting and paperwork requirements: One amendment clarifies that registration forms must be modified whenever changes in the original form occur.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. The promulgating administrative body anticipates no effect from the amendments made to this regulation.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) This regulation is amended to be identical to the federal language in 40 CFR 262.11 promulgated on November 7, 1986. Included is a statement to clarify that operations must be consistent with registration. A reference to limited quantity generator standards is made in Section 1.

Alternative. 1. Less stringent. The proposed amendments serve as notices to generators of existing requirements. The cabinet, thus, could not be less stringent and still maintain awareness among the regulated community of the requirements. However, omitting the "notices" would have created unnecessary confusion for the regulated community.

2. More stringent. The cabinet chose not to adopt more stringent requirements because the present proposal adequately protects public health and the environment. The two changes added to clarify the regulations do not impose stricter requirements.

3. Present proposal. The present proposal provides notice to generators of existing standards and enhances the clarity of the standards.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. This regulation is tiered to apply only to hazardous waste generators.

## FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 262.11 promulgated on November 7, 1986 (51 FR 40572-40654). In addition two other technical changes were made that do not alter the existing requirements but clarify the existing requirements by providing a statement that operations must be consistent with registration and providing a reference to existing limited quantity generator standards contained in 401 KAR 31:010, Section 5.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments adopt requirements which are identical to those standards adopted by the U.S. Environmental Protection Agency on November 7, 1986. The two technical changes were not made based on federal regulations; they serve to clarify the existing regulation for the regulated community. No new standards or new responsibilities are imposed

which are more strict than those imposed by the U.S. EPA.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations. Technical changes were made to improve the clarity of the regulation.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 32:030. Pretransport requirements.**

RELATES TO: KRS 224.071, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.864

NECESSITY AND FUNCTION: KRS 224.864 requires the cabinet to promulgate regulations to establish standards for the generation of hazardous waste. The chapter establishes standards applicable to generators of hazardous waste. This regulation establishes the requirements for labeling, marking, placarding, and accumulation time.

Section 1. Packaging. Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must package the waste in accordance with the applicable U.S. Department of Transportation regulations on packaging under 49 CFR Parts 173, 178, and 179.

Section 2. Labeling. Before transporting or offering hazardous waste for transportation off-site, a generator must label each package in accordance with the applicable U. S. Department of Transportation regulations on hazardous materials, under 49 CFR 172.

Section 3. Marking. (1) Before transporting or offering hazardous waste for transportation off-site, a generator must mark each package of hazardous waste in accordance with the applicable U.S. Department of Transportation regulations on hazardous materials under 49 CFR 172.

(2) Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must mark each container of 110 gallons or less used in such transportation in accordance with the requirements of 49 CFR 172.304. The following words and information shall be displayed: "Hazardous Waste - Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.
Generator's Name and Address_____.
Manifest Document Number_____."

Section 4. Placarding. Before transporting hazardous waste or offering
hazardous waste for transportation off-site, a generator must offer the initial transporter the appropriate placards according to U.S. Department of Transportation regulations for hazardous materials under 49 CFR Part 172, Subpart F.

Section 5. Accumulation Time. (1) Except as provided in subsection 4 of this section [provides otherwise], a generator may accumulate hazardous waste on-site for ninety (90) days or less without a permit or without having interim status provided that:

(a) The waste is placed in containers and the generator complies [which meet the standards of Section 1 of this regulation and are managed in accordance] with 401 KAR 35:180, or the waste is placed in tanks and the [, provided the] generator complies with [the requirements of] 401 KAR 35:190, except those provisions in Sections 8(3) and 11 [3] of 401 KAR 35:190. Excluding the requirements in Section 2(1), (2), 4 and 5 of 401 KAR 35:070, a generator is exempt from the requirements in 401 KAR 35:070 through 35:130. [;]

(b) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(c) While being accumulated on-site, each container and tank is labeled or marked clearly with the words "Hazardous Waste;" and

(d) The generator complies with the requirements specified in 401 KAR 35:030, and 401 KAR 35:040, and Sections 6 and 7 of 401 KAR 35:020.

(2) A generator who accumulates hazardous waste for more than ninety (90) days is an operator of a storage facility and is subject to the requirements of 401 KAR Chapter 34, 401 KAR Chapter 35 and the permit requirements of 401 KAR Chapter 38, unless he has been granted an extension to the ninety (90) day period. Such extensions may be granted by the cabinet if hazardous wastes must remain on-site for longer than ninety (90) days due to unforeseen, temporary, and uncontrolled circumstances. An extension of up to thirty (30) days may be granted at the discretion of the cabinet on a case-by-case basis.

(3) Satellite accumulation. (a) A generator may accumulate as much as fifty-five (55) gallons of hazardous waste or one (1) quart of acutely hazardous waste listed in Section 4 of 401 KAR 31:040 in containers at or near any point of generation where wastes initially accumulate, which is under the control of the operator of the process generating the waste, without a permit or interim status and without complying with subsection (1) of this section provided that upon commencement of accumulation, he:

1. Complies with Sections 2, 3, and 4(1) of 401 KAR 35:180; and

2. Marks his containers with the words "Hazardous Waste."

(b) A generator who accumulates either hazardous waste or acutely hazardous waste listed in Section 4 of 401 KAR 31:040 in excess of the amounts listed in paragraph (a) of this subsection at or near any point of generation must, with respect to that amount of excess waste, comply with subsection (1) of this section or other applicable provisions of this chapter and continue to comply with paragraph (a)1 and 2 of this subsection. The generator must mark the container holding the excess accumulation of hazardous waste with the date

the excess amount began accumulating. The date must be placed on the container on the day that excess accumulation began.

(4) A generator generating a total quantity of hazardous waste greater than 100 kilograms, but less than 1,000 kilograms during a calendar month for every month in a calendar year (i.e., a registered small quantity generator), may store without a permit for up to 180 days. Such on-site storage may occur without a permit for not more than 6,000 kilograms for up to 270 days if such generator must ship or haul such waste over 200 miles.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The amendments to this regulation may affect hazardous waste generators in Kentucky. There are 420 full quantity generators, 629 small quantity generators, and 479 limited quantity generators in Kentucky.

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

1. First year: None. The proposed amendments clarify what regulations a generator must comply with in respect to accumulation time. These clarifications will not result in any direct or indirect costs or savings to those affected.

2. Continuing costs or savings: See note in (1)(a)1.

3. Additional factors increasing or decreasing costs (note any effects upon competition): See note in (1)(a)1.

(b) Reporting and paperwork requirements: None. The proposed amendments do not add any reporting and paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The proposed amendments clarify the regulations which must be complied with in respect to accumulation time. They will not result in any costs or savings to the promulgating administrative body.

2. Continuing costs or savings: None. See (2)(a)1.

3. Additional factors increasing or decreasing costs: None. See (2)(a)1.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The proposed amendment adopts language from the federal regulation, 40 CFR 262.34, promulgated on July 14, 1986 (51 FR 25422-25486).

Alternative. 1. Less stringent. The cabinet could have chosen to be less stringent than the provision adopted in this amendment. However, the present proposal will adequately protect the environment and public health of Kentucky.

2. More stringent. The cabinet could have chosen to be more stringent than the provision adopted in this amendment. However, the present proposal is adequate to protect the public health and the environment in Kentucky.

3. Present proposal. The present proposal clarifies requirements regarding accumulation time.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. This regulation applies only to hazardous waste generators.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The proposed amendment adopts verbatim language from the federal regulation, 40 CFR 262.34, promulgated on July 14, 1986 (51 FR 25422-25486).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendment to this regulation does not impose stricter requirements or responsibilities than those required by the federal mandate.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The proposed amendment imposes no stricter standards or responsibilities than those imposed by the federal mandate.

## NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
### Department for Environmental Protection
### Division of Waste Management
### (Proposed Amendment)

**401 KAR 32:040. Recordkeeping and reporting.**

RELATES TO: KRS 224.071, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.864

NECESSITY AND FUNCTION: KRS 224.864 requires the cabinet to promulgate regulations to establish standards for the generation of hazardous waste. This chapter establishes standards applicable to generators of hazardous waste. This regulation establishes recordkeeping and reporting standards.

Section 1. Recordkeeping. (1) A generator must keep a copy of each manifest signed in accordance with Section 4(3) of 401 KAR 32:020 in addition to the signed copy returned from the designated facility which received the waste. Both copies must be retained on record for at least three (3) years from the date the waste was accepted by the initial transporter.

(2) A generator must keep a copy of each annual report and exception report for a period of at least three (3) years from the due date of the report (March 1).

(3) A generator must keep records of any test results, waste analyses, or other determinations made in accordance with Section 2 of 401 KAR 32:010 for at least three (3) years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.

(4) A generator must keep a log showing all facility and equipment inspections as required in Section 6 of 401 KAR 35:020.

(5) The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the secretary.

Section 2. Annual Reporting. (1) A generator who ships any [his] hazardous waste off-site to a treatment, storage or disposal facility within the United States must prepare and [must] submit annual reports on a form approved by the cabinet according to the instructions on the form. The annual report must be submitted to the cabinet no later than March 1 for the preceding calendar year and must, at a minimum, include the following information:

(a) A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated.

(b) A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984.

(c) The EPA identification number, name, and address for each off-site treatment, storage, or disposal facility in the United States to which waste was shipped during the year.

(d) The name and EPA identification number of each transporter used during the reporting year for shipments to a treatment, storage or disposal facility within the United States.

(e) A description, EPA hazardous waste number (from 401 KAR 31:030), DOT hazard class, and quantity of each hazardous waste shipped off-site for shipments to a treatment, storage or disposal facility within the United States. This information must be listed by EPA identification number for each such off-site facility to which waste was shipped.

(f) [(c)] The certification signed by the generator or authorized representative.

(2) Any generator who treats, stores, or disposes of hazardous waste on-site must submit an annual report covering those wastes in accordance with [the] provisions of 401 KAR Chapters 34, 35, 36, and 38. Reporting for exports of hazardous waste outside the United States is not required on the annual report form but shall be accomplished by a separate annual report pursuant to 401 KAR 32:050.

(3) Generators must provide a duplicate copy of the report required in Section 2 of this regulation to the county judge/executive of the county or chief executive officer of an urban county government within which the waste site or facility which will receive waste from the generator is located and to the county judge/executive of the county or chief executive officer of an urban-county government within which the generator is located in order that the county judge/executive or chief executive officer may make the report available to the county law enforcement and emergency services for emergency planning purposes.

Section 3. Exception Reporting. (1) A generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within thirty-five (35) days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.

(2) A generator must submit an exception report to the cabinet if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within forty-five (45) days of the date the waste was accepted by the initial transporter. The exception report must include:

(a) A legible copy of the manifest for which the generator does not have confirmation of delivery;

(b) A cover letter signed by the generator or his authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.

Section 4. Additional Reporting. The secretary may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in 401 KAR Chapter 31.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: This regulation affects 1049 hazardous waste generators in Kentucky.

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

1. First year: A minimal additional cost is incurred by requiring at least two additional copies of the annual report and by requiring

that these copies be sent to the respective elected officials.

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. These are previously existing requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The proposed amendments are identical to the federal language promulgated in 262.41 with the exception of biennial report requirements.

Alternative. 1. Less stringent. Kentucky could not have been less stringent on this requirement and still have maintained authorization to administer the RCRA hazardous waste program. To have adopted less stringent provisions would have afforded Kentucky's public health and environment less protection that that provided by the national program.

2. More stringent. Kentucky's requirements are presently more stringent than the federal requirements due to the fact that Kentucky requires annual reports instead of biennial.

3. Present proposal. The present proposal reflects the federal language with the exception of the biennial reporting requirements. Kentucky requires annual reports.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. This regulation applies to generators of hazardous waste.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt all federal language in 40 CFR 262.41 except the biennial reporting requirement promulgated on August 7, 1986 (51 FR 28682). Kentucky will retain the annual reporting requirements. Also, a new requirement enacted by the 1986 legislature is included in this regulation. It requires the generator to supply a copy of the annual report to the county judge executive of the county within which the waste site or facility which will receive waste from the generator is located.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Yes. This regulation requires that generators supply a copy of the annual report to the county judge executive within which the waste site or facility which will receive waste from the generator is located.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: The proposed requirement that generators supply a copy of the annual report to the county judge executive within which the waste site or facility which will receive waste from the generator is located was enacted by the 1986 legislature.

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management
(Proposed Amendment)

**401 KAR 32:050. Special conditions.**

RELATES TO: KRS 224.071, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.017, 224.033, 224.864

NECESSITY AND FUNCTION: KRS 224.864 requires the cabinet to promulgate regulations to establish standards for the generation of hazardous waste. This chapter establishes standards applicable to generators of hazardous waste. This regulation establishes special conditions for generators who export or import hazardous waste. This regulation exempts farmers from certain requirements.

Section 1. Applicability. This regulation establishes requirements applicable to exports of hazardous waste. Except to the extent that international agreements specified by the Environmental Protection Agency (40 CFR 262.58) provide otherwise, a primary exporter of hazardous waste must comply with the special requirements of this regulation and a transporter transporting hazardous waste for export must comply with applicable requirements of 401 KAR Chapter 33. 40 CFR 262.58 sets forth the requirements of international agreements between the United States and receiving countries which establish different notice, export, and enforcement procedures for the transportation, treatment, storage and disposal of hazardous waste for shipments between the United States and those countries. [International Shipments. (1) Any person who exports hazardous waste to a foreign country or imports hazardous waste from a foreign country into the United States must comply with the requirements of this regulation.]

[(2) When shipping hazardous waste outside the United States the generator must:]

[(a) Notify the cabinet and the U.S. Environmental Protection Agency in writing four (4) weeks before the initial shipment of hazardous waste to each country in each calendar year.]

[1. The waste must be identified by its hazardous waste identification number and its U.S. Department of Transportation shipping description;]

[2. The name and address of the foreign consignee must be included in this notice;]

[3. These notices must be sent to: Hazardous Waste Export, Division for Oceans and Regulatory

Affairs (A-107), United States Environmental Protection Agency, Washington, D.C. 20460, and the Natural Resources and Environmental Protection Cabinet, Frankfort, Kentucky 40601.]

[(b) Require the foreign consignee confirm the delivery of the waste in the foreign country. A copy of the manifest signed by the foreign consignee may be used for this purpose;]

[(c) Meet the requirements under Section 2(1) of 401 KAR 32:020 for the manifest, except that:]

[1. In place of the name, address, and identification number of the designated facility, the name and address of the foreign consignee must be used; and]

[2. The generator must identify the point of departure from the United States through which the waste must travel before entering a foreign country.]

[(d) The generator may obtain the manifest form from any source.]

[(3) A generator must file an exception report, if:]

[(a) He has not received a copy of the manifest signed by the transporter stating the date and place of departure from the United States within forty-five (45) days from the date it was accepted by the initial transporter; or]

[(b) Within ninety (90) days from the date the waste was accepted by the initial transporter, the generator has not received written confirmation from the foreign consignee that the hazardous waste was received.]

[(4) Any person exporting hazardous waste identified or listed under 401 KAR Chapter 31 shall file with the cabinet no later than March 1 of each year, a report summarizing the types, quantities, frequency, and ultimate destination of all such hazardous waste exported during the previous calendar year.]

[(5) When importing hazardous waste, a person must meet all requirements of Section 2(1) of 401 KAR 32:020 for the manifest except that:]

[(a) In place of the generator's name, address and identification number, the name and address of the foreign generator and the importer's name, address and identification number must be used; and]

[(b) In place of the generator's signature on the certification statement, the U.S. importer or his agent must sign and date the certification and obtain the signature of the initial transporter.]

[(6) A person who imports hazardous waste may obtain the manifest form from any source.]

Section 2. Definitions. In addition to the definitions set forth at Section 1 of 401 KAR 30:010, the following definitions apply to this regulation:

(1) "Consignee" means the ultimate treatment, storage or disposal facility in a receiving country to which the hazardous waste will be sent.

(2) "EPA acknowledgment of consent" means the cable set to EPA from the U.S. embassy in a receiving country that acknowledges the written consent of the receiving country to accept the hazardous waste and describes the terms and conditions of the receiving country's consent to the shipment.

(3) "Primary exporter" means any person who is required to originate the manifest for a shipment of hazardous waste in accordance with Section 1 of 401 KAR 32:020 which specifies a treatment, storage, or disposal facility in a receiving country as the facility to which the hazardous waste will be sent and any intermediary arranging for the export.

(4) "Receiving country" means a foreign country to which a hazardous waste is sent for the purpose of treatment, storage or disposal (except short-term storage incidental to transportation).

(5) "Transit country" means any foreign country, other than a receiving country, through which a hazardous waste is transported.

Section 3. General Requirements. Exports of hazardous waste are prohibited except in compliance with the applicable requirements of this regulation and 401 KAR Chapter 33. Exports of hazardous waste are prohibited unless:

(1) Notification in accordance with Section 4 of this regulation has been provided;

(2) The receiving country has consented to accept the hazardous waste;

(3) A copy of the EPA acknowledgment of consent to the shipment accompanies the hazardous waste shipment and, unless exported by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment));

(4) The hazardous waste shipment conforms to the terms of the receiving country's written consent as reflected in the EPA acknowledgment of consent.

Section 4. Notification of Intent to Export. (1) A primary exporter of hazardous waste must notify EPA of an intended export before such waste is scheduled to leave the United States. A complete notification should be submitted sixty (60) days before the initial shipment is intended to be shipped off site. This notification may cover export activities extending over a twelve (12) month or lesser period. The notification must be in writing, signed by the primary exporter, and include the following information:

(a) Name, mailing address, telephone number and EPA ID number of the primary exporter;

(b) By consignee, for each hazardous waste type:

1. A description of the hazardous waste and the EPA hazardous waste number (from 401 KAR 31:030 and 31:040), U.S. DOT proper shipping name, hazard class and ID number (UN/NA) for each hazardous waste as identified in 49 CFR Part 171-177;

2. The estimated frequency or rate at which such waste is to be exported and the period of time over which such waste is to be exported;

3. The estimated total quantity of the hazardous waste in units as specified in the instructions to the Uniform Hazardous Waste Manifest Form (8700-22);

4. All points of entry to and departure from each foreign country through which the hazardous waste will pass;

5. A description of the means by which each shipment of the hazardous waste will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.) type(s) of container (drums, boxes, tanks, etc.));

6. A description of the manner in which the hazardous waste will be treated, stored or disposed of in the receiving country (e.g., land or ocean incineration, other land disposal, ocean dumping, recycling);

7. The name and site address of the consignee

and any alternate consignee; and

8. The name of any transit countries through which the hazardous waste will be sent and a description of the approximate length of time the hazardous waste will remain in such country and the nature of its handling while there.

(2) Notification shall be sent to the Office of International Activities (A-106), EPA, 401 M Street, SW, Washington, DC 20460 with "Attention Notification to Export" prominently displayed on the front of the envelope.

(3) Except for changes to the telephone number in subsection (1)(a) of this section, changes to subsection (1)(b)5 of this section and decreases in the quantity indicated pursuant to subsection (1)(b)3 of this section when the conditions specified on the original notification change (including any exceedance of the estimate of the quantity of hazardous waste specified in the original notification), the primary exporter must provide EPA with a written renotification of the change. The shipment cannot take place until consent of the receiving country to the changes (except for changes to subsection (1)(b)8 of this section and in the ports of entry to and departure from transit countries pursuant to subsection (1)(b)4 of this section) has been obtained and the primary exporter receives an EPA acknowledgment of consent reflecting the receiving country's consent to the changes.

(4) Upon request by EPA, a primary exporter shall furnish to EPA any additional information which a receiving country requests in order to respond to a notification.

(5) In conjunction with the department of state, EPA will provide a complete notification to the receiving country and any transit countries. A notification is complete when EPA receives a notification which EPA determines satisfies the requirements of subsection (1) of this section. Where a claim of confidentiality is asserted with respect to any notification information required by subsection (1) of this section, EPA may find the notification not complete until any such claim is resolved in accordance with Section 8 of 401 KAR 30:020.

(6) Where the receiving country consents to the receipt of the hazardous waste, EPA will forward an EPA acknowledgment of consent to the primary exporter for purposes of Section 5(8) of this regulation. Where the receiving country objects to receipt of the hazardous waste or withdraws a prior consent, EPA will notify the primary exporter in writing. EPA will also notify the primary exporter of any responses from transit countries.

Section 5. Special Manifest Requirements. A primary exporter must comply with the manifest requirements of Sections 1 through 4 of 401 KAR 32:020 except that:

(1) In lieu of the name, site address and EPA ID number of the designated permitted facility, the primary exporter must enter the name and site address of the consignee;

(2) In lieu of the name, site address and EPA ID number of a permitted alternate facility, the primary exporter may enter the name and site address of any alternate consignee;

(3) In special handling instructions and additional information, the primary exporter must identify the point of departure from the United States;

(4) The following statement must be added to the end of the first sentence of the certification set forth in Item 16 of the Uniform Hazardous Waste Manifest Form: "and conforms to the terms of the attached EPA acknowledgment of consent;"

(5) In lieu of the requirements of Section 2 of 401 KAR 32:020, the primary exporter must obtain the manifest form from the primary exporter's state if that state supplies the manifest form and requires its use. If the primary exporter's state does not supply the manifest form, the primary exporter may obtain a manifest form from any source;

(6) The primary exporter must require the consignee to confirm in writing the delivery of the hazardous waste to that facility and to describe any significant discrepancies (as defined in Section 3(1) of 401 KAR 34:050) between the manifest and the shipment. A copy of the manifest signed by such facility may be used to confirm delivery of the hazardous waste;

(7) In lieu of the requirements of Section 1(4) of 401 KAR 32:020, where a shipment cannot be delivered for any reason to the designated or alternate consignee, the primary exporter must:

(a) Renotify EPA of a change in the conditions of the original notification to allow shipment to a new consignee in accordance with Section 4(3) of this regulation and obtain an EPA acknowledgment of consent prior to delivery; or

(b) Instruct the transporter to return the waste to the primary exporter in the United States or designate another facility within the United States; and

(c) Instruct the transporter to revise the manifest in accordance with the primary exporter's instructions.

(8) The primary exporter must attach a copy of the EPA acknowledgment of consent to the shipment to the manifest which must accompany the hazardous waste shipment. For exports by rail or water (bulk shipment), the primary exporter must provide the transporter with an EPA acknowledgment of consent which must accompany the hazardous waste but which need not be attached to the manifest except that for exports by water (bulk shipment) the primary exporter must attach the copy of the EPA acknowledgment of consent to the shipping paper.

(9) The primary exporter shall provide the transporter with an additional copy of the manifest for delivery to the U.S. Customs official at the point the hazardous waste leaves the United States in accordance with Section 1(7)(d) of 401 KAR 33:020.

Section 6. Exception Reports. In lieu of the requirements of Section 3 of 401 KAR 32:040, a primary exporter must file an exception report with the secretary if:

(1) He has not received a copy of the manifest signed by the transporter stating the date and place of departure from the United States within forty-five (45) days from the date it was accepted by the initial transporter;

(2) Within ninety (90) days from the date the waste was accepted by the initial transporter, the primary exporter has not received written confirmation from the consignee that the hazardous waste was received;

(3) The waste is returned to the United States.

Section 7. Annual Reports. (1) Primary exporters of hazardous waste shall file with the secretary no later than March 1 of each year a

report summarizing the types, quantities, frequency, and ultimate destination of all hazardous waste exported during the previous calendar year. Such reports shall include the following:

(a) The EPA identification number, name, and mailing and site address of the exporter;

(b) The calendar year covered by the report;

(c) The name and site address of each consignee;

(d) By consignee, for each hazardous waste exported, a description of the hazardous waste, the EPA hazardous waste number (from 401 KAR 31:030 and 31:040), DOT hazard class, the name and U.S. EPA ID number (where applicable) for each transporter used, the total amount of waste shipped and number of shipments pursuant to each notification;

(e) Except for hazardous waste produced by exporters of greater than 100 kilograms but less than 1000 kilograms in a calendar month, unless provided pursuant to Section 2 of 401 KAR 32:040, in even numbered years:

1. A description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated; and

2. A description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for years prior to 1984.

(f) A certification signed by the primary exporter which states:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

(2) Reports shall be sent to the cabinet and the Office of International Activities (A-106), Environmental Protection Agency, 401 M Street SW, Washington, DC 20460.

Section 8. Recordkeeping. (1) For all exports a primary exporter must:

(a) Keep a copy of each notification of intent to export for a period of at least three (3) years from the date the hazardous waste was accepted by the initial transporter;

(b) Keep a copy of each EPA acknowledgment of consent for a period of at least three (3) years from the date the hazardous waste was accepted by the initial transporter;

(c) Keep a copy of each confirmation of delivery of the hazardous waste from the consignee for at least three (3) years from the date the hazardous waste was accepted by the initial transporter; and

(d) Keep a copy of each annual report for a period of at least three (3) years from the due date of the report.

(2) The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the secretary.

Section 9. Imports of Hazardous Waste. (1) Any person who imports hazardous waste from a foreign country into the United States must comply with the requirements of this chapter and the special requirements of this regulation.

(2) When importing hazardous waste, a person must meet all the requirements of Section 1(1) of 401 KAR 32:020 for the manifest except that:

(a) In place of the generator's name, address and EPA identification number, the name and address of the foreign generator and the importer's name, address and EPA identification number must be used.

(b) In place of the generator's signature on the certification statement, the U.S. importer or his agent must sign and date the certification and obtain the signature of the initial transporter.

(3) A person who imports hazardous waste must obtain the manifest form from the consignment state if the state supplies the manifest and requires its use. If the consignment state does not supply the manifest form, then the manifest form may be obtained from any source.

Section 10. [2.] Farmers. A farmer disposing of waste pesticides from his own use which are hazardous wastes is not required to comply with the standards in this chapter or other standards in 401 KAR Chapters 34, 35 or [and] 38 for those wastes provided he triple rinses each emptied pesticide container in accordance with 401 KAR 31:010, Section 7, and disposes of the pesticide residues on his own farm in a manner consistent with the disposal instructions on the pesticide label.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The proposed amendments affect generators who export or import hazardous waste.

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

1. First year: There may be a small cost to the primary exporter of hazardous waste as a result of the amendments to this regulation. The reporting and paperwork requirements (notification, annual report, etc.) of this regulation may impose this cost on the primary exporter. The primary exporter must also comply with special manifest requirements set forth in Section 5 of this regulation and file an exception report with the secretary if certain conditions are met.

2. Continuing costs or savings: See note in (1)(a)1.

3. Additional factors increasing or decreasing costs (note any effects upon competition): See note in (1)(a)1.

(b) Reporting and paperwork requirements: A primary exporter of hazardous waste must provide the EPA with a notification of intent to export. If any changes occur in this notification, the primary exporter must provide a written renotification of the change. Primary exporters of hazardous waste must also file an annual report with the secretary. For all exports, a primary exporter must keep a copy of the: (1) notification of intent to export, (2) EPA acknowledgment of consent, (3) Confirmation of delivery of hazardous waste, and (4) annual report.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. The proposed amendments to this regulation will not result in any direct or indirect costs or savings to the promulgating administrative body.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative. 1. Less stringent. Kentucky could not have been less stringent on its requirement and still have maintained authorization to administer the RCRA hazardous waste program. To have adopted less stringent provisions would have afforded Kentucky's public health and environment less protection than that provided by the national program.

2. More stringent. Kentucky could have been more stringent by requiring additional requirements for the export and import of hazardous waste. However, this is unnecessary since the proposed amendments provide adequate protection to public health and the environment.

3. Present proposal. The present proposal establishes the general requirements for the export of hazardous waste. These requirements include the notification of intent to export, special manifest requirements, exception reports, annual reports and other recordkeeping requirements.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. The proposed amendments affect generators who export or import hazardous waste.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 262.50 through 262.58, 40 CFR 262.60 and 40 CFR 262.70 promulgated on August 8, 1986 (51 FR 28664-28686).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments to this regulation adopt requirements which are identical to those standards adopted by the U.S. Environmental Protection Agency on August 8, 1986.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The proposed amendments do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

## NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
## Department for Environmental Protection
## Division of Waste Management
## (Proposed Amendment)

**401 KAR 32:100. Appendix on hazardous waste manifest and instructions.**

RELATES TO: KRS 224.033, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.864

NECESSITY AND FUNCTION: KRS 224.864 requires the cabinet to promulgate regulations to establish standards for the generation of hazardous wastes. This chapter establishes standards applicable to generators of hazardous waste. This regulation establishes a uniform hazardous waste manifest and the Kentucky instructions for each form.

Section 1. Applicability. This regulation prescribes the manifest forms and the instructions which are required by the cabinet in accordance with the provisions of 401 KAR 32:020 and 401 KAR 32:050. When a generator or a hazardous waste site or facility prints copies of these forms, the following two (2) sentences may be printed on the top of the first page of the manifest form:

THE INFORMATION IN THE SHADED AREAS - D, F, H, I AND K - IS REQUIRED BY KENTUCKY LAW.

IN THE EVENT OF A SPILL INSIDE KENTUCKY, CALL (502) 564-2380 WITHIN TWO (2) HOURS OF THE SPILL.

When a generator or a hazardous waste site or facility prints copies of these forms, the following sentence may be printed on the top of the continuation sheet(s):

THE INFORMATION IN THE SHADED AREAS - O, Q, R AND T - IS REQUIRED BY KENTUCKY LAW.

Section 2. Manifest Form. The first page of the manifest form shall be as contained in Appendix A of this regulation.

Section 3. Kentucky Instructions for First Page of the Manifest Form. Read all instructions before completing this form.

This form has been designed for use on a twelve (12) pitch (elite) typewriter; a firm point pen may also be used - press down hard.

KENTUCKY REGULATIONS REQUIRE GENERATORS AND TRANSPORTERS OF HAZARDOUS WASTE AND OWNERS OR OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES TO USE THIS FIRST PAGE OF THE FORM AND, IF NECESSARY, THE CONTINUATION SHEET(S).

KENTUCKY REGULATIONS ALSO REQUIRE GENERATORS AND TRANSPORTERS OF HAZARDOUS WASTE AND OWNERS OR OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES TO COMPLETE THE FOLLOWING INFORMATION:

GENERATORS

Item 1. Generator's U.S. EPA ID Number - Manifest Document Number. Enter the generator's U.S. EPA twelve digit identification number and the unique serially increasing, five (5) digit number assigned to this Manifest (e.g., 00001) by the generator.

Item 2. Page 1 of ____. Enter the total number of pages used to complete this Manifest, i.e., the first page plus the number of Continuation Sheets, if any.

Item 3. Generator's Name and Mailing Address. Enter the name and mailing address of the generator. The address should be the location that will manage the returned Manifest forms.

Item 4. Generator's Phone Number. Enter a telephone number where an authorized agent of the generator may be reached in the event of an emergency.

Item 5. Transporter 1 Company Name. Enter the company name of the first transporter who will transport the waste.

Item 6. U.S. EPA ID Number. Enter the U.S. EPA twelve digit identification number of the first transporter identified in Item 5.

Item D. Transporter's Phone. Enter the telephone number of the transporter identified in Item 5.

Item 7. Transporter 2 Company Name. If applicable, enter the company name of the second transporter who will transport the waste. If more than two transporters are used to transport the waste, use a Continuation Sheet(s) and list the transporters in the order they will be transporting the waste.

Item 8. U.S. EPA ID Number. If applicable, enter the U.S. EPA twelve digit identification number of the second transporter identified in Item 7.

Item F. Transporter's Phone. Enter the telephone number of the transporter identified in Item 7.

NOTE: If more than two transporters are used, enter each additional transporter's company name and U.S. EPA twelve digit identification number in Items 24-27 on the Continuation Sheet. Each Continuation Sheet has space to record two additional transporters. Every transporter used between the generator and the designated facility must be listed.

Item 9. Designated Facility Name and Site Address. Enter the company name and site address of the facility designated to receive the waste listed on this Manifest. The address must be the site address, which may differ from the company mailing address.

Item 10. U.S. EPA ID Number. Enter the U.S. EPA twelve digit identification number of the designated facility identified in Item 9.

Item H. Facility's Phone. Enter the telephone number of the facility identified in Item 9.

Item 11. U.S. DOT Description Including Proper Shipping Name, Hazard Class, and ID Number (UN/NA). Enter the U.S. DOT Proper Shipping Name, Hazard Class, and ID Number (UN/NA) for each waste as identified in 49 CFR Parts 171 through 177.

NOTE: If additional space is needed for waste descriptions, enter these additional descriptions in Item 28 on the Continuation Sheet.

Item 12. Containers (No. and Type). Enter the number of containers for each waste and the appropriate abbreviation from Table I (below) for the type of container.

Table I - Types of Containers

DM = Metal drums, barrels, kegs
DW = Wooden drums, barrels, kegs
DF = Fiberboard or plastic drums, barrels, kegs
TP = Tanks portable
TT = Cargo tanks (tank trucks)
TC = Tank cars
DT = Dump truck
CY = Cylinders
CM = Metal boxes, cartons, cases (including roll-offs)
CW = Wooden boxes, cartons, cases
CF = Fiber or plastic boxes, cartons, cases
BA = Burlap, cloth, paper or plastic bags

Item 13. Total Quantity. Enter the total quantity of waste described on each line.

Item 14. Unit (Wt./Vol.). Enter the appropriate abbreviation from Table II (below) for the unit of measure.

Table II - Units of Measure

G = Gallons (liquids only)
P = Pounds
T = Tons (2000 lbs)
Y = Cubic yards
L = Liters (liquids only)
K = Kilograms
M = Metric tons (1000 kg)
N = Cubic meters

Item I. Waste Number. Enter the EPA hazardous waste number for each waste.

Item K. Handling Codes for Waste Listed Above. Enter the appropriate handling code(s) for the wastes listed in Item 11. Table III contains the handling codes.

Table III - Handling Codes for Treatment, Storage, and Disposal Methods

(Enter the handling code(s) listed below that most closely represents the technique(s) used at the facility to treat, store, or dispose of each quantity of hazardous waste received.)

1. Storage

| | |
|---|---|
| S01 Container (barrel, drum, etc.) | S03 Waste pile |
| S02 Tank | S04 Surface impoundment |
| | S05 Other (specify) |

2. Treatment

(a) Thermal Treatment

| | |
|---|---|
| T06 Liquid injection incinerator | T11 Molten salt destructor |
| T07 Rotary kiln incinerator | T12 Pyrolysis |
| T08 Fluidized bed incinerator | T13 Wet air oxidation |
| | T14 Calcination |
| | T15 Microwave discharge |

T09 Multiple hearth incinerator
T10 Infrared furnace incinerator
T16 Cement kiln
T17 Lime kiln
T18 Other (specify)

(b) Chemical Treatment
T19 Absorption mound
T20 Absorption field
T21 Chemical fixation
T22 Chemical oxidation
T23 Chemical precipitation
T24 Chemical reduction
T25 Chlorination
T26 Chlorinolysis
T27 Cyanide destruction
T28 Degradation
T29 Detoxification
T30 Ion exchange
T31 Neutralization
T32 Ozonation
T33 Photolysis
T34 Other (specify)

(c) Physical Treatment
(1) Separation of components
T35 Centrifugation
T36 Clarification
T37 Coagulation
T38 Decanting
T39 Encapsulation
T40 Filtration
T41 Flocculation
T42 Flotation
T43 Foaming
T44 Sedimentation
T45 Thickening
T46 Ultrafiltration
T47 Other (specify)

(2) Removal of Specific Components
T48 Absorption-molecular sieve
T49 Activated carbon
T50 Blending
T51 Catalysis
T52 Crystallization
T53 Dialysis
T54 Distillation
T55 Electrodialysis
T56 Electrolysis
T57 Evaporation
T58 High gradient magnetic separation
T59 Leaching
T60 Liquid ion exchange
T61 Liquid-liquid extraction
T62 Reverse osmosis
T63 Solvent recovery
T64 Stripping
T65 Sand filter
T66 Other (specify)

(d) Biological treatment
T67 Activated sludge
T68 Aerobic lagoon
T69 Aerobic tank
T70 Anaerobic lagoon
T71 Composting
T72 Septic tank
T73 Spray irrigation
T74 Thickening filter
T75 Trickling filter
T76 Waste stabilization pond
T77 Other (specify)

3. Disposal
D80 Underground injection
D81 Landfill
D82 Land treatment
D83 Ocean disposal
D84 Surface impoundment (to be closed as a landfill)
D85 Other (specify)

Item 15. Special Handling Instructions and Additional Information. Generators may use this space to indicate special transportation, treatment, storage, or disposal information or Bill of Lading information. States may not require additional, new, or different information in this space. For international shipments, generators must enter in this space the point of departure (City and State) for those shipments destined for treatment, storage, or disposal outside the jurisdiction of the United States.

Item 16. Generator's Certification. The generator must read, sign (by hand), and date the certification statement. If a mode other than highway is used, the word "highway" should be lined out and the appropriate mode (rail, water, or air) inserted in the space below. If another mode in addition to the highway mode is used, enter the appropriate additional mode (e.g., and rail) in the space below. In signing the waste minimization certification statement, those generators who have not been exempted by statute or regulation from the duty to make a waste minimization certification under KRS Chapter 224 are also certifying that they have complied with the waste minimization requirements.

Generators may preprint the words, "On behalf of" in the signature block or may hand write this statement in the signature block prior to signing the generator certifications.

Primary exporters shipping hazardous wastes to a facility located outside of the United States must add to the end of the first sentence of the certification the following words "and conforms to the terms of the EPA acknowledgment of consent to the shipment."

NOTE: All of the above information except the handwritten signature required in Item 16 may be preprinted.

TRANSPORTERS

Item 17. Transporter 1 Acknowledgment of Receipt of Materials. Enter the name of the person accepting the waste on behalf of the first transporter. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

Item 18. Transporter 2 Acknowledgment of Receipt of Materials. Enter, if applicable, the name of the person accepting the waste on behalf of the second transporter. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

NOTE: International Shipments - Transporter Responsibilities.

Exports - Transporters must sign and enter the date the waste left the United States in Item 15 on the first page of the manifest form.

Imports - Shipments of hazardous waste regulated by RCRA and transported into the United States from another country must upon entry be accompanied by the U.S. EPA Uniform Hazardous Waste Manifest. Transporters who transport hazardous waste into the United States from another country are responsible for completing the Manifest (Section 1(3) of 401 KAR 32:010).

OWNERS AND OPERATORS OF TREATMENT, STORAGE, OR DISPOSAL FACILITIES

Item 19. Discrepancy Indication Space. The authorized representative of the designated (or alternate) facility's owner or operator must note in this space any significant discrepancy between the waste described on the Manifest and waste actually received at the facility.

Owners and operators of facilities located in Kentucky who cannot resolve significant discrepancies within 15 days of receiving the waste must submit to the Cabinet (Division of Waste Management, 18 Reilly Road, Frankfort, Ky. 40601) a letter with a copy of the Manifest at issue describing the discrepancy and attempts to reconcile it (Section 3 of 401 KAR 34:050 and Section 3 of 401 KAR 35:050).

Owners and operators of facilities located outside of Kentucky who cannot resolve significant discrepancies must submit to their Regional Administrator (if the U.S. EPA

administers the hazardous waste management program), or to their State agency (if the State administers the hazardous waste management program), a letter with a copy of the Manifest at issue describing the discrepancy and attempts to reconcile it.

Item 20. Facility Owner or Operator: Certification of Receipt of Hazardous Materials Covered by This Manifest Except as Noted in Item 19. Print or type the name of the person accepting the waste on behalf of the owner or operator of the facility. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

SHADED AREAS

Kentucky requires generators to complete Items D, F, H, I and K as part of Kentucky's manifest reporting requirements.

Section 4. Continuation Sheet. When all the required information cannot be entered on the first page of the manifest form, the generator shall use one (1) or more continuation sheets. The continuation sheet(s) of the manifest form shall be as contained in Appendix B of this regulation.

Section 5. Instructions for the Continuation Sheet. Read all instructions before completing this form.

This form has been designed for use on a twelve (12) pitch (elite) typewriter; a firm point pen may also be used - press down hard.

The form must be used as a continuation sheet to the first page of the manifest if:

- More than two transporters are to be used to transport the waste;
- More space is required for the U.S. DOT description and related information in Item 11 of the first page of the manifest form.

Kentucky regulations require generators and transporters of hazardous waste and owners or operators of hazardous waste treatment, storage, or disposal facilities to use the Uniform Hazardous Waste Manifest (first page) and, if necessary, this Continuation Sheet.

GENERATORS

Item 21. Generator's U.S. EPA ID Number - Manifest Document Number. Enter the generator's U.S. EPA twelve digit identification number and the unique five digit number assigned to this Manifest (e.g., 00001) as it appears in Item 1 on the first page of the Manifest.

Item 22. Page _____. Enter the page number of this Continuation Sheet.

Item 23. Generator's Name. Enter the generator's name as it appears in Item 3 on the first page of the Manifest.

Item 24. Transporter _____ Company Name. If additional transporters are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 3 Company Name. Each Continuation Sheet will record the names of two additional transporters.

Item 25. U.S. EPA ID Number. Enter the U.S. EPA twelve digit identification number of the transporter described in Item 24.

Item O. Transporter's Phone. Enter the telephone number of the transporter identified in Item 24.

Item 26. Transporter _____ Company Name. If additional transporters are used to transport the waste described on this Manifest, enter the company name of each additional transporter in the order in which they will transport the waste. Enter after the word "Transporter" the order of the transporter. For example, Transporter 4 Company Name. Each Continuation Sheet will record the names of two additional transporters.

Item 27. U.S. EPA ID Number. Enter the U.S. EPA twelve digit identification number of the transporter described in Item 26.

Item Q. Transporter's Phone. Enter the telephone number of the transporter identified in Item 26.

Item 28. U.S. DOT Description including Proper Shipping Name, Hazard Class, and ID Number (UN/NA). Refer to Item 11.

Item 29. Containers (No. and Type). Refer to Item 12.

Item 30. Total Quantity. Refer to Item 13.

Item 31. Unit (Wt./Vol.). Refer to Item 14.

Item R. Waste Number. Enter the EPA hazardous waste number for each waste.

Item T. Handling Codes for Waste Listed Above. Enter the appropriate handling code(s) for the wastes listed in Item 28. Table III under Item K contains the handling codes.

Item 32. Special Handling Instructions. Generators may use this space to indicate special transportation, treatment, storage, or disposal information or Bill of Lading information. States are not authorized to require additional, new or different information in this space.

TRANSPORTERS

Item 33. Transporter _____ Acknowledgment of Receipt of Materials. Enter the same number of the Transporter as identified in Item 24. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in Item 24. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

Item 34. Transporter _____ Acknowledgment of Receipt of Materials. Enter the same number as identified in Item 26. Enter also the name of the person accepting the waste on behalf of the Transporter (Company Name) identified in Item 26. That person must acknowledge acceptance of the waste described on the Manifest by signing and entering the date of receipt.

OWNERS AND OPERATORS OF TREATMENT, STORAGE, OR DISPOSAL FACILITIES

Item 35. Discrepancy Indication Space. Refer to Item 19.

SHADED AREAS

Kentucky does require generators to complete Items O, Q, R and T as part of Kentucky's manifest reporting requirements.

# APPENDIX A TO 401 KAR 32:100.
# FIRST PAGE OF THE MANIFEST FORM

Please print or type. *(Form designed for use on elite (12-pitch) typewriter.)* *Form Approved. OMB No. 2000-0404. Expires 7-31-86*

**UNIFORM HAZARDOUS WASTE MANIFEST**

1. Generator's US EPA ID No. | Manifest Document No. | 2. Page 1 of | Information in the shaded areas is not required by Federal law.

3. Generator's Name and Mailing Address

4. Generator's Phone ( )

5. Transporter 1 Company Name | 6. US EPA ID Number

7. Transporter 2 Company Name | 8. US EPA ID Number

9. Designated Facility Name and Site Address | 10. US EPA ID Number

| 11. US DOT Description *(Including Proper Shipping Name, Hazard Class, and ID Number)* | 12. Containers No. | Type | 13. Total Quantity | 14. Unit Wt/Vol | |
|---|---|---|---|---|---|
| a. | | | | | |
| b. | | | | | |
| c. | | | | | |
| d. | | | | | |

J. Additional Descriptions for Materials Listed Above | K. Handling Codes for Wastes Listed Above

15. Special Handling Instructions and Additional Information

16. **GENERATOR'S CERTIFICATION:** I hereby declare that the contents of this consignment are fully and accurately described above by proper shipping name and are classified, packed, marked, and labeled, and are in all respects in proper condition for transport by highway according to applicable international and national government regulations.

Unless I am a small quantity generator who has been exempted by statute or regulation from the duty to make a waste minimization certification under Section 3002(b) of RCRA, I also certify that I have a program in place to reduce the volume and toxicity of waste generated to the degree I have determined to be economically practicable and I have selected the method of treatment, storage, or disposal currently available to me which minimizes the present and future threat to human health and the environment

Printed/Typed Name | Signature | Month Day Year

**TRANSPORTER**

17. Transporter 1 Acknowledgement of Receipt of Materials

Printed/Typed Name | Signature | Month Day Year

18. Transporter 2 Acknowledgement of Receipt of Materials

Printed/Typed Name | Signature | Month Day Year

**FACILITY**

19. Discrepancy Indication Space

20. Facility Owner or Operator Certification of receipt of hazardous materials covered by this manifest except as noted in Item 19

Printed/Typed Name | Signature | Month Day Year

EPA Form 8700-22 (Rev. 4-85) Previous edition is obsolete

# APPENDIX B TO 401 KAR 32:100
# CONTINUATION SHEET(S) OF THE MANIFEST

THE INFORMATION IN THE SHADED AREAS — O,Q,R AND T — IS REQUIRED BY KENTUCKY LAW.

Please print or type (Form designed for use on elite (12-pitch) typewriter.)

Form Approved OMB No. 2000-0404 Expires 7-31-86

| UNIFORM HAZARDOUS WASTE MANIFEST *(Continuation Sheet)* | 21. Generator's US EPA ID No. | Manifest Document No. | 22. Page | Information in the shaded areas is not required by Federal law. |
|---|---|---|---|---|
| 23. Generator's Name | | | | |
| 24. Transporter ____ Company Name | 25. US EPA ID Number | | | |
| 26. Transporter ____ Company Name | 27. US EPA ID Number | | | |

GENERATOR

| 28. US DOT Description *(Including Proper Shipping Name, Hazard Class, and ID Number)* | 29 Containers No. | Type | 30 Total Quantity | 31 Unit Wt./Vol. | State No. |
|---|---|---|---|---|---|
| a. | | | | | |
| b. | | | | | |
| c. | | | | | |
| d. | | | | | |
| e. | | | | | |
| f. | | | | | |
| g. | | | | | |
| h. | | | | | |
| i. | | | | | |

| J. Additional Descriptions for Materials Listed Above | K. Handling Codes for Wastes Listed Above |
|---|---|
| | |

32 Special Handling Instructions and Additional Information

TRANSPORTER

33 Transporter ____ Acknowledgement of Receipt of Materials — Date

Printed/Typed Name | Signature

34 Transporter ____ Acknowledgement of Receipt of Materials — Date

Printed/Typed Name | Signature

FACILITY

35 Discrepancy Indication Space

EPA Form 8700-22A (3-84)

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at noon.
PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director
(1) Type and number of entities affected: The amendment to this regulation affects 1,049 generators of hazardous waste in Kentucky.
(a) Direct and indirect costs or savings to those affected:
1. First year: None. The proposed amendments will not result in any direct or indirect costs or savings to those affected; they deal with the instructions for completing the hazardous waste manifest.
2. Continuing costs or savings: None. See note in (1)(a)1.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None. See note in (1)(a)1.
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None. The proposed amendments will have no effect on the promulgating administrative body. These amendments deal with the instructions for completing the hazardous waste manifest.
2. Continuing costs or savings: None. See note in (2)(a)1.
3. Additional factors increasing or decreasing costs: None. See note in (2)(a)1.
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.
(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The present proposal requires that primary exporters must add to the end of the certification the following phrase: "and conforms to the terms of the EPA acknowledgment of consent to the shipment." Addition of this statement is a verification by the primary exporter shipping hazardous waste to a facility outside the United States that the shipment conforms to the terms of the EPA acknowledgment of consent. The proposal also allows generators to preprint or handwrite "on behalf of" in the signature block prior to signing the generator certifications.
Alternative. 1. Less stringent. Kentucky could not have been less stringent on its requirement and still have maintained authorization to administer the RCRA hazardous waste program. To have adopted less stringent provisions would have afforded Kentucky's public health and environment less protection than that provided by the national program.
2. More stringent. The proposed amendments are informational in nature as they deal with the instructions for completing the hazardous waste manifest. As such, it was unnecessary to consider more stringent alternatives.
3. Present proposal. The present proposal requires that primary exporters add a phrase to the certification verifying a hazardous waste shipments conformance with the EPA acknowledgment of consent. The proposal also allows generators to preprint or handwrite "on behalf of" in the signature block prior to signing the generator certifications.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: None
TIERING: Was tiering applied? Yes. The amendment to this regulation applies to hazardous waste generators and does not affect transporters and owners of disposal facilities who also use the manifest.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations promulgated August 8, 1986 (51 FR 28664-28686) and October 1, 1986 (51 FR 35190-35192). The words "serially increasing" were added to item one to be consistent with the definition in 401 KAR 30:010.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: This regulation is more stringent than the federal regulation as it requires information in the shaded areas of the manifest. However, the proposed amendments to this regulation adopt requirements which are identical to those standards adopted by the U.S. Environmental Protection Agency on August 8, 1986 and October 1, 1986.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Kentucky law requires that generators complete the items in the shaded areas of the manifest form as part of its manifest reporting requirements. However, the proposed amendments to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 33:010. General provisions for transporters.**

RELATES TO: KRS 224.071, 224.835, 224.873, 224.874
PURSUANT TO: KRS 13A.210, [224.017,] 224.033, 224.873
NECESSITY AND FUNCTION: KRS 224.873 requires the cabinet to promulgate regulations establishing standards applicable to transporters of hazardous waste regarding recordkeeping and compliance with the manifest system. This chapter establishes standards for transporters of hazardous waste. This regulation sets forth the general provisions applicable to these transporters.

Section 1. Scope. (1) This chapter establishes standards which apply to persons transporting hazardous waste within the Commonwealth of Kentucky if the transportation requires a manifest under 401 KAR Chapter 32.

(2) This chapter does not apply to on-site transportation of hazardous waste by generators or by owners or operators of permitted hazardous waste management facilities.

(3) A transporter of hazardous waste must also comply with the manifest requirements in 401 KAR Chapter 32 if he:

(a) Transports hazardous waste into Kentucky from a foreign country; or

(b) Mixes hazardous wastes of different DOT shipping descriptions by placing them into a single container.

Section 2. EPA Identification Number. (1) A transporter must not transport hazardous wastes within the Commonwealth of Kentucky without having received an EPA identification number from the cabinet.

(2) A transporter who has not received an EPA identification number may obtain one (1) by applying to the cabinet using EPA Form 8700-12 or a notification form approved by the cabinet [Form DWM-1].

(3) A transporter who transports or intends to transport hazardous waste within the Commonwealth of Kentucky must register with the cabinet. The application for registration shall include but not be limited to:

(a) The name, legal structure and permanent address of the organization;

(b) The EPA identification number.

Section 3. Transfer Facility Requirements. A transporter who stores manifested shipments of hazardous waste in containers meeting the requirements of Section 1 of 401 KAR 32.030 at a transfer facility for a period of ten (10) days or less is not subject to regulation under 401 KAR Chapters 34, 35, 37, and 38 with respect to storage of those wastes.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at noon.
PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The proposed amendments to this regulation are technical corrections and should not affect Kentucky's hazardous waste transporters except to clarify existing requirements. There are 164 hazardous waste transporters registered in Kentucky and subject to the existing requirements.

(a) Direct and indirect costs or savings to those affected: The proposed amendments to this regulation make a technical correction and add a reference for clarity. The proposed amendments make no changes in the standards for transporters, therefore no changes in costs or savings will be realized.

1. First year: None. See note in item (1)(a).

2. Continuing costs or savings: None. See note in (1)(a).

3. Additional factors increasing or decreasing costs (note any effects upon competition): None. See note in (1)(a).

(b) Reporting and paperwork requirements: None. The proposed amendments include removal of a reference to an obsolete form and the addition of the correct form number. However, no new paperwork requirements are imposed and the amendment is made to clarify the existing requirement.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. See note (1)(a).

2. Continuing costs or savings: None. See note in item (1)(a).

3. Additional factors increasing or decreasing costs: None. See note in item (1)(a).

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The amendments to this regulation make a technical correction and add a reference for clarity. The proposed amendments make the state language identical to the federal regulations, but are not substantive in nature. The amendments were made to improve the clarity of the existing requirements and thus no alternatives were considered.

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

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

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

with conflicting provisions: Not applicable.

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. This regulation applies only to hazardous waste transporters.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 263.12 promulgated on November 7, 1986 (51 40572-40654). A technical clarification has been made which does not alter existing requirements but replaces the reference to the old notification form DWM-1 with the current form reference (EPA form 8700-12).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: The proposed amendments adopt requirements which are identical to those standards adopted by the U.S. Environmental Protection Agency on November 7, 1986. In addition, one technical correction was made (not based on federal regulations) to clarify the reference to EPA Form 8700-12. No requirements or responsibilities are imposed which are more stringent than those imposed by the federal regulations.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations. A technical correction was made to this regulation to improve the clarity and consistency of the waste management regulations in 401 KAR Chapters 30 through 40.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 33:020. Compliance with the manifest system and recordkeeping.**

RELATES TO: KRS 224.071, 224.835, 224.873, 224.874

PURSUANT TO: KRS 13A.210, 224.017, 224.033, 224.873

NECESSITY AND FUNCTION: KRS 224.873 requires the cabinet to promulgate regulations establishing standards applicable to transporters of hazardous waste regarding recordkeeping and compliance with the manifest system. This chapter establishes standards for transporters of hazardous waste. This regulation sets forth the standards for compliance with the manifest system and recordkeeping.

Section 1. Compliance with the Manifest System. (1) A transporter may not accept hazardous waste from a generator unless it is accompanied by a manifest signed [by the generator] in accordance with the provisions of Section 1 of 401 KAR [Chapter] 32:020. In the case of exports, a transporter may not accept such waste from a primary exporter or other person:

(a) If he knows the shipment does not conform to the EPA acknowledgment of consent; and

(b) Unless, in addition to a manifest signed in accordance with the provisions of Section 1 of 401 KAR 32:020, such waste is also accompanied by an EPA acknowledgment of consent which, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)).

(2) Before transporting the hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter must return a signed copy to the generator before leaving the generator's property.

(3) The transporter must insure that the manifest accompanies the hazardous waste. In the case of exports, the transporter must ensure that a copy of the EPA acknowledgment of consent also accompanies the hazardous waste.

(4) A transporter who delivers a hazardous waste to another transporter or to the designated facility must:

(a) Obtain the date of delivery and the handwritten signature of that transporter or of the owner/operator of the designated facility on the manifest; and

(b) Retain one (1) copy of the manifest in accordance with Section 2 of this regulation; and

(c) Give the remaining copies of the manifest to the accepting transporter or designated facility.

(5) The requirements of subsections (3), (4), and (6) of this section do not apply to water (bulk shipment) transporters if:

(a) The hazardous waste is delivered by water (bulk shipment) to the designated facility; and

(b) A shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports, an EPA acknowledgment of consent accompanies the hazardous waste; and

(c) The delivering transporter obtains the date of delivery and handwritten signature of the owner/operator of the designated facility on either the manifest or the shipping paper; and

(d) The person delivering the hazardous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and

(e) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with Section 2 of this regulation.

(6) For shipments involving only rail transportation, the requirements of subsections (3), (4) and (5) of this section do not apply and the following requirements do apply:

(a) When accepting hazardous waste from a nonrail transporter, the initial rail transporter must:

1. Sign and date the manifest acknowledging acceptance of the hazardous waste;

2. Return a signed copy of the manifest to the nonrail transporter;

3. Forward at least three (3) copies of the manifest to:

a. The next nonrail transporter, if any; or

b. The designated facility, if the shipment is delivered to that facility by rail; or

c. The last rail transporter designated to handle the waste in the United States;

4. Retain one (1) copy of the manifest and rail shipping paper in accordance with Section 2 of this regulation.

(b) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) and, for exports an EPA acknowledgment of consent accompanies the hazardous waste at all times. (Note: Intermediate rail transporters are not required to sign either the manifest or shipping paper.)

(c) When delivering hazardous waste to the designated facility, a rail transporter must:

1. Obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and

2. Retain a copy of the manifest or signed shipping paper in accordance with Section 2 of this regulation.

(d) When delivering hazardous waste to a nonrail transporter, a rail transporter must:

1. Obtain the date of delivery and the handwritten signature of the next nonrail transporter on the manifest; and

2. Retain a copy of the manifest in accordance with Section 2 of this regulation.

(e) Before accepting hazardous waste from a rail transporter, a nonrail transporter must sign and date the manifest and provide a copy to the rail transporter.

(7) Transporters who transport hazardous waste out of the United States must:

(a) Indicate on the manifest the date the hazardous waste left the United States; and

(b) Sign the manifest and retain one (1) copy in accordance with Section 2(3) of this regulation; and

(c) Return a signed copy of the manifest to the generator; and

(d) Give a copy of the manifest to a U.S. customs official at the point of departure from the United States.

(8) The transporter must deliver the entire quantity of hazardous waste which he has accepted from a generator or a transporter to:

(a) The designated facility listed on the manifest; or

(b) The alternate designated facility; or

(c) The next designated transporter; or

(d) The place outside the United States designated by the generator.

(9) If the hazardous waste cannot be delivered in accordance with subsection (8) of this section, the transporter must contact the generator for further directions and must revise the manifest and transport the waste according to the generator's lawful instructions.

Section 2. Recordkeeping. (1) A transporter of hazardous waste must keep a copy of the manifest signed by the generator, himself, and the next designated transporter or the owner/operator of the designated facility for a period of three (3) years from the date the hazardous waste was accepted by the initial transporter.

(2) For shipments delivered to the designated facility by rail or water (bulk shipment), each rail or water (bulk shipment) transporter must retain a copy of a shipping paper containing all the information required in Section 1(5)(b) of this regulation for a period of three (3) years from the date the hazardous waste was accepted by the initial transporter.

(3) For shipments of hazardous waste by rail within Kentucky:

(a) The initial rail transporter must keep a copy of the manifest and shipping paper with all the information required in Section 1(6)(b) of this regulation for a period of three (3) years from the date the hazardous waste was accepted by the initial transporter; and

(b) The final rail transporter must keep a copy of the signed manifest (or the shipping paper if signed by the designated facility in lieu of the manifest) for a period of three (3) years from the date the hazardous waste was accepted by the initial transporter.

(4) A transporter who transports hazardous waste out of the United States must keep a copy of the manifest indicating that the hazardous waste left the United States, for a period of three (3) years from the date the hazardous waste was accepted by the initial transporter.

(5) The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the EPA Administrator or the Secretary of the Natural Resources and Environmental Protection Cabinet.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The amendments to this regulation affect hazardous waste transporters who transport shipments out of the United States. Several shipments are exported from Kentucky yearly, however, it is estimated that the new standards will affect very few Kentucky transporters. Currently there are 164 hazardous waste transporters registered in Kentucky.

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

1. First year: Only those Kentucky transporters who haul hazardous waste for export to a national border will be affected by the proposed amendments. Yearly, several (fewer than 10 shipments) shipments of hazardous waste are transported out of Kentucky for export. However, statistics have not been compiled as to whether

Kentucky-based transporters hauled these shipments. There are very few Kentucky transporters who will be required to comply with the proposed standards. For those companies who will be affected, there will be an increased cost to: (1) identify and understand the new requirements; and (2) train the drivers (or other delivery personnel) to comply with the new standards. However, Kentucky anticipates that these costs will be passed through to the generator of the waste and thus there will be no real cost to the transporter. There will be an increased liability due to the new responsibilities that will cost those transporters who fail to comply. However, this cost is seen by Kentucky as the cost of doing business in accordance with applicable laws and regulations. It is difficult to quantify and will be at least partially offset by the increased protection afforded to public health and the environment within the United States and presumably to export countries. A small savings may be realized by transporters who comply with the new requirements and thus limit their liability for exports for which the generator violates specific export provisions.

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. The amendments exclusively concern exporting hazardous wastes out of the United States and Kentucky does not have an international border. Thus, there will be no new costs or savings to the promulgating administrative agency which result from the proposed amendments.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The proposed amendments to this regulation apply to transporter responsibilities regarding the EPA acknowledgment of consent. The EPA acknowledgment of consent must be attached to the manifest for a transporter to accept waste from an exporter; transporters must ensure that the EPA acknowledgment of consent accompanies the waste en route; if a transporter knows that a shipment does not conform with the EPA acknowledgment of consent, that waste shipment may not be exported; and, water and rail transporters must have the EPA acknowledgment of consent attached to the shipping paper and these documents must accompany the waste at all times.

Alternative. 1. Less stringent. The cabinet could have chosen to be less stringent by not adopting the federal standards. However, this would have lessened the transporter requirements, resulting in diminished control of hazardous waste transportation activities. In addition, it would contradict with federal regulatory standards. Since Kentucky does not have an international border, no Kentucky specific standards are appropriate. Because the proposed standards will be required at the national level for Kentucky transporters which haul waste for export whether or not Kentucky adopts them, Kentucky chose to adopt them verbatim from the federal language. This will ensure that Kentucky transporters: (1) are adequately notified of the national requirements; and (2) will not have to reference both state and federal regulations to determine if they are in compliance.

2. More stringent. The cabinet could have chosen to be more stringent by adopting additional provisions applicable to hazardous waste transporters. However, because Kentucky does not have an international border and basically has little vested interest in exports (other than oversight of Kentucky generators which send waste out of the country), the present proposal is adequate to protect the public health and environment in Kentucky.

3. Present proposal. The present proposal places additional responsibilities on hazardous waste transporters. These responsibilities deal primarily with the EPA acknowledgment of consent, and will be applied at the national level. The inclusion of these requirements in the state regulation will ensure consistency with the federal standards and serve as a notice to Kentucky transporters of the national export requirements.

(b) The proposed amendments require the hazardous waste transporter to deliver a copy of the manifest to the United States Customs Official at the point the waste leaves the United States.

Alternative. 1. Less stringent. Kentucky could not have been less stringent on its requirement and still have maintained authorization to administer the RCRA hazardous waste program. This requirement will be applied to Kentucky transporters whether or not Kentucky adopts the standard into state regulations. Since Kentucky laws and regulations cannot violate federal laws and regulations, the alternative to be less stringent was rejected.

2. More stringent. The cabinet could have chosen to be more stringent by placing additional requirements on hazardous waste transporters. However, because Kentucky does not have an international border the present proposal is adequate to protect the environment and public health in Kentucky.

3. Present proposal. The present proposal requires transporters to deliver a copy of the manifest to a United States Customs Official at the point the waste leaves the United States.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. This regulation applies only to hazardous waste transporters.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from

the federal regulations at 40 CFR 263.20 promulgated on August 8, 1986 (51 FR 28664-28686).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: The proposed amendments to this regulation adopt requirements which are identical to those standards adopted by the U.S. Environmental Protection Agency on August 8, 1986. No requirements or standards are proposed which are more stringent than those required by the federal regulations.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 34:010. General provisions for facilities.**

RELATES TO: KRS 224.033, 224.060, 224.071, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.866, 224.867

NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in the storage, treatment, and disposal of hazardous waste obtain a permit. KRS 224.866 requires the Natural Resources and Environmental Protection Cabinet to establish standards for these permits, to require adequate financial responsibility, to establish minimum standards for closure for all facilities and the postclosure monitoring and maintenance of hazardous waste disposal facilities. This chapter establishes minimum standards for new hazardous waste sites or facilities. This regulation establishes the purpose, scope and applicability of the standards in this chapter and the relationship to the interim status standards for facilities.

Section 1. Purpose, Scope and Applicability. (1) The purpose of this chapter is to establish minimum standards which define the acceptable management of hazardous waste.

(2) The standards in this chapter apply to owners and operators of all hazardous waste sites or facilities which treat, store, or dispose of hazardous waste, except as specifically provided otherwise in this chapter or in 401 KAR Chapter 31.

(3) The requirements of this chapter apply to a person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research, and Sanctuaries Act only to the extent they are included in a permit by rule granted to such a person under 401 KAR Chapter 38.

(4) The requirements of this chapter apply to a person disposing of hazardous waste by means of underground injection subject to a permit issued under an Underground Injection Control (UIC) program approved or promulgated under the Safe Drinking Water Act only to the extent they are required by Section 5 of 401 KAR 38:060.

(5) The requirements of this chapter apply to the owner or operator of a POTW which treats, stores, or disposes of hazardous waste only to the extent they are included in a hazardous waste permit by rule granted to such a person under 401 KAR Chapter 38.

(6) The requirements of this chapter do not apply to:

(a) The owner or operator of a facility permitted by the cabinet to manage solid waste, if the only hazardous waste the facility treats, stores, or disposes of is excluded from regulation under Section 5 of 401 KAR 31:010.

(b) The owner or operator of a facility managing recyclable materials described in Section 6(1)(b) and (c) of 401 KAR 31:010 (except to the extent that requirements of this chapter are referred to in 401 KAR Chapter 36);

(c) A generator accumulating waste on-site in compliance with Section 5 of 401 KAR 32:030;

(d) A farmer disposing of waste pesticides from his own use in compliance with Section 2 of 401 KAR 32:050;

(e) The owner or operator of a totally enclosed treatment facility, as defined in 401 KAR 30:010;

(f) The owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in 401 KAR 30:010;

(g)1. Except as provided in subparagraph 2 of this paragraph, a person engaged in treatment or containment activities during immediate response to any of the following situations:

a. A discharge of hazardous waste;

b. An imminent and substantial threat of a discharge of hazardous waste; or

c. A discharge of a material which, when discharged, becomes a hazardous waste.

2. An owner or operator of a facility otherwise regulated by this chapter must comply with all applicable requirements of 401 KAR 34:030 and 401 KAR 34:040.

3. Any person who is covered by subparagraph 1 of this paragraph and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter and 401 KAR Chapter 38 for those activities.

(h) A transporter storing manifested shipments of hazardous waste in containers meeting the requirements of Section 1 of 401 KAR 34:030 at a transfer facility for a period of ten (10) days or less; or

(i) The addition of absorbent material to waste in a container or the addition of waste to absorbent material in a container, provided that these actions occur at the time waste is first placed in the container; and Section 2 of 401 KAR 34:020, and Sections 2 and 3 of 401 KAR 34:180 are complied with.

(7) The requirements of this chapter apply to owners or operators of all hazardous waste sites or facilities which treat, store, or dispose of hazardous wastes referred to in 401 KAR Chapter 37.

Section 2. Relationship to Interim Status Standards. A facility owner or operator who has fully complied with the requirements for interim status, as defined in 401 KAR 30:010 and is regulated under 401 KAR 38:020, must comply with

the regulations specified in 401 KAR Chapter 35 in lieu of this chapter until final administrative disposition of his permit application is made.

Section 3. Imminent Hazard Action. Notwithstanding any other provisions of these regulations, enforcement actions may be brought pursuant to KRS 224.071.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at noon.
PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director
(1) Type and number of entities affected: The proposed amendments to this regulation affect all hazardous waste sites or facilities. Currently there are 20 facilities in Kentucky which are fully permitted.
(a) Direct and indirect costs or savings to those affected:
1. First year: None. The proposed amendment is a technical clarification which references standards applicable to permitted facilities found in the proposed 401 KAR Chapter 37. The proposed amendments will not result in a cost to the regulated entities but will provide a convenient cross-reference to other applicable standards.
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. The proposed amendment clarifies that the 401 KAR Chapter 37 standards apply regardless of permit status. It imposes no recordkeeping or paperwork requirements.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None. The proposed amendment is a technical clarification which will not result in a cost or savings to the promulgating administrative body.
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative. 1. Less stringent. The cabinet could have been less stringent by not adding the new paragraph which clarifies that the Chapter 37 standards apply regardless of permit status. However, Kentucky cannot adopt less stringent provisions and maintain their authorization from the U.S. EPA to administer the RCRA hazardous waste program.
2. More stringent. The cabinet could not have chosen to be more stringent. The proposed amendment makes a clarification that provisions set forth in 401 KAR Chapter 37 apply to permitted facilities. The proposed amendment simply cross-references applicable standards proposed in 401 KAR Chapter 37 as a convenience to the regulated community.
3. Present proposal. The present proposal clarifies that land disposal restriction regulations of 401 KAR Chapter 37 apply to both interim status and permitted facilities. This proposal is identical to the federal regulations promulgated on June 4, 1987 and is the most appropriate to maintain consistency with the federal program.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: The proposed amendment to this regulation cross-reference proposed standards in 401 KAR Chapter 37. The regulatory impact analyses for 401 KAR Chapter 37 identify additional factors relating to the amendment to this regulation.
TIERING: Was tiering applied? Yes. This regulation applies only to permitted hazardous waste sites or facilities.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 264.1(h) promulgated on June 4, 1987 (52 FR 21010-21018).
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No standards are imposed which are more strict than those imposed by the U.S. EPA.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 34:020. General facility standards.**

RELATES TO: KRS 224.033, 224.060, 224.071, 224.830 through 224.877, 224.994
PURSUANT TO: KRS Chapter 13A, 224.033, 224.866
NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in the storage, treatment, and disposal of hazardous waste obtain a permit.

KRS 224.866 requires the Cabinet to establish standards for these permits, to require adequate financial responsibility, to establish minimum standards for closure for all facilities and the postclosure monitoring and maintenance of hazardous waste disposal facilities. This chapter establishes minimum standards for new hazardous waste sites or facilities. This regulation establishes the general standards for facilities.

Section 1. Applicability. (1) This chapter applies to owners and operators of all hazardous waste facilities, except as provided in 401 KAR 34:010, Section 1, and subsection (2) of this section.

(2) Section 9(2) of this regulation applies only to facilities subject to regulation under 401 KAR 34:180, 34:190, 34:200, 34:210, 34:220, 34:230 and 34:240 of this chapter.

Section 2. Identification Number. Every facility owner or operator must apply to the cabinet for an EPA identification number in accordance with the notification procedures.

Section 3. Required Notices. (1) The owner or operator of a facility that has arranged to receive hazardous waste from a foreign source must notify the director in writing at least four (4) weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.

(2) The owner or operator of a facility that receives hazardous waste from an off-site source (except where the owner or operator is also the generator) must inform the generator in writing that he has the appropriate permit(s) for, and will accept, the waste the generator is shipping. The owner or operator must keep a copy of this written notice as part of the operating record.

(3) Before transferring ownership or operation of a facility during its operating life, or of a disposal facility during the postclosure care period, the owner or operator must notify the new owner or operator in writing of the requirements of this chapter and 401 KAR Chapter 38.

Section 4. General Waste Analysis. (1)(a) Before an owner or operator treats, stores, or disposes of any hazardous waste, he must obtain a detailed chemical and physical analysis of a representative sample of the waste. At a minimum, this analysis must contain all the information which must be known to treat, store, or dispose of the waste in accordance with the requirements of 401 KAR Chapters 34 and 37 [this chapter] or with the conditions of a permit issued under 401 KAR Chapter 38.

(b) The analysis may include data developed under 401 KAR Chapter 31 and existing published or documented data on the hazardous waste or on hazardous waste generated from similar processes.

(c) The analysis must be repeated as necessary to ensure that it is accurate and up to date. At a minimum, the analysis must be repeated:

1. When the owner or operator is notified, or has reason to believe, that the process or operation generating the hazardous waste has changed; and

2. For off-site facilities, when the results of the inspection required in paragraph (d) of this subsection indicate that the hazardous waste received at the facility does not match the waste designated on the accompanying manifest or shipping paper.

(d) The owner or operator of an off-site facility must inspect and, if necessary, analyze each hazardous waste movement received at the facility to determine whether it matches the identity of the waste specified on the accompanying manifest or shipping paper.

(2) The owner or operator must develop and follow a written waste analysis plan which describes the procedures which he will carry out to comply with subsection (1) of this section. He must keep this plan at the facility. At a minimum, the plan must specify:

(a) The parameters for which each hazardous waste will be analyzed and the rationale for the selection of these parameters (i.e., how analysis for these parameters will provide sufficient information on the waste's properties to comply with subsection (1) of this section);

(b) The test methods which will be used to test for these parameters;

(c) The sampling method which will be used to obtain a representative sample of the waste to be analyzed. A representative sample may be obtained using one (1) of the sampling methods described in 401 KAR 31:100.

(d) The frequency with which the initial analysis of the waste will be reviewed or repeated to ensure that the analysis is accurate and up to date;

(e) For off-site facilities, the waste analyses that hazardous waste generators have agreed to supply; and

(f) Where applicable, the methods which will be used to meet the additional waste analysis requirements for specific waste management methods as specified in Section 8 of this regulation, Section 9 of 401 KAR 34:230, in Section 2 of 401 KAR 34:240 and Section 7 of 401 KAR 37:010 [in Section 8 of this regulation].

(g) For surface impoundments exempted from land disposal restrictions under Section 4 of 401 KAR 37:010, the procedures and schedules for:

1. The sampling of impoundment contents;

2. The analysis of test data; and

3. The annual removal of residue which does not meet the standards of 401 KAR 37:040.

(3) For off-site facilities, the waste analysis plan required in subsection (2) of this section must also specify the procedures which will be used to inspect and, if necessary, analyze each movement of hazardous waste received at the facility to ensure that it matches the identity of the waste designated on the accompanying manifest or shipping paper. At a minimum, the plan must describe:

(a) The procedures which will be used to determine the identity of each movement of waste managed at the facility; and

(b) The sampling method which will be used to obtain a representative sample of the waste to be identified, if the identification method includes sampling.

Section 5. Security. (1) The owner or operator must prevent the unknowing entry, and minimize the possibility for the unauthorized entry, of persons or livestock onto the active portion of his facility, unless he can demonstrate to the cabinet that:

(a) Physical contact with the waste, structures, or equipment within the active

portion of the facility will not injure unknowing or unauthorized persons or livestock which may enter the active portion of a facility; and

(b) Disturbance of the waste or equipment, by the unknowing or unauthorized entry of persons or livestock onto the active portion of a facility, will not cause a violation of the requirements of this chapter.

(2) Unless the owner or operator has made a successful demonstration under subsection (1) of this section, a facility must have:

(a) A twenty-four (24) hour surveillance system (e.g., television monitoring or surveillance by guards or facility personnel) which continuously monitors and controls entry onto the active portion of the facility; or

(b)1. An artificial or natural barrier (e.g., a fence in good repair or a fence combined with a cliff), which completely surrounds the active portion of the facility; and

2. A means to control entry, at all times, through the gates or other entrances to the active portion of the facility (e.g., an attendant, television monitors, locked entrance, or controlled roadway access to the facility).

(3) Unless the owner or operator has made a successful demonstration under subsection (1) of this section, a sign with the legend, "Danger - Unauthorized Personnel Keep Out," must be posted at each entrance to the active portion of a facility, and at other locations, in sufficient number to be seen from any approach to this active portion. The legend must be written in English and in any other language predominant in the area surrounding the facility and must be legible from a distance of at least twenty-five (25) feet. Existing signs with a legend other than "Danger - Unauthorized Personnel Keep Out" may be used if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion, and that entry onto the active portion can be dangerous.

Section 6. General Inspection Requirements. (1) The owner or operator must inspect his facility for malfunctions and deterioration, operator errors, and discharges which may be causing or may lead to: release of hazardous waste constituents to the environment, or a threat to human health. The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

(2)(a) The owner or operator must develop and follow a written schedule for inspecting monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as dikes and sump pumps) that are important to preventing, detecting, or responding to environmental or human health hazards.

(b) He must keep this schedule at the facility.

(c) The schedule must identify the types of problems (e.g., malfunctions or deterioration) which are to be looked for during the inspection (e.g., inoperative sump pump, leaking fitting, eroding dike, etc.).

(d) The frequency of inspection may vary for the items on the schedule. However, it should be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if the deterioration or malfunction or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the terms and frequencies called for in Section 5 of 401 KAR 34:180, Sections 4 and 6 of 401 KAR 34:190, Section 4 of 401 KAR 34:200, [Section 4 of 401 KAR 34:190, Section 5 of 401 KAR 34:200,] Sections 4 and 5 of 401 KAR 34:210, Section 4 of 401 KAR 34:230, and Section 7 of 401 KAR 34:240 [of this chapter], where applicable.

(3) The owner or operator must remedy any deterioration or malfunction of equipment or structures which the inspection reveals on a schedule which ensures that the problem does not lead to an environmental or human health hazard. Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

(4) The owner or operator must record inspections in an inspection log or summary. He must keep these records for at least three (3) years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

Section 7. Personnel Training. (1)(a) Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this chapter. The owner or operator must ensure that this program includes all the elements described in the document required under subsection (4)(c) of this section.

(b) This program must be directed by a person trained in hazardous waste management procedures, and must include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.

(c) At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including where applicable:

1. Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;

2. Key parameters for automatic waste feed cutoff systems;

3. Communications or alarm systems;

4. Response to fires or explosions;

5. Response to groundwater contamination incidents; and

6. Shutdown of operations.

(2) Facility personnel must successfully complete the program required in subsection (1) of this section within six (6) months after the effective date of these regulations or six (6) months after the date of their employment or assignment to a facility, or to a new position at a facility, whichever is later. Employees hired after the effective date of these regulations must not work in unsupervised positions until they have completed the training requirements of subsection (1) of this section.

(3) Facility personnel must take part in an annual review of the initial training required in subsection (1) of this section.

(4) The owner or operator must maintain the

following documents and records at the facility:

(a) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each job;

(b) A written job description for each position listed under paragraph (a) of this subsection. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of employees assigned to each position;

(c) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under paragraph (a) of this subsection; and

(d) Records that document that the training or job experience required under subsections (1), (2) and (3) of this section has been given to, and completed by, facility personnel.

(5) Training records on current personnel must be kept until closure of the facility; training records on former employees must be kept for at least three (3) years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

Section 8. General Requirements for Ignitable, Reactive, or Incompatible Wastes. (1) The owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction including but not limited to: open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the owner or operator must confine smoking and open flame to specially designated locations. "No Smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

(2) Where specifically required by other sections of this regulation, the owner or operator of a facility that treats, stores or disposes ignitable or reactive waste, or mixes incompatible waste or incompatible wastes and other materials, must take precautions to prevent reactions which:

(a) Generate extreme heat or pressure, fire or explosions, or violent reactions;

(b) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health or the environment;

(c) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosion;

(d) Damage the structural integrity of the device or facility; or

(e) Through other like means threaten human health or the environment.

(3) When required to comply with subsection (1) or (2) of this section, the owner or operator must document that compliance. This documentation may be based on references to published scientific or engineering literature, data from trial tests (e.g., bench scale or pilot scale tests), waste analyses (as specified in Section 4 of this regulation), or the results of the treatment of similar wastes by similar treatment processes and under similar operating conditions.

Section 9. Location Standards. (1) Seismic considerations.

(a) Portions of new facilities where treatment, storage, or disposal of hazardous waste will be conducted must not be located with sixty-one (61) meters (approximately 200 feet) of a fault which had displacement in Holocene time.

(b) As used in paragraph (a) of this subsection:

1. "Fault" means a fracture along which rocks on one (1) side have been displaced with respect to those on the other side.

2. "Displacement" means the relative movement of any two (2) sides of a fault measured in any direction.

3. "Holocene" means the most recent epoch of the Quaternary period, extending from the end of the Pleistocene to the present.

(2) Flood plains. (a) Except as paragraph (c) of this subsection applies, a facility located in a 100-year flood plain shall be designed, constructed, operated, maintained, and refitted if necessary, to prevent washout of any hazardous waste and to protect the facility from inundation by waters of the 100-year flood plain throughout the active life of the facility, closure and for disposal facilities, postclosure. Facilities that have closed and removed all hazardous waste, waste constituents, contaminated soil, debris or other material contaminated with hazardous constituents, are not required to protect the closed portion of the facility from washout of waste or inundation by waters of the 100-year flood. Prevention of washout and protection from inundation shall be accomplished by one (1) of the following:

1. Using a structure or device such as a dike or floodwall which has been designed:

a. To provide adequate freeboard to prevent overtopping of the structure during a 100-year flood due to wind and wave action;

b. To provide sufficient structural integrity to prevent massive failure due to the force and erosive tendencies of the 100-year floodwaters;

c. To accommodate such other characteristics of the facility's location, such as special geologic or hydrological features, as necessary to accomplish the requirements of this subsection.

2. Providing procedures which will cause the waste to be removed safely, before floodwaters can reach the facility, to a location where the wastes will not be vulnerable to floodwaters.

3. Demonstrating to the satisfaction of the cabinet that alternate devices or measures, with the exception of covering the waste, will provide protection which meets the requirements of this paragraph.

(b) No person shall be issued a permit to construct a new hazardous waste site or facility in the floodway.

(c) No person shall be issued a permit to construct a new hazardous waste disposal site or facility in the 100-year flood plain or a seasonal high-water table.

(d) No hazardous waste site or facility shall restrict the flow of the 100-year flood or reduce the temporary water storage capacity of the 100-year flood plain so as to pose a hazard to human life, wildlife or land or water resources.

(e) As used in paragraphs (a) through (c) of this subsection:

1. "100-year flood plain" means any land area which is subject to a one (1) percent or greater chance of flooding in any given year from any source.

2. "Washout" means the movement of hazardous waste from the active or closed portion of the facility as a result of flooding.

3. "100-year flood" means a flood that has a one (1) percent chance of being equaled or exceeded to any given year.

4. "Floodway" means the channel of the waterway, stream or river and that portion of the adjoining flood plain which provides for passage of the 100-year flood flow without increasing the floodwater depth across the 100-year flood plain by more than one (1) foot.

(3) Salt dome formations, salt bed formations, underground mines and caves. The placement of any noncontainerized or bulk liquid hazardous waste in any salt dome formation, salt bed formation, underground mine or cave is prohibited.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: This regulation affects hazardous waste management facilities. Presently there are 45 waste management facilities in Kentucky.

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

1. First year: See item (6) Any Additional Information or Comments.

2. Continuing costs or savings: See item (6) Any Additional Information or Comments.

3. Additional factors increasing or decreasing costs (note any effects upon competition): See item (6) Any Additional Information or Comments.

(b) Reporting and paperwork requirements: Waste analysis requirements have been added for surface impoundments exempted from land disposal restrictions under Section 4 of 401 KAR 37:010.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. The amendments made to this regulation will not affect the activities performed by the promulgating administrative body for compliance monitoring.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) Provisions for waste analysis for surface impoundments exempted from land disposal restrictions under Section 4 of 401 KAR 37:010 have been adopted identical to those adopted in the federal regulations promulgated on November 7, 1986.

Alternative. 1. Less stringent. The cabinet could have chosen to be less stringent by not incorporating the federal regulations. However, Kentucky could not have been less stringent on this requirement and still have maintained authorization to administer the RCRA hazardous waste program. This would have afforded Kentucky's environment and public health less protection than that provided under the national program.

2. More stringent. The cabinet could have chosen to be more stringent by requiring additional provisions for the waste analysis of surface impoundments exempt from land disposal restrictions. However, the present proposal is adequate to protect public health and the environment.

3. Present proposal. The present proposal adopts the federal standards for waste analysis for surface impoundments exempt from land disposal restrictions under 401 KAR 37:010.

(b) The proposed amendment also make some changes to references in Sections 4 and 6 of 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: Not applicable.

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

(6) Any additional information or comments: The impact of this regulation has not been analyzed for those requirements which are equivalent to those found in the corresponding federal regulation, 40 CFR 264.13. The impact of the federal program was analyzed in 51 FR 40632-40636, November 7, 1986. A copy of the November 7, 1986 federal register has been filed with the regulations compiler of the Legislative Research Commission.

TIERING: Was tiering applied? Yes. This regulation applies only to hazardous waste management facilities.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 264.15 and 40 CFR 264.13, promulgated on July 14, 1986 (51 FR 25422-25486) and November 7, 1986 (51 FR 40572-40654), and June 4, 1987 (21010-21018).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments adopt requirements which are identical to those standards adopted by the U.S. Environmental

Protection Agency on July 14, 1986, November 7, 1986 and June 4, 1987.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 34:050. Manifest system, recordkeeping and reporting.**

RELATES TO: KRS 224.033, 224.060, 224.071, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.866

NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in the storage, treatment, and disposal of hazardous waste obtain a permit. KRS 224.866 requires the Cabinet to establish standards for these permits, to require adequate financial responsibility, to establish minimum standards for closure for all facilities and the postclosure monitoring and maintenance of hazardous waste disposal facilities. This chapter establishes minimum standards for new hazardous waste sites or facilities. This regulation establishes manifest system, recordkeeping and reporting requirements for facilities.

Section 1. Applicability. This regulation applies to owners and operators of both on-site and off-site hazardous waste sites or facilities, except as Section 1 of 401 KAR 34:010 provides otherwise. Sections 2, 3 and 7 of this regulation do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources.

Section 2. Use of Manifest System. (1) If a facility receives hazardous waste accompanied by a manifest, the owner or operator, or his agent, must:

(a) Sign and date each copy of the manifest to certify that the hazardous waste covered by the manifest was received;

(b) Note any significant discrepancies in the manifest (as defined in Section 3(1) of this regulation) on each copy of the manifest;

(c) Immediately give the transporter at least one (1) copy of the signed manifest;

(d) Within thirty (30) days after the delivery, send a copy of the manifest to the generator; and

(e) Retain at the facility a copy of each manifest for at least three (3) years after the date of delivery.

(2) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste which is accompanied by a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator's certification, and signatures), the owner or operator, or his agent, must:

(a) Sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;

(b) Note any significant discrepancies (as defined in Section 3(1) of this regulation) in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper.

(c) Immediately give the rail or water (bulk shipment) transporter at least one (1) copy of the manifest (or shipping paper if the manifest has not been received);

(d) Within thirty (30) days after the delivery, send a copy of the signed and dated manifest to the generator; however, if the manifest has not been received within thirty (30) days after delivery, the owner or operator, or his agent, must send a copy of the shipping paper signed and dated to the generator; and

(e) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three (3) years from the date of delivery.

(3) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of 401 KAR Chapter 32.

Section 3. Manifest Discrepancies. (1) Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity or type of hazardous waste a facility actually receives. Significant discrepancies in quantity are:

(a) For bulk waste, variations greater than ten (10) percent in weight; and

(b) For batch waste, any variation in piece count, such as a discrepancy of one (1) drum in a truckload. Significant discrepancies in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

(2) Upon discovering a significant discrepancy, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within fifteen (15) days after receiving the waste, the owner or operator must immediately submit to the cabinet a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

Section 4. Operating Record. (1) The owner or operator must keep a written operating record at his facility.

(2) The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

(a) A description and the quantity of each hazardous waste received, and the method(s) and date(s) of its treatment, storage, or disposal at the facility as described in 401 KAR 34:290;

(b) The location of each hazardous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each hazardous waste must be

recorded on a map or diagram of each cell or disposal area. For all facilities, this information must include cross-references to specific manifest document numbers, if the waste was accompanied by a manifest;

(c) Records and results of waste analyses performed as specified in Sections 4 and 8 of 401 KAR 34:020, Section 9 of 401 KAR 34:230, [and] Section 2 of 401 KAR 34:240, and Sections 4(1) and 7 of 401 KAR 37:010;

(d) Summary reports and details of all incidents that require implementing the contingency plan as specified in Section 7(10) of 401 KAR 34:040;

(e) Records and results of inspections as required by Section 6(4) of 401 KAR 34:020 (except these data need be kept only three (3) years);

(f) Monitoring, testing, or analytical data where required by 401 KAR 34:060, Sections 2, 4 and 6 of 401 KAR 34:190, Section 4 [5] of 401 KAR 34:200, Sections 4 and 5 of 401 KAR 34:210, Sections 5, 6 and 8 of 401 KAR 34:220, Sections 4 and 5 of 401 KAR 34:230, and Section 7 of 401 KAR 34:240;

(g) For off-site facilities, notices to generators as specified in Section 3(2) of 401 KAR 34:020;

(h) All closure cost estimates under Section 1 of 401 KAR 34:090 and, for disposal facilities, postclosure cost estimates under Section 1 of 401 KAR 34:100; [and]

(i) A certification by the permittee no less often than annually, that the permittee has a program in place to reduce the volume and toxicity of hazardous waste that he generates to the degree determined by the permittee to be economically practicable and the proposed method of treatment, storage or disposal is that practicable method currently available to the permittee which minimizes the present and future threat to human health and environment;

(j) Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted pursuant to Section 5 of 401 KAR 37:010 or a petition pursuant to Section 6 of 401 KAR 37:010 and the notice required by a generator under Section 7(1)(c) of 401 KAR 37:010;

(k) For an off-site treatment facility, a copy of the notice required by a generator under Section 7(1)(a) of 401 KAR 37:010;

(l) For an on-site treatment facility, the information contained in the notice required by a generator under Section 7(1)(a) of 401 KAR 37:010, except for the manifest number;

(m) For an off-site land disposal facility, a copy of the notice and certification required by the owner or operator of a treatment facility under Section 7(2)(a) and (b) of 401 KAR 37:010, or a copy of the notice and certification required by the generator under Section 7(1)(b) of 401 KAR 37:010, whichever is applicable;

(n) For an on-site land disposal facility, the information contained in the notice required under Section 7(1)(b) of 401 KAR 37:010, except for the manifest number, or the information contained in the notice required by a treater under Section 7(2)(a) of 401 KAR 37:010 except for the manifest number, whichever is applicable; and

(o) [(j)] For surface impoundments, water balance calculations as required in 401 KAR 34:200, Section 4.

Section 5. Availability, Retention, and Disposition of Records. (1) All records, including plans, required under this chapter must be furnished upon request, and made available at all reasonable times for inspection by any officer, employee, or representative of the cabinet who is duly designated by the secretary of the cabinet.

(2) The retention period for all records required under this chapter is extended automatically during the course of any unresolved enforcement action regarding the facility or as requested by the cabinet.

(3) A copy of records of waste disposal locations and quantities under Section 4(2)(b) of this regulation must be submitted to the cabinet and local land authority upon closure of the facility.

Section 6. Annual Report. The owner or operator must prepare and submit a single copy of an annual report to the cabinet by March 1 of each year. The report form designated by the secretary [cabinet] must be used for this report. The annual report must cover facility activities during the previous calendar year and must include at a minimum the following information:

(1) The EPA identification number, name, and address of the facility;

(2) The calendar year covered by the report;

(3) For off-site facilities, the name and EPA identification number of each hazardous waste generator from which the facility received a hazardous waste during the year; for imported shipments, the report must give the name and address of the foreign generator;

(4) A description and the quantity of each hazardous waste the facility received during the year. For off-site facilities, this information must be listed by EPA identification number of each generator;

(5) The method of treatment, storage, or disposal for each hazardous waste;

(6) Information on transportation, the use of the manifest, and other information from the manifest, as applicable; [and]

(7) For generators who treat, store, or dispose of hazardous waste on-site, a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated;

(8) For generators who treat, store, or dispose of hazardous waste on-site, a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for the years prior to 1984; and

(9) [(7)] The certification signed by the owner or operator of the facility or his authorized representative.

Section 7. Unmanifested Waste Report. If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described in 401 KAR 33:020, Section 1(5)(b), and if the waste is not excluded from the manifest requirement by Section 5 of 401 KAR 31:010, then the owner or operator must prepare and submit a single copy of a report to the

secretary [cabinet] within fifteen (15) days after receiving the waste. The unmanifested waste report must be submitted on EPA form 8700-13B. Such report must be designated "Unmanifested Waste Report" and include the following information: [The report must include the following information:]

(1) The EPA identification number, name, and address of the facility;

(2) The date the facility received the waste;

(3) The EPA identification number, name, and address of the generator and the transporter, if available;

(4) A description and the quantity of each unmanifested hazardous waste received;

(5) The method of treatment, storage, or disposal for each hazardous waste;

(6) The certification signed by the owner or operator of the facility or his authorized representative; and

(7) A brief explanation of why the waste was unmanifested, if known.

Section 8. Additional Reports. In addition to submitting the annual report and unmanifested waste reports described in Sections 6 and 7 of this regulation the owner or operator must also report to the secretary [cabinet]:

(1) Releases, fires, and explosions as specified in Section 7(10) of 401 KAR 34:040;

(2) Facility closure as specified in Section 6 of 401 KAR 34:070; and

(3) As otherwise required by 401 KAR 34:060, 34:200, 34:210, 34:220 and 34:230.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The proposed amendment to this regulation will affect all owners or operators of hazardous waste treatment, storage and disposal facilities in Kentucky. There are 45 facilities in Kentucky.

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

1. First year: The additional information required by the amendments to Section 4 of this regulation is information which is also required under Section 7 of 401 KAR 37:010. Copies of the information required by 401 KAR 37:010 may be produced in order to meet the requirements of this regulation. Since this information is already required by another regulation, the cost to meet the requirements of the amendments to this regulation will be minimal. The amendments to this regulation require generators who treat, store, and dispose of hazardous waste on-site to include additional information in the annual report. This requirement may result in a small cost to the affected generators. This cost may result from the preparation of the information for the annual report.

2. Continuing costs or savings: See item (1)(a)1.

3. Additional factors increasing or decreasing costs (note any effects upon competition): See item (1)(a)1.

(b) Reporting and paperwork requirements: For generators who treat, store, and dispose of hazardous waste on-site, the amendment requires the annual report to contain the following: (1) a description of the efforts to reduce the volume and toxicity of waste generated, and (2) a description of the changes in volume and toxicity of waste achieved. In addition, the unmanifested waste report must be submitted on EPA form 8700-13B and must be designated "Unmanifested Waste Report." The amendments also expand the requirements pertaining to information recorded and maintained in the operating record until closure of the facility.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. The additional information required in the annual report may slightly increase the time required for review of the annual report. However, this is not expected to result in any significant cost to the promulgating administrative body.

2. Continuing costs or savings: See note in (2)(a)1.

3. Additional factors increasing or decreasing costs: See note in (2)(a)1.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The proposed amendments were adopted identical to those provisions promulgated by the U.S. Environmental Protection Agency on January 28, 1983 (48 FR 3978-3982), August 8, 1986 (51 FR 28556), and November 7, 1986 (51 FR 40572-40654).

Alternative. 1. Less stringent. Kentucky could not have been less stringent on this requirement and still have maintained authorization to administer the RCRA hazardous waste program. To have adopted less stringent provisions would have afforded Kentucky's public health and environment less protection than that provided by the national program.

2. More stringent. Kentucky could have been more stringent by requiring additional information in the annual report and operating record apart from that required in the proposed amendments. However, the requirements in the proposed amendments will provide adequate protection to public health and the environment.

3. Present proposal. The present proposal does the following: adds references for clarity; requires generators who treat, store, and dispose of hazardous waste on-site to include additional information for the annual report; expands the requirements for information recorded and maintained in the facility's operating record; and requires the unmanifested

waste report to be submitted on EPA Form 8700-13B and to be designated "Unmanifested Waste Report."

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

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

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

(6) Any additional information or comments: The impact of this regulation has not been analyzed for those requirements which are equivalent to those found in the corresponding federal regulation, 40 CFR 264.73. The impact of the federal program was analyzed in 50 FR 40632-40636, November 7, 1986. A copy of the November 7, 1986 federal register has been filed with the Legislative Research Commission.

TIERING: Was tiering applied? Yes. This regulation applies only to hazardous waste management facilities.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 264.73, promulgated on November 7, 1986 (51 FR 40572-40654), 40 CFR 264.75 promulgated on August 8, 1986 (51 FR 28556), and 40 CFR 264.76 promulgated on January 28, 1983 (48 FR 3978-3982).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments do not impose standards or responsibilities which are more strict than those imposed by the U.S. EPA.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The proposed amendments do not impose additional requirements or responsibilities than those adopted by the U.S. EPA.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 34:070. Closure and postclosure.**

RELATES TO: KRS 224.033, 224.060, 224.071, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.866

NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in the storage, treatment, and disposal of hazardous waste obtain a permit. KRS 224.866 requires the Cabinet to establish standards for these permits, to require adequate financial responsibility, to establish minimum standards for closure for all facilities and the postclosure monitoring and maintenance of hazardous waste disposal facilities. This chapter establishes minimum standards for new hazardous waste sites or facilities. This regulation establishes standards for closure and postclosure of facilities.

Section 1. Applicability. Except as Section 1 of 401 KAR 34:010 provides otherwise:

(1) Sections 2 through 6 of this regulation (which concern closure) apply to the owners and operators of all hazardous waste management sites or facilities; and

(2) Sections 7 through 11 [10] of this regulation (which concern postclosure care) apply to the owners and operators of:

(a) All hazardous waste disposal facilities; and

(b) Waste piles and surface impoundments from which the owner or operator intends to remove the wastes at closure to the extent that these sections are made applicable to such facilities in Section 6 of 401 KAR 34:200 or [and] Section 8 of 401 KAR 34:210.

(c) Tank systems that are required under Section 8 of 401 KAR 34:190 to meet the requirements for landfills.

Section 2. Closure Performance Standards. The owner or operator must close the facility in a manner that:

(1) Minimizes the need for further maintenance; and

(2) Controls, minimizes or eliminates, to the extent necessary to protect [prevent threats to] human health and the environment, postclosure escape of hazardous waste, hazardous [waste] constituents, leachate, contaminated run-off [rainfall], or hazardous waste decomposition products to the ground or surface waters or to the atmosphere; and

(3) Complies with the closure requirements of this regulation including but not limited to, the requirements of Section 9 of 401 KAR 34:180, Section 5 of 401 KAR 34:190, Section 6 of 401 KAR 34:200, Section 8 of 401 KAR 34:210, Section 8 of 401 KAR 34:220, Section 6 of 401 KAR 34:230, and Section 8 of 401 KAR 34:240.

Section 3. Closure Plan; Amendment of Plan. (1) Written plan.

(a) The owner or operator of a hazardous waste site or facility must have a written closure plan. In addition, certain surface impoundments and waste piles from which the owner or operator intends to remove or decontaminate the hazardous waste at partial or final closure are required by Section 6(3)(a)1 of 401 KAR 34:200 and Section 8(3)(a)1 of 401 KAR 34:200 to have contingent closure plans. The plan must be submitted with the permit application, in accordance with Section 2(13) of 401 KAR 38:090, and approved by the cabinet as part of the permit issuance procedures under 401 KAR [Chapter] 38:050. In accordance with Section 3 of 401 KAR 38:030, the approved closure plan will become a condition of any hazardous waste site or facility permit.

(b) The director's approval of the plan [cabinet's decision] must ensure [assure] that the approved closure plan is consistent with Sections 2, 3, 4, 5 and 6 of this regulation and the applicable requirements of Section 1 of 401 KAR 34:060, Section 9 of 401 KAR 34:180, Section 5 of 401 KAR 34:190, Section 6 of 401 KAR 34:200, Section 8 of 401 KAR 34:210, Section 8 of 401 KAR 34:220, Section 6 of 401 KAR 34:230, and Section 8 of 401 KAR 34:240. Until final closure is completed and certified in accordance

with Section 6 of this regulation, a copy of the approved plan and all approved revisions [to the plan] must be furnished to the director upon request, including request by mail. [kept at the facility until closure is completed and certified in accordance with Section 6 of this regulation.]

(2) Content of plan. The plan must identify steps necessary to perform partial and/or final closure of [completely or partially close] the facility at any point during its active [intended operating] life [and to completely close the facility at the end of its intended operating life]. The closure plan must include at least:

(a) A description of how each hazardous waste management unit at [and when] the facility will be [partially] closed in accordance with Section 2 of this regulation;

(b) A description of how final closure of the facility will be conducted in accordance with Section 2 of this regulation. [, if applicable, and finally closed.] The description must identify the maximum extent of the operations which will be unclosed during the life of the facility; and [how the requirements of Sections 2, 4, 5 and 6 of this regulation and the applicable closure requirements of Section 9 of 401 KAR 34:180, Section 5 of 401 KAR 34:190, Section 7 of 401 KAR 34:200, Section 9 of 401 KAR 34:210, Section 8 of 401 KAR 34:220, Section 6 of 401 KAR 34:230, and Section 8 of 401 KAR 34:240 will be met;]

(c) [(b)] An estimate of the maximum inventory of hazardous wastes ever on-site over [in storage and in treatment at any time during] the active life of the facility and a detailed description of the methods to be used during partial closures and final closure, including, but not limited to, methods for removing, transporting, treating, storing, or disposing of all hazardous wastes, and identification of the type(s) of the off-site hazardous waste management units to be used, if applicable [(any change in this estimate is a minor modification under 401 KAR Chapter 38)]; and

(d) [(c)] A detailed description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure, including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination required to satisfy the closure performance standard [facility equipment during closure]; and

(e) [(d)] A detailed description of other activities necessary during the closure period to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, groundwater monitoring, leachate collection, and run-on and run-off control; and

(f) A schedule for closure of each hazardous waste management unit and for final closure of the facility. [An estimate of the expected year of closure and a schedule for final closure.] The schedule must include, at a minimum, the total time required to close each hazardous waste management unit [the facility] and the time required for intervening [intermediate] closure activities which will allow tracking of the progress of partial and final closure (for example, in the case of a landfill unit, estimates of the time required to treat or [and] dispose of all hazardous waste inventory and of the time required to place a final cover must be included); and

(g) For facilities that use trust funds to establish financial assurance under Section 2 of 401 KAR 34:090 or Section 2 of 401 KAR 34:100 and that are expected to close prior to the expiration of the permit, an estimate of the expected year of final closure.

(3) [(2)] Amendment of plan. The owner or operator must submit a written request for a permit modification to authorize a change in operating plans, facility design, or the approved closure plan in accordance with the procedures in 401 KAR Chapter 38. The written request must include a copy of the amended closure plan for approval by the director. [may amend his closure plan at any time during the active life of the facility. (The active life of the facility is that period during which wastes are periodically received.)]

(a) The owner or operator may submit a written request to the director for a permit modification to amend the closure plan at any time prior to the notification of partial or final closure of the facility. [must amend the plan]

(b) The owner or operator must submit a written request for a permit modification to authorize a change in the approved closure plan whenever:

1. Changes in operating plans or facility design affect the closure plan; or

2. [whenever] There is a change in the expected year of closure, if applicable; or

3. In conducting partial or final closure activities, unexpected events require a modification of the approved closure plan. [When the owner or operator requests a permit modification to authorize a change in operating plans or facility design, he must request a modification of the closure plan at the same time (see Section 2(1) of 401 KAR 38:050. If a permit modification is not needed to authorize the change in operating plans or facility design, the request for modification of the closure plan must be made within sixty (60) days after the change in plan or design occurs.]

(c) The owner or operator must submit a written request for a permit modification including a copy of the amended closure plan for approval at least sixty (60) days prior to the proposed change in facility design or operation, or no later than sixty (60) days after an unexpected event has occurred which has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator must request a permit modification no later than thirty (30) days after the unexpected event. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous waste at closure and is not otherwise required to prepare a contingent closure plan under Section 6(3)(a)1 of 401 KAR 34:200 or Section 8(3)(a)1 of 401 KAR 34:210, must submit an amended closure plan to the director no later than sixty (60) days from the date that the owner or operator or director determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of Section 6 of 401 KAR 34:230, or no later than thirty (30) days from that date if the determination is made during partial or

final closure. The director will approve, disapprove, or modify this amended plan in accordance with the procedures in 401 KAR Chapter 38. In accordance with Section 3 of 401 KAR 38:030, the approved closure plan will become a condition of any hazardous waste site or facility permit issued.

(d) The director may request modifications to the plan under the conditions described in paragraph (b) of this subsection. The owner or operator must submit the modified plan within sixty (60) days of the director's request or within thirty (30) days if the change in facility conditions occurs during partial or final closure. Any modifications requested by the director will be approved in accordance with the procedures in 401 KAR Chapter 38.

(4) [(3)] Notification of partial closure and final closure.

(a) The owner or operator must notify the director in writing [cabinet] at least sixty (60) [180] days prior to the date on which he expects to begin closure of a surface impoundment, waste pile, land treatment or landfill unit, or final closure of a facility with such a unit. The owner or operator must notify the director in writing at least forty-five (45) days prior to the date on which he expects to begin final closure of a facility with only treatment or storage tanks, container storage, or incinerator units to be closed.

(b) The date when he "expects to begin closure" must be either no later than thirty (30) days after the date on which any hazardous waste management unit receives the known final volume of hazardous wastes or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes no later than one (1) year after the date on which the unit received the most recent volume of hazardous waste. If the owner or operator of a hazardous waste management unit can demonstrate to the director that the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes and he has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements, the director may approve an extension to this one (1) year limit.

(c) If the facility's permit is terminated, or if the facility is otherwise ordered, by judicial decree or final order under KRS 224.033(18) and (19), 224.081 and 224.867 to cease receiving hazardous wastes or to close, then the requirements of this subsection do not apply. However, the owner or operator must close the facility in accordance with the deadlines established in Section 4 of this regulation.

(5) Removal of wastes and decontamination or dismantling of equipment. Nothing in this section shall preclude the owner or operator from removing hazardous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of partial or final closure.

(6) [(4)] For existing disposal facilities within the 100-year flood plain, the closure plan and cost estimates must reflect compliance with the requirements in Section 9(2) of 401 KAR 34:020 to prevent washout of waste and protect the facility from inundation by waters of the 100-year flood.

(7) [(5)] For new hazardous waste sites or facilities located or to be located in the 100-year flood plain, the closure plan and cost estimates must reflect that all hazardous waste and hazardous waste residues shall be removed from the site at closure, in accordance with Section 9(2) of 401 KAR 34:020.

Section 4. Closure: Time Allowed for Closure. (1) Within ninety (90) days after receiving the final volume of hazardous wastes at a hazardous waste management unit or facility, the owner or operator must treat, remove from the unit or facility [site], or dispose of on-site, all hazardous wastes in accordance with the approved closure plan. The director [cabinet] may approve a longer period if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates that:

(a)1. The activities required to comply with this subsection will, of necessity, take longer than ninety (90) days to complete; or

2.a. The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes; and

b. There is a reasonable likelihood that he or another [a] person [other than the owner or operator] will recommence operation of the hazardous waste management unit or the facility within one (1) year [site]; and

c. Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

(b) He has taken and will continue to take all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements.

(2) The owner or operator must complete partial and final closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of hazardous wastes at the hazardous waste management unit or facility. The director [cabinet] may approve an extension to the [a longer] closure period if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates that:

(a)1. The partial or final closure activities will, of necessity, take longer than 180 days to complete; or

2.a. The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes; and

b. There is [a] reasonable likelihood that he or another [a] person [other than the owner or operator] will recommence operation of the hazardous waste management unit or the facility within one (1) year [site]; and

c. Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

(b) He has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating hazardous waste management unit or [inactive] facility, including compliance with all applicable permit requirements.

(3) The demonstrations referred to in subsections (1) and (2) of this section must be made as follows:

(a) The demonstrations in subsection (1) of this section must be made at least thirty (30) days prior to the expiration of the ninety (90)

day period in subsection (1) of this section; and

(b) The demonstration in subsection (2) of this section must be made at least thirty (30) days prior to the expiration of the 180 day period in subsection (2) of this section.

Section 5. Disposal or Decontamination of Equipment Structures and Soils. During the partial and final [When] closure periods [is completed], all contaminated [facility] equipment, [and] structures and soils must be [have been] properly disposed of or decontaminated unless otherwise specified in Section 6 of 401 KAR 34:200, Section 8 of 401 KAR 34:210, Section 8 of 401 KAR 34:220, or Section 6 of 401 KAR 34:230. By removing any [all] hazardous wastes or hazardous constituents during partial and final closure, the owner or operator may become a generator of hazardous waste and must handle that waste in accordance with all applicable requirements of 401 KAR Chapter 32 [and residues].

Section 6. Certificate of Closure. Within sixty (60) days of completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, and landfill unit, and within sixty (60) days of the completion of final closure [When closure is completed], the owner or operator must submit to the director, by registered mail, a [cabinet] certification [both by the owner or operator and by an independent professional engineer registered in Kentucky] that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner or operator and by an independent professional engineer registered in Kentucky. Documentation supporting the independent registered professional engineer's certification must be furnished to the director upon request until he releases the owner or operator from the financial assurance requirements for closure under Section 12 of 401 KAR 34:090.

Section 7. Postclosure Care and Use of Property. (1)(a) Postclosure care for each hazardous waste management unit subject to the requirements of Sections 7 through 10 of this regulation must begin after completion of closure of the unit and continue for thirty (30) years after that [the] date [of completing closure] and must consist of at least the following:

1. Monitoring and reporting in accordance with the requirements of 401 KAR 34:060, 34:200, 34:210, 34:220 and 34:230; and

2. Maintenance and monitoring of waste containment systems in accordance with the requirements of 401 KAR 34:060, 34:200, 34:210, 34:220, and 34:230.

(b) Any time preceding partial closure of a hazardous waste management unit subject to postclosure care requirements or final closure, or any time during the postclosure period for a particular unit, the director may, in accordance with the permit modification procedures in 401 KAR Chapter 38:

1. Shorten the postclosure care period applicable to the hazardous waste management unit, or facility, to not less than thirty (30) years as specified in KRS 224.866 if all disposal units have been closed, if he finds that the reduced period is sufficient to protect human health and the environment (e.g., leachate or groundwater monitoring results, characteristics of the hazardous wastes, application of advanced technology, or alternative disposal, treatment, or reuse techniques indicate that the hazardous waste management unit or facility is secure); or [Prior to the time that the postclosure care period is due to expire, the cabinet may extend the postclosure care period if the cabinet finds that the extended period is necessary to protect human health and the environment (e.g., leachate or groundwater monitoring results indicate a potential for migration of waste at levels which may be harmful to human health or the environment).]

2. Extend the postclosure care period applicable to the hazardous waste management unit or facility [During the 180 day period preceding closure or any time thereafter (see Section 3(3) of this regulation), the secretary may reduce an extended postclosure care period to not less than thirty (30) years] if he finds that the extended [reduced] period is necessary [sufficient] to protect human health and the environment (e.g., leachate or groundwater monitoring results indicate a potential for migration of hazardous wastes at levels which may be harmful to human health and the environment). [, characteristics of the waste, application of advanced technology, or alternative disposal, treatment, or reuse techniques indicate that the facility is secure). The secretary shall not reduce the postclosure period to be less than thirty (30) years.]

(2) The director [cabinet] may require, at partial and final closure, continuation of any of the security requirements of Section 5 of 401 KAR 34:020 during part or all of the postclosure period [after the date of completing closure] when:

(a) Hazardous wastes may remain exposed after completion of partial or final closure; or

(b) Access by the public or domestic livestock may pose a hazard to human health.

(3) Postclosure use of property on or in which hazardous wastes remain after partial or final closure must never be allowed to disturb the integrity of the final cover, liner(s), or any other components of any containment system, or the function of the facility's monitoring systems, unless the director [cabinet] finds that the disturbance:

(a) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

(b) Is necessary to reduce a threat to human health or the environment.

(4) All postclosure care activities must be in accordance with the provisions of the approved postclosure plan as specified in Section (8) of this regulation.

Section 8. Postclosure Plan; [and] Amendment of [Postclosure] Plan. (1) Written plan. The owner or operator of a hazardous waste disposal unit [facility] must have a written postclosure plan. In addition, certain waste piles and certain surface impoundments from which the owner or operator intends to remove or decontaminate the hazardous wastes at partial or final closure are required by Section 6(3)(a)2 of 401 KAR 34:200, and Section 8(3)(a)2 of 401

KAR 34:210 to have contingent postclosure plans. Owners or operators of surface impoundments and waste piles not otherwise required to prepare contingent postclosure plans under Section 6(3)(a)2 of 401 KAR 34:200 and Section 8(3)(a)2 must submit a postclosure plan to the director within ninety (90) days from the date that the owner or operator or director determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of Sections 7 through 10 of this regulation. The plan must be submitted with the permit application, in accordance with Section 2(13) of 401 KAR 38:090, and approved by the director [cabinet] as part of the permit issuance procedures under 401 KAR Chapter 38. In accordance with Section 3 of 401 KAR 38:030, the approved postclosure plan will become a condition of any hazardous waste site or facility permit issued. [A copy of the approved plan and all revisions to the plan must be kept at the facility until the postclosure care period begins. This]

(2) For each hazardous waste management unit subject to the requirements of this section, the postclosure plan must identify the activities that [which] will be carried on after closure of each disposal unit and the frequency of these activities, and include at least:

(a) A description of the planned monitoring activities and frequencies at which they will be performed to comply with 401 KAR 34:060, 34:200, 34:210, 34:220, and 34:230 during the postclosure care period; and

(b) A description of the planned maintenance activities, and frequencies at which they will be performed, to ensure:

1. The integrity of the cap and final cover or other containment systems in accordance with the requirements of 401 KAR 34:060, 34:200, 34:210, 34:220, and 34:230; and

2. The function of the [facility] monitoring equipment in accordance with the requirements of 401 KAR 34:060, 34:200, 34:210, 34:220, and 34:230; and

(c) The name, address and phone number of the person or office to contact about the hazardous waste disposal unit or facility during the postclosure care period.

(3) Until final closure of the facility, a copy of the approved postclosure plan must be furnished to the director upon request, including request by mail. After final closure has been certified, the [This] person or office specified in subsection (2)(c) of this section must keep the approved [an updated] postclosure plan during the remainder of the postclosure period.

(4) [(2)] Amendment of plan. The owner or operator must request a permit modification to authorize a change in the approved postclosure plan in accordance with the applicable requirements of 401 KAR Chapter 38. The written request must include a copy of the amended postclosure plan for approval by the director.

(a) The owner or operator may submit a written request to the director for a permit modification to amend the [his] postclosure plan at any time during the active life of the [disposal] facility or during the postclosure care period.

(b) The owner or operator must submit a written request for a permit modification to authorize a change in the approved postclosure [amend his] plan whenever:

1. Changes in operating plans or facility design[, or events which occur during the active life of the facility or during the postclosure period,] affect the approved [his] postclosure plan; or [. He must also amend his plan whenever]

2. There is a change in the expected year of final closure, if applicable; or

3. Events which occur during the active life of the facility, including partial and final closures, affect the approved postclosure plan.

(c) The owner or operator must submit a written request for a permit modification at least sixty (60) days prior to the proposed change in facility design or operation, or no later than sixty (60) days after an unexpected event has occurred which has affected the postclosure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous waste at closure and is not otherwise required to submit a contingent postclosure plan under Section 6(3)(a)2 of 401 KAR 34:200 and Section 8(3)(a)2 of 401 KAR 34:210, must submit a postclosure plan to the director no later than ninety (90) days after the date that the owner or operator or director determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of Section 6 of 401 KAR 34:230. The director will approve, disapprove, or modify this plan in accordance with the procedures in 401 KAR Chapter 38. In accordance with Section 3 of 401 KAR 38:030, the approved postclosure plan will become a permit condition.

(d) The director may request modifications to the plan under the conditions described in paragraph (b) of this subsection. The owner or operator must submit the modified plan no later than sixty (60) days after the director's request, or no later than ninety (90) days if the unit is a surface impoundment or waste pile not previously required to prepare a contingent postclosure plan. Any modifications requested by the director will be approved, disapproved, or modified in accordance with the procedures in 401 KAR Chapter 38.

[(3) When a permit modification is requested during the active life of the facility to authorize a change in operating plans or facility design, modification of the postclosure plan must be requested at the same time (see Section 2(1) of 401 KAR 38:050. In all other cases, the request for modification of the postclosure plan must be made within sixty (60) days after the change in operating plans or facility design or the events which affect the postclosure plan occur.]

(5) [(4)] For existing disposal facilities within the 100-year flood plain, the postclosure plan and cost estimates must reflect compliance with the requirements in Section 9(2) of 401 KAR 34:020 to prevent washout of waste and protect the facility from inundation by waters of the 100-year flood.

Section 9. Postclosure Notices [to Local Land Authority]. (1) No later than sixty (60) days after certification of closure of each hazardous waste disposal unit [Within ninety (90) days after closure is completed], the owner or operator [of a disposal facility] must submit to the local zoning authority or the authority with jurisdiction over local land use and to the director [cabinet] a [survey plat indicating the location and dimensions of landfill cells or other disposal areas with respect to permanently

surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority or the authority with jurisdiction over local land use must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the site as specified in Section 7(3) of this regulation. In addition, the owner or operator must submit to the local zoning authority or the authority with jurisdiction over local land use and to the cabinet a] record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit [area] of the facility. For hazardous wastes disposed of before January 12, 1981 [these regulations were promulgated], the owner or operator must identify the type, location, and quantity of the hazardous wastes to the best of his knowledge and in accordance with any records he has kept.

(2) Within sixty (60) days of certification of closure of the first hazardous waste disposal unit and within sixty (60) days of certification of closure of the last hazardous waste disposal unit, the owner or operator must: [Any changes in the type, location, or quantity of hazardous wastes disposed of within each cell or area of the facility that occur after the survey plat and record of wastes have been filed must be reported to the local zoning authority or the authority with jurisdiction over local land use and to the cabinet.]

(a) [Section 10. Notice in Deed to Property. (1) The owner of the property on which a disposal facility is located must] Record, in accordance with state law, a notation on the deed to the facility property - or on some other instrument which is normally examined during title search - that will in perpetuity notify any potential purchaser of the property that:

1. [(a)] The land has been used to manage hazardous wastes; and

2. [(b)] Its use is restricted under [Section 7(3) of] this regulation; and

3. [(c)] The survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or other hazardous waste disposal unit [area] of the facility required by [in] Section 11 [9] of this regulation and subsection (1) of this section [of 401 KAR 35:070] have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the the director; and [cabinet.]

(b) Submit a certification, signed by the owner or operator, that he has recorded the notation specified in paragraph (a) of this subsection, including a copy of the document in which the notation has been placed, to the secretary.

(3) [(2)] If [at any time] the owner or operator or any subsequent owner or operator of the land upon which a hazardous waste disposal unit is [site or facility was] located wishes to remove[s the] hazardous wastes, hazardous [and] waste residues, the liner, if any, or [and all] contaminated [underlying and surrounding] soils, he must request a modification to the postclosure permit in accordance with the applicable requirements in 401 KAR Chapter 38. The owner or operator must demonstrate that the removal of hazardous wastes will satisfy the criteria of Section 7(3) of this regulation. By removing hazardous waste, the owner or operator may become a generator of hazardous waste and must manage it in accordance with all applicable requirements of this chapter. If he is granted a permit modification or otherwise granted approval to conduct such removal activities, the owner or operator may request that the director approve either: [may]

(a) The removal of [remove] the notation on the deed to the facility property or other instrument normally examined during title search; or

(b) The addition of [he may add] a notation to the deed or other instrument indicating the removal of the hazardous waste.

Section 10. Certification of Completion of Postclosure Care. No later than sixty (60) days after completion of the established postclosure care period for each hazardous waste disposal unit, the owner or operator must submit to the director by registered mail, a certification that the postclosure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved postclosure plan. The certification must be signed by the owner or operator and an independent professional engineer registered in the Commonwealth of Kentucky. Documentation supporting the independent registered professional engineer's certification must be furnished to the director upon request until he releases the owner or operator from the financial assurance requirements for postclosure care under Section 12 of 401 KAR 34:100.

Section 11. Survey Plat. No later than the submission of the certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the director, a survey plat indicating the location and dimensions of landfill cells or other hazardous waste disposal units with respect to permanently displayed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority, or the authority with jurisdiction over local land use, must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the hazardous waste disposal unit in accordance with this regulation.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The amendments to this regulation may affect all hazardous waste treatment, storage, and disposal facilities. There are 45 facilities in Kentucky.

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

1. First year: None. The proposed amendments to this regulation revise portions of the closure and postclosure care sections applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities. The amendments clarify the regulations and address issues that have arisen during the implementation of the regulations. Kentucky has adopted verbatim federal language at 40 CFR 264.110 through 40 CFR 264.120 promulgated on May 2, 1986 (51 FR 16422-16459) and July 14, 1986 (51 FR 25422-25486). The EPA has determined that these regulations do not constitute a major rule; no regulatory impact analysis was prepared (51 FR 25469). These amendments are not likely to result in significant costs or savings to the regulated entities.

2. Continuing costs or savings: None. See note in (1)(a)1.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None. See note in (1)(a)1.

(b) Reporting and paperwork requirements: The amendments to this regulation provide that the owner/operator must submit the following items, if applicable to the director: (1) a copy of the approved closure plan and revisions thereto, (2) a written request for a permit modification to (a) authorize a change in operating plans, facility design or an approved closure or postclosure plan or (b) amend a closure plan any time prior to notification of partial or final closure of the facility, (3) a survey plat, and (4) certification that the postclosure care period was performed in accordance with the specifications in the approved postclosure plan.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. The proposed amendments to this regulation will not result in any significant costs or savings to the promulgating administrative body. The amendments will not have a significant impact on review time and other related activities required of division staff.

2. Continuing costs or savings: None. See (1)(a)1.

3. Additional factors increasing or decreasing costs: None. See (1)(a)1.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The proposed amendments adopt verbatim language from the federal regulations at 40 CFR 264.110 through 40 CFR 264.120 promulgated on May 2, 1986 (51 FR 16422-16459) and July 14, 1986 (51 FR 25422-25486).

Alternative. 1. Less stringent. Kentucky could not have been less stringent on its requirement and still have maintained authorization to administer the RCRA hazardous waste program. To have adopted less stringent provisions would have afforded Kentucky's public health and environment less protection than that provided by the national program.

2. More stringent. The cabinet could have chosen to be more stringent by placing additional requirements on owners and operators of hazardous waste treatment, storage, and disposal facilities. However, the present proposal is adequate to protect the public health and environment in Kentucky.

3. Present proposal. The present proposal amends portions of the closure and postclosure care sections applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities. It also provides that Sections 7 through 11 of this regulation apply to the owners and operators of tank systems that are required under Section 8 of 401 KAR 34:190 to meet requirements for landfills.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. This regulation applies to all hazardous waste treatment, storage, and disposal facilities.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 264.110 through 264.120 promulgated on May 2, 1986 (51 FR 16422-16459) and July 14, 1986 (51 FR 25422-25486).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments adopt requirements which are identical to those standards adopted by the U.S. EPA on May 2, 1986 and July 14, 1986.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 34:080. General financial requirements.**

RELATES TO: KRS 224.033, 224.071, 224.835, 224.842, 224.855, 224.860, 224.866

PURSUANT TO: KRS 13A.210, 224.017, 224.862, 224.866

NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in the storage, treatment, and disposal of hazardous waste obtain a permit. KRS 224.866 requires the Cabinet to establish standards for these permits, to require adequate financial responsibility, and to establish minimum standards for closure for all facilities and the postclosure monitoring and maintenance of hazardous waste disposal facilities. This chapter establishes minimum standards for new hazardous waste sites or facilities. This regulation establishes the general financial requirements.

Section 1. General. (1) This regulation and 401 KAR 34:090 through 34:176 inclusively contain the financial requirements to establish adequate financial responsibility as required by KRS 224.866(3) for hazardous waste sites or facilities. A reference to this section is a citation of this regulation and 401 KAR 34:090 through 34:176.

(2) Except as specifically provided in this regulation and 401 KAR 34:090 through 34:176, no variance (Section 2 of 401 KAR 30:020) or other waivers of these financial requirements shall be granted by the secretary or the director.

Section 2. Applicability. (1) The requirements of 401 KAR 34:090 and 34:120 through 34:176 apply to owners and operators of all hazardous waste sites or facilities, except as provided otherwise in this section or in Section 1 of 401 KAR 34:010.

(2) The requirements of 401 KAR 34:100 and 34:110 apply only to owners and operators of:

(a) Disposal facilities; and

(b) Waste piles, and surface impoundments from which the owner or operator intends to remove the wastes at closure, to the extent that these sections are made applicable to such facilities in Section 6(1)(b), (2) and (3) of 401 KAR 34:200 and Section 8(2) and (3) of 34:210.

(c) Tank systems that are required under Section 8 of 401 KAR 34:190 to meet the requirements of landfills.

(3) States and the federal government are exempt from the requirements of Section 1 of this regulation.

Section 3. Financial Requirement Definitions. (1) When used in Section 1 of this regulation the following terms shall have the meanings given below:

(a) "Closure plan" means the plan for closure prepared in accordance with the requirements of Section 3 of 401 KAR 34:070.

(b) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with Section 1(1), (2) and (3) of 401 KAR 34:090.

(c) "Current plugging and abandonment cost estimate" means the most recent of the estimates prepared in accordance with 40 CFR 144.62(a), (b) and (c).

(d) [(c)] "Current postclosure cost estimate" means the most recent of the estimates prepared in accordance with Section 1(1), (2) and (3) of 401 KAR 34:100.

(e) [(d)] "Parent corporation" means a corporation which directly owns at least fifty (50) percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.

(f) [(e)] "Postclosure plan" means the plan for postclosure care prepared in accordance with the requirements of Sections 7 through 10 of 401 KAR 34:070.

(2) The following terms are used in the specifications for the financial tests for closure, postclosure care and liability self-insurance. The definitions are intended to assist in the understanding of these regulations and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices.

(a) "Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity.

(b) "Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(c) "Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

(d) "Independently audited" refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

(e) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(f) "Net working capital" means current assets minus current liabilities.

(g) "Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

(h) "Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

(3) In the liability insurance requirements the terms "bodily injury" and "property damage" shall have the meanings given these terms by applicable Kentucky statutes. However, these terms do not include those liabilities which, consistent with standard industry practices, are excluded from coverage in liability policies for bodily injury and property damage. The cabinet intends the meanings of other terms used in the liability insurance requirements to be consistent with their common meanings within the insurance industry. The definitions given below of several of the terms are intended to assist in the understanding of these regulations and are not intended to limit their meanings in a way that conflicts with general insurance industry usage.

(a) "Accidental occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage neither expected nor intended from the standpoint of the insured.

(b) "Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

(c) "Nonsudden accidental occurrence" means an occurrence which takes place over time and involves continuous or repeated exposure.

(d) "Sudden accidental occurrence" means an occurrence which is not continuous or repeated in nature.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at noon.
PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director
(1) Type and number of entities affected: The proposed amendments to this regulation will affect all owners or operators of hazardous waste facilities. There are 45 such facilities in Kentucky.
(a) Direct and indirect costs or savings to those affected:
1. First year: None. The proposed amendments do not change any of the requirements of the regulation; they add a definition and clarify that certain tank systems fall under the applicability of this regulation.
2. Continuing costs or savings: None. See note in (1)(a)1.
3. Additional factors increasing or decreasing costs (note any effects upon competition): See note in (1)(a)1.
(b) Reporting and paperwork requirements; None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None. The proposed amendments will not result in any costs or savings to the promulgating agency. The amendments add a definition in Section 3 and clarify that certain tank systems are subject to the requirements of this regulation.
2. Continuing costs or savings: None. See note in (2)(a)1.
3. Additional factors increasing or decreasing costs: See note in (2)(a)1.
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.
(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The proposed amendments are identical to the requirements in the federal regulations at 40 CFR 264.140 through 40 CFR 264.141. Alternative. 1. Less stringent. Kentucky could not have been less stringent on this requirement and still have maintained authorization to administer the RCRA hazardous waste program. To have adopted less stringent provisions would have afforded Kentucky's public health and environment less protection than that provided by the national program.
2. More stringent. This alternative was not considered in order to keep Kentucky competitive with the other states in attracting industry.
3. Present proposal. The present proposal clarifies that tank systems which meet the requirements of a landfill must meet applicable financial responsibility standards. The present proposal also adds a definition of "current plugging and abandonment cost estimate."
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: None
TIERING: Was tiering applied? Yes. This regulation is tiered to apply only to new hazardous waste facilities and not interim status facilities.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations promulgated on May 2, 1986 (51 FR 16447) and July 14, 1986 (51 FR 25472).
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments to this regulation adopt requirements which are identical to those standards adopted by the U.S. Environmental Protection Agency on May 2, 1986 (51 FR 16447) and July 14, 1986 (51 FR 25472).
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 34:090. Closure financial requirements.**

RELATES TO: KRS 224.033, 224.071, 224.830 through 224.877, 224.994
PURSUANT TO: KRS Chapter 13A, 224.033, 224.862, 224.866
NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in the storage, treatment, and disposal of hazardous waste obtain a permit. KRS 224.866 requires the cabinet to establish standards for these permits, to require adequate financial responsibility, and to establish minimum standards for closure for all facilities and the postclosure monitoring and maintenance of hazardous waste disposal facilities. This chapter establishes minimum standards for new hazardous waste sites or facilities. This regulation establishes the closure financial

requirements.

Section 1. Cost Estimate for [Facility] Closure. (1) The owner or operator must have a detailed [prepare a] written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements [closure plan as specified] in Sections 2 through 6 [3] of 401 KAR 34:070 and applicable closure requirements in [Section 9 of 401 KAR 34:180,] Section 5 of 401 KAR 34:190, Section 6 [7] of 401 KAR 34:200, Section 8 [9] of 401 KAR 34:210, Section 8 of 401 KAR 34:220, Section 6 of 401 KAR 34:230 and Section 8 of 401 KAR 34:240.

(a) The [closure cost] estimate must equal the cost of final closure at the point in the facility's active [operating] life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see Section 3(2) of 401 KAR 34:070); and

(b) The closure cost estimate must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in Section 3(1)(e) of 401 KAR 34:080.) The owner or operator may use costs for on-site disposal if he can demonstrate that on-site disposal capacity will exist at all times over the life of the facility.

(c) The closure cost estimate may not incorporate any salvage value that may be realized with the sale of hazardous wastes, facility structures or equipment, land, or other assets associated with the facility at the time of partial or final closure.

(d) The owner or operator may not incorporate a zero cost for hazardous wastes that might have economic value.

(2) During the active life of the facility, the owner or operator must adjust the closure cost estimate for inflation within sixty (60) [thirty (30)] days prior to the [after each] anniversary [of the] date of the establishment of the financial instrument(s) used to comply with Section 2 of this regulation. For owners and operators using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within thirty (30) days after the close of the firm's fiscal year and before submission of updated information to the director as specified in Section 8(3) of this regulation [on which the first closure cost estimate was prepared]. The adjustment shall [must] be made by recalculating the maximum costs of closure in current dollars, or by [as specified in paragraphs (a) and (b) of this subsection,] using an inflation factor derived from the most recent [annual] Implicit Price Deflator for Gross National Product [as] published by the U.S. Department of Commerce in its Survey of Current Business as specified in paragraphs (a) and (b) of this subsection. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

(a) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

(b) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

(3) During the active life of the facility, the owner or operator must revise the closure cost estimate no later than thirty (30) days after the director has approved the request to modify the closure plan, if the [whenever a] change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified in subsection (2) of this section.

(4) The owner or operator must keep the following at the facility during the operating life of the facility:

(a) The latest closure cost estimate prepared in accordance with subsections (1) and (3) of this section; and

(b) When this estimate has been adjusted in accordance with subsection (2) of this section, the latest adjusted closure cost estimate.

Section 2. Financial Assurance for Facility Closure. An owner or operator of each facility must establish financial assurance for closure of the facility. He must choose from the options as specified in Sections 3 through 9 of this regulation.

Section 3. Closure Trust Fund. (1) An owner or operator may satisfy the requirements of this regulation by establishing a closure trust fund which conforms to the requirements of this section and submitting an originally signed duplicate of the trust agreement to the director. An owner or operator of a new facility must send the originally signed duplicate of the trust agreement to the cabinet at least sixty (60) days before the date on which hazardous waste is first received for treatment, storage, or disposal. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(2) The trust agreement must be executed on the form provided by the cabinet containing wording identical to the wording specified in Section 1 of 401 KAR 34:140 and the trust agreement must be accompanied by a formal certification of acknowledgment (for an example, see Section 2 of 401 KAR 34:140). Schedule A of the trust agreement must be updated within sixty (60) days after a change in the amount of the current closure cost estimate covered by the agreement.

(3) Payments to the trust fund must be made annually by the owner or operator over the term of the initial permit or over the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period." The payments into the closure trust fund must be made as follows:

(a) For a new facility, as defined in 401 KAR 30:010, the first payment must be made before the initial receipt of hazardous waste for treatment, storage, or disposal. A receipt from the trustee for this payment must be submitted by the owner or operator to the director before this initial receipt of hazardous waste. The first payment must be at least equal to the current closure cost estimate (see Section 1 of this regulation), except as provided in Section 10 of this regulation, divided by the number of years in the pay-in period. Subsequent payments must be made no later than thirty (30) days after each anniversary date of the first

payment. The amount of each subsequent payment must be determined by this formula:

$$\text{NEXT payment} = \frac{CE - CV}{Y}$$

Where CE is the current closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(b) If an owner or operator established a trust fund as specified in Section 3 of 401 KAR 35:090, and the value of that trust fund is less than the current closure cost estimate when a permit is awarded for the facility, the amount of the current closure cost estimate still to be paid into the trust fund must be paid in over the pay-in period as defined in this subsection. Payments must continue to be made no later than thirty (30) days after each anniversary date of the first payment made pursuant to 401 KAR Chapter 35. The amount of each payment must be determined by this formula:

$$\text{NEXT payment} = \frac{CE - CV}{Y}$$

Where CE is the current closure cost estimate, CV is the current value of the trust fund and Y is the number of years remaining in the pay-in period.

(4) The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the closure cost estimate at the time the fund is established. However, he must maintain the value of the fund at no less than the value the fund would have been if annual payments were made as specified in subsection (3) of this section.

(5) If the owner or operator establishes a closure trust fund after having used one (1) or more alternate mechanisms specified in this regulation or in 401 KAR 35:090, his first payment must be at least the amount that the fund would have contained if the trust fund were established initially and annual payments made according to specifications of this section and Section 3 of 401 KAR 35:090, as applicable.

(6) After the pay-in period is completed, whenever the current closure cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within sixty (60) days of the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance as specified in this section to cover the difference.

(7) If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the director for release of the amount in excess of the current closure cost estimate.

(8) If an owner or operator substitutes other financial assurance as specified in this regulation for all or part of the trust fund, he may submit a written request to the director for release of the amount in excess of the current closure cost estimate covered by the trust fund.

(9) Within sixty (60) days after receiving a request from the owner or operator for release of funds as specified in subsections (7) and (8) of this section, the director will instruct the trustee to release to the owner or operator such funds as the director specifies in writing.

(10) After beginning partial or final closure, an owner or operator or another [any other] person authorized to conduct partial or final [perform] closure may request reimbursements for closure expenditures by submitting itemized bills to the director. The owner or operator may request reimbursements for partial closure only if sufficient funds are remaining in the trust fund to cover the maximum costs of closing the facility over its remaining operating life. Within sixty (60) days after receiving bills for partial or final closure activities, the director will instruct the trustee to make reimbursements in those amounts as the director specifies in writing, if the director determines that [whether] the partial or final closure expenditures are in accordance with the approved closure plan, or otherwise justified[, and if so, the director will instruct the trustee to make reimbursement in such amounts as the director specifies in writing]. If the director has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund, he may withhold reimbursements of such amounts as he deems prudent until he determines, in accordance with Section 12 of this regulation, that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the director does not instruct the trustee to make such reimbursements, he will provide the owner or operator with a detailed written statement of reasons.

(11) The director will agree to termination of the trust when:

(a) An owner or operator substitutes alternate financial assurance for closure as specified in this section; or

(b) The director releases the owner or operator from the requirements of this regulation in accordance with Section 12 of this regulation.

Section 4. Surety Bond Guaranteeing Payment into a Closure Trust Fund. (1) An owner or operator may satisfy the requirements of this regulation by obtaining a surety bond which conforms to the requirements of this section and submitting the bond to the director. An owner or operator of a new facility must submit the bond to the director at least sixty (60) days before the date on which hazardous waste is first received for treatment, storage, or disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

(2) The surety bond must be executed on the form provided by the cabinet containing wording identical to the wording specified in 401 KAR 34:144.

(3) The owner or operator who uses a surety bond to satisfy the requirements of this regulation must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in

accordance with instructions from the director. This standby trust fund must meet the requirements specified in Section 3 of this regulation, except that:

(a) An originally signed duplicate of the trust agreement must be submitted to the director with the surety bond; and

(b) Unless the standby trust fund is funded pursuant to the requirements of this regulation, the following are not required by these regulations:

1. Payments into the trust fund as specified in Section 3 of this regulation;

2. Updating of Schedule A of the trust agreement (see Section 1 of 401 KAR 34:140) to show current closure cost estimates;

3. Annual valuations as required by the trust agreement; and

4. Notices of nonpayment as required by the trust agreement.

(4) The bond must guarantee that the owner or operator will:

(a) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or

(b) Fund the standby trust fund in an amount equal to the penal sum within fifteen (15) days after an order to begin final closure [is] issued by the secretary becomes final, or within fifteen (15) days after an order to begin final closure is issued [or] by a circuit court or other court of competent jurisdiction pursuant to KRS Chapter 224, or within fifteen (15) days after issuance of a notice of termination of the permit pursuant to 401 KAR Chapter 38; or

(c) Provide alternate financial assurance as specified in this regulation and obtain the director's written approval of the assurance provided, within ninety (90) days after receipt by both the owner or operator and the director of a notice of cancellation of the bond from the surety.

(5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(6) The penal sum of the bond must be in an amount at least equal to the amount of the current closure cost estimate, except as provided in Section 10 of this regulation.

(7) Whenever the current closure cost estimate increases to an amount greater than the amount of the penal sum, the owner or operator within sixty (60) days after the increase, must either cause the penal sum of the bond to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the director, or obtain other financial assurance as specified in this regulation to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the director.

(8) Under the terms of the bond, the surety may cancel the bond by sending a notice of cancellation by certified mail to the owner or operator and to the director. Cancellation cannot occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the director, as evidenced by return receipt.

(9) The owner or operator may cancel the bond if the director has given prior written consent based on the director's receipt of evidence of alternate financial assurance as specified in this regulation.

Section 5. Surety Bond Guaranteeing Performance of Closure. (1) An owner or operator may satisfy the requirements of this regulation by obtaining a surety bond which conforms to the requirements of this section and by submitting the bond to the director. An owner or operator of a new facility must submit the bond to the director at least sixty (60) days before the date on which hazardous waste is first received for treatment, storage, or disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

(2) The surety bond must be executed on the form provided by the cabinet containing wording identical to the wording specified in 401 KAR 34:148.

(3) The owner or operator who uses a surety bond to satisfy the requirements of this regulation must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with the instructions of the director. This standby trust must meet the requirements specified in Section 3 of this regulation, except that:

(a) An originally signed duplicate of the trust agreement must be submitted to the director with the surety bond; and

(b) Unless the standby trust fund is funded pursuant to the requirements of this regulation, the following are not required by these regulations:

1. Payments into the trust fund as specified in Section 3 of this regulation;

2. Updating of Schedule A of the trust agreement (see 401 KAR 34:140) to show current closure cost estimates;

3. Annual valuations as required by the trust agreement; and

4. Notices of nonpayment as required by the trust agreement.

(4) The bond must guarantee that the owner or operator will:

(a) Perform final closure in accordance with the closure plan and other requirements in the permit for the facility whenever required to do so; or

(b) Provide alternate financial assurance as specified in this regulation and obtain the director's written approval of the assurance provided, within ninety (90) days after receipt by both the owner or operator and the director of a notice of cancellation of the bond from the surety.

(5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. Following a final administrative determination pursuant to KRS 224.866 that the owner or operator has failed to perform final closure in accordance with the approved closure plan and other permit requirements when required to do so, under the terms of the bond the surety will perform final closure as guaranteed by the bond or will deposit the amount of the penal sum into the standby trust fund.

(6) The penal sum of the bond must be in an amount at least equal to the amount of the current closure cost estimate.

(7) Whenever the current closure cost estimate increases to an amount greater than the amount of the penal sum of the bond, the owner or operator, within sixty (60) days after the increase, must either cause the penal sum of the bond to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the director, or obtain other financial assurance as specified in this regulation. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the director.

(8) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the director, as evidenced by the return receipts.

(9) The owner or operator may cancel the bond if the director has given prior written consent. The director will provide such written consent when:

(a) An owner or operator substitutes alternate financial assurance as specified n this regulation; or

(b) The director releases the owner or operator from the requirements of this regulation in accordance with Section 12 of this regulation.

(10) The surety will not be liable for deficiencies in the performance of closure by the owner or operator after the director releases the owner or operator from the requirements of this regulation in accordance with Section 12 of this regulation.

Section 6. Closure Letter of Credit. (1) An owner or operator may satisfy the requirements of this regulation by obtaining an irrevocable standby letter of credit which conforms to the requirements of this section and by submitting the letter to the director. An owner or operator of a new facility must have submitted the letter of credit to the director at least sixty (60) days before the date on which hazardous waste is first received for treatment, storage, or disposal. The letter of credit must be effective before the initial receipt of hazardous waste. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency.

(2) The wording of the letter of credit must be identical to the wording specified in Section 2 of 401 KAR 34:152.

(3) An owner or operator who uses a letter of credit to satisfy the requirements of this regulation must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the director will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the director. The standby trust fund must meet the requirements of the trust fund specified in Section 3 of this regulation, except that:

(a) An originally signed duplicate of the trust agreement must be submitted to the director with the letter of credit; and

(b) Unless the standby trust fund is funded pursuant to the requirements of this regulation, the following are not required by these regulations:

1. Payments into the trust fund as specified in Section 3 of this regulation;

2. Updating the Schedule A of the trust agreement (see Section 1 of 401 KAR 34:140) to show current closure cost estimates;

3. Annual valuations as required by the trust agreement; and

4. Notices of nonpayment as required by the trust agreement.

(4) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: the EPA identification number, name, and address of the facility, and the amounts of funds assured for closure of the facility by the letter of credit (see Section 1 of 401 KAR 34:152 for an example).

(5) The letter of credit must be irrevocable and issued for a period of at least one (1) year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one (1) year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the director by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the director have received the notice, as evidenced by the return receipts.

(6) The letter of credit must be issued for at least the amount of the current closure cost estimate except as provided in Section 10 of this regulation.

(7) Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within sixty (60) days of the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the director, or obtain other financial assurance as specified in this regulation to cover the increase. Whenever the adjusted closure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the director.

(8) Following a final administrative determination pursuant to KRS 224.866 that the owner or operator has failed to perform final closure in accordance with the approved closure plan and other permit requirements when required to do so, the director may draw on the letter of credit.

(9) If the owner or operator does not establish alternate financial assurance as specified in this regulation and obtain written approval of such alternate assurance from the director within ninety (90) days after receipt by both the owner or operator and the director of a notice from the issuing institution that it has decided not to extend the letter of the credit beyond the current expiration date, the director will draw on the letter of credit. The director may delay the drawing if the issuing institution grants an extension of the term of

credit. During the last thirty (30) days of any such extension, the director will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in this regulation and obtain written approval of such assurance from the director.

(10) The director will return the letter of credit to the issuing institution for termination when:

(a) An owner or operator substitutes alternate financial assurance as specified in this regulation; or

(b) The director releases the owner or operator from the requirements of this regulation in accordance with Section 12 of this regulation.

Section 7. Closure Insurance. (1) An owner or operator may satisfy the requirements of this regulation by obtaining closure insurance which conforms to the requirements of this section and by submitting a certificate of such insurance to the director. An owner or operator of a new facility must submit the certificate of insurance to the director at least sixty (60) days before the date on which hazardous waste is first received for treatment, storage, or disposal. The insurance must be effective before this initial receipt of hazardous waste. Except as KRS 304.11-030 provides otherwise. Each insurance policy providing primary coverage must be issued by an insurer who is licensed to transact the business of insurance in the Commonwealth of Kentucky. Each insurance policy providing excess coverage must be issued by an insurer who is licensed to transact the business of insurance in a state.

(2) The certificate of insurance must be executed on a form provided by the cabinet containing wording identical to the wording specified in 401 KAR 34:156.

(3) The closure insurance policy must be issued for a face amount at least equal to the current closure cost estimate, except as provided in Section 10 of this regulation. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

(4) The closure insurance policy must guarantee that funds will be available to close a facility whenever final closure occurs. The policy must also guarantee that once final closure begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the director to such party or parties as the director specifies.

(5) After beginning partial or final closure, an owner or operator or any other person authorized to conduct [perform] closure may request reimbursements for closure expenditures by submitting itemized bills to the director. The owner or operator may request reimbursements for partial closure only if the remaining value of the policy is sufficient to cover the maximum costs of closing the facility over its remaining operating life. Within sixty (60) days after receiving bills for closure activities, the director will instruct the insurer to make reimbursements in such amounts as the director specifies in writing, if the director determines that [whether] the partial or final closure expenditures are in accordance with the approved closure plan or otherwise justified[, and if so, he will instruct the insurer to make reimbursement in such amounts as the director specifies in writing]. If the director has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the face amount of the policy, he may withhold reimbursements of such amounts as he deems prudent until he determines, in accordance with Section 12 of this regulation, that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the director does not instruct the trustee to make such reimbursements, he will provide the owner or operator with a detailed written statement of reasons.

(6) The owner or operator must maintain the policy in full force and effect until the director consents to termination of the policy by the owner or operator as specified in subsection (10) of this section. Failure to pay the premium, without substitution of alternate financial assurance as specified in this regulation, will constitute a significant violation of these regulations, warranting such remedy as the director deems necessary. Such violation will be deemed to begin upon receipt by the director of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

(7) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer provided such consent is not unreasonably refused.

(8) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the director. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the director and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

(a) The director deems the facility abandoned; or

(b) The permit is terminated or revoked or a new permit is denied; or

(c) Closure is ordered by the director or a circuit court or other court of competent jurisdiction; or

(d) The owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

(e) The premium due is paid.

(9) Whenever the current closure cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within sixty (60) days of the increase, must either cause the face amount to be increased to

an amount at least equal to the current closure cost estimate and submit evidence of such increase to the director, or obtain other financial assurance as specified in this regulation to cover the increase. Whenever the current closure cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the director.

(10) The director will give written consent to the owner or operator that he may terminate the insurance policy when:

(a) An owner or operator substitutes alternate financial assurance as specified in this regulation; or

(b) The director releases the owner or operator from the requirements of this regulation in accordance with Section 12 of this regulation.

Section 8. Financial Test and Corporate Guarantee for Closure. (1) An owner or operator may satisfy the requirements of this regulation by demonstrating that he passes a financial test as specified in this section. To pass this test the owner or operator must meet the criteria of either paragraph of this subsection:

(a) The owner or operator must have:

1. Two (2) of the following three (3) ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

2. Net working capital and tangible net worth each at least six (6) times the sum of the current closure and postclosure cost estimates and the current plugging and abandonment cost estimates; and

3. Tangible net worth of at least $10 million; and

4. Assets located in the United States amounting to [either,] at least ninety (90) percent of [his] total assets or at least six (6) times the sum of the current closure and postclosure cost estimates and the current plugging and abandonment cost estimates.

(b) The owner or operator must have:

1. A current rating for his most recent bond issuance of AAA, AA, A or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

2. Tangible net worth at least six (6) times the sum of the current closure and postclosure cost estimates and the current plugging and abandonment cost estimates; and

3. Tangible net worth of at least $10 million; and

4. Assets located in the United States amounting to [either,] at least ninety (90) percent of [his] total assets or at least six (6) times the sum of the current closure and postclosure cost estimates and the current plugging and abandonment cost estimates.

(2) The phrase "current closure and postclosure cost estimates" as used in subsection (1) of this section refers to the cost estimates required to be shown in paragraphs 1 through 4 of the letter from the owner's or operator's chief financial officer (see 401 KAR 34:159). The phrase "current plugging and abandonment cost estimates" as used in subsection (1) of this section refers to the cost estimates required to be shown in paragraphs 1 through 4 of the letter for the owner's or operator's chief financial officer (see 40 CFR 144.70(f)).

(3) To demonstrate that he meets this test, the owner or operator must submit the following three (3) items to the director:

(a) A letter executed on the form provided by the cabinet, signed by the owner's or operator's chief financial officer and worded as specified in 401 KAR 34:159; and

(b) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

(c) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

1. He has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

2. In connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(4) An owner or operator of a new facility must submit the items specified in subsection (3) of this section to the director at least sixty (60) days before the date on which hazardous waste is first received for treatment, storage, or disposal.

(5) After the initial submission of items specified in subsection (3) of this section, the owner or operator must send updated information to the director within ninety (90) days after the close of each succeeding fiscal year. This information must consist of all three (3) items specified in subsection (3) of this section.

(6) If the owner or operator no longer meets the requirements of subsection (1) of this section, he must send notice to the director of intent to establish alternate financial assurance as specified in this regulation. The notice must be sent by certified mail within ninety (90) days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide alternate financial assurance within 120 days after the end of such fiscal year.

(7) The director may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (1) of this section, require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (3) of this section. If the director finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subsection (1) of this section, the owner or operator must provide alternate financial assurance as specified in this regulation within thirty (30) days after notification of such a finding.

(8) The director may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements (see subsection (3)(c) of this section). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The director will evaluate other qualifications on an individual basis. The

owner or operator must provide alternate financial assurance as specified in this regulation within thirty (30) days after notification of the disallowance.

(9) The owner or operator is no longer required to submit the items specified in subsection (3) of this section when:

(a) An owner or operator substitutes alternate financial assurance as specified in this regulation;

(b) The director releases the owner or operator from the requirements of this regulation by terminating the financial requirements in accordance with Section 12 of this regulation.

(10) An owner or operator may meet the requirements of this regulation by obtaining a written guarantee, hereafter referred to as the "corporate guarantee." The guarantor must be the parent corporation of the owner or operator. The guarantor must meet the requirements for owners or operators in subsections (1) through (8) of this section and must comply with the terms of the corporate guarantee. The corporate guarantee must be executed on a form provided by the cabinet containing wording identical to the wording specified in 401 KAR 34:165. The corporate guarantee must accompany the items sent to the director as specified in subsection (3) of this section. The terms of the corporate guarantee must provide that:

(a) If the owner or operator fails to perform final closure of a facility covered by the corporate guarantee in accordance with the closure plans and other permit requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in Section 3 of this regulation in the name of the owner or operator.

(b) The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the director, as evidenced by the return receipts.

(c) If the owner or operator fails to provide alternate financial assurance as specified in this regulation and obtain the written approval of such alternate assurance from the director within ninety (90) days after receipt by both the owner or operator and the director of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

Section 9. Cash Account and Certificates of Deposit. (1) An owner or operator may satisfy the requirements of this regulation by submitting to the director by certified mail, a bond guaranteeing compliance with KRS Chapter 224 and regulations promulgated pursuant thereto. The bond is to be supported by a cash account or certificate(s) of deposit. The cash account or the certificate(s) of deposit are to be held in escrow pursuant to an escrow agreement. An owner or operator of a new facility must submit the bond to the director at least sixty (60) days before the date on which hazardous waste is first received for treatment, storage, or disposal. The bank or financial institution holding the cash account or certificate of deposit in escrow must be regulated and examined by a federal or state agency.

(2) The bond must be executed on a form provided by the cabinet which has wording identical to the wording specified in Section 1 of 401 KAR 34:168. The escrow agreement for the cash account or certificate(s) of deposit must be executed on a form provided by the cabinet which has wording identical to the wording specified in Section 2 of 401 KAR 34:168.

(3) The cabinet must be the beneficiary of the escrow agreement for the cash account or certificate(s) of deposit. The director must be empowered to draw upon the funds if the owner or operator fails to perform closure or postclosure care in accordance with the closure plan and other permit requirements.

(4) The sum of the cash account or certificate(s) of deposit must be in an amount at least equal to the amount of the current closure cost estimate, except as provided in Section 10 of this regulation.

(5) After each interest period is completed, whenever the current closure cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the cash accounts or the certificate(s) of deposit. If the value of the cash accounts or certificate(s) of deposit is less than the amount of the new estimate, the owner or operator, within sixty (60) days of the change in the cost estimate, must either deposit an amount into the cash accounts or the certificate(s) of deposit so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance as specified in this section to cover the difference.

(6) If the value of the cash account or the certificate(s) of deposit is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the director for release of the amount in excess of the current closure cost estimate.

(7) Under the terms of the cash account or certificate(s) of deposit, the bank or financial institution may cancel the cash account or certificate(s) of deposit by sending a notice of cancellation by certified mail to the owner or operator and to the director. Cancellation cannot occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the director, as evidenced by return receipt.

(8) The owner or operator may terminate the cash account or certificate of deposit if the director has given prior written consent based on the director's receipt of evidence of alternate financial assurance as specified in this regulation.

(9) An owner or operator or any other person authorized to perform closure may request reimbursement for closure expenditures by submitting itemized bills to the director. Within sixty (60) days after receiving bills for closure activities, the director will determine whether the closure expenditures are in accordance with the closure plan or otherwise justified, and if so, the director may instruct the bank or financial institution to make reimbursements in those amounts as the director specifies in writing if the director determines that the closure expenditures are in accordance

with the closure plan or otherwise justified.

Section 10. Use of Multiple Financial Mechanisms. An owner or operator may satisfy the requirements of this regulation by establishing more than one (1) financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds guaranteeing payment into a trust fund, letters of credit, insurance, certificates of deposit and cash. The mechanisms must be as specified in Sections 3, 4, 6, 7, and 9, respectively, of this regulation, except that it is the combination of mechanisms rather than each single mechanism, which must provide financial assurance for an amount at least equal to the current closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, he may use the trust fund as the standby trust fund for other mechanisms. A single standby trust fund may be established for two (2) or more mechanisms. The director may use any or all of the mechanisms to provide for closure of the facility.

Section 11. Use of a Financial Mechanism for Multiple Facilities. An owner or operator may use a financial assurance mechanism specified in this regulation to meet the requirements of this regulation for more than one (1) facility. Evidence of financial assurance submitted to the director must include a list showing, for each facility, the EPA Identification Number, name, address, and the amount of funds for closure assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for closure of any of the facilities covered by the mechanism, the director may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

Section 12. Release of the Owner or Operator from the Requirements of this Regulation. Within sixty (60) days after receiving certifications from the owner or operator and an independent professional engineer who is registered in Kentucky that final closure has been completed [accomplished] in accordance with the approved closure plan [(see Section 6 of 401 KAR 34:070 and KRS 224.866(3) and (4))], the director will notify the owner or operator in writing that he is no longer required by this regulation to maintain financial assurance for final closure of the [particular] facility, unless the director has reason to believe that final closure has not been in accordance with the approved closure plan. The director shall provide the owner or operator a detailed written statement of any such reason to believe that closure has not been in accordance with the approved closure plan.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at noon.
PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director
(1) Type and number of entities affected: The amendments to this regulation affects all fully permitted hazardous waste facilities in Kentucky. Currently there are 20 fully permitted facilities regulated in Kentucky.
(a) Direct and indirect costs or savings to those affected:
1. First year: The majority of the amendments made to this regulation are to clarify existing requirements or to explicitly detail what was expected for closure and postclosure cost estimates. The costs associated with these requirements are anticipated to be minimal. In addition, there should be a small savings realized since companies will have better criteria to guide them on what is expected. This should save negotiations and revisions to the cost estimates when regulated entities submit the required information to the promulgating administrative body.
2. Continuing costs or savings: See note in (1)(a)1.
3. Additional factors increasing or decreasing costs (note any effects upon competition): See note in (1)(a)1.
(b) Reporting and paperwork requirements: There will be an insignificant increase in paperwork requirements due to the request for more detailed information on existing reports/forms.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None. The promulgating administrative body anticipates no new costs associated with the proposed amendments. It is possible that the more explicit standards will result in a small savings to the state in interpreting legal requirements for closure and postclosure.
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.
(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The amendments to this regulation are identical to the federal language, promulgated May 2, 1986.
Alternative. 1. Less stringent. The cabinet could have chosen to be less stringent, but this could mean that Kentucky would lose authorization to operate the federal hazardous waste program in the state. In addition, it would provide less protection to Kentucky's public health and environment than that afforded

by the national program.

2. More stringent. The cabinet could have chosen to be more stringent, but the federal requirements are adequate to protect human health and the environment.

3. Present proposal. The present proposal contains identical requirements promulgated by the U.S. EPA to determine closure and postclosure cost estimates.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. This regulation only applies to all hazardous waste sites or facilities.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 264.142 and 264.143 promulgated on May 2, 1986 (51 FR 16447-16449).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: The proposed amendments adopt requirements which are identical to those standards adopted by the U.S. EPA on May 2, 1986. No standards or responsibilities are imposed which are more strict than those by the U.S. EPA.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities that those adopted by the U.S. EPA.

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 34:100. Postclosure financial requirements.**

RELATES TO: KRS 224.033, 224.071, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.862, 224.866

NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in the storage, treatment, and disposal of hazardous waste obtain a permit. KRS 224.866 requires the cabinet to establish standards for these permits, to require adequate financial responsibility, and to establish minimum standards for closure for all facilities and the postclosure monitoring and maintenance of hazardous waste disposal facilities. This chapter establishes minimum standards for new hazardous waste sites or facilities. This regulation establishes the postclosure financial requirements.

Section 1. Cost Estimate for Postclosure Care. (1) The owner or operator of a disposal surface impoundment, land treatment, or landfill unit, or of a surface impoundment or waste pile required under Section 6 of 401 KAR 34:200 and Section 8 of 401 KAR 34:210 to prepare a contingent closure and postclosure plan, [facility subject to postclosure monitoring or maintenance requirements] must have a written estimate, in current dollars, of the annual cost of postclosure monitoring and maintenance of the facility in accordance with the applicable postclosure regulations in Section[s 1 and] 7 through 10 of 401 KAR 34:070, Section 6 of 401 KAR 34:200, [and] Section 8 of 401 KAR 34:210, Section 8 of 401 KAR 34:220 and Section 6 of 401 KAR 34:230.

(a) The postclosure cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct postclosure care activities. A third party is a party who is neither a parent nor a subsidiary of the owner or operator (see definition of parent corporation in Section 3(1)(e) of 401 KAR 34:080.

(b) The postclosure cost estimate is calculated by multiplying the annual postclosure cost estimate by the number of years of postclosure care required under 401 KAR 34:070.

(2) During the active [operating] life of the facility, the owner or operator must adjust the postclosure cost estimate for inflation within sixty (60) [thirty (30)] days prior to the [after each] anniversary [of the] date of the establishment of the financial instrument(s) used to comply with Section 2 of this regulation. For owners or operators using the financial test or corporate guarantee, the postclosure cost estimate must be updated for inflation within thirty (30) days after the close of the firm's fiscal year and before the submission of updated information to the director as specified in Section 8(5) of this regulation [on which the first postclosure cost estimate was prepared]. The adjustment may [must] be made by recalculating the postclosure cost estimate in current dollars or by [as specified in paragraphs (a) and (b) of this subsection,] using an inflation factor derived from the most recent [annual] Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its Survey of Current Business as specified in Section 4(1) and (2) of this regulation. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

(a) The first adjustment is made by multiplying the postclosure cost estimate by the inflation factor. The result is the adjusted postclosure cost estimate.

(b) Subsequent adjustments are made by multiplying the latest adjusted postclosure cost estimate by the latest inflation factor.

(3) During the active life of the facility, the owner or operator must revise the postclosure cost estimate within thirty (30) days after the director has approved the request to modify the postclosure plan, if the [during the operating life of the facility whenever a] change in the postclosure plan increases the cost of postclosure care. The revised postclosure cost estimate must be adjusted for

inflation as specified in subsection (2) of this section.

(4) The owner or operator must keep the following at the facility during the operating life of the facility: the latest postclosure cost estimate prepared in accordance with subsections (1) and (3) of this section and, when this estimate has been adjusted in accordance with subsection (2) of this section, the latest adjusted postclosure cost estimate.

Section 2. Financial Assurance for Postclosure Care. The owner or operator of a hazardous waste management unit subject to the requirements in Section 1 of this regulation [each disposal facility] must establish financial assurance for postclosure care in accordance with the approved postclosure plan for the facility sixty (60) days prior to the initial receipt of hazardous waste or the effective date of this regulation, whichever is later. He must choose from the options in Section 3 through 11 of this regulation. [of the facility. Financial assurance must be established as specified in Sections 3 through 9 of this regulation.]

Section 3. Postclosure Trust Fund. (1) An owner or operator may satisfy the requirements of this regulation by establishing a postclosure trust fund which conforms to the requirements of this section and by submitting an originally signed duplicate of the trust agreement to the director. An owner or operator of a new facility must submit the originally signed duplicate of the trust agreement to the director at least sixty (60) days before the date on which hazardous waste is first received for disposal. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(2) The trust agreement must be executed on the form provided by the cabinet containing wording identical to the wording specified in Section 1 of 401 KAR 34:140, and the trust agreement must be accompanied by a formal certification of acknowledgment (for an example, see Section 2 of 401 KAR 34:140). Schedule A of the trust agreement must be updated within sixty (60) days after a change in the amount of the current postclosure cost estimate covered by the agreement.

(3) Payments into the trust fund must be made annually by the owner or operator over the term of the initial permit or over the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period." The payments into the postclosure trust fund must be made as follows:

(a) For a new facility, the first payment must be made before the initial receipt of hazardous waste for disposal. A receipt from the trustee for this payment must be submitted by the owner or operator to the director before this initial receipt of hazardous waste. The first payment must be at least equal to the current postclosure cost estimate, except as provided in Section 10 of this regulation, divided by the number of years in the pay-in period. Subsequent payments must be made no later than thirty (30) days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{NEXT payment} = \frac{CE - CV}{Y}$$

where CE is the current postclosure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(b) If an owner or operator establishes a trust fund as specified in this section, and the value of that trust fund is less than the current postclosure cost estimate when a permit is awarded for the facility, the amount of the current postclosure cost estimate still to be paid into the fund must be paid in over the pay-in period as defined in subsection (3) of this section. Payments must continue to be made no later than thirty (30) days after each anniversary date of the first payment made pursuant to 401 KAR Chapter 35. The amount of each payment must be determined by this formula:

$$\text{NEXT payment} = \frac{CE - CV}{Y}$$

where CE is the current postclosure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(4) The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the current postclosure cost estimate at the time the fund is established. However, he must maintain the value of the fund at no less than the value that the fund would have been if annual payments were made as specified in subsection (3) of this section.

(5) If the owner or operator establishes a postclosure trust fund after having used one (1) or more alternate mechanisms specified in this regulation or in 401 KAR 35:100, his first payment must be in at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to specifications of this paragraph and Section 3 of 401 KAR 35:100, as applicable.

(6) After the pay-in period is completed, whenever the current postclosure cost estimate changes during the operating life of the facility, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within sixty (60) days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current postclosure cost estimate, or obtain other financial assurance as specified in this regulation to cover the difference.

(7) During the operating life of the facility, if the value of the trust fund is greater than the total amount of the current postclosure cost estimate, the owner or operator may submit a written request to the director for release of the amount in excess of the current postclosure cost estimate.

(8) If an owner or operator substitutes other financial assurance as specified in this regulation for all or part of the trust fund, he may submit a written request to the director for release of the amount in excess of the current postclosure cost estimate covered by the trust fund.

(9) Within sixty (60) days after receiving a

request from the owner or operator for release of funds as specified in subsections (7) and (8) of this section, the director will instruct the trustee to release to the owner or operator such funds as the director specifies in writing.

(10) During the period of postclosure care, the director may approve a release of funds if the owner or operator demonstrates to the director that the value of the trust fund exceeds the remaining cost of postclosure care.

(11) An owner or operator or any other person authorized to conduct [perform] postclosure care may request reimbursement for postclosure care expenditures by submitting itemized bills to the director. Within sixty (60) days after receiving bills for postclosure activities, the director will instruct the trustee to make reimbursement in those amounts as the director specifies in writing, if the director determines that [whether] the postclosure care expenditures are in accordance with the approved postclosure plan or otherwise justified. If the director does not instruct the trustee to make such reimbursements, he will provide the owner or operator with a detailed written statement of reasons. [, and if so, he will instruct the trustee to make reimbursement in such amounts as the director specifies in writing.]

(12) The director will agree to termination of the trust when:

(a) An owner or operator substitutes alternate financial assurance as specified in this regulation; or

(b) The director releases the owner or operator from the requirements of this regulation in accordance with Section 12 of this regulation.

Section 4. Surety Bond Guaranteeing Payment into a Postclosure Trust Fund. (1) An owner or operator may satisfy the requirements of this regulation by obtaining a surety bond which conforms to the requirements of this section and submitting the bond to the director. An owner or operator of a new facility must submit the bond to the director at least sixty (60) days before the date on which hazardous waste is first received for disposal. The bond must be effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

(2) The surety bond must be executed on the form provided by the cabinet containing wording identical to the wording specified in 401 KAR 34:144.

(3) The owner or operator who uses a surety bond to satisfy the requirements of this regulation must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the director. This standby trust fund must meet the requirements specified in Section 3 of this regulation, except that:

(a) An originally signed duplicate of the trust agreement must be submitted to the director with the surety bond; and

(b) Until the standby trust fund is funded pursuant to the requirements of this regulation, the following are not required by these regulations:

1. Payments into the trust fund as specified in Section 3 of this regulation;

2. Updating of Schedule A of the trust agreement (see 401 KAR 34:140) to show current postclosure cost estimates;

3. Annual valuations as required by the trust agreement; and

4. Notices of nonpayment as required by the trust agreement.

(4) The bond must guarantee that the owner or operator will:

(a) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or

(b) Fund the standby trust fund in an amount equal to the penal sum within fifteen (15) days after an order to begin final closure [is] issued by the director becomes final, or within fifteen (15) days after an order to begin final closure is issued by a [director or] circuit court or other court of competent jurisdiction; or

(c) Provide alternate financial assurance as specified in this regulation, and obtain the director's written approval of the assurance provided, within ninety (90) days after receipt by both the owner or operator and the director of a notice of cancellation of the bond from the surety.

(5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(6) The penal sum of the bond must be in an amount at least equal to the amount of the current postclosure cost estimate, except as provided in Section 10 of this regulation.

(7) Whenever the current postclosure cost estimate increases to an amount greater than the penal sum, the owner or operator, within sixty (60) days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current postclosure cost estimate and submit evidence of such increase to the director, or obtain other financial assurance as specified in this regulation to cover the increase. Whenever the current postclosure cost estimate decreases, the penal sum may be reduced to the amount of the current postclosure cost estimate following written approval by the director.

(8) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to both the owner or operator and to the director. Cancellation cannot occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the director, as evidenced by return receipt.

(9) The owner or operator may cancel the bond if the director has given prior written consent based on his receipt of evidence of alternate financial assurance as specified in this regulation.

Section 5. Surety Bond Guaranteeing Performance of Postclosure. (1) An owner or operator may satisfy the requirements of this regulation by obtaining a surety bond which conforms to the requirements of this section and submitting the bond to the director. An owner or operator of a new facility must submit the bond to the director at least sixty (60) days before the date on which hazardous waste is first received for disposal. The bond must be

effective before this initial receipt of hazardous waste. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

(2) The surety bond must be executed on the form provided by the cabinet containing wording identical to the wording specified in 401 KAR 34:148.

(3) The owner or operator who uses a surety bond to satisfy the requirements of this regulation must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with the instructions of the director. This standby trust must meet the requirements specified in Section 3 of this regulation, except that:

(a) An originally signed duplicate of the trust agreement must be submitted to the director with the surety bond; and

(b) Unless the standby trust fund is funded pursuant to the requirements of this regulation, the following are not required by these regulations:

1. Payments into the trust fund as specified in Section 3 of this regulation;

2. Updating of Schedule A of the trust agreement (see 401 KAR 34:140) to show current postclosure cost estimates;

3. Annual valuations as required by the trust agreement; and

4. Notices of nonpayment as required by the trust agreement.

(4) The bond must guarantee that the owner or operator will:

(a) Perform postclosure care in accordance with the postclosure plan and other requirements of the permit for the facility; or

(b) Provide alternate financial assurance as specified in this regulation and obtain the director's written approval of the assurance provided, within ninety (90) days of receipt by both the owner or operator and the director of a notice of cancellation of the bond from the surety.

(5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. Following a final administrative determination pursuant to KRS 224.866 that the owner or operator has failed to perform postclosure care in accordance with the postclosure plan and other permit requirements, under the terms of the bond the surety will perform postclosure care in accordance with the approved postclosure plan and other permit requirements or will deposit the amount of the penal sum into the standby trust fund.

(6) The penal sum of the bond must be in an amount at least equal to the amount of the current postclosure cost estimate.

(7) Whenever the current postclosure cost estimate increases to an amount greater than the penal sum during the operating life of the facility, the owner or operator, within sixty (60) days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current postclosure cost estimate and submit evidence of such increase to the director, or obtain other financial assurance as specified in this regulation. Whenever the current postclosure cost estimate decreases during the operating life of the facility, the penal sum may be reduced to the amount of the current postclosure cost estimate following written approval by the director.

(8) During the period of postclosure care, the director may approve a decrease in the penal sum if the owner or operator demonstrates to the director that the amount exceeds the remaining cost of postclosure care.

(9) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the director, as evidenced by the return receipts.

(10) The owner or operator may cancel the bond if the director has given prior written consent. The director will provide such written consent when:

(a) An owner or operator substitutes alternate financial assurance as specified in this regulation; or

(b) The director releases the owner or operator from the requirements of this regulation in accordance with Section 12 of this regulation.

(11) The surety will not be liable for deficiencies in the performance of postclosure care by the owner or operator after the director releases the owner or operator from the requirements of this regulation in accordance with Section 12 of this regulation.

Section 6. Postclosure Letter of Credit. (1) An owner or operator may satisfy the requirements of this regulation by obtaining an irrevocable standby letter of credit which conforms to the requirements of this section and by submitting the letter to the director. An owner or operator of a new facility must submit the letter of credit to the director at least sixty (60) days before the date on which hazardous waste is first received for disposal. The letter of credit must be effective before this initial receipt of hazardous waste. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency.

(2) The wording of the letter of credit must be identical to the wording specified in Section 2 of 401 KAR 34:152.

(3) An owner or operator who uses a letter of credit to satisfy the requirements of this regulation must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the director will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the director. The standby trust fund must meet the requirements of the trust fund specified in Section 3 of this regulation, except that:

(a) An originally signed duplicate of the trust agreement must be submitted to the director with the letter of credit; and

(b) Unless the standby trust fund is funded pursuant to the requirements of this regulation, the following are not required by these regulations:

1. Payments into the trust fund as specified in Section 3 of this regulation;

2. Updating the Schedule A of the trust agreement (see 401 KAR 34:140) to show current postclosure cost estimates;

3. Annual valuations as required by the trust agreement; and

4. Notices of nonpayment as required by the trust agreement.

(4) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: the EPA identification number, name and address of the facility, and the amount of funds assured for postclosure care of the facility by the letter of credit (see Section 1 of 401 KAR 34:152 for an example).

(5) The letter of credit must be irrevocable and issued for a period of at least one (1) year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one (1) year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the director by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit the 120 days will begin on the date when both the owner or operator and the director have received the notice, as evidenced by the return receipts.

(6) The letter of credit must be issued in an amount at least equal to the current postclosure cost estimate, except as provided in Section 10 of this regulation.

(7) Whenever the current postclosure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator, within sixty (60) days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current postclosure cost estimate and submit evidence of such increase to the director, or obtain other financial assurance as specified in this regulation to cover the increase. Whenever the current postclosure cost estimate decreases during the operating life of the facility, the amount of the credit may be reduced to the amount of the current postclosure cost estimate following written approval by the director.

(8) During the period of postclosure care, the director may approve a decrease in the amount of the letter of credit if the owner or operator demonstrates to the director that the amount exceeds the remaining cost of postclosure care.

(9) Following a final administrative determination pursuant to KRS 224.866 that the owner or operator has failed to perform postclosure care in accordance with the approved postclosure plan and other permit requirements, the director may draw on the letter of credit.

(10) If the owner or operator does not establish alternate financial assurance as specified in this regulation and obtain written approval of such alternate assurance from the director within ninety (90) days after receipt by both the owner or operator and the director of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the director will draw on the letter of credit. The director may delay the drawing if the issuing institution grants an extension of the term of the credit. During the last thirty (30) days of any such extension, the director will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in this regulation and obtain written approval of such financial assurance from the director.

(11) The director will return the letter of credit to the issuing institution for termination when:

(a) An owner or operator substitutes alternate financial assurance as specified in this regulation; or

(b) The director releases the owner or operator from the requirements of this regulation in accordance with Section 12 of this regulation.

Section 7. Postclosure Insurance. (1) An owner or operator may satisfy the requirements of this regulation by obtaining postclosure insurance which conforms to the requirements of this section and submitting a certificate of such insurance to the director. An owner or operator of a new facility must submit a certificate of insurance to the director at least sixty (60) days before the date on which hazardous waste is first received for disposal. The insurance must be effective before this initial receipt of hazardous waste. Each insurance policy providing primary coverage must be issued by an insurer who is licensed to transact the business of insurance in the Commonwealth of Kentucky except as KRS 304.11-030 provides otherwise. Each insurance policy providing excess coverage must be issued by an insurer who is licensed to transact the business of insurance in a state.

(2) The certificate of insurance must be executed on a form provided by the cabinet containing wording identical to the wording specified in 401 KAR 34:156.

(3) The postclosure insurance policy must be issued for a face amount at least equal the current postclosure cost estimate, except as provided in Section 10 of this regulation. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

(4) The postclosure insurance policy must guarantee that funds will be available to provide postclosure care of the facility whenever the postclosure care period begins. The policy must also guarantee that once postclosure care begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the director to such party or parties as the director specifies.

(5) An owner or operator or any other person authorized to conduct [perform] postclosure care may request reimbursement for postclosure care expenditures by submitting itemized bills to the director. Within sixty (60) days after receiving bills for postclosure care activities, the director will [determine whether the postclosure expenditures are in accordance with the postclosure plan or otherwise justified, and if so, he will] instruct the insurer to make reimbursements in those [such] amounts as the director specifies in writing, if the director determines that the postclosure care expenditures are in accordance with the approved postclosure plan or otherwise justified. If the director does not instruct the insurer to make

such reimbursements, he will provide the owner or operator with a detailed written statement of reasons.

(6) The owner or operator must maintain the policy in full force and effect until the director consents to termination of the policy by the owner or operator as specified in subsection (11) of this section. Failure to pay the premium, without substitution of alternate financial assurance as specified in this regulation, will constitute a significant violation of these regulations, warranting such remedy as the director deems necessary. Such violation will be deemed to begin upon receipt by the director of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

(7) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer provided such consent is not unreasonably refused.

(8) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the director. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by the director and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

(a) The director deems the facility abandoned; or

(b) The permit is terminated or revoked or a new permit is denied; or

(c) Closure is ordered by the director or a circuit court or other court of competent jurisdiction; or

(d) The owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

(e) The premium due is paid.

(9) Whenever the current postclosure cost estimate increases to an amount greater than the face amount of the policy during the operating life of the facility, the owner or operator, within sixty (60) days after the increase, must either cause the face amount to be increased to an amount at least equal to the current postclosure cost estimate and submit evidence of such increase to the director, or obtain other financial assurance as specified in this regulation to cover the increase. Whenever the current postclosure cost estimate decreases during the operating life of the facility, the face amount may be reduced to the amount of the current postclosure cost estimate following written approval by the director.

(10) Commencing on the date that liability to make payments pursuant to the policy accrues, the insurer will thereafter annually increase the face amount of the policy. Such increase must be equivalent to the face amount of the policy, less any payments made, multiplied by an amount equivalent to eighty-five (85) percent of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S. Treasury for twenty-six (26) week Treasury securities.

(11) The director will give written consent to the owner or operator that he may terminate the insurance policy when:

(a) An owner or operator substitutes alternate financial assurance as specified in this regulation; or

(b) The director releases the owner or operator from the requirements of this regulation in accordance with Section 12 of this regulation.

Section 8. Financial Test with Corporate Guarantee for Postclosure Care. (1) An owner or operator may satisfy the requirements of this regulation by demonstrating that he passes a financial test as specified in this section. To pass this test the owner or operator must meet the criteria of either paragraph (a) or (b) of this subsection:

(a) The owner or operator must have:

1. Two (2) of the three (3) ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

2. Net working capital and tangible net worth each at least six (6) times the sum of the current closure and postclosure cost estimates and the current plugging and abandonment cost estimates; and

3. Tangible net worth of at least $10 million; and

4. Assets in the United States amounting to [either,] at least ninety (90) percent of his total assets or at least six (6) times the sum of the current closure and postclosure cost estimates and the current plugging and abandonment cost estimates.

(b) The owner or operator must have:

1. A current rating for his most recent bond issuance of AAA, AA, A or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

2. Tangible net worth at least six (6) times the sum of the current closure and postclosure cost estimates and the current plugging and abandonment cost estimates; and

3. Tangible net worth of at least $10 million; and

4. Assets located in the United States amounting to [either] at least ninety (90) percent of his total assets or at least six (6) times the sum of the current closure and postclosure cost estimates and the current plugging and abandonment cost estimates.

(2) The phrase "current closure and postclosure cost estimates" as used in subsection (1) of this section refers to the cost estimates required to be shown in paragraphs 1 through 4 of the letter from the owner's or operator's chief financial officer (see 401 KAR 34:159). The phrase "current plugging and abandonment cost estimates" as used in subsection (1) of this section refers to the cost estimates required to be shown in paragraphs 1 through 4 of the letter from the owner's or operator's chief financial officer (see 40 CFR 144.70(f)).

(3. To demonstrate that he meets this test, the owner or operator must submit the following three (3) items to the director:

(a) A letter executed on the form provided by the cabinet, signed by the owner's or operator's chief financial officer and worded as specified in 401 KAR 34:159; and

(b) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

(c) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

1. He has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

2. In connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(4) An owner or operator of a new facility must submit the items specified in subsection (3) of this section to the director at least sixty (60) days before the date on which hazardous waste is first received for treatment, storage, or disposal.

(5) After the initial submission of items specified in subsection (3) of this section, the owner or operator must send updated information to the director within ninety (90) days after the close of each succeeding fiscal year. This information must consist of all three (3) items specified in subsection (3) of this section.

(6) If the owner or operator no longer meets the requirements of subsection (1) of this section, he must send notice to the director of intent to establish alternate financial assurance as specified in this regulation. The notice must be sent by certified mail within ninety (90) days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide alternate financial assurance within 120 days after the end of such fiscal year.

(7) The director may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (1) of this section, require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (3) of this section. If the director finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subsection (1) of this section, the owner or operator must provide alternate financial assurance as specified in this regulation within thirty (30) days after notification of such a finding.

(8) The director may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements (see subsection (3) of this section). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The director will evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance as specified in this regulation within thirty (30) days after notification of the disallowance.

(9) During the period of postclosure care, the director may approve a decrease in the current postclosure cost estimate for which this test demonstrates financial assurance if the owner or operator demonstrates to the director that the amount of the cost estimate exceeds the remaining cost of postclosure care.

(10) The owner or operator is no longer required to submit the items specified in subsection (3) of this section when:

(a) An owner or operator substitutes alternate financial assurance as specified in this regulation;

(b) The director releases the owner or operator from the requirements of this regulation by terminating the financial requirements in accordance with Section 12 of this regulation.

(11) An owner or operator may meet the requirements of this regulation by obtaining a written guarantee hereafter referred to as "corporate guarantee." The guarantor must be the parent corporation of the owner or operator. The guarantor must meet the requirements for owners or operators in subsections (1) through (9) of this section and must comply with the terms of the corporate guarantee. The corporate guarantee must be executed on a form provided by the cabinet containing wording identical to the wording specified in 401 KAR 34:165. The corporate guarantee must accompany the items sent to the director as specified in subsection (3) of this section. The terms of the corporate guarantee must provide that:

(a) If the owner or operator fails to perform postclosure care of a facility covered by the corporate guarantee in accordance with the postclosure plan and other permit requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in Section 3 of this regulation in the name of the owner or operator.

(b) The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the director, as evidenced by the return receipts.

(c) If the owner or operator fails to provide alternate financial assurance as specified in this regulation and obtain the written approval of such alternate assurance from the director within ninety (90) days after receipt by both the owner or operator and the director of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

Section 9. Cash and Certificates of Deposit. (1) An owner or operator may satisfy the requirements of this regulation by submitting to the director a bond guaranteeing compliance with KRS Chapter 224 and regulations promulgated pursuant thereto. The bond is to be supported by a cash account or certificate(s) of deposit. The cash account or the certificate(s) of deposit are to be held in escrow pursuant to an escrow agreement. An owner or operator of a new facility must submit the bond to the director at least sixty (60) days before the date on which

hazardous waste is first received for disposal. The bank or other financial institution holding the cash account or certificate of deposit in escrow must be regulated and examined by a federal or state agency.

(2) The bond must be executed on a form provided by the cabinet which has wording identical to the wording specified in Section 1 of 401 KAR 34:168. The escrow agreement for the cash account or certificate(s) of deposit must be executed on a form provided by the cabinet which has wording identical to the wording specified in Section 2 of 401 KAR 34:168.

(3) The cabinet must be the beneficiary of the escrow agreement for the cash account or certificate(s) of deposit. The director must be empowered to draw upon the funds if the owner or operator fails to perform postclosure care in accordance with the postclosure care plan and other permit requirements.

(4) The sum of the cash account or certificate of deposit must be in an amount at least equal to the amount of the current postclosure cost estimate, except as provided in Section 10 of this regulation.

(5) Whenever the current postclosure cost estimate increases to an amount greater than the sum of the cash account or certificate(s) of deposit, the owner or operator, within sixty (60) days after the increase, must either cause the sum of the deposit to be increased to an amount at least equal to the current postclosure cost estimate and submit evidence of such increase to the director or obtain other financial assurance as specified in this regulation to cover the increase. Whenever the current postclosure cost estimate decreases, the sum of the deposit may be reduced to the amount of the current postclosure cost estimate following written approval by the director.

(6) If the value of the cash account or the certificate(s) of deposit is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the director for release of the amount in excess of the current closure cost estimate.

(7) Under the terms of the cash account or certificate(s) of deposit, the bank or financial institution may cancel the cash account or certificate(s) of deposit by sending notice of cancellation by certified mail to the owner or operator and to the director. Cancellation cannot occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the director, as evidenced by return receipt.

(8) The owner or operator may terminate the cash account or certificate(s) of deposit in accordance with Section 12 of this regulation if the director has given prior written consent on his receipt of evidence of alternate financial assurance as specified in this regulation.

(9) An owner or operator or any other person authorized to conduct postclosure may request reimbursement for postclosure expenditures by submitting itemized bills to the director. Within sixty (60) days after receiving bills for postclosure activities, the director may instruct the bank or financial institution to make reimbursements in those amounts as the director specifies in writing if the director determines that the postclosure expenditures are in accordance with the postclosure plan or otherwise justified.

Section 10. Use of Multiple Financial Mechanisms. An owner or operator may satisfy the requirements of this regulation by establishing more than one (1) financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds guaranteeing payment into a trust fund, letters of credit, insurance and cash. The mechanisms must be as specified in Sections 3, 4, 6, 7, and 9 of this regulation, respectively, except that it is the combination of mechanisms rather than the single mechanism which must provide financial assurance for an amount at least equal to the current postclosure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, he may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two (2) or more mechanisms. The director may use any or all of the mechanisms to provide for postclosure care of the facility.

Section 11. Use of a Financial Mechanism or Multiple Facilities. An owner or operator may use a financial assurance mechanism specified in this regulation to meet the requirements of this regulation for more than one (1) facility of which he is the owner or operator provided the facilities are all within the Commonwealth. Evidence of financial assurance submitted to the director must include a list showing for each facility the EPA Identification Number, name, address, and the amount of funds for postclosure care assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for postclosure care of any of the facilities covered by the mechanism, the director may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

Section 12. Release of the Owner or Operator from the Requirements of this Regulation. Within sixty (60) days after receiving certifications from the owner or operator and an independent professional engineer registered in the Commonwealth of Kentucky that the postclosure care period has been completed for a hazardous waste disposal unit in accordance with the approved plan, the director will notify the owner or operator that he is no longer required to maintain financial assurance for postclosure care of that unit, unless the director has reason to believe that postclosure care has not been in accordance with the approved postclosure plan. The director shall provide the owner or operator with a detailed written statement of any such reason to believe that postclosure care has not been in accordance with the approved postclosure plan. [When an owner or operator has completed to the satisfaction of the director all postclosure care requirements in accordance with the postclosure plan, the director will, at the request of the owner or operator, notify him in writing that he is no longer required by this regulation to maintain financial assurance for postclosure care of the particular facility.]

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The amendments to this regulation affect all fully permitted hazardous waste facilities in Kentucky. Currently there are 20 fully permitted facilities regulated in Kentucky.

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

1. First year: The amendments made to this regulation will result in a cost to the regulated community since postclosure costs must be estimated using third parties. The cabinet notes that of the approximate $120 million of financial assurance maintained currently by Kentucky facilities, an increase of roughly $2 million statewide is expected. The cost of the additional financial assurance will be borne by a relatively few number of facilities; it is estimated that $1 million of additional financial assurance will be borne by a single company. However, the average cost per company (excluding the one facility) is estimated to be $20,000. It should also be noted that these monies are rarely set aside in a trust fund or cash/certificate of deposit. These monies are normally demonstrated through use of the financial test or corporate guarantee and do not cost the company the face amount until postclosure is initiated.

The majority of the amendments are technical clarifications or additions of regulatory cites which clarify existing requirements but do not result in a cost or savings except that they should reduce frustration in using the regulation.

An amendment made to the financial test and corporate guarantee mechanism requirements add the requirement that a company include the cost of plugging and abandoning any underground injection control wells they own or operate. This should result in a more accurate statement of the companies' liabilities. It will not result in a cost or savings unless a company is no longer able to use the mechanism as the result of the demonstration. Although this is not anticipated to occur in Kentucky, if it did, the company would experience a substantial cost to obtain alternate financial assurance since financial test and corporate guarantee do not require establishment of any actual money but can be explained as simply the demonstration of ability to pay for postclosure care and the promise on the part of the company to do so.

2. Continuing costs or savings: See note in (1)(a)1.

3. Additional factors increasing or decreasing costs (note any effects upon competition): See note in (1)(a)1.

(b) Reporting and paperwork requirements: There will be an insignificant increase in paperwork requirements due to the request for more detailed information on certain reports or forms.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. The promulgating administative body anticipates no new costs as the result of the amendments made to this regulation.

There should be a small savings to the state in that postclosure cost estimates will be easier to review because the standards in the regulations are more explicit.

In addition, although it cannot be characterized as a savings to the promulgating agency, there is the potential for a large savings to the Commonwealth due to the requirement that cost estimates use third party cost figures. If a company used an estimate based upon in-house postclosure care and discounted the amount it would cost them, the state would have a smaller amount of money with which to conduct postclosure care if the company defaulted than if the estimate was based on third party costs. This provides a safeguard to the Commonwealth that adequate monies will be available to conduct postclosure care whether or not the company remains solvent.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The amendments to this regulation are identical to the federal language promulgated May 2, 1986. Alternative. 1. Less stringent. The cabinet could have chosen to be less stringent, but this would mean that Kentucky would lose authorization to operate the federal hazardous waste program in the state. In addition, it would provide less protection to Kentucky's public health and environment than that afforded by the national program.

2. More stringent. The cabinet could have chosen to be more stringent but the federal requirements are adequate to protect public health and the environment.

3. Present proposal. The present proposal contains the information on determining postclosure cost estimates for hazardous waste facilities.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. This regulation applies only to fully permitted

hazardous waste sites or facilities.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 264.144 and 264.145 promulgated on May 2, 1986 (51 FR 16449-16450).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: The proposed amendments adopt requirements which are identical to those standards adopted by the U.S. EPA on May 2, 1986. No standards or responsibilities are imposed which are more strict than those imposed by the U.S. EPA.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 34:190. Tanks.**

RELATES TO: KRS 224.033, 224.060, 224.071, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.866

NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in the storage, treatment, and disposal of hazardous waste obtain a permit. KRS 224.866 requires the Cabinet to establish standards for these permits, to require adequate financial responsibility, to establish minimum standards for closure for all facilities and the postclosure monitoring and maintenance of hazardous waste disposal facilities. This chapter establishes minimum standards for new hazardous waste sites or facilities. This regulation establishes minimum standards for tanks.

Section 1. Applicability. [(1)] The requirements of This regulation apply[ies] to owners and operators of hazardous waste sites or facilities that use tank systems for storing or treating [to treat or store] hazardous waste, except as otherwise provided in subsections (1) and (2) of this section or in Section 1 of 401 KAR 34:010 [and subsection (2) of this regulation provide otherwise].

(1) Tanks that are used to store or treat hazardous waste which contains no free liquids and are situated inside a building with an impermeable floor are exempted from the requirements in Section 4 of this regulation. To demonstrate the absence or presence of free liquids in the stored or treated waste, EPA Method 9095 (paint filter liquids test) as described in "Test Methods for Evaluating Solid Wastes: Physical Chemical Methods" (EPA Publication No. SW-846) incorporated by reference in Section 3 of 401 KAR 30:010 must be used.

(2) Tanks, including sumps, as defined in Section 1 of 401 KAR 30:010, that serve as part of a secondary containment system to collect or contain releases of hazardous wastes are exempted from the requirements in Section 4 of this regulation. [This regulation does not apply to facilities that treat or store hazardous waste in covered underground tanks that cannot be entered for inspection.]

Section 2. Assessment of Existing Tank System's Integrity. (1) For each existing tank system that does not have secondary containment meeting the requirements of Section 4 of this regulation, the owner or operator must determine that the tank system is not leaking or is unfit for use. Except as provided in subsection (3) of this section, the owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by an independent, qualified professional engineer registered in the Commonwealth of Kentucky, in accordance with Section 7(4) of 401 KAR 38:070, that attests to the tank system's integrity no later than 180 days from the date of promulgation of this regulation.

(2) This assessment must determine that the tank system is adequately designed and has sufficient structural strength and compatibility with the waste(s) to be stored or treated, to ensure that it will not collapse, rupture, or fail. At a minimum, this assessment must consider the following:

(a) Design standard(s), if available, according to which the tank and ancillary equipment were constructed;

(b) Hazardous characteristics of the waste(s) that have been and will be handled;

(c) Existing corrosion protection measures;

(d) Documented age of the tank system, if available (otherwise, an estimate of the age); and

(e) Results of a leak test, internal inspection, or other tank integrity examination such that:

1. For nonenterable underground tanks, the assessment must include a leak test that is capable of taking into account the effects of temperature variations, tank and deflection, vapor pockets, and high water table effects; and

2. For other than nonenterable underground tanks and for ancillary equipment, this assessment must include either a leak test, as described above, or other integrity examination, that is certified by an independent, qualified, professional engineer registered in the Commonwealth of Kentucky in accordance with Section 7(4) of 401 KAR 38:070, that addresses cracks, leaks, corrosion, and erosion.

(3) Tank systems that store or treat materials that become hazardous wastes subsequent to the date of promulgation of this regulation, must conduct the assessment within twelve (12) months after the date that the waste becomes a hazardous waste.

(4) If, as a result of the assessment conducted in accordance with subsection (1) of this section, a tank system is found to be leaking or unfit for use, the owner or operator must comply with the requirements of Section 7 of this regulation. [Design of Tanks. Tanks must have sufficient shell strength and, for closed tanks, pressure controls (e.g., vents) to assure that they do not collapse or rupture. The

cabinet will review the design of the tanks, including the foundation, structural support, seams and pressure controls. The cabinet shall require that a minimum shell thickness be maintained at all times to ensure sufficient shell strength. Factors to be considered in establishing minimum thickness include the width, height, and materials of construction of the tank, and the specific gravity of the waste which will be placed in the tank. In reviewing the design of the tank and establishing a minimum thickness, the cabinet shall rely upon appropriate industrial design standards and other available information.]

Section 3. Design and Installation of New Tank Systems or Components. (1) Owners or operators of new tank systems or components must obtain and submit to the director, at the time of submittal of Part B information, a written assessment, reviewed and certified by an independent, qualified professional engineer registered in the Commonwealth of Kentucky, in accordance with Section 7(4) of 401 KAR 38:070, attesting that the tank system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. The assessment must show that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection to ensure that it will not collapse, rupture, or fail. This assessment, which will be used by the director to review and approve or disapprove the acceptability of the tank system design, must include, at a minimum, the following information:

(a) Design standard(s) according to which tank(s) and/or the ancillary equipment are constructed;

(b) Hazardous characteristics of the waste(s) to be handled;

(c) For new tank systems or components in which the external shell of a metal tank or any external metal component of the tank system will be in contact with the soil or with water, a determination by a corrosion expert of:

1. Factors affecting the potential for corrosion, including but not limited to:

a. Soil moisture content;

b. Soil pH;

c. Soil sulfides level;

d. Soil resistivity;

e. Structure to soil potential;

f. Influence of nearby underground metal structures (e.g., piping);

g. Existence of stray electric current;

h. Existing corrosion-protection measures (e.g., coating, cathodic protection); and

2. The type and degree of external corrosion protection that are needed to ensure the integrity of the tank system during the use of the tank system or component, consisting of one (1) or more of the following:

a. Corrosion-resistant materials of construction such as special alloys, fiberglass reinforced plastic, etc.;

b. Corrosion-resistant coating (such as epoxy, fiberglass, etc.) with cathodic protection (e.g., impressed current or sacrificial anodes); and

c. Electrical isolation devices such as insulating joints, flanges, etc.

(d) For underground tank system components that are likely to be adversely affected by vehicular traffic, a determination of design or operational measures that will protect the tank system against potential damage; and

(e) Design considerations to ensure that:

1. Tank foundations will maintain the load of a full tank;

2. Tank systems will be anchored to prevent flotation or dislodgment where the tank system is placed in a saturated zone, or is located within a seismic fault zone subject to the standards of Section 9(1) of 401 KAR 34:020; and

3. Tank systems will withstand the effects of frost heave.

(2) The owner or operator of a new tank system must ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation. Prior to covering, enclosing, or placing a new tank system or component in use, an independent, qualified installation inspector or an independent, qualified professional engineer registered in the Commonwealth of Kentucky, either of whom is trained and experienced in the proper installation of tank systems or components, must inspect the system for the presence of any of the following items:

(a) Weld breaks;

(b) Punctures;

(c) Scrapes of protective coatings;

(d) Cracks;

(e) Corrosion; or

(f) Other structural damage or inadequate construction/installation.

All discrepancies (e.g., structural damage or inadequate construction/installation) must be remedied before the tank system is covered, enclosed, or placed in use.

(3) New tank systems or components, that are placed underground and that are backfilled must be provided with a backfill material that is a noncorrosive, porous, homogeneous substance and that is installed so that the backfill is placed completely around the tank and compacted to ensure that the tank and piping are fully and uniformly supported.

(4) All new tanks and ancillary equipment must be tested for tightness prior to being covered, enclosed, or placed in use. If a tank system is found not to be tight, all repairs necessary to remedy the leak(s) in the system must be performed prior to the tank system being covered, enclosed, or placed into use.

(5) Ancillary equipment must be supported and protected against physical damage and excessive stress due to settlement, vibration, expansion, or contraction.

(6) The owner or operator must provide the type and degree of corrosion protection recommended by an independent corrosion expert, based on the information provided under subsection (1)(c) of this section, or other corrosion protection if the director believes other corrosion protection is necessary to ensure the integrity of the tank system during use of the tank system. The installation of a corrosion protection system that is field fabricated must be supervised by an independent corrosion expert to ensure proper installation.

(7) The owner or operator must obtain and keep on file at the facility written statements by those persons required to certify the design of the tank system and supervise the installation of the tank system in accordance with the

requirements of subsections (2) through (6) of this section, that attest that the tank system was properly designed and installed and that repairs, pursuant to subsections (2) and (4) of this section, were performed. These written statements must also include the certification statement as required in Section 7(4) of 401 KAR 38:070. [General Operating Requirements. (1) Wastes and other materials (e.g., treatment reagents) which are incompatible with the material of construction of the tank must not be placed in the tank unless the tank is protected from accelerated corrosion, erosion or abrasion through the use of:]

[(a) An inner liner or coating which is compatible with the waste or material and which is free of leaks, cracks, holes or other deterioration; or]

[(b) Alternative means of protection (e.g., cathodic protection or corrosion inhibitors).]

[(2) The owner or operator must use appropriate controls and practices to prevent overfilling. These must include:]

[(a) Controls to prevent overfilling (e.g., waste feed cutoff system or bypass system to a standby tank); and]

[(b) For uncovered tanks, maintenance of sufficient freeboard to prevent overtopping by wave or wind action or by precipitation.]

Section 4. Containment and Detection of Releases. (1) In order to prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment that meets the requirements of this section must be provided (except as provided in subsections (6) and (7) of this section):

(a) For all new tank systems or components, prior to their being put into service;

(b) For all existing tank systems used to store or treat EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027, within two (2) years after January 12, 1987;

(c) For those existing tank systems of known and documented age, within two (2) years after January 12, 1987 or when the tank system has reached fifteen (15) years of age, whichever comes later;

(d) For those existing tank systems for which the age cannot be documented, within eight (8) years of January 12, 1987, but if the age of the facility is greater than seven (7) years, secondary containment must be provided by the time the facility reaches fifteen (15) years of age, or within two (2) years of January 12, 1987, whichever comes later; and

(e) For tank systems that store or treat materials that become hazardous wastes subsequent to the date of promulgation of this regulation within the time intervals required in paragraphs (a) through (d) of this subsection, except that the date that a material becomes a hazardous waste must be used in place of the date of promulgation of this regulation.

(2) Secondary containment systems must be:

(a) Designed, installed, and operated to prevent any migration of wastes or accumulated liquid out of the system to the soil, groundwater, or surface water at any time during the use of the tank system; and

(b) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

(3) To meet the requirements of subsection (2) of this section, secondary containment systems must be at a minimum:

(a) Constructed of or lined with materials that are compatible with the waste(s) to be placed in the tank system and must have sufficient strength and thickness to prevent failure owing to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which it is exposed, climatic conditions, and the stress of daily operation (including stresses from nearby vehicular traffic);

(b) Placed on a foundation or base capable of providing support to the secondary containment system, resistance to pressure gradients above and below the system, and capable of preventing failure due to settlement, compression, or uplift;

(c) Provided with a leak-detection system that is designed and operated so that it will detect the failure of either the primary or secondary containment structure or the presence of any release of hazardous waste or accumulated liquid in the secondary containment system within twenty-four (24) hours, or at the earliest practicable time if the owner or operator can demonstrate to the director that existing detection technologies or site conditions will not allow detection of a release within twenty-four (24) hours; and

(d) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within twenty-four (24) hours, or in as timely a manner as is possible to prevent harm to human health and the environment, if the owner or operator can demonstrate to the director that removal of the released waste or accumulated precipitation cannot be accomplished within twenty-four (24) hours.

(e) If the collected material is a hazardous waste under 401 KAR Chapter 31 it is subject to management as a hazardous waste in accordance with all applicable requirements of 401 KAR Chapters 32 through 35. If the collected material is discharged through a point source to waters of the Commonwealth, it is subject to the requirements of KRS Chapter 224 and 401 KAR Chapter 5. If discharged to a publicly owned treatment works (POTW), it is subject to the requirements of KRS Chapter 224 and 401 KAR Chapter 5. If the collected material is released to the environment it may be subject to the reporting requirements of 40 CFR Part 302 and KRS 224.877.

(4) Secondary containment for tanks must include one (1) or more of the following devices:

(a) A liner (external to the tank);

(b) A vault;

(c) A double-walled tank; or

(d) An equivalent device as approved by the director.

(5) In addition to the requirements of subsections (2), (3), and (4) of this section, secondary containment systems must satisfy the following requirements:

(a) External liner systems must be:

1. Designed and operated to contain 100 percent of the capacity of the largest tank within its boundary;

2. Designed and operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on

or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five (25) year, twenty-four (24) hour rainfall event;

3. Free of cracks or gaps; and

4. Designed and installed to surround the tank completely and to cover all surrounding earth likely to come into contact with the waste if the waste is released from the tank(s) (i.e., capable of preventing lateral as well as vertical migration of the waste).

(b) Vault systems must be:

1. Designed and operated to contain 100 percent of the capacity of the largest tank within its boundary;

2. Designed and operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five (25) year, twenty-four (24) hour rainfall event;

3. Constructed with chemical-resistant water stops in place at all joints (if any);

4. Provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;

5. Provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:

a. Meets the definition of ignitable waste under Section 2 of 401 KAR 31:030; or

b. Meets the definition of reactive waste under Section 4 of 401 KAR 31:030 and may form an ignitable or explosive vapor.

6. Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

(c) Double-walled tanks must be:

1. Designed as an integral structure (i.e., an inner tank completely enveloped within an outer shell) so that any release from the inner tank is contained by the outer shell;

2. Protected, if constructed of metal, from both corrosion of the primary tank interior and of the external surface of the outer shell; and

3. Provided with a built-in continuous leak detection system capable of detecting a release within twenty-four (24) hours, or at the earliest practicable time, if the owner or operator can demonstrate to the director, and the director concludes, that the existing detection technology or site conditions would not allow detection of a release within twenty-four (24) hours.

(6) Ancillary equipment must be provided with secondary containment (e.g., trench, jacketing, double-walled piping) that meets the requirements of subsections (2) and (3) of this section except for:

(a) Above-ground piping (exclusive of flanges, joints, valves, and other connections) that are visually inspected for leaks on a daily basis;

(b) Welded flanges, welded joints, and welded connections, that are visually inspected for leaks on a daily basis;

(c) Sealless or magnetic coupling pumps, that are visually inspected for leaks on a daily basis; and

(d) Pressurized above-ground piping systems with automatic shutoff devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure actuated shutoff devices) that are visually inspected for leaks on a daily basis.

(7) The owner or operator may obtain a variance from the requirements of this section if the director finds, as a result of a demonstration by the owner or operator that alternative design and operating practices, together with location characteristics, will prevent the migration of any hazardous waste or hazardous constituents into the groundwater or surface water at least as effectively as secondary containment during the active life of the tank system; or that in the event of a release that does migrate to groundwater or surface water, no substantial present or potential hazard will be posed to human health or the environment. New underground tank systems may not, per a demonstration in accordance with paragraph (b) of this subsection, be exempted from the secondary containment requirements of this section.

(a) In deciding whether to grant a variance based on a demonstration of equivalent protection of groundwater and surface water, the director will consider:

1. The nature and quantity of the wastes;

2. The proposed alternate design and operation;

3. The hydrogeologic setting of the facility, including the thickness of soils between the tank system and groundwater; and

4. All other factors that would influence the quality and mobility of the hazardous constituents and the potential for them to migrate to groundwater or surface water.

(b) In deciding whether to grant a variance based on a demonstration of no substantial present or potential hazard, the director will consider:

1. The potential adverse effects on groundwater, surface water and land quality taking into account:

a. The physical and chemical characteristics of the waste in the tank system, including its potential for migration;

b. The hydrogeological characteristics of the facility and surrounding land;

c. The potential for health risks caused by human exposure to waste constituents;

d. The potential for damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

e. The persistence and permanence of the potential adverse effects;

2. The potential adverse effects of a release on groundwater quality, taking into account:

a. The quantity and quality of groundwater and the direction of groundwater flow;

b. The proximity and withdrawal rates of groundwater in the area;

c. The current and future uses of groundwater in the area; and

d. The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;

3. The potential adverse effects of a release on surface water quality taking into account:

a. The quantity and quality of groundwater and the direction of groundwater flow;

b. The patterns of rainfall in the region;

c. The proximity of the tank system to surface waters;

d. The current and future uses of surface waters in the area and any water quality

standards established for those surface waters; and

e. The existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality; and

4. The potential adverse effects of a release on the land surrounding the tank system, taking into account:

a. The patterns of rainfall in the region; and

b. The current and future uses of the surrounding land;

(c) The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of paragraph (a) of this subsection, at which a release of hazardous waste has occurred from the primary tank system but has not migrated beyond the zone of engineering control (as established in the variance), must:

1. Comply with the requirements of Section 7 of this regulation except subsection (4) of that section; and

2. Decontaminate or remove contaminated soil to the extent necessary to:

a. Enable the tank system for which the variance was granted to resume operation with the capability for the detection of releases at least equivalent to the capability it had prior to the release; and

b. Prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water; and

3. If contaminated soil cannot be removed or decontaminated in accordance with subparagraph 2 of this paragraph, comply with the requirement of Section 8(2) of this regulation.

(d) The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of paragraph (a) of this subsection, at which a release of hazardous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control (as established in the variance), must:

1. Comply with the requirements of Sections 7(1), (2), (3), and (4) of this regulation; and

2. Prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed or if groundwater has been contaminated, the owner or operator must comply with the requirements of Section 8(2) of this regulation; and

3. If repairing, replacing, or reinstalling the tank system, provide secondary containment in accordance with the requirements of subsections (1) through (6) of this section or reapply for a variance from secondary containment and meet the requirements for new tank systems in Section 3 of this regulation if the tank system is replaced. The owner or operator must comply with these requirements even if contaminated soil can be decontaminated or removed and groundwater or surface water has not been contaminated.

(8) The following procedures must be followed in order to request a variance from secondary containment:

(a) The director must be notified in writing by the owner or operator that he intends to conduct and submit a demonstration for a variance from secondary containment as allowed in subsection (7) according to the following schedule:

1. For existing tank systems, at least twenty-four (24) months prior to the date that secondary containment must be provided in accordance with subsection (1) of this section.

2. For new tank systems, at least thirty (30) days prior to entering into a contract for installation.

(b) As part of the notification, the owner or operator must also submit to the director a description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in subsection (7)(a) or subsection (7)(b) of this section.

(c) The demonstration for a variance must be completed within 180 days after notifying the director of an intent to conduct the demonstration; and

(d) If a variance is granted under this subsection, the director will require the permittee to construct and operate the tank system in the manner that was demonstrated to meet the requirements for the variance.

(9) All tank systems, until such time as secondary containment that meets the requirements of this section is provided, must comply with the following:

(a) For nonenterable underground tanks, a leak test that meets the requirements of Section 2(1) of this regulation or other tank integrity method, as approved or required by the director must be conducted at least annually.

(b) For other than nonenterable underground tanks, the owner or operator must either conduct a leak test as in paragraph (a) of this subsection or develop a schedule and procedure for an assessment of the overall condition of the tank system by an independent, qualified professional engineer registered in the Commonwealth of Kentucky. The schedule and procedure must be adequate to detect obvious cracks, leaks, and corrosion or erosion that may lead to cracks and leaks. The owner or operator must remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed. The frequency of these assessments must be based on the material of construction of the tank and its ancillary equipment, the age of the system, the type of corrosion or erosion protection used, the rate of corrosion or erosion observed during the previous inspection, and the characteristics of the waste being stored or treated.

(c) For ancillary equipment, a leak test or other integrity assessment as approved by the secretary must be conducted at least annually.

(d) The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with subsection (1)(a) through (c) of this section.

(e) If a tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in paragraphs (a) through (c) of this subsection, the owner or operator must comply with the requirements of Section 7 of this regulation.

Section 5. General Operating Requirements. (1) Hazardous wastes or treatment reagents must not be placed in a tank system if they could cause the tank, its ancillary equipment, or the secondary containment system to rupture, leak, corrode, or otherwise fail.

(2) The owner or operator must use appropriate

controls and practices to prevent spills and overflows from tank or secondary containment systems. These include at a minimum:

(a) Spill prevention controls (e.g., check valves, dry disconnect couplings);

(b) Overfill prevention controls (e.g., level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank); and

(c) Maintenance of sufficient freeboard in uncovered tanks to prevent overtopping by wave or wind action or by precipitation.

(3) The owner or operator must comply with the requirements of Section 7 of this regulation if a leak or spill occurs in the tank system. [Closure. At closure, all hazardous waste and hazardous waste residues must be removed from tanks, discharge control equipment, and discharge containment structures.]

Section 6. [4.] Inspections. (1) The owner or operator must develop and follow a schedule and procedure for inspecting overfill controls.

(2) The owner or operator must inspect at least once each operating day:

(a) Above-ground portions of the tank system, if any, to detect corrosion or releases of waste [Overfilling control equipment (e.g., waste feed cutoff systems and bypass systems) at least once each operating day to ensure that it is in good working order];

(b) Data gathered from monitoring and leak detection equipment (e.g., pressure or [and] temperature gauges, and monitoring wells) [where present, at least once each operating day] to ensure that the tank system is being operated according to its design; and

(c) The construction materials and the area immediately surrounding the externally accessible portion of the tank system, including the secondary containment system (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation).

(3) The owner or operator must inspect cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:

(a) The proper operation of the cathodic protection system must be confirmed within six (6) months after initial installation and annually thereafter; and

(b) All sources of impressed current must be inspected and/or tested as appropriate, at least bimonthly (i.e., every other month).

(4) The owner or operator must document in the operating record of the facility an inspection of those items in subsections (1) through (3) of this section.

[(c) For uncovered tanks, the level of waste in the tank, at least once each operating day to ensure compliance with Section 3(2) of this regulation.]

[(d) The construction materials of the above-ground portions of the tank, at least weekly to detect corrosion or erosion and leaking of fixtures and seams; and]

[(e) The area immediately surrounding the tank, at least weekly to detect obvious signs of leakage (e.g., wet spots or dead vegetation).]

[(2) As part of the inspection schedule required in Section 6(2) of 401 KAR 34:020 and in addition to the specific requirements of subsection (1) of this section, the owner or operator must develop a schedule and procedure for assessing the condition of the tank. The schedule and procedure must be adequate to detect cracks, leaks, corrosion or erosion which may lead to cracks or leaks, or wall thinning to less than the thickness required under Section 2 of this regulation. Procedures for emptying a tank to allow entry and inspection of the interior must be established when necessary to detect corrosion or erosion of the tank sides and bottom. The frequency of these assessments must be based on the material of construction of the tank, type of corrosion or erosion protection used, rate of corrosion or erosion observed during previous inspections, and the characteristics of the waste being treated or stored.]

[(3)(a) As part of the contingency plan required under 401 KAR 34:040, the owner or operator must specify the procedures he intends to use to respond to tank spills or leakage, including procedures and time for expeditious removal of leaked or spilled waste and repair of the tank.]

[(b) For EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027, the contingency plan must also include the procedures for responding to a spill or leak of these wastes from tanks into the containment system. These procedures shall include measures for immediate removal of the waste from the system and replacement or repair of the leaking tank.]

Section 7. Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use Tank Systems. A tank system or secondary containment system from which there has been a leak or spill, or which is unfit for use must be removed from service immediately, and the owner or operator must satisfy the following requirements:

(1) Cessation of use: prevent flow or addition of wastes. The owner or operator must immediately stop the flow of hazardous waste into the tank system or secondary containment system and inspect the system to determine the cause of the release.

(2) Removal of waste from tank system or secondary containment system.

(a) If the release was from the tank system, the owner/operator must, within twenty-four (24) hours after detection of the leak or, if the owner/operator demonstrates that it is not possible, at the earliest practicable time, remove as much of the waste as is necessary to prevent further release of hazardous waste to the environment and to allow inspection and repair of the tank system to be performed.

(b) If the material released was to a secondary containment system all released materials must be removed within twenty-four (24) hours or in as timely a manner as is possible to prevent harm to human health and the environment.

(3) Containment of visible releases to the environment. The owner/operator must immediately conduct a visual inspection of the release and based upon that inspection:

(a) Prevent further migration of the leak or spill to soils or surface water; and

(b) Remove, and properly dispose of, any visible contamination of the soil or surface water.

(4) Notifications and reports.

(a) Any release to the environment except as provided in paragraph (b) of this subsection, must be reported to the director within

twenty-four (24) hours of its detection. If the release has been reported pursuant to 40 CFR Part 302 that report will satisfy this requirement.

(b) A leak or spill of hazardous waste is exempted from the requirements of this subsection if it is:

1. Less than or equal to a quantity of one (1) pound; and

2. Immediately contained and cleaned up.

(c) Within thirty (30) days of detection of a release to the environment, a report containing the following information must be submitted to the director:

1. Likely route of migration of the release;

2. Characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate);

3. Results of any monitoring or sampling conducted in connection with the release (if available). If sampling or monitoring data relating to the release are not available within thirty (30) days, these data must be submitted to the director as soon as they become available;

4. Proximity to down-gradient drinking water, surface water, and populated areas; and

5. Description of response actions taken or planned.

(5) Provision of secondary containment, repair or closure.

(a) Unless the owner/operator satisfies the requirements of paragraphs (b) through (d) of this subsection, the tank system must be closed in accordance with Section 8 of this regulation.

(b) If the cause of the release was a spill that has not damaged the integrity of the system, the owner/operator may return the system to service as soon as the released waste is removed and repairs, if necessary, are made.

(c) If the cause of the release was a leak from the primary tank system into the secondary containment system, the system must be repaired prior to returning the tank system to service.

(d) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the owner/operator must provide the component of the system from which the leak occurred with secondary containment that satisfies the requirements of Section 4 of this regulation before it can be returned to service, unless the source of the leak is an above-ground portion of a tank system that can be inspected visually. If the source is an above-ground component that can be inspected visually, the component must be repaired and may be returned to service without secondary containment as long as the requirements of subsection (6) of this section are satisfied. If a component is replaced to comply with the requirements of this paragraph that component must satisfy the requirements for new tank systems or components in Sections 3 and 4 of this regulation. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection (e.g., the bottom of an in-ground or on-ground tank), the entire component must be provided with secondary containment in accordance with Section 4 of this regulation prior to being returned to use.

(6) Certification of major repairs. If the owner/operator has repaired a tank system in accordance with subsection (5) of this section, and the repair has been extensive (e.g., installation of an internal liner, repair of a ruptured primary containment or secondary containment vessel), the tank system must not be returned to service unless the owner/operator has obtained a certification by an independent, qualified professional engineer registered in the Commonwealth of Kentucky in accordance with Section 7(4) of 401 KAR 38:070 that the repaired system is capable of handling hazardous wastes without release for the intended life of the system. This certification must be submitted to the director within seven (7) days after returning the tank system to use.

Section 8. Closure and Postclosure Care. (1) At closure of a tank system, the owner or operator must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated soils, and structures and equipment contaminated with waste, and manage them as hazardous waste, unless Section 3(4) of 401 KAR 31:010 applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for tank systems must meet all of the requirements specified in 401 KAR 34:070 through 34:176

(2) If the owner or operator demonstrates that not all contaminated soil can be practicably removed or decontaminated as required in subsection (1) of this section, then the owner or operator must close the tank system and perform postclosure care in accordance with the closure and postclosure care requirements that apply to landfills (Section 6 of 401 KAR 34:230). In addition, for the purposes of closure, postclosure, and financial responsibility, such a tank system is then considered to be a landfill, and the owner or operator must meet all of the requirements for landfills specified in 401 KAR 34:070 through 34:176.

(3) If an owner or operator has a tank system that does not have secondary containment that meets the requirements of Section 4(2) through (6) of this regulation and is not exempt from the secondary containment requirements in accordance with Section 4(7) of this regulation then:

(a) The closure plan for the tank system must include both a plan for complying with subsection (1) of this section and a contingent plan for complying with subsection (2) of this section.

(b) A contingent postclosure plan for complying with subsection (2) of this section must be prepared and submitted as part of the permit application.

(c) The cost estimates calculated for closure and postclosure care must reflect the costs of complying with the contingent closure plan and the contingent postclosure plan, if those costs are greater than the costs of complying with the closure plan prepared for the expected closure under subsection (1) of this section.

(d) Financial assurance must be based on the cost estimates in paragraph (c) of this subsection.

(e) For the purposes of the contingent closure and postclosure plans, such a tank system is considered to be a landfill, and the contingent plans must meet all of the closure, postclosure, and financial responsibility requirements for landfills under 401 KAR 34:070 through 34:176.

(f) For new tank systems that will close in accordance with subsection (2) of this section,

the owner or operator shall demonstrate compliance with 401 KAR 38:500. [Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027. In addition to the other requirements of this regulation, the following requirements apply to tanks storing or treating hazardous wastes F020, F021, F022, F023, F026, and F027.]

[(1) Tanks must have systems designed and operated to detect an adequately contained spills or leaks. The design and operation of any containment system must reflect consideration of all relevant factors, including:]

[(a) Capacity of the tank;]

[(b) Volumes and characteristics of wastes stored or treated in the tank;]

[(c) Method of collection of spills or leaks;]

[(d) The design and construction materials of the tank and containment system; and]

[(e) The need to prevent precipitation and run-on from entering into the system.]

[(2) As part of the contingency plan required by 401 KAR 34:040, the owner or operator must specify such procedures for responding to a spill or leak from the tank into the containment system as may be necessary to protect human health and the environment. These procedures shall include measures for immediate removal of the waste from the system and replacement or repair of the leaking tank.]

Section 9. [6.] Special Requirements for Ignitable or Reactive Wastes. (1) Ignitable or reactive waste must not be placed in a tank unless:

(a) The waste is treated, rendered, or mixed before or immediately after placement in the tank so that:

1. The resulting waste, mixture or dissolved [dissolution of] material no longer meets the definition of ignitable or reactive waste under Section 2 or 4 of 401 KAR 31:030; [Chapter 31,] and

2. Section 8(2) of 401 KAR 34:020 is complied with; or

(b) The waste is stored or treated in such a way that it is protected from any material or conditions that [which] may cause the waste to ignite or react; or

(c) The tank system is used solely for emergencies.

(2) The owner or operator of a facility where [which treats or stores] ignitable or reactive waste is stored or treated in a tank must comply with the requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjoining property line that can be built upon as required [in covered tanks must comply with the buffer zone requirements for tanks contained] in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code" (1977 or 1981), incorporated by reference in Section 3 of 401 KAR 30:010.

Section 10. [7.] Special Requirements for Incompatible Wastes. (1) Incompatible wastes, or incompatible wastes and materials, must not be placed in the same tank system unless Section 8(2) of 401 KAR 34:020 is complied with.

(2) Hazardous waste must not be placed in a[n unwashed] tank system that has not been decontaminated and that [which] previously held an incompatible waste or material, unless Section 8(2) of 401 KAR 34:020 is complied with.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The proposed requirements will affect generators and facilities which use tanks for the storage or treatment of hazardous waste. An unknown number of hazardous waste generators are using tanks to accumulate hazardous wastes. In addition, 13 hazardous waste facilities use tanks for storage or treatment of hazardous waste.

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

1. First year: The proposed requirements will result in significant costs to the affected regulated community. For existing tanks, there is an immediate requirement to assess the integrity of the tank system. The cost for this assessment would vary depending upon the size of each tank, the number of tanks in use at each location, and whether the tank(s) could be visually inspected (i.e., enterable for inspection, located below ground, etc.). The costs may range between $800 and $1,500 both initially and yearly thereafter for each tank. A tank discovered to be leaking or unfit for use would be required to be taken out of service immediately and steps must be initiated to decontaminate the soils and surface waters. Although this requirement is anticipated to be very costly, both in loss of use and cleanup costs, the savings which will result from controlling contamination at the site (i.e., future more extensive cleanup costs, escalating property damage, liability from off-site contamination and threats to public health and the environment, etc.) should offset the costs incurred in both the integrity assessment and resultant cleanup measures.

2. Continuing costs or savings: The proposed amendments to this regulation will result in significant continuing costs for facilities storing or treating hazardous waste in tanks. The primary expense will be the result of the secondary containment requirement which is phased in depending upon the age of the tank system. The majority of the existing tanks will be required to retrofit when the tank reaches 15 years of age (or by 1989 - whichever date is later). Costs for retrofitting tanks with secondary containment vary considerably with the size of the tank and whether it is located above

ground or below ground. An EPA estimate (see also 51 FR 25466-25469 for additional background information) of the cost per tank to retrofit with secondary containment is between $2,200 and $492,500 with $50,000 most typical. In addition, because the secondary containment system will require operation and maintenance, a continuing cost of roughly $250 will be experienced for each tank system at a particular location. The ability of a company to bear the increased compliance costs is further estimated by the U.S. EPA to be a cost below 20 percent of a firm's net income; for 82 percent of the 167 facilities examined, the annualized after-tax compliance costs represented only 1 percent or less of the firm's net income. Despite the significance of the cost of compliance, the cabinet estimates that it will be less than the cost of corrective action and cleanup measures that would result from failure to implement these standards. It is likely, for facilities with underground tanks which cannot be visually inspected for leaks, that the cost of compliance will result in a long-term savings of the inevitable cleanup costs. Since the cost of cleaning up each incident of contamination is estimated to be between $19,000 and $193,000 (based on CERCLA response activities) and the total cost for a tank system lasting 20 years is approximately $70,750, the savings should outweigh the costs to those affected by the proposed amendments. It should be noted that EPA estimated that 15 to 35 percent of the underground storage tanks regulated under the UST program are leaking. If approximately the same number of tanks for hazardous waste which are situated underground or partially below ground are leaking, the proposed amendments will result in immediate corrective action for approximately 15 to 35 percent of that percentage of hazardous waste tanks which are partially below ground. The cabinet believes that the majority of tank systems in Kentucky are above ground and capable of being inspected (and thus are not leaking).

3. Additional factors increasing or decreasing costs (note any effects upon competition): See notes in items (1)(a)1 and 2.

(b) Reporting and paperwork requirements: The proposed amendments to this regulation will result in a significant increase in paperwork and reporting requirements. In addition, because many of the paperwork requirements are conditioned upon the use of independent consultants (i.e., corrosion experts and registered professional engineers not affiliated with the company), the cost of compliance with the paperwork, reporting and recordkeeping requirements is anticipated to be significant. However, it should be noted that compliance with the paperwork requirements should lower liability especially where questions arise about deliberate or knowing violations. This would limit criminal prosecution for companies that maintain compliance with recordkeeping requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The proposed amendments to this regulation significantly alter the amount of time and type of expertise required of the promulgating agency to review permit applications for tank systems. The increased costs will be offset by the proposed amendments to 401 KAR 39:030 and 39:040 which raise the permit application fees from $6,700 (for a facility with only tanks) to $7,000. Part of costs to the promulgating agency will result from contracting for corrosion experts since there are currently no corrosion experts on staff.

2. Continuing costs or savings: Significant costs will be incurred during compliance inspections which will be more technically complex than required under the existing regulations. Since hazardous waste generators accumulating in tank systems will also be subject to compliance inspections, the promulgating agency expects to devote a significant amount of staff time to conducting the inspections.

3. Additional factors increasing or decreasing costs: See notes in (2)(a)1 and 2.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The regulation was amended to be identical to the federal changes published on July 14, 1986 and August 15, 1986 in the federal register. The proposed requirements include mandatory secondary containment systems for all tanks (phased in over a 15 year period); integrity testing and certification of existing tank systems; corrective action requirements for releases at tanks; postclosure monitoring at tanks where contamination cannot be removed; and the inclusion of ancillary equipment and piping as part of the regulated unit.

Alternative. 1. Less stringent. The proposed requirements significantly strengthen the existing tank standards and make specific provisions for tank systems which are underground or which cannot be entered for inspection. The proposed amendments enhance the ability of the promulgating agency to protect the environment and public health and include standards which will significantly reduce the potential for a hazardous waste tank system to release constituents to the environment. The proposed standards include minimum requirements which adequately protect the environment. The proposed standards will be consistent with the national program and Kentucky industries would be required to comply with them whether Kentucky adopts the requirements or not. Kentucky could not have chosen to be less stringent on this requirement and still have maintained authorization to administer the state hazardous waste program in lieu of the federal program.

2. More stringent. The cabinet could have chosen to be more stringent, but the federal requirements are adequate to protect the human health and the environment

3. Present proposal. The present proposal is identical to the federal requirements. It is consistent with the federal program and provides adequate protection to public health and the environment.

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

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

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

with conflicting provisions: Not applicable.

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. This regulation applies only to tank systems used for the storage or treatment of hazardous waste.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 264.190 through 264.199 promulgated on July 14, 1986 (51 FR 25472-25478). In addition, technical corrections to 40 CFR 264.190, 264.191, 264.192, 264.193 and 264.196 were also adopted verbatim from the federal language promulgated on August 15, 1986 (51 FR 29430).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: The proposed amendments adopt requirements which are identical to those standards adopted by the U.S. EPA on July 14, 1986 and August 15, 1986. No standards or responsibilities are imposed which are more stringent than those imposed by the US EPA regulations.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 34:200. Surface impoundments.**

RELATES TO: KRS 224.033, 224.060, 224.071, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.866

NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in the storage, treatment, and disposal of hazardous waste obtain a permit. KRS 224.866 requires the Cabinet to establish standards for these permits, to require adequate financial responsibility, to establish minimum standards for closure for all facilities and the postclosure monitoring and maintenance of hazardous waste disposal facilities. This chapter establishes minimum standards for new hazardous waste sites or facilities. This regulation establishes minimum standards for surface impoundments.

Section 1. Applicability. This regulation applies to owners and operators of hazardous waste sites or facilities that use surface impoundments to treat, store or dispose of hazardous waste, except as Section 1 of 401 KAR 34:010 provides otherwise.

Section 2. Design and Operating Requirements. (1) Any surface impoundment that is not covered by subsection (3) of this section or Section 1 of 401 KAR 35:200 must have a liner for all portions of the impoundment (except for existing portions of such impoundments). After November 8, 1986, a surface impoundment shall not receive, store or treat hazardous waste unless such surface impoundment is in compliance with subsection (3) of this section. The liner must be designed, constructed, and installed to prevent any migration of wastes out of the impoundment to the adjacent subsurface soil or ground water or surface water at any time during the active life (including the closure period) of the impoundment. The liner may be constructed of materials that may allow wastes to migrate into the liner (but not into the adjacent subsurface soil or ground water or surface water) during the active life of the facility, provided that the impoundment is closed in accordance with Section 6(1)(a) of this regulation. For impoundments that will be closed in accordance with Section 6(1)(b) of this regulation, the liner must be constructed of materials that can prevent wastes from migrating into the liner during the active life of the facility. The liner must be:

(a) Constructed of materials that have appropriate chemical properties and sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrogeologic forces), physical contact with the waste or leachate to which they are exposed, climatic conditions, geological conditions including, where applicable, karst features, the stress of installation, and the stress of daily operation;

(b) Placed upon a foundation or base capable of providing support to the liner and resistance to pressure gradients above and below the liner to prevent failure of the liner due to settlement, compression, uplift or geological conditions including, where applicable, karst features. At a minimum, synthetic liners shall ~~be placed upon a~~ one (1) foot thick soil liner of $1 \times 10^{-7}$ centimeters per second [cm] permeability; and

(c) Installed to cover all surrounding earth likely to be in contact with the waste or leachate.

(2) The owner or operator will be exempted from the requirements of subsection (1) of this section if the cabinet finds, based on a demonstration by the owner or operator, that alternate design and operating practices, together with location characteristics, will prevent the migration of any hazardous constituents (see Section 4 of 401 KAR 34:060) into the ground water or surface water at any future time. In deciding whether to grant an exemption, the cabinet will consider:

(a) The nature and quantity of the wastes;

(b) The proposed alternate design and operation;

(c) The hydrogeologic setting of the facility, including the attenuative capacity and thickness of the liners and soils present between the impoundment and ground water or surface water; and

(d) All other factors which would influence the quality and mobility of the leachate produced and the potential for it to migrate to ground water or surface water.

(3) The owner or operator of each new surface impoundment, each new surface impoundment unit at an existing facility, each replacement of an existing surface impoundment unit, and each

lateral expansion of an existing surface impoundment unit must install two (2) or more liners and a leachate collection system between such liners. The liners and leachate collection system must protect human health and the environment. The requirements of this subsection shall apply with respect to all waste received after the issuance of the permit. The requirement for the installation of two (2) or more liners in this subsection may be satisfied by the installation of a top liner designed, operated and constructed of materials to prevent the migration of any constituent into such liner during the period such facility remains in operation (including any postclosure monitoring period), and a lower liner designed, operated, and constructed to prevent the migration of any constituent through such liner during such period. For the purpose of the preceding sentence, a lower liner shall be deemed to satisfy such requirement if it is constructed of at least a three (3) foot thick layer of recompacted clay or other natural material with a permeability of no more than $1 \times 10^{-7}$ centimeters per second.

(4) Subsection (3) of this section will not apply if the owner or operator demonstrates to the cabinet, and the cabinet finds for such surface impoundment, that alternative design and operating practices, together with location characteristics, will prevent the migration of any hazardous constituent into the ground water or surface water at least as effectively as such liners and leachate collection systems.

(5) The double liner requirement set forth in subsection (3) of this section may be waived by the cabinet for any monofill, if:

(a) The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents which would render the wastes hazardous for reasons other than the EP toxicity characteristics in Section 5 of 401 KAR 31:030; and

(b)1.a. The monofill has at least one (1) liner for which there is no evidence that such liner is leaking. For the purposes of this subsection the term "liner" means a liner designed, constructed, installed, and operated to prevent hazardous waste from passing into the liner at any time during the active life of the facility, or a liner designed, constructed, installed, and operated to prevent hazardous waste from migrating beyond the liner to adjacent subsurface soil, ground water, or surface water at any time during the active life of the facility. In the case of any surface impoundment which has been exempted from the requirements of subsection (3) of this section on the basis of a liner designed, constructed, installed, and operated to prevent hazardous waste from passing beyond the liner, at the closure of such impoundment, the owner or operator must remove or decontaminate all waste residues, all contaminated liner material, and contaminated soil to the extent practicable. If all contaminated soil is not removed or decontaminated, the owner or operator of such impoundment will comply with appropriate postclosure requirements, including but not limited to ground water monitoring and corrective action;

b. The monofill is located more than one-fourth (1/4) mile from an underground source of drinking water (as that term is defined in Section 1 of 401 KAR 30:010); and

c. The monofill is in compliance with generally applicable ground water monitoring requirements for facilities with permits under KRS 224.855 and KRS 224.866; or

2. The owner or operator demonstrates that the monofill is located, designed and operated so as to assure that there will be no migration of any hazardous constituent into ground water or surface water at any future time.

(6) A surface impoundment must be designed, constructed, maintained, and operated to prevent overtopping resulting from normal or abnormal operations; overfilling; wind and wave action; rainfall; run-on; malfunctions of level controllers, alarms, and other equipment; and human error.

(7) A surface impoundment must have dikes that are designed, constructed, and maintained with sufficient structural integrity to prevent massive failure of the dikes. In insuring structural integrity, it must not be presumed that the liner system will function without leakage during the active life of the unit.

(8) A new surface impoundment shall not be constructed in a floodway in accordance with 401 KAR 34:020, Section 9(2).

(9) A surface impoundment (including its underlying liners) for the treatment or storage of hazardous waste must be protected from inundation by waters of the 100-year flood in accordance with 401 KAR 34:020, Section 9(2).

(10) New surface impoundments for the disposal of hazardous waste must be located entirely above the seasonal high-water table, in accordance with 401 KAR 34:020, Section 9(2).

(11) The cabinet will specify in the permit all design and operating practices that are necessary to ensure that the requirements of this section are satisfied.

Section 3. Double-lined Surface Impoundments. 401 KAR 34:060 Ground water protection requirements apply to all surface impoundments including those with double-liner systems.

Section 4. Monitoring and Inspection. (1) During construction and installation, liners (except in the case of existing portions of surface impoundments exempt from Section 2 of this regulation) and cover systems (e.g., membranes, sheets, or coatings) must be inspected for uniformity, damage, and imperfections (e.g., holes, cracks, thin spots, or foreign materials). Immediately after construction or installation:

(a) Synthetic liners and covers must be inspected to ensure tight seams and joints and the absence of tears, punctures, or blisters; and

(b) Soil-based and admixed liners and covers must be inspected for imperfections including lenses, cracks, channels, root holes, or other structural nonuniformities that may cause an increase in the permeability of the liner or cover.

(2) While a surface impoundment is in operation, it must be inspected weekly and after storms to detect evidence of any of the following:

(a) Deterioration, malfunctions, or improper operation of overtopping control systems;

(b) Sudden drops in the level of the impoundment's contents as computed by the water balance calculations required in 401 KAR 34:050 and as observed by flow measuring devices etc.;

and

(c) Severe erosion or any other signs of deterioration in dikes or other containment devices.

(3) Prior to the issuance of a permit, and after any extended period of time (at least six (6) months) during which the impoundment was not in service, the owner or operator must obtain a certification from a qualified engineer registered in Kentucky that the impoundment's dike, including that portion of any dike which provides freeboard, has structural integrity. The certification must establish, in particular, that the dike:

(a) Will withstand the stress of the pressure exerted by the types and amounts of wastes to be placed in the impoundment; and

(b) Will not fail due to scouring or piping, without dependence on any liner system included in the surface impoundment construction.

Section 5. Emergency Repairs; Contingency Plans. (1) A surface impoundment must be removed from service in accordance with subsection (2) of this section when:

(a) The level of liquids in the impoundment suddenly drops and the drop is not known to be caused by changes in the flows into or out of the impoundment; or

(b) The dike leaks.

(2) When a surface impoundment must be removed from service as required by subsection (1) of this section, the owner or operator must:

(a) Immediately shut off the flow or stop the addition of wastes into the impoundment;

(b) Immediately contain any surface leakage which has occurred or is occurring;

(c) Immediately stop the leak;

(d) Take any other necessary steps to stop or prevent catastrophic failure;

(e) If a leak cannot be stopped by any other means, empty the impoundment; and

(f) Notify the cabinet of the problem in writing within seven (7) days after detecting the problem.

(3) As part of the contingency plan required in 401 KAR 34:040 the owner or operator must specify a procedure for complying with the requirements of this section.

(4) No surface impoundment that has been removed from service in accordance with the requirements of this section may be restored to service unless the portion of the impoundment which was failing is repaired and the following steps are taken:

(a) If the impoundment was removed from service as the result of actual or imminent dike failure, the dike's structural integrity must be recertified in accordance with Section 4(3) of this regulation.

(b) If the impoundment was removed from service as the result of a sudden drop in the liquid level, then:

1. For any existing portion of the impoundment, a liner must be installed in compliance with Section 2 of this regulation; and

2. For any other portion of the impoundment, the repaired liner system must be certified by a qualified engineer as meeting the design specifications approved in the permit.

3. Determine, using water balance calculations in accordance with 401 KAR 34:050, how much liquid was lost, where the liquid went and take appropriate actions.

(5) A surface impoundment that has been removed from service in accordance with the requirements of this section and that is not being repaired within six (6) months time, as specified by the cabinet, must be closed in accordance with the provisions of Section 6 of this regulation.

Section 6. Closure and Postclosure Care. (1) At closure, the owner or operator must:

(a) Remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste unless Section 3 of 401 KAR 31:010 applies; or

(b) Treat in such a manner so as to:

1. Eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues;

2. Stabilize remaining wastes to a bearing capacity sufficient to support final cover; and

3. Cover the surface impoundment with a final cover designed and constructed to:

a. Provide long-term minimization of the migration of liquids through the closed impoundment;

b. Function with minimum maintenance;

c. Promote drainage and minimize erosion or abrasion of the final cover;

d. Accommodate settling and subsidence so that the cover's integrity is maintained; and

e. Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

(2) If some waste residues or contaminated materials are left in place at final closure, the owner or operator must comply with all postclosure requirements contained in Sections 7 through 10 of 401 KAR 34:070, including maintenance and monitoring throughout the postclosure care period (specified in the permit under Section 8 of 401 KAR 34:070). The owner or operator must:

(a) Maintain the integrity and effectiveness of the final cover, including making repairs to the cap as necessary to correct the effects of settling, subsidence, erosion, or other events;

(b) Maintain and monitor the ground water monitoring system and comply with all other applicable requirements of 401 KAR 34:060; and

(c) Prevent run-on and run-off from eroding or otherwise damaging the final cover.

(3)(a) If an owner or operator plans to close a surface impoundment in accordance with subsection (1)(a) of this section, and the impoundment does not comply with the liner requirements of Section 2(1) and is not exempt from them in accordance with Section 2(2) of this regulation, then:

1. The closure plan for the impoundment under Section 3 of 401 KAR 34:070 must include both a plan for complying with subsection (1)(a) of this section and a contingent plan for complying with subsection (1)(b) of this section, which is also in compliance with 401 KAR 38:500 and KRS 224.855(3), in case not all contaminated subsoils can be practicably removed at closure; and

2. The owner or operator must prepare a contingent postclosure plan under Section 8 of 401 KAR 34:070 for complying with subsection (2) of this section, which is also in compliance with 401 KAR 38:500 and KRS 224.855(3), in case not all contaminated subsoils can be practicably

removed at closure.

(b) The cost estimates calculated under Section 1 of 401 KAR 34:090 and Section 1 of 401 KAR 34:100 for closure and postclosure care of an impoundment subject to this paragraph must include separate analyses of the cost of complying with the contingent closure plan and the contingent postclosure plan in addition to the cost of expected closure under subsection (1)(a) of this section.

Section 7. Special Requirements for Ignitable or Reactive Waste. Ignitable or reactive waste must not be placed in a surface impoundment, unless:

(1) The waste is treated, rendered, or mixed before placement in the impoundment so that:

(a) The resulting waste or mixture no longer meets the definition of ignitable or reactive waste under 401 KAR Chapter 31;and

(b) Section 8 of 401 KAR 34:020 is complied with; or

(2) The surface impoundment is used solely for emergencies.

Section 8. Special Requirements for Incompatible Wastes. Incompatible wastes, or incompatible wastes and materials (see 401 KAR 34:330 for examples) must not be placed in the same surface impoundment.

Section 9. Special Requirements for Hazardous Wastes F020, F021, F022, F023, F026, and F027. (1) Hazardous wastes F020, F021, F022, F023, F026, and F027 (chlorinated dioxins, chlorinated dibenzofurans, and chlorinated phenols) must not be placed in surface impoundments unless the owner or operator operates the surface impoundments in accordance with a management plan for these wastes that is approved by the secretary pursuant to the standards set out in this section, and in accordance with all other applicable requirements of this chapter. The factors to be considered are:

(a) The volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(b) The attenuative properties of underlying and surrounding soils or other materials;

(c) The mobilizing properties of other materials codisposed with these wastes; and

(d) The effectiveness of additional treatment, design, or monitoring techniques.

(2) The secretary may determine that additional design, operating, and monitoring requirements are necessary for surface impoundments managing hazardous wastes F020, F021, F022, F023, F026, and F027 in order to reduce the possibility of migration of these wastes to ground water, surface water, or air so as to protect human health and the environment.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The proposed amendment to this regulation will affect owners and operators of hazardous waste surface impoundments.

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

1. First year: None. The proposed amendment will not result in any direct and indirect costs or savings to those affected as it makes technical corrections to the regulation.

2. Continuing costs or savings: None. See (1)(a)1.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None. See (1)(a)1.

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. The proposed amendment will have no effect on the promulgating administrative body. The amendment does not impose any new requirements; it makes technical corrections to the regulation.

2. Continuing costs or savings: None. See (2)(a)1.

3. Additional factors increasing or decreasing costs: None. See (2)(a)1.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The proposed amendment makes technical corrections to the regulation.

Alternative. 1. Less stringent. Not applicable. The amendment makes technical corrections to the regulation; it was unnecessary to consider more or less stringent alternatives in this case.

2. More stringent. Not applicable. See item (4)(a)1.

3. Present proposal. The present proposal makes technical corrections to the regulation.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. This regulation applies only to hazardous waste surface impoundments.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards

with minimum uniform standards suggested or contained in the federal mandate: The proposed amendment to this regulation is not based on a federal regulation. The amendment makes technical corrections not based on federal requirements to the regulation.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: The amendment does not impose stricter requirements or responsibilities on the regulated entities than those required by the federal mandate; the amendment is not based on any federal regulation. It does not impose any additional requirements on the regulated entities.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The proposed amendment makes technical corrections to the regulation; it does not impose additional requirements or responsibilities on the regulated entities.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 35:010. General provisions for facilities (IS).**

RELATES TO: KRS 224.033, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.866, 224.867

NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in the storage, treatment, and disposal of hazardous waste obtain a permit. KRS 224.866 requires the Natural Resources and Environmental Protection Cabinet to establish standards for these permits, to require adequate financial responsibility, and to establish minimum standards for closure for all facilities and the postclosure monitoring and maintenance of hazardous waste disposal facilities. This chapter establishes minimum standards for hazardous waste sites or facilities qualifying for interim status. This regulation establishes the general provisions for these facilities.

Section 1. Purpose, Scope, and Applicability. (1) The purpose of this chapter is to establish minimum standards which define the acceptable management of hazardous waste during the period of interim status and until certification of final closure or, if the facility is subject to postclosure requirements, until postclosure responsibilities are fulfilled.

(2) The standards in this chapter apply to owners and operators of sites or facilities which treat, store, or dispose of hazardous waste who have fully complied with the requirements for interim status under Section 1 through 6 of 401 KAR 38:070, until either final administrative disposition of their permit application is made under 401 KAR Chapter 38 and KRS 224.866, or until applicable 401 KAR Chapter 35 closure and postclosure responsibilities are fulfilled, and to those owners and operators of sites or facilities in existence on November 19, 1980, who failed to provide timely notification as required by Sections 1 through 6 of 401 KAR 38:070, and/or failed to file Part A of the permit application as required by Sections 2 and 4 of 401 KAR 38:070. These standards apply to all treatment, storage, or disposal of hazardous waste at these sites or facilities, except as specifically provided otherwise in this chapter or 401 KAR Chapter 31.

(3)(a) The requirements of this chapter do not apply to a person disposing of hazardous waste by means of ocean disposal subject to a permit issued under the Marine Protection, Research, and Sanctuaries Act;

(b) The requirements of this chapter do not apply to a person disposing of hazardous waste by means of underground injection subject to a permit issued under an Underground Injection Control (UIC) program approved or promulgated under the Safe Drinking Water Act;

(c) The requirements of this chapter do not apply to the owner or operator of a POTW which treats, stores, or disposes of hazardous waste;

(d) Unless the state of Kentucky has obtained authorization from the U.S. Environmental Protection Agency under the federal hazardous waste management program, the applicable provisions of 401 KAR Chapters 30 through 39 and the applicable provisions of the federal program shall both apply to the persons identified in subparagraphs 1 and 2 of this paragraph. Provided the state of Kentucky obtains authorization to operate the federal hazardous waste management program for activities identified in subparagraphs 1 and 2 of this paragraph, only the applicable provisions of 401 KAR Chapters 30 through 39 shall apply to the persons identified in subparagraphs 1 and 2 of this paragraph.

1. A person who treats, stores or disposes of hazardous waste by means of underground injection (see paragraph (b) of this subsection).

2. A person who treats, stores or disposes of hazardous waste to which requirements and prohibitions from the Hazardous and Solid Waste Amendments of 1984 apply, provided that Kentucky has not adopted substantially equivalent requirements and prohibitions which regulate the hazardous waste management activity;

(e) The requirements of this chapter do not apply to the owner or operator of a site or facility which treats or stores hazardous waste, which treatment or storage meets the criteria in Section 6(1) of 401 KAR 31:010, except to the extent that Section 6(2) of 401 KAR 31:010 provides otherwise;

(f) The requirements of this chapter do not apply to the owner or operator of a facility managing recyclable materials described in Section 6(1)(b) and (c) of 401 KAR 31:010 (except to the extent that requirements of this chapter are referred to in 401 KAR Chapter 36);

(g) The requirements of this chapter do not apply to a farmer disposing of waste pesticides from his own use in compliance with Section 2 of 401 KAR 32:050;

(h) The requirements of this chapter do not apply to the owner or operator of a totally enclosed treatment facility, as defined in Section 1 of 401 KAR 30:010;

(i) The requirements of this chapter do not apply to the owner or operator of an elementary neutralization unit or a wastewater treatment unit as defined in Section 1 of 401 KAR 30:010;

(j)1. The requirements of this chapter do not apply (except as provided in subparagraph 2 of

this paragraph) to a person engaged in treatment or containment activities during immediate response to any of the following situations:

a. A discharge of a hazardous waste;

b. An imminent and substantial threat of a discharge of a hazardous waste; or

c. A discharge of a material which, when discharged, becomes a hazardous waste;

2. An owner or operator of a facility otherwise regulated by this chapter must comply with all applicable requirements of 401 KAR 35:030 and 401 KAR 35:040.

3. Any person who is covered by subparagraph 1 of this paragraph and who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter and 401 KAR Chapter 38 for those activities.

(k) The requirements of this chapter do not apply to a transporter storing manifested shipments of hazardous waste in containers meeting the requirements of Section 1 of 401 KAR 32:030 at a transfer facility for a period of ten (10) days or less; or

(l) The requirements of this chapter do not apply to the addition of absorbent material to waste in a container (as defined in Section 1 of 401 KAR 30:010) or the addition of waste to the absorbent material in a container provided that these actions occur at the time waste is first placed in the containers; and Section 8(b) of 401 KAR 35:020 and Sections 2 and 3 of 401 KAR 35:180 are complied with.

(4) The following hazardous wastes must not be managed at facilities subject to regulation under this chapter: EPA hazardous waste numbers F020, F021, F022, F023, F026, or F027 (chlorinated dioxins, dibenzofurans, and phenols) unless:

(a) The wastewater treatment sludge is generated in a surface impoundment as part of the plant's wastewater treatment system;

(b) The waste is stored in tanks or containers;

(c) The waste is stored or treated in waste piles that meet the requirements of Section 1(3) of 401 KAR 34:210 as well as all other applicable requirements of 401 KAR 35:210;

(d) The waste is burned in incinerators that are certified pursuant to the standards and procedures in Section 6 of 401 KAR 35:240; or

(e) The waste is burned in facilities that thermally treat the waste in a device other than an incinerator and that are certified pursuant to the standards and procedures in Section 7 of 401 KAR 35:250.

(5) The requirements of this regulation apply to owners or operators of all hazardous waste sites or facilities which treat, store or dispose of hazardous waste referred to in 401 KAR Chapter 37.

(6) [(5)] This chapter contains dates based on previous incorporation of the provisions of this chapter. The provisions of this chapter were originally incorporated in Section 6 of 401 KAR 2:070 on January 7, 1981. On August 24, 1982 the provisions of this chapter were moved to 401 KAR 2:073.

Section 2. Imminent Hazard Action. Notwithstanding any other provisions of these regulations, enforcement actions may be brought pursuant to KRS 224.071.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The proposed amendments to this regulation affect hazardous waste sites or facilities which qualify for interim status. Currently there are 11 facilities in Kentucky with interim status.

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

1. First year: The proposed amendment is a technical clarification which references standards applicable to interim status facilities found in the proposed 401 KAR Chapter 37. The proposed amendments will not result in a cost to the regulated entities but will provide a convenient cross-reference to other applicable standards.

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. The proposed amendment clarifies that the 401 KAR Chapter 37 standards apply regardless of permit status. It imposes no recordkeeping or paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The proposed amendment is a technical clarification which will not result in a cost or savings to the promulgating administrative body.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative. 1. Less stringent. The cabinet could have been less stringent by not adding the new paragraph which clarifies that the Chapter 37 standards apply regardless of permit status. However, Kentucky cannot adopt less stringent provisions and maintain their authorization from the U.S. EPA to administer the RCRA hazardous waste program.

2. More stringent. The cabinet could not have chosen to be more stringent. The proposed amendment clarifies that provisions set forth in 401 KAR Chapter 37 apply to interim status facilities. The proposed amendment simply

cross-references applicable standards proposed in 401 KAR Chapter 37 as a convenience to the regulated community.

3. Present proposal. The present proposal clarifies that land disposal restriction regulations of 401 KAR Chapter 37 apply to interim status facilities. This proposal is identical to the federal proposal and is the most appropriate to maintain consistency with the federal program.

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

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

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

(6) Any additional information or comments: The proposed amendment to this regulation cross-references proposed standards in 401 KAR Chapter 37. The regulatory impact analyses prepared for 401 KAR Chapter 37 identify additional factors relating to the amendments proposed to this regulation.

TIERING: Was tiering applied? Yes. This regulation applies only to those hazardous waste sites or facilities qualifying for interim status.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 265.1(e) promulgated on June 4, 1987 (52 FR 21010-21018).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No standards are imposed which are more strict than those imposed by the U.S. EPA's regulations.

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

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 35:020. General facilities standards (IS).**

RELATES TO: KRS 224.033, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.866

NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in the storage, treatment, and disposal of hazardous waste obtain a permit. KRS 224.866 requires the cabinet to establish standards for these permits, to require adequate financial responsibility, and to establish minimum standards for closure for all facilities and the postclosure monitoring and maintenance of hazardous waste disposal facilities. This chapter establishes minimum standards for hazardous waste sites or facilities qualifying for interim status. This regulation establishes the general standards for facilities.

Section 1. Applicability. The requirements in this regulation apply to owners and operators of all hazardous waste sites or facilities, except as Section 1 of 401 KAR 35:010 provides otherwise.

Section 2. Identification Number. Every facility owner or operator must apply to the cabinet for an EPA identification number in accordance with the cabinet's notification procedures.

Section 3. Required Notices. (1) The owner or operator of a facility that has arranged to received hazardous waste from a foreign source must notify the cabinet in writing at least four (4) weeks in advance of the date the waste is expected to arrive at the facility. Notice of subsequent shipments of the same waste from the same foreign source is not required.

(2) Before transferring ownership or operation of a facility during its operating life, or of a disposal facility during the postclosure care period, the owner or operator must notify the new owner or operator in writing of the requirements of this chapter and 401 KAR Chapter 38 (see also Section 3 of 401 KAR 38:020).

Section 4. General Waste Analysis. (1)(a) Before an owner or operator treats, stores, or disposes of any hazardous waste, he must obtain a detailed chemical and physical analysis of a representative sample of the waste. At a minimum, this analysis must contain all the information which must be known to treat, store, or dispose of the waste in accordance with the requirements of this chapter and 401 KAR Chapter 37.

(b) The analysis may include data developed under 401 KAR Chapter 31 and existing published or documented data on the hazardous waste or on waste generated from similar processes.

(c) The analysis must be repeated as necessary to ensure that it is accurate and up to date. At a minimum, the analysis must be repeated:

1. When the owner or operator is notified, or has reason to believe, that the process or operation generating the hazardous waste has changed; and

2. For off-site facilities, when the results of the inspection required in paragraph (d) of this subsection indicate that the hazardous waste received at the site or facility does not match the waste designated on the accompanying manifest or shipping paper.

(d) The owner or operator of an off-site facility must inspect and if necessary, analyze each hazardous waste movement received at the facility to determine whether it matches the identity of the waste specified on the accompanying manifest or shipping paper.

(2) The owner or operator must develop and follow a written waste analysis plan which describes the procedures which he will carry out to comply with subsection (1) of this section. He must keep this plan at the site or facility. At a minimum, the plan must specify:

(a) The parameters for which each hazardous waste will be analyzed and the rationale for the selection of these parameters (i.e., how analysis for these parameters will provide sufficient information on the waste's properties to comply with subsection (1) of this section);

(b) The test methods which will be used to test for these parameters;

(c) The sampling method which will be used to obtain a representative sample of the waste to be analyzed. A representative sample may be obtained using either:

1. One (1) of the sampling methods described in 401 KAR 31:100; or

2. An equivalent sampling method.

(d) The frequency with which the initial analysis of the waste will be reviewed or repeated to ensure that the analysis is accurate and up to date;

(e) For off-site facilities, the waste analyses that hazardous waste generators have agreed to supply; and

(f) Where applicable, the methods which will be used to meet the additional waste analysis requirements for specific waste management methods as specified in Section 3 of 401 KAR 35:190, Section 4 of 401 KAR 35:200, Section 3 of 401 KAR 35:210 and Section 3 of 401 KAR 35:220, Section 7 of 401 KAR 35:230, Section 2 [3] of 401 KAR 35:240, Section 3 of 401 KAR 35:250, [and] Section 3 of 401 KAR 35:260, and Section 7 of 401 KAR 37:010.

(g) For surface impoundments exempted from land disposal restrictions under Section 4 of 401 KAR 37:010, the procedures and schedules for:

1. The sampling of impoundment contents;

2. The analysis of test data; and

3. The annual removal of residue which does not meet the standards of 401 KAR 37:040.

(3) For off-site facilities, the waste analysis plan required in subsection (2) of this section must also specify the procedures which will be used to inspect and, if necessary, analyze each movement of hazardous waste received at the facility to ensure that it matches the identity of the waste designated on the accompanying manifest or shipping paper. At a minimum, the plan must describe:

(a) The procedures which will be used to determine the identity of each movement of waste managed at the facility; and

(b) The sampling method which will be used to obtain a representative sample of the waste to be identified, if the identification method includes sampling.

Section 5. Security. (1) The owner or operator must prevent the unknowing entry and minimize the possibility for the unauthorized entry of persons or livestock onto the active portion of his facility, unless:

(a) Physical contact with the waste, structures, or equipment within the active portion of the facility will not injure unknowing or unauthorized persons or livestock which may enter the active portion of a facility; and

(b) Disturbance of the waste or equipment by the unknowing or unauthorized entry of persons or livestock onto the active portion of a facility will not cause a violation of the requirements of this chapter.

(2) Unless exempt under subsection (1)(a) and (b) of this section, a site or facility must have:

(a) A twenty-four (24) hour surveillance system (e.g., television monitoring or surveillance by guards or facility personnel) which continuously monitors and controls entry onto the active portion of the facility; or

(b) 1. An artificial or natural barrier (e.g., a fence in good repair or a fence combined with a cliff) which completely surrounds the active portion of the facility; and

2. A means to control entry, at all times, through the gates or other entrances to the active portion of the facility (e.g., an attendant, television monitors, locked entrance, or controlled roadway access to the facility).

(3) Unless exempt under subsection (1)(a) and (b) of this section, a sign with the legend, "Danger - Unauthorized Personnel Keep Out," must be posted at each entrance to the active portion of a facility, and at other locations, in sufficient numbers to be seen from any approach to this active portion. The legend must be written in English and in any other language predominant in the area surrounding the facility, and must be legible from a distance of at least twenty-five (25) feet. Existing signs with a legend other than "Danger - Unauthorized Personnel Keep Out" may be used if the legend on the sign indicates that only authorized personnel are allowed to enter the active portion, and that entry onto the active portion can be dangerous (see Section 7(2) of 401 KAR 35:070 for security requirements at disposal facilities during the postclosure care period).

Section 6. General Inspection Requirements. (1)(a) The owner or operator must inspect his facility for malfunctions and deterioration, operator errors and discharges which may be causing (or may lead to):

1. Release of hazardous waste constituents to the environment; or

2. A threat to human health.

(b) The owner or operator must conduct these inspections often enough to identify problems in time to correct them before they harm human health or the environment.

(2)(a) The owner or operator must develop and follow a written schedule for inspecting all monitoring equipment, safety and emergency equipment, security devices, and operating and structural equipment (such as dikes and sump pumps) that are important to preventing, detecting, or responding to environmental or human health hazards.

(b) He must keep this schedule at the facility.

(c) The schedule must identify the types of problems (e.g., malfunctions or deterioration) which are to be checked during the inspection (e.g., inoperative sump pump, leaking fitting, eroding dike, etc.).

(d) The frequency of inspection may vary for the items on the schedule. However, it should be based on the rate of possible deterioration of the equipment and the probability of an environmental or human health incident if the deterioration, or malfunction, or any operator error goes undetected between inspections. Areas subject to spills, such as loading and unloading areas, must be inspected daily when in use. At a minimum, the inspection schedule must include the items and frequencies called for in Section 5 of 401 KAR 35:180, Section 4 of 401 KAR 35:190, Section 6 of 401 KAR 35:190, Section 5 of 401 KAR 35:200, Section 4 of 401 KAR 35:240, Section 4 of 401 KAR 35:250 and Section 4 of 401 KAR 35:260.

(3) The owner or operator must remedy any deterioration or malfunction of equipment or structures which the inspection reveals on a schedule which ensures that the problem does not lead to an environmental or human health hazard.

Where a hazard is imminent or has already occurred, remedial action must be taken immediately.

(4) The owner or operator must record inspections in an inspection log or summary. He must keep these records for at least three (3) years from the date of inspection. At a minimum, these records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

Section 7. Personnel Training. (1)(a) Facility personnel must successfully complete a program of classroom instruction or on-the-job training that teaches them to perform their duties in a way that ensures the facility's compliance with the requirements of this chapter. The owner or operator must ensure that this program includes all the elements described in the document required under subsection (4)(c) of this section.

(b) This program must be directed by a person trained in hazardous waste management procedures, and must include instruction which teaches facility personnel hazardous waste management procedures (including contingency plan implementation) relevant to the positions in which they are employed.

(c) At a minimum, the training program must be designed to ensure that facility personnel are able to respond effectively to emergencies by familiarizing them with emergency procedures, emergency equipment, and emergency systems, including where applicable:

1. Procedures for using, inspecting, repairing, and replacing facility emergency and monitoring equipment;
2. Key parameters for automatic waste feed cutoff systems;
3. Communications or alarm systems;
4. Response to fires or explosions;
5. Response to groundwater contamination incidents; and
6. Shutdown of operations.

(2) Facility personnel must successfully complete the program required in subsection (1) of this section within six (6) months after January 7, 1981, or six (6) months after the date of their employment or assignment to a site or facility, or to a new position at a facility, whichever is later. Employees hired after January 7, 1981, must not work in unsupervised positions until they have completed the training requirements of subsection (1) of this section.

(3) Facility personnel must take part in an annual review of the initial training required in subsection (1) of this section.

(4) The owner or operator must maintain the following documents and records at the facility:

(a) The job title for each position at the facility related to hazardous waste management, and the name of the employee filling each position;

(b) A written job description for each position listed under paragraph (a) of this subsection. This description may be consistent in its degree of specificity with descriptions for other similar positions in the same company location or bargaining unit, but must include the requisite skill, education, or other qualifications, and duties of facility personnel assigned to each position;

(c) A written description of the type and amount of both introductory and continuing training that will be given to each person filling a position listed under paragraph (a) of this subsection; and

(d) Records that document that the training or job experience required under subsections (1), (2) and (3) of this section has been given to, and completed by, facility personnel.

(5) Training records on current personnel must be kept until closure of the site or facility. Training records on former employees must be kept for at least three (3) years from the date the employee last worked at the facility. Personnel training records may accompany personnel transferred within the same company.

Section 8. General Requirements for Ignitable, Reactive, or Incompatible Wastes. (1) The owner or operator must take precautions to prevent accidental ignition or reaction of ignitable or reactive waste. This waste must be separated and protected from sources of ignition or reaction including but not limited to: open flames, smoking, cutting and welding, hot surfaces, frictional heat, sparks (static, electrical, or mechanical), spontaneous ignition (e.g., from heat-producing chemical reactions), and radiant heat. While ignitable or reactive waste is being handled, the owner or operator must confine smoking and open flames to specially designated locations. "No Smoking" signs must be conspicuously placed wherever there is a hazard from ignitable or reactive waste.

(2) Where specifically required by other sections of this regulation, the treatment, storage or disposal of ignitable or reactive waste, and the mixture or commingling of incompatible wastes, or incompatible wastes and materials, must be conducted so that it does not:

(a) Generate extreme heat or pressure, fire or explosion, or violent reaction;

(b) Produce uncontrolled toxic mists, fumes, dusts, or gases in sufficient quantities to threaten human health;

(c) Produce uncontrolled flammable fumes or gases in sufficient quantities to pose a risk of fire or explosion;

(d) Damage the structural integrity of the device or facility containing the waste; or

(e) Through other like means threaten human health or the environment.

Section 9. Location Standards. The placement of any hazardous waste in a salt dome, salt bed formation, underground mine or cave is prohibited.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be

close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: There are 11 interim status waste management facilities in Kentucky who may be affected by the new requirements.

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

1. First year: None. See note in item (6) Any Additional Information or Comments.

2. Continuing costs or savings: None. See note in item (6) Any Additional Information or Comments.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None. See note in item (6) Any Additional Information or Comments.

(b) Reporting and paperwork requirements: Waste analysis requirements have been added for surface impoundments exempted from land disposal restrictions under Section 4 of 401 KAR 37:010.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. The amendments made to this regulation will not affect the activities performed by the promulgating administrative body for compliance monitoring.

2. Continuing costs or savings: None. See note in (2)(a)1.

3. Additional factors increasing or decreasing costs: None. See note in (2)(a)1.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) Provisions for waste analysis for surface impoundments exempted from land disposal restrictions under Section 4 of 401 KAR 37:010 have been adopted identical to those adopted in the federal regulations promulgated on November 7, 1986 (51 FR 40572-40654).

Alternative. 1. Less stringent. The cabinet could have chosen to be less stringent by not incorporating the federal regulations. However, this would have afforded Kentucky's environment and public health less protection than that provided under the national program.

2. More stringent. The cabinet could have chosen to be more stringent by requiring additional provisions for the waste analysis of surface impoundments exempt from land disposal restrictions. However, the present proposal is adequate to protect public health and the environment.

3. Present proposal. The present proposal adopts the federal standards for waste analysis for surface impoundments exempt from land disposal restrictions under 401 KAR 37:010.

(b) The proposed amendments make technical corrections to this regulation. These amendments do not change the standards for interim status facilities.

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

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

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

(6) Any additional information or comments: The impact of this regulation has not been analyzed for those requirements which are equivalent to those found in the corresponding federal regulation, 40 CFR 265.13. The impact of the federal program was analyzed in 51 FR 40632-40636, November 7, 1986. A copy of the November 7, 1986 federal register has been filed with the regulations compiler of the Legislative Research Commission.

TIERING: Was tiering applied? Yes. This regulation applies only to interim status hazardous waste management facilities.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 265.13 and 40 CFR 265.15, promulgated on July 14, 1986 (51 FR 25422-25486) and November 7, 1986 (51 FR 40572-40725).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments adopt requirements which are identical to those standards adopted by the U.S. Environmental Protection Agency on July 14, 1986 and November 7, 1986.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

## NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
## Department for Environmental Protection
## Division of Waste Management
## (Proposed Amendment)

**401 KAR 35:050. Manifest system, recordkeeping and reporting (IS).**

RELATES TO: KRS 224.033, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.866

NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in the storage, treatment, and disposal of hazardous waste obtain a permit. KRS 224.866 requires the cabinet to establish standards for these permits, to require adequate financial responsibility, and to establish minimum standards for closure for all facilities and the postclosure monitoring and maintenance of hazardous waste disposal facilities. This chapter establishes minimum standards for hazardous waste sites or facilities qualifying for interim status. This regulation establishes manifest system, recordkeeping and reporting requirements for facilities.

Section 1. Applicability. The requirements in this regulation apply to owners and operators of both on-site and off-site facilities, except as

Section 1 of 401 KAR 35:010 provides otherwise. Sections 2, 3 and 7 of this regulation do not apply to owners and operators of on-site facilities that do not receive any hazardous waste from off-site sources.

Section 2. Use of Manifest System. (1) If a facility receives hazardous waste accompanied by a manifest, the owner or operator (or his agent) must:

(a) Sign and date each copy of the manifest to certify that the hazardous waste covered by the manifest was received;

(b) Note any significant discrepancies in the manifest (as defined in Section 3(1) of this regulation) on each copy of the manifest;

(c) Immediately give the transporter at least one (1) copy of the signed manifest;

(d) Within thirty (30) days after the delivery, send a copy of the manifest to the generator; and

(e) Retain at the facility a copy of each manifest for at least three (3) years from the date of delivery.

(2) If a facility receives from a rail or water (bulk shipment) transporter hazardous waste which is accompanied by a shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator's certification and signatures), the owner or operator (or his agent) must:

(a) Sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;

(b) Note any significant discrepancies (as defined in Section 3(1) of this regulation) in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;

(c) Immediately give the rail or water (bulk shipment) transporter at least one (1) copy of the manifest or shipping paper (if the manifest has not been received);

(d) Within thirty (30) days after the delivery, send a copy of the signed and dated manifest to the generator; however, if the manifest has not been received within thirty (30) days after delivery, the owner or operator (or his agent) must send a copy of the shipping paper signed and dated to the generator; and

(e) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three (3) years from the date of delivery.

(3) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of the facility must comply with the requirements of 401 KAR Chapter 32.

Section 3. Manifest Discrepancies. (1) Manifest discrepancies are differences between the quantity or type of hazardous waste designated on the manifest or shipping paper, and the quantity or type of hazardous waste a facility actually receives.

(a) Significant discrepancies in quantity are:

1. For bulk waste, variations greater than ten (10) percent in weight; and

2. For batch waste, any variation in piece count, such as a discrepancy of one (1) drum in a truckload.

(b) Significant discrepancies in type are obvious differences which can be discovered by inspection or waste analysis, such as waste solvent substituted for waste acid, or toxic constituents not reported on the manifest or shipping paper.

(2) Upon discovering a significant discrepancy, the owner or operator must attempt to reconcile the discrepancy with the waste generator or transporter (e.g., with telephone conversations). If the discrepancy is not resolved within fifteen (15) days after receiving the waste, the owner or operator must immediately submit to the cabinet a letter describing the discrepancy and attempts to reconcile it, and a copy of the manifest or shipping paper at issue.

Section 4. Operating Record. (1) The owner or operator must keep a written operating record at his facility.

(2) The following information must be recorded, as it becomes available, and maintained in the operating record until closure of the facility:

(a) A description and the quantity of each hazardous waste received, and the method(s) and date(s) of its treatment, storage or disposal at the facility as required by 401 KAR 35:290;

(b) The location of each hazardous waste within the facility and the quantity at each location. For disposal facilities, the location and quantity of each hazardous waste must be recorded on a map or diagram of each cell or disposal area. For all facilities, this information must include cross-references to specific manifest document numbers, if the waste was accompanied by a manifest (see Section 9 of 401 KAR 35:070, Section 6 of 401 KAR 35:220 and Section 3 of 401 KAR 35:230 for related requirements);

(c) Records and results of waste analyses and trial tests performed as specified in[:]

[1.] Section 4 of 401 KAR 35:020,

[2.] Section 4 [3] of 401 KAR 35:190,

[3.] Section 4 of 401 KAR 35:200,

[4.] Section 3 of 401 KAR 35:210,

[5.] Section 3 of 401 KAR 35:220,

[6.] Section 7 of 401 KAR 35:230,

[7.] Section 2 of 401 KAR 35:240,

[8.] Section 3 of 401 KAR 35:250, [and]

[9.] Section 3 of 401 KAR 35:260, and Sections 4(1) and 7 of 401 KAR 37:010; [.]

(d) Summary reports and details of all incidents that require implementing the contingency plan as specified in Section 7(10) of 401 KAR 35:040;

(e) Records and results of inspections as required by Section 6(4) of 401 KAR 35:020 (except these data need be kept only three (3) years);

(f) Monitoring, testing, or analytical data when [where] required by[:]

[1.] Section 1 of 401 KAR 35:060,

[2.] Section 5 [4] of 401 KAR 35:060 (requires monitoring data at disposal facilities must be kept throughout the postclosure period), Sections 2, 4 and 6 of 401 KAR 35:190,

[3.] Sections 4, 5 and 7(4)(a) of 401 KAR 35:220,

[4.] Section 4 of 401 KAR 35:240, and

[5.] Section 4 of 401 KAR 35:250; and [.]

(g) All closure cost estimates under Section 1 of 401 KAR 35:090 and for disposal facilities, all postclosure cost estimates under Section 1 of 401 KAR 35:100.

(h) Records of the quantities (and date of placement) for each shipment of hazardous waste placed in land disposal units under an extension to the effective date of any land disposal restriction granted pursuant to Section 5 of 401 KAR 37:010, or a petition pursuant to Section 6 of 401 KAR 37:010 and the notice required by a generator under Section 7(1)(c) of 401 KAR 37:010;

(i) For an off-site treatment facility, the notice required by a generator under Section 7(1)(a) of 401 KAR 37:010;

(j) For an on-site treatment facility, the information contained in the notice required by a generator under Section 7(1)(a) of 401 KAR 37:010, except for the manifest number;

(k) For an off-site land disposal facility, the notice and certification required by the owner or operator of a treatment facility under Section 7(2) of 401 KAR 37:010 or the certification required by the generator under Section 7(1)(b) of 401 KAR 37:010, whichever is applicable; and

(l) For an on-site land disposal facility, the information contained in the notice required by a generator under Section 7(1)(b) of 401 KAR 37:010, except for the manifest number, or the information contained in the notice required by the treatment facility under Section 7(2)(b) of 401 KAR 37:010, except for the manifest number, whichever is applicable.

Section 5. Availability, Retention, and Disposition of Records. (1) All records, including plans, required under this chapter must be furnished upon request, and made available at all reasonable times for inspection, by any officer, employee or representative of the cabinet who is duly designated by the secretary.

(2) The retention period for all records required under this chapter is extended automatically during the course of any unresolved enforcement action regarding the site or facility or as requested by the cabinet.

(3) A copy of records of waste disposal locations and quantities under Section 4(2)(b) of this regulation must be submitted to the cabinet and local land authority upon closure of the facility (see Section 9 of 401 KAR 35:070).

Section 6. Annual Report. The owner or operator must prepare and submit a single copy of an annual report to the cabinet by March 1 of each year. The report form and instructions designated by the cabinet must be used for this report. The annual report must cover site or facility activities during the previous calendar year and must include at a minimum the following information:

(1) The EPA identification number, name and address of the facility;

(2) The calendar year covered by the report;

(3) For off-site facilities, the name and EPA identification number of each hazardous waste generator from which the facility received a hazardous waste during the year; for imported shipments, the report must give the name, number and address of the foreign generator;

(4) A description and the quantity of each hazardous waste the facility received during the year. For off-site facilities, this information must be listed by EPA identification number of each generator;

(5) The method of treatment, storage or disposal for each hazardous waste;

(6) Monitoring data under Sections 5(1)(b)2 and 3, and 5(2)(b) of 401 KAR 35:060, where required;

(7) Information on transportation, the use of the manifest, and other information from the manifest, as applicable; [and]

(8) For generators who treat, store, or dispose of hazardous waste on site, a description of the efforts undertaken during the year to reduce the volume and toxicity of waste generated;

(9) For generators who treat, store, or dispose of hazardous waste on site, a description of the changes in volume and toxicity of waste actually achieved during the year in comparison to previous years to the extent such information is available for the years prior to 1984; and

(10) [(8)] The certification signed by the owner or operator of the facility or his authorized representative.

Section 7. Unmanifested Waste Report. If a facility accepts for treatment, storage, or disposal any hazardous waste from an off-site source without an accompanying manifest, or without an accompanying shipping paper as described in Section 1(5)(b) of 401 KAR 33:020, and if the waste is not excluded from the manifest requirement by Section 5 of 401 KAR 31:010, then the owner or operator must prepare and submit a single copy of a report to the cabinet within fifteen (15) days after receiving the waste. The unmanifested waste report [form and instructions designated by the cabinet] must be submitted on EPA form 8700-13B. Such report must be designated "Unmanifested Waste Report" and [used for this report. The report must] include the following information:

(1) The EPA identification number, name and address of the facility;

(2) The date the facility received the waste;

(3) The EPA identification number, name and address of the generator and the transporter, if available;

(4) A description and the quantity of each unmanifested hazardous waste the facility received;

(5) The method of treatment, storage or disposal for each hazardous waste;

(6) The certification signed by the owner or operator of the facility or his authorized representative; and

(7) A brief explanation of why the waste was unmanifested, if known.

Section 8. Additional Reports. In addition to submitting the annual report and unmanifested waste reports described in Sections 6 and 7 of this regulation, the owner or operator must also report to the cabinet:

(1) Releases, fires and explosions as specified in Section 7(10) of 401 KAR 35:040;

(2) Groundwater contamination and monitoring data as specified in Sections 4 and 5 of 401 KAR 35:060; and

(3) Facility closure as specified in Section 6 of 401 KAR 35:070.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January

28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The amendments to this regulation will affect all owners and operators of hazardous waste treatment, storage and disposal facilities in Kentucky. There are 45 facilities in Kentucky.

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

1. First year: The proposed amendments regard information required in the annual report and in the facility's operating record. The amendments may result in a minimal cost for generators and facilities as they gather the required information.

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: The proposed amendments require that generators who treat, store, or dispose of hazardous waste on site must include in the annual report: (1) a description of efforts undertaken during the year to reduce the volume and toxicity of waste generated, and (2) a description of changes in volume and toxicity of waste actually achieved during the year. The amendments also add requirements for off-site and on-site treatment facilities and land disposal facilities regarding information recorded in the facility's operating record.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The proposed amendments are identical to the federal regulations promulgated on January 28, 1983 (48 FR 3978-3982), July 14, 1986 (51 FR 25422-25486), August 8, 1986 (51 FR 28556), and November 7, 1986 (51 FR 40572-40654). The amendments regard information to be included in the annual report and in a facility's operating record. The amendments also correct and add references and designate form 8700-13B as the form to be used for the unmanifested waste report.

Alternative. 1. Less stringent. Kentucky could not have been less stringent on this requirement and still have maintained authorization to administer the RCRA hazardous waste program. To have adopted less stringent provisions would have afforded Kentucky's public health and environment less protection than that provided by the national program.

2. More stringent. The cabinet could have chosen to be more stringent by requiring additional information in the annual report and the facility's operating record. However, the present proposal is adequate to protect the public health and environment in Kentucky.

3. Present proposal. The present proposal requires generators who treat, store, or dispose of hazardous waste on site to include in the annual report: (1) a description of efforts undertaken during the year to reduce the volume and toxicity of waste generated, and (2) a description of changes in volume and toxicity of waste actually achieved during the year in comparison to previous years. The present proposal also adds requirements for off-site and on-site treatment facilities and land disposal facilities regarding information recorded in the facility's operating record.

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

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

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

(6) Any additional information or comments: The impact of this regulation has not been analyzed for those requirements which are equivalent to those found in the corresponding federal regulation, 40 CFR 265.73. The impact of the federal program was analyzed in 51 FR 40572-40654, November 7, 1986. A copy of the November 7, 1986 federal register has been filed with the regulations compiler of the Legislative Research Commission.

TIERING: Was tiering applied? Yes. This regulation applies only to interim status hazardous waste management facilities.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 265.73, 40 CFR 265.75, 40 CFR 265.76, and 40 CFR 265.77 promulgated on July 14, 1986 (51 FR 25422-25486), August 8, 1986 (51 FR 28556), November 7, 1986 (51 FR 40572-40654), and January 28, 1983 (48 FR 3978-3982).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments adopt requirements which are identical to those standards adopted by the U.S. EPA on July 14, 1986, August 8, 1986, November 7, 1986 and January 28, 1983.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in

effect in the waste management regulations.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 35:070. Closure and postclosure (IS).**

RELATES TO: KRS 224.033, 224.830 through 224.877, 224.994
PURSUANT TO: KRS Chapter 13A, 224.033, 224.866, 224.867
NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in the storage, treatment, and disposal of hazardous waste obtain a permit. KRS 224.866 requires the cabinet to establish standards for these permits, to require adequate financial responsibility, and to establish minimum standards for closure for all facilities and the postclosure monitoring and maintenance of hazardous waste disposal facilities. This chapter establishes minimum standards for hazardous waste sites or facilities qualifying for interim status. This regulation establishes the standards for closure and postclosure of facilities.

Section 1. Applicability. Except as Section 1 of 401 KAR 35:010 provides otherwise:
(1) Sections 2 through 6 of this regulation (which concern closure) apply to the owners and operators of all hazardous waste sites or facilities; and
(2) Sections 7 through 11 [10] of this regulation (which concern postclosure care) apply to the owners and operators of:
(a) All hazardous waste disposal facilities; and
(b) Tank systems that are required under Section 8 of 401 KAR 35:190 to meet requirements for landfills.

Section 2. Closure Performance Standards. The owner or operator must close the [his] facility in a manner that:
(1) Minimizes the need for further maintenance; and
(2) Controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, postclosure escape of hazardous waste, hazardous [waste] constituents, leachate, contaminated run-off [rainfall], or hazardous waste decomposition products to the ground[waters] or surface waters or to the atmosphere; and
(3) Complies with the closure requirements of this chapter including, but not limited to, the requirements of Section 8 of 401 KAR 35:190, Section 6 of 401 KAR 35:200, Section 7 of 401 KAR 35:210, Section 7 of 401 KAR 35:220, Section 4 of 401 KAR 35:230, Section 5 of 401 KAR 35:240, Section 5 of 401 KAR 35:250, and Section 5 of 401 KAR 35:260.
(4) Includes any corrective action necessary to bringing the facility into compliance with the applicable facility standards contained in Section 12 of 401 KAR 34:060.

Section 3. Closure Plan; Amendment of Plan. (1) Written plan. By May 19, 1981, the owner or operator of a hazardous waste site or facility must have a written closure plan. [He must keep a copy of the closure plan and all revisions to the plan at the facility] Until final closure is completed and certified in accordance with Section 6 of this regulation, a copy of the most current plan must be furnished to the secretary upon request, including request by mail. In addition, for facilities without approved plans, it must also be provided during site inspections, on the day of inspection, to any officer, employee or representative of the cabinet who is duly designated by the secretary.
(2) Content of plan. The plan must identify steps necessary to perform partial and/or final closure of the facility at any point during its active life. The closure plan must include, at least:
(a) A description of how each hazardous waste management unit at the facility will be closed in accordance with Section 2 of this regulation; and
(b) A description of how final closure of the facility will be conducted in accordance with Section 2 of this regulation. The description must identify the maximum extent of the operation which will be unclosed during the active life of the facility; and [This plan must identify the steps necessary to completely or partially close the facility at any point during its intended operating life. The closure plan must include, at least:]
[(a) A description of how and when the facility will be partially closed (if applicable) and finally closed. The description must identify the maximum extent of the operation which will be unclosed during the life of the facility, and how the requirements of Sections 2, 4, 5 and 6 of this regulation and the applicable closure requirements of Section 5 of 401 KAR 35:190, Section 6 of 401 KAR 35:200, Section 7 of 401 KAR 35:210, Section 7 of 401 KAR 35:220, Section 4 of 401 KAR 35:230, Section 5 of 401 KAR 35:240, Section 5 of 401 KAR 35:250, and Section 5 of 401 KAR 35:260 will be met;]
(c) [(b)] An estimate of the maximum inventory of hazardous wastes ever on site over the active life of the facility and a detailed description of the methods to be used during partial closures and final closure, including, but not limited to, methods for removing, transporting, recycling, treating, storing, or disposing of all hazardous wastes, identification of and the type(s) of the off-site hazardous waste management unit(s) to be used, if applicable; and [in storage and in treatment at any time during the life of the facility;]
(d) [(c)] A detailed description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure, including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination necessary to satisfy the closure performance standard in Section 2 of this regulation; and
(e) A detailed description of other activities necessary during the partial and final closure period to ensure that all partial closures and final closure satisfy the closure performance standards in Section 2 of this regulation, including, but not limited to, groundwater monitoring, leachate collection, and run-on and

run-off control; and

(f) A schedule for closure of each hazardous waste management unit and for final closure of the facility. The schedule must include, at a minimum, the total time required to close each hazardous waste management unit and the time required for intervening closure activities which will allow tracking of the progress of partial and final closure. (For example, in the case of a landfill unit, estimates of the time required to treat or dispose of all hazardous waste inventory and of the time required to place a final cover must be included) [facility equipment during closure]; and

(g) [(d)] An estimate of the expected year of final closure for facilities that use trust funds to demonstrate financial assurance under Sections 2 through 11 of 401 KAR 35:090 or Sections 2 through 11 of 401 KAR 35:100 and whose remaining operating life is less than twenty (20) years, and for facilities without approved closure plans. [and a schedule for final closure. The schedule must include, at a minimum, the total time required to close the facility and the time required for intervening closure activities which will allow tracking of the progress of closure (for example, in the case of a landfill, estimates of the time required to treat and dispose of all waste inventory and of the time required to place a final cover must be included).]

(3) [(2)] Amendment of plan. The owner or operator may amend the [his] closure plan at any time prior to the notification of partial or final closure of the facility. An owner or operator with an approved closure plan must submit a written request to the secretary to authorize a change to the approved closure plan. The written request must include a copy of the amended closure plan for approval by the secretary.

(a) The owner or operator must amend the closure plan whenever:

1. Changes in operating plans or facility design affect the closure plan; or

2. There is a change in the expected year of closure, if applicable; or

3. In conducting partial or final closure activities, unexpected events require a modification of the closure plan.

(b) The owner or operator must amend the closure plan at least sixty (60) days prior to the proposed change in facility design or operation, or no later than sixty (60) days after an unexpected event has occurred which has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator must amend the closure plan no later than thirty (30) days after the unexpected event. These provisions also apply to owners or operators of surface impoundments and waste piles who intended to remove all hazardous wastes at closure, but are required to close as landfills in accordance with Section 4 of 401 KAR 35:230.

(c) An owner or operator with an approved closure plan must submit the modified plan to the secretary at least sixty (60) days prior to the proposed change in facility design or operation, or no more than sixty (60) days after an unexpected event has occurred which has affected the closure plan. If an unexpected event has occurred during the partial or final closure period, the owner or operator must submit the modified plan no more than thirty (30) days after the unexpected event. These provisions also apply to owners or operators of surface impoundments and waste piles who intended to remove all hazardous wastes at closure but are required to close as landfills in accordance with Section 4 of 401 KAR 35:230. If the amendment to the plan is a major modification according to the criteria in Sections 2 and 3 of 401 KAR 38:040, the modification to the plan will be approved according to the procedures in subsection (4)(d) of this section.

(d) The secretary may request modifications to the plan under the conditions described in paragraph (a) of this subsection. An owner or operator with an approved closure plan must submit the modified plan within sixty (60) days of the request from the director or within thirty (30) days if the unexpected event occurs during partial or final closure. If the amendment is considered a major modification according to the criteria in Sections 2 and 3 of 401 KAR 38:040, the modification to the plan will be approved in accordance with the procedures in ~~this paragraph~~ subsection (4)(d) of this section. [during the active life of the facility (the active life of the facility is that period during which wastes are periodically received). The owner or operator must amend the plan whenever changes in operating plans or facility design affect the closure plan, or whenever there is a change in the expected year of closure of the facility. The plan must be amended within sixty (60) days of the changes.]

(4) [(3)] Notification of partial closure and final closure.

(a) The owner or operator must submit the [his] closure plan to the director at least 180 days prior to the date on which he expects to begin closure of the first surface impoundment, waste pile, land treatment or landfill unit, or final closure of a facility with such a unit. The owner or operator must submit the closure plan to the director at least forty-five (45) days prior to the date on which he expects to begin final closure of a facility with only tanks, container storage, or incinerator units. Owners or operators with approved closure plans must notify the director in writing at least sixty (60) days prior to the date on which he expects to begin closure of a surface impoundment, waste pile, landfill, or land treatment unit, or final closure of a facility involving such a unit. Owners and operators with approved closure plans must notify the secretary in writing at least forty-five (45) days prior to the date on which he expects to begin final closure of a facility with only tanks, container storage, or incinerator units.

(b) The date when he "expects to begin closure" must be either within thirty (30) days after the date on which any hazardous waste management unit receives the known final volume of hazardous wastes or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes no later than one (1) year after the date on which the unit received the most recent volume of hazardous waste. If the owner or operator of a hazardous waste management unit can demonstrate to the secretary that the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes and he has taken, and will continue to take, all steps to prevent threats to human health and the

environment, including compliance with all interim status requirements, the director may approve an extension to this one (1) year limit. [before the date he expects to begin closure.

(c) The owner or operator must submit his closure plan to the director no later than fifteen (15) days after:

1. [(a)] Termination of interim status except when a permit is issued [to the facility] simultaneously with termination of interim status; or

2. [(b)] Issuance of a judicial decree or final [compliance] order under KRS Chapter 224.033(18) and (19), KRS 224.081, and ~~KAR~~ KRS 224.867 to cease receiving hazardous wastes or close.

(d) [(4)] The director will provide the owner or operator and the public, [(]through a newspaper notice, [)] the opportunity to submit written comments on the plan and request modifications to [of] the plan no later than [within] thirty (30) days from [of] the date of the notice. He will also, [(]in response to a request or at his own discretion, [)] hold a public hearing whenever such a hearing might clarify one (1) or more issues concerning a closure plan. The director will give public notice of the hearing at least thirty (30) days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two (2) notices may be combined.) The director will approve, modify, or disapprove the plan within ninety (90) days of its receipt. If the director does not approve the plan he shall provide the owner or operator with a detailed written statement of reasons for the refusal and the owner or operator must modify the plan or submit a new plan for approval within thirty (30) days after receiving such written statement. The director will approve or modify this plan in writing within sixty (60) days. If the director modifies the plan, this modified plan becomes the approved closure plan. The director['s decision] must assure that the approved [closure] plan is consistent with Sections 2, through [4, 5 and] 6 of this regulation and the applicable requirements of Section 1 of 401 KAR 35:060 et seq., Section 5 of 401 KAR 35:190, Section 6 of 401 KAR 35:200, Section 7 of 401 KAR 35:210, Section 7 of 401 KAR 35:220, Section 4 of 401 KAR 35:230, Section 5 of 401 KAR 35:240, Section 5 of 401 KAR 35:250, and Section 5 of 401 KAR 35:260. A copy of the [this] modified plan with a detailed statement of reasons for the modifications must be mailed to the owner or operator.

(5) Removal of wastes and decontamination or dismantling of equipment. Nothing in this section shall preclude the owner or operator from removing hazardous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of partial or final closure. If the owner or operator planned [plans] to begin closure before November 19, 1981, he was required to [must] submit the closure plan by May 19, 1981.

Section 4. Closure; Time Allowed for Closure. (1) Within ninety (90) days after receiving the final volume of hazardous wastes at a hazardous waste management unit or facility, or within ninety (90) days after approval of the closure plan, whichever [if that] is later, the owner or operator must treat, remove from the unit or facility [site], or dispose of on site, all hazardous wastes in accordance with the approved closure plan. The director may approve a longer period [using the procedures under Section 3(4) of this regulation] if the owner or operator demonstrates that:

(a)1. The activities required to comply with this subsection will, of necessity, take [him] longer than ninety (90) days to complete; or

2.a. The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes; and

b. There is a reasonable likelihood that he or another person [a person other than the owner or operator] will recommence operation of the hazardous waste management unit or the facility within one (1) year; and [site;]

c. Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

(b) He has taken and will continue to take all steps to prevent threats to human health and the environment, including compliance with all applicable interim status requirements.

(2) The owner or operator must complete partial and final closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of hazardous wastes at the hazardous waste management unit or facility, or 180 days after approval of the closure plan, if that is later. The director may approve an extension to the [a longer] closure period [using the procedures under Section 3(3) of this regulation] if the owner or operator demonstrates that:

(a)1. The partial or final closure activities will, of necessity, take [him] longer than 180 days to complete; or

2.a. The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes; and

b. There is [a] reasonable likelihood that he or another [a] person [other than the owner or operator] will recommence operation of the hazardous waste management unit or the facility within one (1) year; and [site]

c. Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

(b) He has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating hazardous waste management unit or facility, including compliance with all applicable interim status requirements.

(3) The demonstrations referred to in subsections (1) and (2) of this section must be made as follows:

(a) The demonstrations in subsection (1) of this section must be made at least thirty (30) days prior to the expiration of the ninety (90) day period in subsection (1) of this section; and

(b) The demonstrations in subsection (2) of this section must be made at least thirty (30) days prior to the expiration of the 180 day period in subsection (2) of this section. [inactive facility.]

Section 5. Disposal or Decontamination of Equipment, Structures and Soils. During the partial and final closure periods, all contaminated equipment, structures and soil must

be properly disposed of or decontaminated unless specified otherwise in Section 6 of 401 KAR 35:200, Section 7 of 401 KAR 35:210, Section 7 of 401 KAR 35:220, or Section 4 of 401 KAR 35:230. By removing all hazardous wastes or hazardous constituents during partial and final closure, the owner or operator may become a generator of hazardous waste and must handle that hazardous waste in accordance with all applicable requirements of 401 KAR Chapter 32. [When closure is completed, all facility equipment and structures must have been properly disposed of or decontaminated by removing all hazardous waste and residues.]

Section 6. Certification of Closure. Within sixty (60) days of completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, and landfill unit, and within sixty (60) days of completion of final closure [When closure is completed], the owner or operator must submit to the director, by registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed [both] by the owner or operator and by an independent professional engineer who is registered in the Commonwealth of Kentucky. Documentation supporting the independent registered professional engineer's certification must be furnished to the secretary upon request until he releases the owner or operator from the financial assurance requirements for closure under Section 11 of 401 KAR 35:090 [that the facility has been closed in accordance with the specifications in the approved closure plan].

Section 7. Postclosure Care and Use of Property. (1)(a) Postclosure care for each hazardous waste management unit subject to the requirements of Sections 7 through 10 of this regulation must begin after completion of closure of the unit and continue for thirty (30) years after that [the] date [of completing closure]. It must consist of at least the following:

1. [(a) Groundwater] Monitoring and reporting in accordance with the requirements of 401 KAR 35:060, 35:200, 35:210, 35:220 and 35:230; and

2. [(b)] Maintenance and monitoring of waste containment systems in accordance with the requirements of [as specified in Section 2 of] 401 KAR 35:060, [Section 3 and 6 of] 35:200, 35:210, [Section 7 of] 35:220, and [Section 4 of] 35:230 [where applicable].

(b) Any time preceding closure of a hazardous waste management unit subject to postclosure care requirements or final closure, or any time during the postclosure period for a particular hazardous waste disposal unit, the director may extend the postclosure care period applicable to the hazardous waste management unit or facility, if he finds that the extended period is necessary to protect human health and the environment (e.g., leachate or groundwater monitoring results indicate a potential for migration of hazardous wastes at levels which may be harmful to human health and the environment).

(2) The director [cabinet] may require, at partial and final closure, continuation of any of the security requirements of Section 5 of 401 KAR 35:020 during part or all of the postclosure period when [for thirty (30) years after the date closure has been completed when]:

(a) Hazardous wastes may remain exposed after completion of partial or final closure; or

(b) Access by the public or domestic livestock may pose a hazard to human health. [In extending any of these requirements the cabinet will use the procedures of Section 8(3) of this regulation.]

(3) Postclosure use of property on or in which hazardous wastes remain after partial or final closure must never be allowed to disturb the integrity of the final cover, liner(s), or any other components of the [any] containment system, or the function of the facility's monitoring systems, unless the [owner or operator can demonstrate to the] director finds [, either in the postclosure plan or by petition, through the procedures in Section 8(3) or (6) of this regulation (as appropriate),] that the disturbance:

(a) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

(b) Is necessary to reduce a threat to human health or the environment.

(4) All postclosure care activities must be [performed] in accordance with the provisions of the approved postclosure plan as specified in Section (8) of this regulation. (Note: KRS 224.866(4) establishes that the postclosure care period is a minimum of thirty (30) years after closure of the disposal facility.)

Section 8. Postclosure Plan; Amendment of Plan. (1) Written plan. By May 19, 1981, the owner or operator of a hazardous waste disposal unit [disposal facility] must have a written postclosure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous wastes at closure must prepare a postclosure plan and submit it to the director within ninety (90) days of the date that the owner or operator or director determines that the hazardous waste management unit or facility must be closed as a landfill, subject to the requirements of Sections 7 through 10 of this regulation. [He must keep a copy of the postclosure plan and all revisions to the plan at the facility until the postclosure care period begins.]

[(a) A description of the planned groundwater monitoring activities and frequencies at which they will be performed to comply with 401 KAR 35:060 during the postclosure period;]

[(b) A description of the planned maintenance activities and frequencies at which they will be performed to ensure:]

(2) Until final closure of the facility, a copy of the most current postclosure plan must be furnished to the director upon request, including request by mail. In addition, for facilities without approved postclosure plans, it must also be provided during site inspections, on the day of inspection, to any officer, employee or representative of the cabinet who is duly designated by the secretary. After final closure has been certified, the person or office specified in subsection (3)(c) of this section must keep the approved postclosure plan during the postclosure period.

(3) For each hazardous waste management unit subject to the requirements of this section, the postclosure plan must identify the activities that [which] will be carried on after closure of

each disposal unit and the frequency of these activities, and include at least:

(a) A description of the planned [groundwater] monitoring activities and frequencies at which they will be performed to comply with 401 KAR 35:060, 401 KAR 35:200, 401 KAR 35:210, 401 KAR 35:220, and 401 KAR 35:230 during the postclosure care period; and

(b) A description of the planned maintenance activities, and frequencies at which they will be performed, to ensure:

1. The integrity of the cap and final cover or other containment systems in accordance with the requirements of [structures as specified in Section 3 and 6 of] 401 KAR 35:200, 401 KAR 35:210, [Section 7 of] 401 KAR 35:220, and [Section 4 of] 401 KAR 35:230 [where applicable]; and

2. The function of the [facility] monitoring equipment in accordance with the requirements of [as specified in Section 2 of] 401 KAR 35:060, 401 KAR 35:200, 401 KAR 35:210, 401 KAR 35:220, and 401 KAR 35:230; and

(c) The name, address and phone number of the person or office to contact about the hazardous waste disposal unit or facility during the postclosure care period. [This person or office must keep an updated postclosure plan during the postclosure care period.]

(4) Amendment of plan. The owner or operator may amend the postclosure plan [at] any time during the active life of the [disposal] facility or during the postclosure care period. An owner or operator with an approved postclosure plan must submit a written request to the secretary to authorize a change to the approved plan. The written request must include a copy of the amended postclosure plan for approval by the secretary.

(a) The owner or operator must amend the postclosure plan whenever:

1. Changes in operating plans or facility design affect the postclosure plan; or

2. Events which occur during the active life of the facility, including partial and final closures, affect the postclosure plan.

(b) The owner or operator must amend the postclosure plan at least sixty (60) days prior to the proposed change in facility design or operation, or no later than sixty (60) days after an unexpected event has occurred which has affected the postclosure plan.

(c) An owner or operator with an approved postclosure plan must submit the modified plan to the director at least sixty (60) days prior to the proposed change in facility design or operation, or no more than sixty (60) days after an unexpected event has occurred which has affected the postclosure plan. If an owner or operator of a surface impoundment or a waste pile who intended to remove all hazardous wastes at closure in accordance with Section 6(2) of 401 KAR 35:200 or Section 7(1) of 401 KAR 35:210 is required to close as a landfill in accordance with Section 4 of 401 KAR 35:230, the owner or operator must submit a postclosure plan within ninety (90) days of the determination by the owner or operator or director that the unit must be closed as a landfill. If the amendment to the postclosure plan is a major modification according to the criteria in Sections 2 and 3 of 401 KAR 38:040, the modification to the plan will be approved according to the procedures in subsection (6) of this section.

(d) The secretary may request modifications to the plan under the conditions described in paragraph (a) of this subsection. An owner or operator with an approved postclosure plan must submit the modified plan no later than sixty (60) days of the request from the secretary. If the amendment to the plan is considered a major modification according to the criteria in Sections 2 and 3 of 401 KAR 38:040, the modifications to the postclosure plan will be approved in accordance with the procedures in subsection (6) of this section. If the secretary determines that an owner or operator of a surface impoundment or waste pile who intended to remove all hazardous wastes at closure must close the facility as a landfill, the owner or operator must submit a postclosure plan for approval to the secretary within ninety (90) days of the determination. [The owner or operator must amend his plan any time changes in operating plans or facility design, or events which occur during the active life of the facility, affect his postclosure plan. The plan must be amended within sixty (60) days after the changes or events occur.]

(5) [(3)] The owner or operator of a [disposal] facility with hazardous waste management units subject to these requirements must submit his postclosure plan to the director at least 180 days before the date he expects to begin partial or final closure of the first hazardous waste disposal unit. The date when he "expects to begin closure" of the first hazardous waste disposal unit must be either within thirty (30) days after the date on which the hazardous waste management unit receives the known final volume of hazardous waste or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one (1) year after the date on which the unit received the most recent volume of hazardous waste. [should be immediately after the date on which he expects to receive the final volume of wastes.] The owner or operator must submit the [his] postclosure plan to the director no later than fifteen (15) days after:

(a) Termination of interim status (except when a permit is issued to the facility simultaneously with termination of interim status); or

(b) Issuance of a judicial decree or final orders [compliance order] under KRS Chapter 224 to cease receiving wastes or close.

(6) [(4)] The director will provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the postclosure plan and request modifications to [of] the plan no later than thirty (30) days from the date of the notice. [including modification of the thirty (30) year postclosure period required in Section 7 of this regulation within thirty (30) days of the date of the notice.] He will [may] also, [(]in response to a request or at his own discretion [)] hold a public hearing whenever such a hearing might clarify one (1) or more issues concerning a [the] postclosure plan. The director will give [the] public notice of the hearing at least thirty (30) days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written [public] comments, and the two (2) notices may be combined). The director will approve, modify, or disapprove the plan within ninety (90) days

of its receipt. If the director does not approve the plan he shall provide the owner or operator with a detailed written statement of reasons for the refusal and the owner or operator must modify the plan or submit a new plan for approval within thirty (30) days after receiving such written statement. The director will approve or modify this plan in writing within sixty (60) days. If the director modifies the plan, this modified plan becomes the approved postclosure plan. The director must ensure that the approved postclosure plan is consistent with Sections 7 through 10 of this regulation. [base his decision upon the criteria required of petitions under subsection (6)(a)1 of this section.] A copy of the [this] modified plan must be mailed to the owner or operator. If an owner or operator planned [plans] to begin closure before November 19, 1981, he was required to [must] submit the postclosure plan by May 19, 1981.

[(5) The owner or operator may amend his postclosure plan during the postclosure care period. The owner or operator must amend his plan any time changes in monitoring or maintenance plans or events which occur during the postclosure care period affect the postclosure plan. The owner or operator must petition the director within sixty (60) days of the changes or events under the procedures of subsection (6) of this section to allow the plan to be modified.]

(7) [(6)] The postclosure plan and length of the postclosure care period [(or period)] may be modified any time prior to the end of [during] the postclosure care period [or at the end of the postclosure care period] in either of the following two (2) ways:

(a) The owner or operator or any member of the public may petition the director to extend or reduce the postclosure care period applicable to a hazardous waste management unit or facility based on cause, or alter the requirements of the postclosure care period based on cause.

1. The petition must include evidence demonstrating that:

a. The secure nature of the hazardous waste management unit or facility makes the postclosure care requirement(s) unnecessary or supports reduction of the postclosure care period specified in the current postclosure plan (e.g., leachate or groundwater monitoring results, characteristics of the wastes, application of advanced technology, or alternative disposal, treatment, or reuse techniques indicate that the facility is secure) and the site has been closed for thirty (30) years; or

b. The requested extension in the postclosure care period or alteration of postclosure care requirements is necessary to prevent threats to human health and the environment (e.g., leachate or groundwater monitoring results indicate a potential for migration of hazardous wastes at levels which may be harmful to human health and the environment).

2. These petitions will be considered by the director only when they present new and relevant information not previously considered by the director. Whenever the director is considering a petition, he will provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments within thirty (30) days of the date of the notice. He will also, [(]in response to a request or at his own discretion, [)] hold a public hearing whenever a hearing might clarify one (1) or more issues concerning the postclosure plan. The director will give the public notice of the hearing at least thirty (30) days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for written public comments, and the two (2) notices may be combined). After considering the comments, he will issue a final determination, based upon the criteria set forth in this paragraph.

3. If the director denies the petition, he will send the petitioner a brief written response giving a reason for the denial.

(b) The director may tentatively decide to modify the postclosure plan if he deems it necessary to prevent threats to human health and the environment. He may propose to extend or reduce (except that the postclosure period shall not be less than thirty (30) years) the postclosure care period applicable to a hazardous waste management unit or facility based on cause or alter the requirements of the postclosure care period based on cause.

1. The director will provide the owner or operator and the affected public, through a newspaper notice, the opportunity to submit written comments within thirty (30) days of the date of the notice and the opportunity for a public hearing as in paragraph (a)2 of this subsection [subsection (1)(a)2 of this section]. After considering the comments, he will issue a final determination.

2. The director will base his final determination upon the same criteria as required for petitions under paragraph (a)1 of this subsection.

Section 9. Postclosure Notices [Notice to Local Land Authority]. (1) No later than sixty (60) days after certification of closure of each hazardous waste disposal unit, [within ninety (90) days after closure is completed], the owner or operator [of a disposal facility] must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the director [a survey plan], a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator must identify the type, location and quantity of the hazardous wastes to the best of his knowledge and in accordance with any records he has kept.

(2) Within sixty (60) days of certification of closure of the first hazardous waste disposal unit and within sixty (60) days of certification of closure of the last hazardous waste disposal unit, the owner or operator must:

(a) Record, in accordance with state law, a notation on the deed to the facility property - or on some other instrument which is normally examined during title search - that will in perpetuity notify any potential purchaser of the property that:

1. The land has been used to manage hazardous wastes; and

2. Its use is restricted under this regulation; and

3. The survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or other hazardous waste disposal unit of the facility required by

Section 11 of this regulation and subsection (1) of this section have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the the director; and

(b) Submit a certification, signed by the owner or operator, that he has recorded the notation specified in paragraph (a) of this subsection, and a copy of the document in which the notation has been placed, to the director.

(3) If the owner or operator or any subsequent owner of the land upon which a hazardous waste disposal unit was located wishes to remove hazardous wastes and hazardous waste residues, the liner, if any, and all contaminated structures, equipment, and soils, he must request a modification to the approved postclosure plan in accordance with the requirements of Section 8(7) of this regulation. The owner or operator must demonstrate that the removal of hazardous wastes will satisfy the criteria of Section 7(3) of this regulation. By removing hazardous waste, the owner or operator may become a generator of hazardous waste and must manage it in accordance with all applicable requirements of this chapter and 401 KAR Chapter 32. If the owner or operator is granted approval to conduct the removal activities, the owner or operator may request that the director approve either:

(a) The removal of the notation on the deed to the facility property or other instrument normally examined during title search; or

(b) The addition of a notation to the deed or instrument indicating the removal of the hazardous waste.

Section 10. Certification of Completion of Postclosure Care [Notice in Deed to Property]. No later than sixty (60) days after the completion of the established postclosure care period for each hazardous waste disposal unit, the owner or operator must submit to the director by registered mail, a certification that the postclosure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved postclosure plan. The certification must be signed by the owner or operator and an independent professional engineer registered in the Commonwealth of Kentucky. Documentation supporting the independent registered professional engineer's certification must be furnished to the director upon request until he releases the owner or operator from the financial assurance requirements for postclosure care under Section 11 of 401 KAR 35:100. [The owner of the property on which a disposal facility is located must record, in accordance with state law, a notation on the deed to the facility property, or on some other instrument which is normally examined during title search, that will in perpetuity notify any potential purchaser of the property that:]

[(1) The land has been used to manage hazardous waste; and]

[(2) Its use is restricted under Section 7(3) of this regulation.]

Section 11. Survey Plat. No later than the submission of the certification of closure of each hazardous waste disposal unit, an owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the director a survey plat indicating the location and dimensions of landfill cells or other hazardous waste disposal units with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority, or the authority with jurisdiction over local land use must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the hazardous waste disposal unit in accordance with this regulation.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: This regulation affects 11 interim status hazardous waste sites or facilities. It also affects owners and operators of tank systems that are required under Section 5 of 401 KAR 35:190 to meet requirements for landfills.

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

1. First year: The amendments made to this regulation revise portions of the closure and postclosure sections applicable to owner and operators of interim status hazardous waste treatment, storage, and disposal facilitie. The amendments are technical corrections designed to clarify the intent of the regulation; as such, they are not likely to result in a significant increase in costs.

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: A copy of the most current closure plan must be furnished to the director. An owner/operator with an approved closure plan must: (1) submit a written request to the director to authorize a change in the approved closure plan, and (2) submit the modified plan to the director. If the director disapproves a closure or postclosure plan submitted by the owner/operator he will provide the owner/operator with a detailed written statement of reasons for the refusal. An owner/operator must submit certification that the postclosure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved postclosure plan.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. The proposed amendments to this regulation will not result in any significant costs or savings to the promulgating administrative body. The amendments will not have a significant impact on review time and other related activities required of division staff.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The proposed amendments to this regulation make technical corrections to clarify the intent of the regulations. The amendments adopt verbatim language from the federal regulations at 40 CFR 265.110 through 265.120 promulgated on May 2, 1986 (51 FR 16422-16459) and July 14, 1986 (51 FR 25422-25486).

Alternative. 1. Less stringent. Kentucky could not have been less stringent on this requirement and still have maintained authorization to administer the RCRA hazardous waste program. To have adopted less stringent provisions would have afforded Kentucky's public health and environment less protection than that provided by the national program.

2. More stringent. The cabinet could have been more stringent by establishing additional standards for closure and postclosure monitoring and maintenance for interim status hazardous waste disposal facilities. However, the present proposal will provide adequate protection to the public health and environment of Kentucky.

3. Present proposal. The present proposal makes technical corrections to this regulation. These corrections are designed to clarify the intent of the regulation.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. This regulation applies only to interim status hazardous waste sites or facilities as well as owners and operators of tank systems that are required under Section 5 of 401 KAR 35:190 to meet requirements for landfills.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 265.110 through 265.120 promulgated on May 2, 1986 (51 FR 16422-16459) and July 14, 1986 (51 FR 25422-25486).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments adopt requirements which are identical to those standards adopted by the U.S. EPA on May 2, 1986 and July 14, 1986.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 35:080. General financial requirements (IS).**

RELATES TO: KRS 224.033, 224.071, 224.830 through 224.877, 224.994

PURSUANT TO: KRS 13A.210, 224.017, 224.862, 224.866

NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in the storage, treatment, and disposal of hazardous waste obtain a permit. KRS 224.866 requires the cabinet to establish standards for these permits, to require adequate financial responsibility, and to establish minimum standards for closure for all facilities and the postclosure monitoring and maintenance of hazardous waste disposal facilities. This chapter establishes minimum standards for hazardous waste sites or facilities qualifying for interim status. This regulation establishes the general financial requirements.

Section 1. General. (1) This regulation and 401 KAR 35:090 through 35:130 inclusively contain the financial requirements to establish adequate financial responsibility as required by KRS 224.866(3) for hazardous waste sites or facilities. A reference to this section is a citation of this regulation and 401 KAR 35:090 through 35:130.

(2) Except as specifically provided in this regulation and 401 KAR 35:090 through 35:130, no variance (Section 2 of 401 KAR 30:020) or other waivers of these financial requirements shall be granted by the secretary or the director.

Section 2. Applicability. (1) The requirements of 401 KAR 35:090, 35:120 and 35:130 <u>through 401 KAR 35:148</u> apply to owners <u>or</u> [and] operators of all hazardous waste sites or facilities, except as provided otherwise in this section or in Section 1 of 401 KAR 35:010.

(2) The requirements of 401 KAR 35:100 and 35:110 apply only to owners and operators of disposal facilities <u>and tank systems that are required under Section 5 of 401 KAR 35:190 to meet the requirements for landfills</u>.

(3) States and the federal government are exempt from the requirements of Section 1 of this regulation.

Section 3. Financial Requirement Definitions. (1) When used in Section 1 of this regulation the following terms shall have the meanings given below:

(a) "Closure plan" means the plan for closure

prepared in accordance with the requirements of Section 3 of 401 KAR 35:070.

(b) "Current closure cost estimate" means the most recent of the estimates prepared in accordance with Section 1(1), (2) and (3) of 401 KAR 35:090.

(c) "Current plugging and abandonment cost estimate" means the most recent of the estimates prepared in accordance with 40 CFR 144.62(a),(b) and (c).

(d) [(c)] "Current postclosure cost estimate" means the most recent of the estimates prepared in accordance with Section 1(1), (2) and (3) of 401 KAR 35:100.

(e) [(d)] "Parent corporation" means a corporation which directly owns at least fifty (50) percent of the voting stock of the corporation which is the facility owner or operator; the latter corporation is deemed a "subsidiary" of the parent corporation.

(f) [(e)] "Postclosure plan" means the plan for postclosure care prepared in accordance with the requirements of Sections 7 through 10 of 401 KAR 35:070.

(2) The following terms are used in the specifications for the financial test for closure, postclosure care and liability self-insurance. The definitions are intended to assist in the understanding of these regulations and are not intended to limit the meanings of terms in a way that conflicts with generally accepted accounting practices.

(a) "Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity.

(b) "Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.

(c) "Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.

(d) "Independently audited" refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

(e) "Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(f) "Net working capital" means current assets minus current liabilities.

(g) "Net worth" means total assets minus total liabilities and is equivalent to owner's equity.

(h) "Tangible net worth" means the tangible assets that remain after deducting liabilities; such assets would not include intangibles such as goodwill and rights to patents or royalties.

(3) In the liability insurance requirements the terms "bodily injury" and "property damage" shall have the meanings given these terms by applicable Kentucky statutes. However, these terms do not include those liabilities which, consistent with standard industry practices, are excluded from coverage in liability policies for bodily injury and property damage. The cabinet intends the meanings of other terms used in the liability insurance requirements to be consistent with their common meanings within the insurance industry. The definitions given below of several of the terms are intended to assist in the understanding of these regulations and are not intended to limit their meanings in a way that conflicts with general insurance industry usage.

(a) "Accidental occurrence" means an accident, including continuous or repeated exposure to conditions, which results in bodily injury or property damage neither expected nor intended from the standpoint of the insured.

(b) "Legal defense costs" means any expenses that an insurer incurs in defending against claims of third parties brought under the terms and conditions of an insurance policy.

(c) "Nonsudden accidental occurrence" means an occurrence which takes place over time and involves continuous or repeated exposure.

(d) "Sudden accidental occurrence" means an occurrence which is not continuous or repeated in nature.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The proposed amendments to this regulation will affect all owners or operators of hazardous waste facilities. There are 45 facilities in Kentucky.

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

1. First year: None. The proposed amendments to this regulation will not result in any costs or savings to the regulated community. The amendments make technical corrections to the regulation; they do not impose any additional requirements nor do they change existing requirements.

2. Continuing costs or savings: None. See item in (1)(a)1.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None. See item in (1)(a)1.

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. The proposed amendments to this regulation will not result in any costs or savings to the promulgating administrative body. The amendments make technical corrections to the regulation; they do not impose any additional requirements nor do they change existing requirements.

2. Continuing costs or savings: None. See item

in (2)(a)1.

3. Additional factors increasing or decreasing costs: None. See item in (2)(a)1.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The proposed amendments are identical to the requirements in the federal regulations 40 CFR 265.140 through 40 CFR 265.141 promulgated on May 2, 1986 and July 14, 1986. The amendments make technical corrections to the regulation. A regulatory cite and definition are added and the applicability section is expanded to include tank systems that must meet the requirements for landfills. Alternative. 1. Less stringent. Kentucky could not have been less stringent on this requirement and still have maintained authorization to administer the RCRA hazardous waste program.

2. More stringent. This alternative was not considered in order to keep Kentucky competitive with the other states in attracting industry.

3. Present proposal. The present proposal makes technical corrections by adding a regulatory cite and definition to the regulation. Also, the applicability section is expanded to include tank systems that must meet the requirements for landfills.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. The requirements of this regulation are tiered since this regulation applies only to those storage, treatment or disposal facilities which were in existence on November 19, 1986 and which had filed the required application with the cabinet.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations promulgated on May 2, 1986 (51 FR 16455-16456) and July 14, 1986, (51 FR 25479).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. The proposed amendments to this regulation adopt requirements which are identical to those standards adopted by the U.S. Environmental Protection Agency on May 2, 1986 and July 14, 1986.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management
(Proposed Amendment)

**401 KAR 35:090. Closure financial requirements (IS).**

RELATES TO: KRS 224.033, 224.071, 224.830 through 224.877, 224.994

PURSUANT TO: KRS 13A.210, 224.033, 224.862, 224.866

NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in the storage, treatment, and disposal of hazardous waste obtain a permit. KRS 224.866 requires the cabinet to establish standards for these permits, to require adequate financial responsibility, and to establish minimum standards for closure for all facilities and the postclosure monitoring and maintenance of hazardous waste disposal facilities. This chapter establishes minimum standards for hazardous waste sites or facilities qualifying for interim status. This regulation establishes the closure financial requirements.

Section 1. Cost Estimate for Facility Closure. (1) [On May 19, 1981,] The owner or operator must have a detailed [of an interim status facility must prepare a] written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements [closure plan as specified] in Sections 2 through 6 [3] of 401 KAR 35:070 and applicable closure requirements of Section 5 of ~~this~~ regulation, Section 6 of 401 KAR 35:200, Section 7 of 401 KAR 35:210, Section 7 of 401 KAR 35:220, Section 4 of 401 KAR 35:230, Section 5 of 401 KAR 35:240, Section 5 of 35:250, and Section 5 of 401 KAR 35:260.

(a) The [closure cost] estimate must equal the cost of final closure at the point in the facility's active [operating] life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see Section 3(2) of 401 KAR 35:070; and

(b) The closure cost estimate must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party who is neither a parent nor a subsidiary of the owner or operator (see definition of parent corporation in Section 3(4) of 401 KAR 35:080). The owner or operator may use costs for on-site disposal if he can demonstrate that on-site disposal capacity will exist at all times over the life of the facility.

(c) The closure cost estimate may not incorporate any salvage value that may be realized by the sale of hazardous wastes, facility structures or equipment, land, or other facility assets at the time of partial or final closures.

(d) The owner or operator may not incorporate a zero cost for hazardous wastes that might have economic value.

(2) During the active life of the facility, the owner or operator must adjust the closure cost estimate for inflation within sixty (60) [thirty (30)] days prior to the [after each] anniversary date of the establishment of the financial instrument(s) used to comply with Section 2 of this regulation. For owners and operators using the financial test or corporate

guarantee, the closure cost estimate must be updated for inflation within thirty (30) days after the close of the firm's fiscal year and before submission of updated information to the director as specified in Section 7(3) of this regulation [date on which the first closure cost estimate was prepared]. The adjustment may [must] be made by recalculating the closure cost estimate in current dollars, or by [as specified in paragraphs (a) and (b) of this subsection,] using an inflation factor derived from the most recent [annual] Implicit Price Deflator for Gross National Product as published by the U.S. Department of Commerce in its Survey of Current Business, as specified in paragraphs (a) and (b) of this subsection. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

(a) The first adjustment is made by multiplying the closure cost estimate by the inflation factor. The result is the adjusted closure cost estimate.

(b) Subsequent adjustments are made by multiplying the latest adjusted closure cost estimate by the latest inflation factor.

(3) During the active life of the facility, the owner or operator must revise the closure cost estimate no later than thirty (30) days after a revision has been made to the closure plan which increases the cost of closure. If the owner or operator has an approved closure plan, the closure cost estimate must be revised no later than thirty (30) days after the director has approved the request to modify the closure plan, if the [whenever a] change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified in subsection (2) of this section.

(4) The owner or operator must keep the following at the facility during the operating life of the facility:

(a) The latest closure cost estimate prepared in accordance with subsections (1) and (3) of this section; and

(b) When this estimate has been adjusted in accordance with subsection (2) of this section, the latest adjusted closure cost estimate.

Section 2. Financial Assurance for Facility Closure. An owner or operator of each facility must establish financial assurance for closure of the facility. He must choose from the options as specified in Sections 3 through 8 of this regulation.

Section 3. Closure Trust Fund. (1) An owner or operator may satisfy the requirements of this regulation by establishing a closure trust fund which conforms to the requirements of this section and submitting an originally signed duplicate of the trust agreement to the director. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(2) The trust agreement must be executed on the form provided by the cabinet containing wording identical to the wording specified in Section 1 of 401 KAR 34:140 and the trust agreement must be accompanied by a formal certification of acknowledgment (for an example, see Section 2 of 401 KAR 34:140). Schedule A of the trust agreement must be updated within sixty (60) days after a change in the amount of the current closure cost estimate covered by the agreement.

(3) Payments to the trust fund must be made annually by the owner or operator over twenty (20) years beginning with October 8, 1982, or over the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter; this period is hereinafter referred to as the "pay-in period." The payments into the closure trust fund must be made as follows:

(a) The first payment must be made by October 8, 1982, except as provided in subsection (5) of this section. The first payment must be at least equal to the current closure cost estimate (see Section 1 of this regulation), except as provided in Section 9 of this regulation, divided by the number of years in the pay-in period.

(b) Subsequent payments must be made no later than thirty (30) days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{NEXT payment} = \frac{CE - CV}{Y}$$

Where CE is the current closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(4) The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the closure cost estimate at the time the fund is established. However, he must maintain the value of the fund at no less than the value the fund would have been if annual payments were made as specified in subsection (3) of this section.

(5) If the owner or operator establishes a closure trust fund after having used one (1) or more alternate mechanisms specified in this regulation, his first payment must be at least the amount that the fund would have contained if the trust fund were established initially and annual payments made according to specifications of subsection (3) of this section.

(6) After the pay-in period is completed, whenever the current closure cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within sixty (60) days of the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance as specified in this section to cover the difference.

(7) If the value of the trust fund is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the director for release of the amount in excess of the current closure cost estimate.

(8) If an owner or operator substitutes other financial assurance as specified in this regulation for all or part of the trust fund, he may submit a written request to the director for release of the amount in excess of the current closure cost estimate covered by the trust fund.

(9) Within sixty (60) days after receiving a

request from the owner or operator for release of funds as specified in subsections (7) and (8) of this section, the director will instruct the trustee to release to the owner or operator such funds as the director specifies in writing.

(10) After beginning partial or final closure, an owner or operator or another [any other] person authorized to conduct partial or final [perform] closure may request reimbursements for partial or final closure expenditures by submitting itemized bills to the director. The owner or operator may request reimbursements for partial closure only if sufficient funds are remaining in the trust fund to cover the maximum costs of closing the facility over its remaining operating life. No later than [Within] sixty (60) days after receiving bills for partial or final closure activities, the director will instruct the trustees to make reimbursements in those amounts as the director specifies in writing, if the director determines that [whether] the partial or final closure expenditures are in accordance with the approved closure plan or otherwise justified[, and if so, the director will instruct the trustee to make reimbursement in such amounts as the director specifies in writing]. If the director has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund, he may withhold reimbursements of such amounts as he deems prudent until he determines, in accordance with Section 11 of this regulation, that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the director does not instruct the trustee to make such reimbursements, he will provide to the owner or operator a detailed written statement of reasons.

(11) The director will agree to termination of the trust when:

(a) An owner or operator substitutes alternate financial assurance for closure as specified in this section; or

(b) The director releases the owner or operator from the requirements of this regulation in accordance with Section 11 of this regulation.

Section 4. Surety Bond Guaranteeing Payment into a Closure Trust Fund. (1) An owner or operator may satisfy the requirements of this regulation by obtaining a surety bond which conforms to the requirements of this section and submitting the bond to the director. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

(2) The surety bond must be executed on the form provided by the cabinet containing wording identical to the wording specified in 401 KAR 34:144.

(3) The owner or operator who uses a surety bond to satisfy the requirements of this regulation must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in accordance with instructions from the director. This standby trust fund must meet the requirements specified in Section 3 of this regulation, except that:

(a) An originally signed duplicate of the trust agreement must be submitted to the director with the surety bond; and

(b) Until the standby trust fund is funded pursuant to the requirements of this regulation, the following are not required by these regulations:

1. Payments into the trust fund as specified in Section 3 of this regulation;

2. Updating of Schedule A of the trust agreement (see Section 1 of 401 KAR 34:140) to show current closure cost estimates;

3. Annual valuations as required by the trust agreement; and

4. Notices of nonpayment as required by the trust agreement.

(4) The bond must guarantee that the owner or operator will:

(a) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or

(b) Fund the standby trust fund in an amount equal to the penal sum within fifteen (15) days after an order to begin final closure [is] issued by the secretary becomes final, or within fifteen (15) days after an order to begin final closure is issued [or] by a circuit court or other court of competent jurisdiction pursuant to KRS Chapter 224, or within fifteen (15) days after issuance of a notice of termination of the permit pursuant to 401 KAR Chapter 38; or

(c) Provide alternate financial assurance as specified in this regulation and obtain the director's written approval of the assurance provided, within ninety (90) days after receipt by both the owner or operator and the director of a notice of cancellation of the bond from the surety.

(5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(6) The penal sum of the bond must be in an amount at least equal to the amount of the current closure cost estimate, except as provided in Section 9 of this regulation.

(7) Whenever the current closure cost estimate increases to an amount greater than the amount of the penal sum, the owner or operator within sixty (60) days after the increase, must either cause the penal sum of the bond to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the director, or obtain other financial assurance as specified in this regulation to cover the increase. Whenever the current closure cost estimate decreases, the penal sum may be reduced to the amount of the current closure cost estimate following written approval by the director.

(8) Under the terms of the bond, the surety may cancel the bond by sending a notice of cancellation by certified mail to the owner or operator and to the director. Cancellation cannot occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the director, as evidenced by return receipt.

(9) The owner or operator may cancel the bond if the director has given prior written consent based on the director's receipt of evidence of alternate financial assurance as specified in this regulation.

Section 5. Closure Letter of Credit. (1) An owner or operator may satisfy the requirements

of this regulation by obtaining an irrevocable standby letter of credit which conforms to the requirements of this section and by submitting the letter to the director. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency.

(2) The wording of the letter of credit must be identical to the wording specified in Section 2 of 401 KAR 34:152.

(3) An owner or operator who uses a letter of credit to satisfy the requirements of this regulation must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the director will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the director. This standby trust fund must meet the requirements of the trust fund specified in Section 3 of this regulation, except that:

(a) An originally signed duplicate of the trust agreement must be submitted to the director with the letter of credit; and

(b) Unless the standby trust fund is funded pursuant to the requirements of this regulation, the following are not required by these regulations:

1. Payments into the trust fund as specified in Section 3 of this regulation;

2. Updating the Schedule A of the trust agreement (see Section 1 of 401 KAR 34:140) to show current closure cost estimates;

3. Annual valuations as required by the trust agreement; and

4. Notices of nonpayment as required by the trust agreement.

(4) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: the EPA identification number, name, and address of the facility, and the amounts of funds assured for closure of the facility by the letter of credit (see Section 1 of 401 KAR 34:152 for an example).

(5) The letter of credit must be irrevocable and issued for a period of at least one (1) year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one (1) year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the director by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the director have received the notice, as evidenced by the return receipts.

(6) The letter of credit must be issued for at least the amount of the current closure cost estimate except as provided in Section 9 of this regulation.

(7) Whenever the current closure cost estimate increases to an amount greater than the amount of the credit, the owner or operator, within sixty (60) days of the increase, must either cause the amount of the credit to be increased so that it at least equals the current closure cost estimate and submit evidence of such increase to the director, or obtain other financial assurance as specified in this regulation to cover the increase. Whenever the adjusted closure cost estimate decreases, the amount of the credit may be reduced to the amount of the current closure cost estimate following written approval by the director.

(8) Following a final administrative determination pursuant to KRS 224.033 [866] that the owner or operator has failed to perform final closure in accordance with the approved closure plan [and other interim status requirements] when required to do so, the director may draw on the letter of credit.

(9) If the owner or operator does not establish alternate financial assurance as specified in this regulation and obtain written approval of such alternate assurance from the director within ninety (90) days after receipt by both the owner or operator and the director of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the director will draw on the letter of credit. The director may delay the drawing if the issuing institution grants an extension of the term of credit. During the last thirty (30) days of any such extension, the director will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in this regulation and obtain written approval of such assurance from the director.

(10) The director will return the letter of credit to the issuing institution for termination when:

(a) An owner or operator substitutes alternate financial assurance as specified in this regulation; or

(b) The director releases the owner or operator from the requirements of this regulation in accordance with Section 11 of this regulation.

Section 6. Closure Insurance. (1) An owner or operator may satisfy the requirements of this regulation by obtaining closure insurance which conforms to the requirements of this section and by submitting a certificate of such insurance to the director. By October 8, 1982, the owner or operator must submit to the director a letter from the insurer stating that the insurer is considering issuance of closure insurance conforming to the requirements of this section to the owner or operator. By January 8, 1983, the owner or operator must submit the certificate of insurance to the director or establish other financial assurance as specified in this regulation. Each insurance policy providing primary coverage must be issued by an insurer who is licensed to transact the business of insurance in the Commonwealth of Kentucky except as KRS 304.11-030 provides otherwise. Each insurance policy providing excess coverage must be issued by an insurer who is licensed to transact the business of insurance in a state.

(2) The certificate of insurance must be executed on a form provided by the cabinet containing wording identical to the wording specified in 401 KAR 34:156.

(3) The closure insurance policy must be issued for a face amount at least equal to the current closure cost estimate, except as provided in Section 9 of this regulation. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the

payments.

(4) The closure insurance policy must guarantee that funds will be available to close a facility whenever final closure occurs. The policy must also guarantee that once final closure begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the director to such party or parties as the director specifies.

(5) After beginning partial or final closure, an owner or operator or any other person authorized to conduct [perform] closure may request reimbursement for closure expenditures by submitting itemized bills to the director. The owner or operator may request reimbursements for partial closure only if the remaining value of the policy is sufficient to cover the maximum costs of closing the facility over its remaining operating life. Within sixty (60) days after receiving bills for closure activities, the director will instruct the insurer to make reimbursements in such amounts as the director specifies in writing if the director determines that [whether] the partial or final closure expenditures are in accordance with the approved closure plan or otherwise justified[, and if so, he will instruct the insurer to make reimbursement in such amounts as the director specifies in writing]. If the director has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the face amount of the policy, he may withhold reimbursement of such amounts as he deems prudent until he determines, in accordance with Section 11 of this regulation, that the owner or operator is no longer required to maintain financial assurance for final closure of the particular facility. If the director does not instruct the insurer to make such reimbursements, he will provide to the owner or operator a detailed written statement of reasons.

(6) The owner or operator must maintain the policy in full force and effect until the director consents to termination of the policy by the owner or operator as specified in subsection (10) of this section. Failure to pay the premium, without substitution of alternate financial assurance as specified in this regulation, will constitute a significant violation of these regulations, warranting such remedy as the director deems necessary. Such violation will be deemed to begin upon receipt by the director of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

(7) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer provided such consent is not unreasonably refused.

(8) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the director. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by both the director and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy will remain in full force and effect in the event that on or before the date of expiration:

(a) The director deems the facility abandoned; or

(b) Interim status is terminated or revoked; or

(c) Closure is ordered by the director or a circuit court or other court of competent jurisdiction; or

(d) The owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

(e) The premium due is paid.

(9) Whenever the current closure cost estimate increases to an amount greater than the face amount of the policy, the owner or operator, within sixty (60) days of the increase, must either cause the face amount to be increased to an amount at least equal to the current closure cost estimate and submit evidence of such increase to the director, or obtain other financial assurance as specified in this regulation to cover the increase. Whenever the current closure cost estimate decreases, the face amount may be reduced to the amount of the current closure cost estimate following written approval by the director.

(10) The director will give written consent to the owner or operator that he may terminate the insurance policy when:

(a) An owner or operator substitutes alternate financial assurance as specified in this regulation; or

(b) The director releases the owner or operator from the requirements of this regulation in accordance with Section 11 of this regulation.

Section 7. Financial Test and Corporate Guarantee for Closure. (1) An owner or operator may satisfy the requirements of this regulation by demonstrating that he passes a financial test as specified in this section. To pass this test the owner or operator must meet the criteria of either paragraph of this subsection:

(a) The owner or operator must have:

1. Two (2) of the following three (3) ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

2. Net working capital and tangible net worth each at least six (6) times the sum of the current closure and postclosure cost estimates and the current plugging and abandonment cost estimates; and

3. Tangible net worth of at least $10 million; and

4. Assets located in the United States amounting to [either] at least ninety (90) percent of [his] total assets or at least six (6) times the sum of the current closure and postclosure cost estimates and the current plugging and abandonment cost estimates.

(b) The owner or operator must have:

1. A current rating for his most recent bond issuance of AAA, AA, A or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as

issued by Moody's; and

2. Tangible net worth at least six (6) times the sum of the current closure and postclosure cost estimates and the current plugging and abandonment cost estimates; and

3. Tangible net worth of at least $10 million; and

4. Assets located in the United States amounting to [either,] at least ninety (90) percent of his total assets or at least six (6) times the sum of the current closure and postclosure cost estimates and the current plugging and abandonment cost estimates.

(2) The phrase "current closure and postclosure cost estimates" as used in subsection (1) of this section refers to the cost estimates required to be shown in paragraphs 1 through 4 of the letter from the owner's or operator's chief financial officer (see 401 KAR 34:159). The phrase "current plugging and abandonment cost estimates" as used in subsection (1) of this section refers to the cost estimates required to be shown in paragraphs 1 through 4 of the letter from the owner's and operator's chief financial officer (see 40 CFR 144.0(f)).

(3) To demonstrate that he meets this test, the owner or operator must submit the following three (3) items to the director:

(a) A letter executed on the form provided by the cabinet, signed by the owner's or operator's chief financial officer and worded as specified in 401 KAR 34:159; and

(b) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

(c) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

1. He has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

2. In connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(4) The owner or operator may obtain an extension of the time allowed for submission of the documents specified in subsection (3) of this section if the fiscal year of the owner or operator ends during the ninety (90) days prior to October 8, 1982 and if the year-end financial statements for that fiscal year will be audited by an independent certified public accountant. The extension will end no later than ninety (90) days after the end of the owner's or operator's fiscal year. To obtain the extension, the owner's or operator's chief financial officer must send, by October 8, 1982, a letter to the director. This letter from the chief financial officer must:

(a) Request the extension;

(b) Certify that he has grounds to believe that the owner or operator meets the criteria of the financial test;

(c) Specify for each facility to be covered by the test the EPA identification number, name, address and current closure and postclosure estimates to be covered by the test;

(d) Specify the date ending the owner's or operator's last complete fiscal year before October 8, 1982;

(e) Specify the date, no later than ninety (90) days after the end of such fiscal year, when he will submit the documents specified in subsection (3) of this section; and

(f) Certify that the year-end financial statements of the owner or operator for such fiscal year will be submitted by an independent certified accountant.

(5) After the initial submission of items specified in subsection (3) of this section, the owner or operator must send updated information to the director within ninety (90) days after the close of each succeeding fiscal year. This information must consist of all three (3) items specified in subsection (3) of this section.

(6) If the owner or operator no longer meets the requirements of subsection (1) of this section, he must send notice to the director of intent to establish alternate financial assurance as specified in this regulation. The notice must be sent by certified mail within ninety (90) days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide alternate financial assurance within 120 days after the end of such fiscal year.

(7) The director may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (1) of this section, require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (3) of this section. If the director finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subsection (1) of this section, the owner or operator must provide alternate financial assurance as specified in this regulation within thirty (30) days after notification of such a finding.

(8) The director may disallow use of this test on the basis on qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements (see subsection (3)(c) of this section). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The director will evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance as specified in this regulation within thirty (30) days after notification of the disallowance.

(9) The owner or operator is no longer required to submit the items specified in subsection (3) of this section when:

(a) An owner or operator substitutes alternate financial assurance as specified in this regulation;

(b) The director releases the owner or operator from the requirements of this regulation by terminating the financial requirements in accordance with Section 11 of this regulation.

(10) An owner or operator may meet the requirements of this regulation by obtaining a written guarantee, hereafter referred to as the "corporate guarantee." The guarantor must be the parent corporation of the owner or operator. The guarantor must meet the requirements for owners or operators in subsections (1) through (8) of this section and must comply with the terms of the corporate guarantee. The corporate guarantee

must be executed on a form provided by the cabinet containing wording identical to the wording specified in 401 KAR 34:165. The corporate guarantee must accompany the items sent to the director as specified in subsection (3) of this section. The terms of the corporate guarantee must provide that:

(a) If the owner or operator fails to perform final closure of a facility covered by the corporate guarantee in accordance with the closure plans and other interim status requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in Section 3 of this regulation in the name of the owner or operator.

(b) The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the director, as evidenced by the return receipts.

(c) If the owner or operator fails to provide alternate financial assurance as specified in this regulation and obtain the written approval of such alternate assurance from the director within ninety (90) days after receipt by both the owner or operator and the director of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

Section 8. Cash Account and Certificates of Deposit. (1) An owner or operator may satisfy the requirements of this regulation by submitting to the director a bond guaranteeing compliance with KRS Chapter 224 and regulations promulgated pursuant thereto. The bond is to be supported by a cash account or certificate(s) of deposit. The cash account or the certificate(s) of deposit are to be held in escrow pursuant to an escrow agreement. The bank or financial institution holding the cash account or certificate(s) of deposit in escrow must be regulated and examined by a federal or state agency.

(2) The bond must be executed on a form provided by the cabinet which has wording identical to the wording specified in Section 1 of 401 KAR 34:168. The escrow agreement for the cash account or certificate(s) of deposit must be executed on a form provided by the cabinet which has wording identical to the wording specified in Section 2 of 401 KAR 34:168.

(3) The cabinet must be the beneficiary of the escrow agreement for the cash account or certificate(s) of deposit. The director must be empowered to draw upon the funds if the owner or operator fails to perform closure or postclosure care in accordance with the closure plan and other permit requirements.

(4) The sum of the cash account or certificate(s) of deposit must be in an amount at least equal to the amount of the current closure cost estimate, except as provided in Section 9 of this regulation.

(5) After each interest period is completed, whenever the current closure cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual evaluation of the cash accounts or the certificate(s) of deposit. If the value of the cash accounts or the certificate(s) of deposit is less than the amount of the new estimate, the owner or operator, within sixty (60) days of the change in the cost estimate, must either deposit an amount into the cash account or the certificate(s) of deposit so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance as specified in this section to cover the difference.

(6) If the value of the cash account or the certificate(s) of deposit is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the director for release of the amount in excess of the current closure cost estimate.

(7) Under the terms of the cash account or certificate(s) of deposit, the bank or financial institution may cancel the cash account or certificate(s) of deposit by sending a notice of cancellation by certified mail to the owner or operator and to the director. Cancellation cannot occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the director, as evidenced by return receipt.

(8) The owner or operator may terminate the cash account or certificate(s) of deposit if the director has given prior written consent based on the director's receipt of evidence of alternate financial assurance as specified in this regulation.

(9) After beginning final closure, an owner or operator or any other person authorized to perform closure may request reimbursement for closure expenditures by submitting itemized bills to the director. Within sixty (60) days after receiving bills for closure activities, the director will determine whether the closure expenditures are in accordance with the closure plan or otherwise justified, and if so, the director will instruct the trustee to make reimbursement in such amounts as the director specifies in writing. If the director has reason to believe that the cost of closure will be significantly greater than the value of the trust fund, he may withhold reimbursement of such amounts as he deems prudent until he determines, in accordance with Section 11 of this regulation, that the owner or operator is no longer required to maintain financial assurance for closure.

Section 9. Use of Multiple Financial Mechanisms. An owner or operator may satisfy the requirements of this regulation by establishing more than one (1) financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds, letters of credit, insurance, certificate(s) of deposit and cash accounts. The mechanisms must be as specified in Sections 3, 4, 5, 6, and 8, respectively, of this regulation, except that it is the combination of mechanisms rather than each single mechanism which must provide financial assurance for an amount at least equal to the current closure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, he may use the trust fund as the standby trust fund for other mechanisms. A single standby trust fund may be established for two (2) or more mechanisms. The director may use any or all of the mechanisms to provide for closure of the

facility.

Section 10. Use of a Financial Mechanism for Multiple Facilities. An owner or operator may use a financial assurance mechanism specified in this regulation to meet the requirements of this regulation for more than one (1) facility. Evidence of financial assurance submitted to the director must include a list showing, for each facility, the EPA Identification Number, name, address, and the amount of funds for closure assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for closure of any of the facilities covered by the mechanism, the director may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

Section 11. Release of the Owner or Operator from the Requirements of this Regulation. Within sixty (60) days after receiving certifications from the owner or operator and an independent professional engineer who is registered in Kentucky that final closure has been completed [accomplished] in accordance with the approved closure plan, [(see Section 6 of 401 KAR 35:070 and KRS 224.866(3) and (4)),] the director will notify the owner or operator in writing that he is no longer required by this regulation to maintain financial assurance for closure of the [particular] facility, unless the director has reason to believe that final closure has not been in accordance with the approved closure plan. The director shall provide the owner or operator a detailed written statement of any such reason to believe that closure has not been in accordance with the approved closure plan.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at noon.
PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director
(1) Type and number of entities affected: The amendments to this regulation affect all interim status hazardous waste facilities in Kentucky. Currently there are 25 facilities operating under interim status in Kentucky.
(a) Direct and indirect costs or savings to those affected:
1. First year: The majority of the amendments made to this regulation are to clarify existing requirements or to explicitly detail what was expected for closure and postclosure cost estimates. The costs associated with these requirements are anticipated to be minimal. In addition, there should be a small savings realized since companies will have better criteria to guide them on what is expected. This should save negotiations and revisions to the cost estimates when regulated entities submit the required information to the promulgating administrative body.
2. Continuing costs or savings: See note in (1)(a)1.
3. Additional factors increasing or decreasing costs (note any effects upon competition): See note in (1)(a)1.
(b) Reporting and paperwork requirements: There will be an insignificant increase in paperwork requirements due to the request for more detailed information on existing reports/forms.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: The promulgating administrative body anticipates no new costs associated with the proposed amendments. It is possible that the more explicit standards will result in a small savings to the state in interpreting legal requirements for closure and postclosure.
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.
(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The amendments to this regulation are identical to the federal language promulgated May 2, 1986. Alternative. 1. Less stringent. The cabinet could have chosen to be less stringent, but this would mean that Kentucky would lose authorization to operate the federal hazardous waste program in the state. In addition, it would provide less protection to Kentucky's public health and environment than that afforded by the national program.
2. More stringent. The cabinet could have chosen to be more stringent, but the federal requirements are adequate to protect human health and the environment.
3. Present proposal. The present proposal contains identical requirements promulgated by the U.S.EPA to determine closure and postclosure cost estimates.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: None
TIERING: Was tiering applied? Yes. This regulation only applies to all hazardous waste sites or facilities.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 265.142 and 265.143 promulgated on May 2, 1986 (51 FR 16456-16457).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: The proposed amendments adopt requirements which are identical to those standards adopted by the U.S. EPA on May 2, 1986. No standards or responsibilities are imposed which are more strict than those by the U.S. EPA.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: The amendments made to this regulation do not impose additional requirements or responsibilities that those adopted by the U.S. EPA.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 35:100. Postclosure financial requirements (IS).**

RELATES TO: KRS 224.033, 224.071, 224.830 through 224.877, 224.994

PURSUANT TO: KRS 224.017, 224.862, 224.866

NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in the storage, treatment, and disposal of hazardous waste obtain a permit. KRS 224.866 requires the cabinet to establish standards for these permits, to require adequate financial responsibility, and to establish minimum standards for closure for all facilities and the postclosure monitoring and maintenance of hazardous waste disposal facilities. This chapter establishes minimum standards for hazardous waste sites or facilities qualifying for interim status. This regulation establishes the postclosure financial requirements.

Section 1. Cost Estimate for Facility Postclosure Care. (1) [On May 19, 1981,] the owner or operator of a hazardous waste disposal unit [disposal facility] must have [prepare] a detailed written estimate, in current dollars, of the annual cost of postclosure monitoring and maintenance of the facility in accordance with the applicable postclosure regulations in Sections 7 through 10 of 401 KAR 35:070, Section 6 of 401 KAR 35:200, Section 7 of 401 KAR 35:210, Section 7 of 401 KAR 35:220, and Section 4 of 401 KAR 35:230.

(a) The postclosure cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct postclosure care activities. A third party is a party who is neither a parent nor subsidiary of the owner or operator (see definition of parent corporation in Section 3(1)(e) of 401 KAR 35:080.

(b) The postclosure cost estimate is calculated by multiplying the annual postclosure cost estimate by the number of years of postclosure care required under Section 7 of 401 KAR 35:070.

(2) During the active [operating] life of the facility, the owner or operator must adjust the postclosure cost estimate for inflation within sixty (60) [thirty (30)] days prior to the [after each] anniversary [of the] date of the establishment of the financial instrument(s) used to comply with Sections 2 through 11 of this regulation. For owners or operators using the financial test or corporate guarantee, the postclosure care cost estimate must be updated for inflation no later than thirty (30) days after the close of the firm's fiscal year and before submission of updated information to the director as specified in Section 6(5) of this regulation. The adjustment may be made by recalculating the postclosure cost estimate in current dollars or by [on which the first postclosure cost estimate was prepared. The adjustment must be made as specified in paragraphs (a) and (b) of this subsection,] using an inflation factor derived from the most recent [annual] Implicit Price Deflator for Gross National Product [as] published by the U.S. Department of Commerce in its Survey of Current Business as specified in paragraphs (a) and (b) of this subsection. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

(a) The first adjustment is made by multiplying the postclosure cost estimate by the inflation factor. The result is the adjusted postclosure cost estimate.

(b) Subsequent adjustments are made by multiplying the latest adjusted postclosure cost estimate by the latest inflation factor.

(3) During the active life of the facility, the owner or operator must revise the postclosure cost estimate no later than thirty (30) days after a revision [during the operating life of the facility whenever a change in] the postclosure plan which increases the cost of postclosure care. If the owner or operator has an approved postclosure plan, the postclosure cost estimate must be revised no later than thirty (30) days after the director has approved the request to modify the plan, if the change in the postclosure plan increases the cost of postclosure care. The revised postclosure cost estimate must be adjusted for inflation as specified in subsection (2) of this section.

(4) The owner or operator must keep the following at the facility during the operating life of the facility: The latest postclosure cost estimate prepared in accordance with subsections (1) and (3) of this section and, when this estimate has been adjusted in accordance with subsection (2) of this section, the latest adjusted postclosure cost estimate.

Section 2. Financial Assurance for Postclosure Care. By May 2, 1986, an [October 8, 1982, the] owner or operator of a [each disposal] facility with a hazardous waste disposal unit must establish financial assurance for postclosure care of the disposal unit(s) [facility]. Financial assurance must be established as specified in Sections 3 through 8 of this regulation.

Section 3. Postclosure Trust Fund. (1) An owner or operator may satisfy the requirements of this regulation by establishing a postclosure

trust fund which conforms to the requirements of this section and by submitting an originally signed duplicate of the trust agreement to the director. The trustee must be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.

(2) The trust agreement must be executed on the form provided by the cabinet containing wording identical to the wording specified in Section 1 of 401 KAR 34:140 and the trust agreement must be accompanied by a formal certification of acknowledgment (for an example, see Section 2 of 401 KAR 34:140). Schedule A of the trust agreement must be updated within sixty (60) days after a change in the amount of the current postclosure cost estimate covered by the agreement.

(3) Payments to the trust fund must be made annually by the owner or operator over the twenty (20) year period beginning with October 8, 1982, or over the remaining operating life of the facility as estimated in the closure plan, whichever period is shorter; this period is hereafter referred to as the "pay-in period." The payments into the postclosure trust fund must be made as follows:

(a) The first payment must be made by October 8, 1982, except as provided in subsection (5) of this section. The first payment must be at least equal to the current postclosure cost estimate, except as provided in Section 9 of this regulation, divided by the number of years in the pay-in period.

(b) Subsequent payments must be made no later than thirty (30) days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{NEXT payment} = \frac{CE - CV}{Y}$$

Where CE is the current postclosure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(4) The owner or operator may accelerate payments into the trust fund or he may deposit the full amount of the current postclosure cost estimate at the time the fund is established. However, he must maintain the value of the fund at no less than the value that the fund would have been if annual payments were made as specified in subsection (3) of this section.

(5) If the owner or operator establishes a postclosure trust fund after having used one (1) or more alternate mechanisms specified in this regulation, his first payment must be at least the amount that the fund would contain if the trust fund were established initially and annual payments made according to specifications of subsection (3) of this section.

(6) After the pay-in period is completed, whenever the current postclosure cost estimate changes during the operating life of the facility, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator, within sixty (60) days after the change in the cost estimate, must either deposit an amount into the fund so that its value after this deposit at least equals the amount of the current postclosure cost estimate, or obtain other financial assurance as specified in this regulation to cover the difference.

(7) During the operating life of the facility, if the value of the trust fund is greater than the total amount of the current postclosure cost estimate, the owner or operator may submit a written request to the director for release of the amount in excess of the current postclosure cost estimate.

(8) If an owner or operator substitutes other financial assurance as specified in this regulation for all or part of the trust fund, he may submit a written request to the director for release of the amount in excess of the current postclosure cost estimate covered by the trust fund.

(9) Within sixty (60) days after receiving a request from the owner or operator for release of funds as specified in subsections (7) and (8) of this section, the director will instruct the trustee to release to the owner or operator such funds as the director specifies in writing.

(10) During the period of postclosure care, the director may approve a release of funds if the owner or operator demonstrates to the director that the value of the trust fund exceeds the remaining cost of postclosure care.

(11) An owner or operator or any other person authorized to conduct [perform] postclosure care may request reimbursements for postclosure expenditures by submitting itemized bills to the director. Within sixty (60) days after receiving bills for postclosure care activities, the director will instruct the trustee to make reimbursement in those amounts as the director specifies in writing, if the director determines that [whether] the postclosure expenditures are in accordance with the approved postclosure plan or otherwise justified. If the director does not [, and if so, he will] instruct the trustee to make such reimbursements, he will provide the owner or operator with a detailed written statement of reasons [in such amounts as the director specifies in writing].

(12) The director will agree to termination of the trust when:

(a) An owner or operator substitutes alternate financial assurance as specified in this regulation; or

(b) The director releases the owner or operator from the requirements of this regulation in accordance with Section 11 of this regulation.

Section 4. Surety Bond Guaranteeing Payment into a Postclosure Trust Fund. (1) An owner or operator may satisfy the requirements of this regulation by obtaining a surety bond which conforms to the requirements of this section and submitting the bond to the director. The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

(2) The surety bond must be executed on the form provided by the cabinet containing wording identical to the wording specified in 401 KAR 34:144.

(3) The owner or operator who uses a surety bond to satisfy the requirements of this regulation must also establish a standby trust fund. Under the terms of the bond, all payments made thereunder will be deposited by the surety directly into the standby trust fund in

accordance with instructions from the director. This standby trust fund must meet the requirements specified in Section 3 of this regulation, except that:

(a) An originally signed duplicate of the trust agreement must be submitted to the director with the surety bond; and

(b) Until the standby trust fund is funded pursuant to the requirements of this regulation, the following are not required by these regulations:

1. Payments into the trust fund as specified in Section 3 of this regulation;

2. Updating of Schedule A of the trust agreement (see Section 1 of 401 KAR 34:140) to show current postclosure cost estimates;

3. Annual valuations as required by the trust agreement; and

4. Notices of nonpayment as required by the trust agreement.

(4) The bond must guarantee that the owner or operator will:

(a) Fund the standby trust fund in an amount equal to the penal sum of the bond before the beginning of final closure of the facility; or

(b) Fund the standby trust fund in an amount equal to the penal sum within fifteen (15) days after an order to begin <u>final</u> closure [is] issued by the <u>secretary becomes final, or within fifteen (15) days after an order to begin final closure is issued by a</u> [director or] circuit court or other court of competent jurisdiction; or

(c) Provide alternate financial assurance as specified in this regulation, and obtain the director's written approval of the assurance provided, within ninety (90) days after receipt by both the owner or operator and the director of a notice of cancellation of the bond from the surety.

(5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond.

(6) The penal sum of the bond must be in an amount at least equal to the amount of the current postclosure cost estimate, except as provided in Section 9 of this regulation.

(7) Whenever the current postclosure cost estimate increases to an amount greater than the penal sum, the owner or operator, within sixty (60) days after the increase, must either cause the penal sum to be increased to an amount at least equal to the current postclosure cost estimate and submit evidence of such increase to the director, or obtain other financial assurance as specified in this regulation to cover the increase. Whenever the current postclosure cost estimate decreases, the penal sum may be reduced to the amount of the current postclosure cost estimate following written approval by the director.

(8) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to both the owner or operator and to the director. Cancellation cannot occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the director, as evidenced by return receipt.

(9) The owner or operator may cancel the bond if the director has given prior written consent based on his receipt of evidence of alternate financial assurance as specified in this regulation.

Section 5. Postclosure Letter of Credit. (1) An owner or operator may satisfy the requirements of this regulation by obtaining an irrevocable standby letter of credit which conforms to the requirements of this section and by submitting the letter to the director. The issuing institution must be an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency.

(2) The wording of the letter of credit must be identical to the wording specified in Section 2 of 401 KAR 34:152.

(3) An owner or operator who uses a letter of credit to satisfy the requirements of this regulation must also establish a standby trust fund. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the director will be deposited by the issuing institution directly into the standby trust fund in accordance with instructions from the director. This standby trust fund must meet the requirements of the trust fund specified in Section 3 of this regulation, except that:

(a) An originally signed duplicate of the trust agreement must be submitted to the director with the letter of credit; and

(b) Unless the standby trust fund is funded pursuant to the requirements of this regulation, the following are not required by these regulations:

1. Payments into the trust fund as specified in Section 3 of this regulation;

2. Updating the Schedule A of the trust agreement (see Section 1 of 401 KAR 34:140) to show current postclosure cost estimates;

3. Annual valuations as required by the trust agreement; and

4. Notices of nonpayment as required by the trust agreement.

(4) The letter of credit must be accompanied by a letter from the owner or operator referring to the letter of credit by number, issuing institution, and date, and providing the following information: the EPA identification number, name, and address of the facility, and the amount of funds assured for postclosure care of the facility by the letter of credit (see Section 1 of 401 KAR 34:152 for an example).

(5) The letter of credit must be irrevocable and issued for a period of at least one (1) year. The letter of credit must provide that the expiration date will be automatically extended for a period of at least one (1) year unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner or operator and the director by certified mail of a decision not to extend the expiration date. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the director have received the notice, as evidenced by the return receipts.

(6) The letter of credit must be issued in an amount at least equal to the current postclosure cost estimate, except as provided in Section 9 of this regulation.

(7) Whenever the current postclosure cost estimate increases to an amount greater than the amount of the credit during the operating life of the facility, the owner or operator, within sixty (60) days after the increase, must either cause the amount of the credit to be increased so that it at least equals the current postclosure cost estimate and submit evidence of

such increase to the director, or obtain other financial assurance as specified in this regulation to cover the increase. Whenever the current postclosure cost estimate decreases during the operating life of the facility, the amount of the credit may be reduced to the amount of the current postclosure cost estimate following written approval by the director.

(8) During the period of postclosure care, the director may approve a decrease in the amount of the letter of credit if the owner or operator demonstrates to the director that the amount exceeds the remaining cost of postclosure care.

(9) Following a final administrative determination pursuant to KRS 224.866 that the owner or operator has failed to perform postclosure care in accordance with the approved postclosure plan and other permit requirements, the director may draw on the letter of credit.

(10) If the owner or operator does not establish alternate financial assurance as specified in this regulation and obtain written approval of such alternate assurance from the director within ninety (90) days after receipt by both the owner or operator and the director of a notice from the issuing institution that it has decided not to extend the letter of credit beyond the current expiration date, the director will draw on the letter of credit. The director may delay the drawing if the issuing institution grants an extension of the term of credit. During the last thirty (30) days of any such extension, the director will draw on the letter of credit if the owner or operator has failed to provide alternate financial assurance as specified in this regulation and obtain written approval of such financial assurance from the director.

(11) The director will return the letter of credit to the issuing institution for termination when:

(a) An owner or operator substitutes alternate financial assurance as specified in this regulation; or

(b) The director releases the owner or operator from the requirements of this regulation in accordance with Section 11 of this regulation.

Section 6. Postclosure Insurance. (1) An owner or operator may satisfy the requirements of this regulation by obtaining postclosure insurance which conforms to the requirements of this section and submitting a certificate of such insurance to the director. By October 8, 1982, the owner or operator must submit to the director a letter from an insurer stating that the insurer is considering issuance of postclosure insurance conforming to the requirements of this section to the owner or operator. By January 8, 1983, the owner or operator must submit the certificate of insurance to the director or establish other financial assurance as specified in this regulation. Each insurance policy providing primary coverage must be issued by an insurer who is licensed to transact the business of insurance in the Commonwealth of Kentucky except as KRS 304.11-030 provides otherwise. Each insurance policy providing excess coverage must be issued by an insurer who is licensed to transact the business of insurance in a state.

(2) The certificate of insurance must be executed on a form provided by the cabinet containing wording identical to the wording specified in 401 KAR 34:156.

(3) The postclosure insurance policy must be issued for a face amount at least equal to the current postclosure cost estimate, except as provided in Section 9 of this regulation. The term "face amount" means the total amount the insurer is obligated to pay under the policy. Actual payments by the insurer will not change the face amount, although the insurer's future liability will be lowered by the amount of the payments.

(4) The postclosure insurance policy must guarantee that funds will be available to provide postclosure care of the facility whenever the postclosure care period begins. The policy must also guarantee that once postclosure care begins, the insurer will be responsible for paying out funds, up to an amount equal to the face amount of the policy, upon the direction of the director to such party or parties as the director specifies.

(5) An owner or operator or any other person authorized to perform postclosure care may request reimbursement for postclosure expenditures by submitting itemized bills to the director. Within sixty (60) days after receiving bills for postclosure care activities, the director will instruct the insurer to make reimbursements in such amounts as the director specifies in writing, if the director determines that [whether] the postclosure expenditures are in accordance with the approved postclosure plan or otherwise justified. If the director does not [, and if so, he will] instruct the insurer to make such reimbursements, he will provide the owner or operator with a detailed written statement of reasons [in such amounts as the director specifies in writing].

(6) The owner or operator must maintain the policy in full force and effect until the director consents to termination of the policy by the owner or operator as specified in subsection (11) of this section. Failure to pay the premium, without substitution of alternate financial assurance as specified in this regulation, will constitute a significant violation of these regulations, warranting such remedy as the director deems necessary. Such violation will be deemed to begin upon receipt by the director of a notice of future cancellation, termination, or failure to renew due to nonpayment of the premium, rather than upon the date of expiration.

(7) Each policy must contain a provision allowing assignment of the policy to a successor owner or operator. Such assignment may be conditional upon consent of the insurer provided such consent is not unreasonably refused.

(8) The policy must provide that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium. The automatic renewal of the policy must, at a minimum, provide the insured with the option of renewal at the face amount of the expiring policy. If there is a failure to pay the premium, the insurer may elect to cancel, terminate, or fail to renew the policy by sending notice by certified mail to the owner or operator and the director. Cancellation, termination, or failure to renew may not occur, however, during the 120 days beginning with the date of receipt of the notice by the director and the owner or operator, as evidenced by the return receipts. Cancellation, termination, or failure to renew may not occur and the policy

will remain in full force and effect in the event that on or before the date of expiration:

(a) The director deems the facility abandoned; or

(b) Interim status is terminated or revoked; or

(c) Closure is ordered by the director or a circuit court or other court of competent jurisdiction; or

(d) The owner or operator is named as debtor in a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code; or

(e) The premium due is paid.

(9) Whenever the current postclosure cost estimate increases to an amount greater than the face amount of the policy during the operating life of the facility, the owner or operator, within sixty (60) days after the increase, must either cause the face amount to be increased to an amount at least equal to the current postclosure cost estimate and submit evidence of such increase to the director, or obtain other financial assurance as specified in this regulation to cover the increase. Whenever the current postclosure cost estimate decreases during the operating life of the facility, the face amount may be reduced to the amount of the current postclosure cost estimate following written approval by the director.

(10) Commencing on the date that liability to make payments pursuant to the policy accrues, the insurer will thereafter annually increase the face amount of the policy. Such increase must be equivalent to the face amount of the policy, less any payments made, multiplied by an amount equivalent to eighty-five (85) percent of the most recent investment rate or of the equivalent coupon-issue yield announced by the U.S. Treasury for twenty-six (26) week Treasury securities.

(11) The director will give written consent to the owner or operator that he may terminate the insurance policy when:

(a) An owner or operator substitutes alternate financial assurance as specified in this regulation; or

(b) The director releases the owner or operator from the requirements in accordance with Section 11 of this regulation.

Section 7. Financial Test with Corporate Guarantee for Postclosure Care. (1) An owner or operator may satisfy the requirements of this regulation by demonstrating that he passes a financial test as specified in this section. To pass this test the owner or operator must meet the criteria of either paragraph (a) or (b) of this subsection:

(a) The owner or operator must have:

1. Two (2) of the following three (3) ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and

2. Net working capital and tangible net worth each at least six (6) times the sum of the current closure and postclosure cost estimates and the current plugging and abandonment cost estimates; and

3. Tangible net worth of at least $10 million; and

4. Assets in the United States amounting to [either,] at least ninety (90) percent of his total assets or at least six (6) times the sum of the current closure and postclosure cost estimates and the current plugging and abandonment cost estimates.

(b) The owner or operator must have:

1. A current rating for his most recent bond issuance of AAA, AA, A or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's; and

2. Tangible net worth at least six (6) times the sum of the current closure and postclosure cost estimates and the current plugging and abandonment cost estimates; and

3. Tangible net worth of at least $10 million; and

4. Assets located in the United States amounting to [either,] at least ninety (90) percent of his total assets or at least six (6) times the sum of the current closure and postclosure cost estimates and the current plugging and abandonment cost estimates.

(2) The phrase "current closure and postclosure cost estimates" as used in subsection (1) of this section refers to the cost estimates required to be shown in paragraphs 1 through 4 of the letter from the owner's or operator's chief financial officer (see 401 KAR 34:159). The phrase "current plugging and abandonment cost estimates" as used in subsection (1) of this section refers to the cost estimates required to be shown in paragraphs 1-4 of the letter from the owner's or operator's chief financial officer (see 40 CFR 144.70(f).

(3) To demonstrate that he meets this test, the owner or operator must submit the following three (3) items to the director:

(a) A letter executed on the form provided by the cabinet, signed by the owner's or operator's chief financial officer and worded as specified in 401 KAR 34:159; and

(b) A copy of the independent certified public accountant's report on examination of the owner's or operator's financial statements for the latest completed fiscal year; and

(c) A special report from the owner's or operator's independent certified public accountant to the owner or operator stating that:

1. He has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and

2. In connection with that procedure, no matters came to his attention which caused him to believe that the specified data should be adjusted.

(4) The owner or operator may obtain an extension of the time allowed for submission of the documents specified in subsection (3) of this section if the fiscal year of the owner or operator ends during the ninety (90) days prior to October 8, 1982 and if the year-end financial statements for that fiscal year will be audited by an independent certified public accountant. The extension will end no later than ninety (90) days after the end of the owner's or operator's fiscal year. To obtain the extension, the owner's or operator's chief financial officer must send, by October 8, 1982, a letter to the director. This letter from the chief financial officer must:

(a) Request the extension;

(b) Certify that he has grounds to believe that the owner or operator meets the criteria of

the financial test;

(c) Specify for each facility to be covered by the test the EPA identification number, name, address, and the current closure and postclosure cost estimates to be covered by the test;

(d) Specify the date ending the owner's or operator's latest complete fiscal year before October 8, 1982;

(e) Specify the date, no later than ninety (90) days after the end of such fiscal year, when he will submit the documents specified in subsection (3) of this section; and

(f) Certify that the year-end financial statements of the owner or operator for such fiscal year will be audited by an independent certified public accountant.

(5) After the initial submission of items specified in subsection (3) of this section, the owner or operator must send updated information to the director within ninety (90) days after the close of each succeeding fiscal year. This information must consist of all three (3) items specified in subsection (3) of this section.

(6) If the owner or operator no longer meets the requirements of subsection (1) of this section, he must send notice to the director of intent to establish alternate financial assurance as specified in this regulation. The notice must be sent by certified mail within ninety (90) days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements. The owner or operator must provide alternate financial assurance within 120 days after the end of such fiscal year.

(7) The director may, based on a reasonable belief that the owner or operator may no longer meet the requirements of subsection (1) of this section, require reports of financial condition at any time from the owner or operator in addition to those specified in subsection (3) of this section. If the director finds, on the basis of such reports or other information, that the owner or operator no longer meets the requirements of subsection (1) of this section, the owner or operator must provide alternate financial assurance as specified in this regulation within thirty (30) days after notification of such a finding.

(8) The director may disallow use of this test on the basis of qualifications in the opinion expressed by the independent certified public accountant in his report on examination of the owner's or operator's financial statements (see subsection (3) of this section). An adverse opinion or a disclaimer of opinion will be cause for disallowance. The director will evaluate other qualifications on an individual basis. The owner or operator must provide alternate financial assurance as specified in this regulation within thirty (30) days after notification of the disallowance.

(9) During the period of postclosure care, the director may approve a decrease in the current postclosure cost estimate for which this test demonstrates financial assurance if the owner or operator demonstrates to the director that the amount of the cost estimate exceeds the remaining cost of postclosure care.

(10) The owner or operator is no longer required to submit the items specified in subsection (3) of this section when:

(a) An owner or operator substitutes alternate financial assurance as specified in this regulation; or

(b) The director releases the owner or operator from the requirements of this regulation by terminating the financial requirements in accordance with Section 11 of this regulation.

(11) An owner or operator may meet the requirements of this regulation by obtaining a written guarantee, hereafter referred to as "corporate guarantee." The guarantor must be the parent corporation of the owner or operator. The guarantor must meet the requirements for owners or operators in subsections (1) through (9) of this section and must comply with the terms of the corporate guarantee. The corporate guarantee must be executed on a form provided by the cabinet containing wording identical to the wording specified in 401 KAR 34:165. The corporate guarantee must accompany the items sent to the director as specified in subsection (3) of this section. The terms of the corporate guarantee must provide that:

(a) If the owner or operator fails to perform postclosure care of a facility covered by the corporate guarantee in accordance with the postclosure plan and other interim status requirements whenever required to do so, the guarantor will do so or establish a trust fund as specified in Section 3 of this regulation in the name of the owner or operator.

(b) The corporate guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator and to the director. Cancellation may not occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the director, as evidenced by the return receipts.

(c) If the owner or operator fails to provide alternate financial assurance as specified in this regulation and obtain the written approval of such alternate assurance from the director within ninety (90) days after receipt by both the owner or operator and the director of a notice of cancellation of the corporate guarantee from the guarantor, the guarantor will provide such alternate financial assurance in the name of the owner or operator.

Section 8. Cash Account and Certificates of Deposit. (1) An owner or operator must satisfy the requirements of this regulation by submitting to the director a bond guaranteeing compliance with KRS Chapter 224 and regulations promulgated pursuant thereto. The bond is to be supported by a cash account or certificate(s) of deposit. The cash account or the certificate(s) of deposit are to be held in escrow pursuant to an escrow agreement. The bank or other financial institution holding the cash account or certificate(s) of deposit in escrow must be regulated and examined by a federal or state agency.

(2) The bond must be executed on a form provided by the cabinet which has wording identical to the wording specified in Section 1 of 401 KAR 34:168. The escrow agreement for the cash account or certificate(s) of deposit must be executed on a form provided by the cabinet which has wording identical to the wording specified in Section 2 of 401 KAR 34:168.

(3) The cabinet must be the beneficiary of the escrow agreement for the cash account or certificate(s) of deposit. The director must be empowered to draw upon the funds if the owner or

operator fails to perform postclosure care in accordance with the postclosure care plan and other permit requirements.

(4) The sum of the cash account or certificate(s) of deposit must be in an amount at least equal to the amount of the current postclosure cost estimate, except as provided in Section 9 of this regulation.

(5) After each interest period is completed, whenever the current closure cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the cash accounts or the certificate(s) of deposit. If the value of the cash accounts or the certificate(s) of deposit is less than the amount of the new estimate, the owner or operator, within sixty (60) days of the change in the cost estimate, must either deposit an amount into the cash account or the certificate(s) of deposit so that its value after this deposit at least equals the amount of the current closure cost estimate, or obtain other financial assurance as specified in this section to cover the difference.

(6) If the value of the cash account or the certificate(s) of deposit is greater than the total amount of the current closure cost estimate, the owner or operator may submit a written request to the director for release of the amount in excess of the current closure cost estimate.

(7) Under the terms of the cash account or certificate(s) of deposit, the bank or financial institution may cancel the cash account or certificate(s) of deposit by sending notice of cancellation by certified mail to the owner or operator and to the director. Cancellation cannot occur, however, during the 120 days beginning on the date of receipt of the notice of cancellation by both the owner or operator and the director, as evidenced by return receipt.

(8) The owner or operator may terminate the cash account or certificate(s) of deposit if the director has given prior written consent based on his receipt of evidence of alternate financial assurance as specified in this regulation.

(9) An owner or operator or any other person authorized to conduct postclosure may request reimbursement for postclosure expenditures by submitting itemized bills to the director. Within sixty (60) days after receiving bills for postclosure activities, the director may instruct the bank or financial institution to make reimbursements in those amounts as the director specifies in writing if the director determines that the postclosure expenditures are in accordance with the postclosure plan or otherwise justified.

Section 9. Use of Multiple Financial Mechanisms. An owner or operator may satisfy the requirements of this regulation by establishing more than one (1) financial mechanism per facility. These mechanisms are limited to trust funds, surety bonds, letters of credit, insurance, cash accounts and certificate(s) of deposit. The mechanisms must be as specified in Sections 3, 4, 5, 6, and 8, respectively, of this regulation except that it is the combination of mechanisms rather than the single mechanism which must provide financial assurance for an amount at least equal to the current postclosure cost estimate. If an owner or operator uses a trust fund in combination with a surety bond or a letter of credit, he may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two (2) or more mechanisms. The director may use any or all of the mechanisms to provide for postclosure care of the facility.

Section 10. Use of a Financial Mechanism for Multiple Facilities. An owner or operator may use a financial assurance mechanism specified in this regulation to meet the requirements of this regulation for more than one (1) facility of which he is the owner or operator provided the facilities are all within the Commonwealth. Evidence of financial assurance submitted to the director must include a list showing for each facility the EPA identification number, name, address, and the amount of funds for postclosure care assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each facility. In directing funds available through the mechanism for postclosure care of any of the facilities covered by the mechanism, the director may direct only the amount of funds designated for that facility, unless the owner or operator agrees to the use of additional funds available under the mechanism.

Section 11. Release of the Owner or Operator from the Requirements of this Regulation. Within sixty (60) days after receiving certifications from the [When an] owner or operator and an independent professional engineer registered in the Commonwealth of Kentucky that the postclosure care period has been completed [to the satisfaction of the director all postclosure care requirements] in accordance with the approved postclosure plan, the director will[, at the request of the owner or operator,] notify the owner or operator [him] in writing that he is no longer required by this regulation to maintain financial assurance for postclosure care of that unit, unless the director has reason to believe that postclosure care has not been in accordance with the approved postclosure plan. The director will provide the owner or operator a detailed written statement of any such reason to belive that postclosure care has not been in accordance with the approved postclosure plan [the particular facility].

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be

close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The amendments to this regulation affect all interim status hazardous waste facilities in Kentucky. Currently there are 11 facilities operating under interim status in Kentucky and 14 facilities operating under postclosure permits.

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

1. First year: The amendments made to this regulation will result in a cost to the regulated community since postclosure costs must be estimated using third parties. The cabinet notes that of the approximate $120 million of financial assurance maintained currently by Kentucky facilities, an increase of roughly $2 million statewide is expected. However, the cost of the additional financial assurance will be borne by a relatively few number of facilities. It is estimated that $1 million of additional financial assurance will be borne by a single company. However, the average cost per company (excluding the one facility) is estimated to be $20,000. It should also be noted that these monies are rarely set aside in a trust fund or cash/certificate of deposit. These monies are normally demonstrated through use of the financial test or corporate guarantee and do not cost the company the face amount until postclosure is initiated.

The majority of the amendments are technical clarifications or additions of regulatory cites which clarify existing requirements but do not result in a cost or savings except that they should reduce frustration in using the regulation.

An amendment made to the financial test and corporate guarantee mechanism requirements adds the requirement that a company include the cost of plugging and abandoning any underground injection control wells they own or operate. This should result in a more accurate statement of the companies' liabilities. It will not result in a cost or savings unless a company is no longer able to use the mechanism as the result of the demonstration. Although this is not anticipated to occur in Kentucky, if it did, the company would experience a substantial cost to obtain alternate financial assurance since financial test and corporate guarantee do not require establishment of any actual money but can be explained as simply the demonstration of ability to pay for postclosure care and the promise on the part of the company to do so.

2. Continuing costs or savings: See note in (1)(a)1.

3. Additional factors increasing or decreasing costs (note any effects upon competition): See note in (1)(a)1.

(b) Reporting and paperwork requirements: There will be an insignificant increase in paperwork requirements due to the request for more detailed information on certain reports and forms.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. The promulgating administative body anticipates no new costs as the result of the amendments made to this regulation.

There should be a small savings to the state in that postclosure cost estimates will be easier to review because the standards in the regulations are more explicit.

In addition, although it cannot be characterized as a savings to the promulgating agency, there is the potential for a large savings to the Commonwealth due to the requirement that cost estimates use third party cost figures. If a company used an estimate based upon in-house postclosure care and discounted the amount it would cost them, the state would have a smaller amount of money with which to conduct postclosure care if the company defaulted than if the estimate was based on third party costs. This provides a safeguard to the Commonwealth that adequate monies will be available to conduct postclosure care whether or not the company remains solvent.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The amendments to this regulation are identical to the federal language promulgated May 2, 1986. Alternative. 1. Less stringent. The cabinet could have chosen to be less stringent, but this would mean that Kentucky would lose authorization to operate the federal hazardous waste program in the state. In addition, it would provide less protection to Kentucky's public health and environment than that afforded by the national program.

2. More stringent. The cabinet could have chosen to be more stringent but the federal requirements are adequate to protect public health and the environment.

3. Present proposal. The present proposal contains the information on determining postclosure cost estimates for hazardous waste facilities.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. This regulation applies only to interim status hazardous waste sites or facilities.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 265.144 and 40 CFR 265.145 promulgated on May 2, 1986 (51 FR 16457-16458).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments adopt requirements which are identical to those

standards adopted by the U.S. EPA on May 2, 1986. No standards or responsibilities are imposed which are more strict than those imposed by the U.S. EPA.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 35:190. Tanks (IS).**

RELATES TO: KRS 224.033, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.866

NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in the storage, treatment, and disposal of hazardous waste obtain a permit. KRS 224.866 requires the cabinet to establish standards for these permits, to require adequate financial responsibility, and to establish minimum standards for closure for all facilities and the postclosure monitoring and maintenance of hazardous waste disposal facilities. This chapter establishes minimum standards for hazardous waste sites or facilities qualifying for interim status. This regulation establishes minimum standards for tanks.

Section 1. Applicability. The regulations of this chapter [requirements in this regulation] apply to owners or [and] operators of sites or facilities that use tank systems for storing or treating [to treat or store] hazardous waste except as otherwise provided in subsections (1) and (2) of this section or in Section 1 of 401 KAR 35:010 [provides otherwise].

(1) Tanks that are used to store or treat hazardous waste containing no free liquids and that are situated inside a building with an impermeable floor are exempted from the requirements of Section 4 of this regulation. To demonstrate the absence or presence of free liquids in the stored/treated waste, EPA Method 9095 (paint filter liquids test) as described in "Test Methods for Evaluating Solid Wastes, Physical/Chemical Methods" (EPA Publication No. SW-846) incorporated by reference in Section 3 of 401 KAR 30:010, must be used.

(2) Tanks, including sumps, as defined in Section 1 of 401 KAR 30:010, that serve as part of a secondary containment system to collect or contain releases of hazardous wastes are exempted from the requirements in Section 4 of this regulation.

Section 2. Assessment of Existing Tank System's Integrity. (1) For each existing tank system that does not have secondary containment meeting the requirements of Section 4 of this regulation, the owner or operator must determine that the tank system is not leaking or is unfit for use. Except as provided in subsection (3) of this section, the owner or operator must obtain and keep on file at the facility a written assessment reviewed and certified by an independent, qualified, professional engineer registered in the Commonwealth of Kentucky, in accordance with Section 7(4) of 401 KAR 38:070, that attests to the tank system's integrity no later than 180 days from the date of promulgation of this regulation.

(2) This assessment must determine that the tank system is adequately designed and has sufficient structural strength and compatibility with the waste(s) to be stored or treated to ensure that it will not collapse, rupture, or fail. At a minimum, this assessment must consider the following:

(a) Design standard(s), if available, according to which the tank and ancillary equipment were constructed;

(b) Hazardous characteristics of the waste(s) that have been or will be handled;

(c) Existing corrosion protection measures;

(d) Documented age of the tank system, if available (otherwise, an estimate of the age); and

(e) Results of a leak test, internal inspection, or other tank integrity examination such that:

1. For nonenterable underground tanks, this assessment must consist of a leak test that is capable of taking into account the effects of temperature variations, tank end deflection, vapor pockets, and high water table effects; and

2. For other than nonenterable underground tanks and for ancillary equipment, this assessment must be either a leak test, or as described above, or an internal inspection and/or other tank integrity examination certified by an independent, qualified, professional engineer registered in the Commonwealth of Kentucky in accordance with Section 7(4) of 401 KAR 38:070, that addresses cracks, leaks, corrosion, and erosion.

(3) Tank systems that store or treat materials that become hazardous wastes subsequent to date of promugation of this regulation must conduct this assessment within twelve (12) months after the date that the waste becomes a hazardous waste.

(4) If, as a result of the assessment conducted in accordance with subsection (1) of this section, a tank system is found to be leaking or unfit for use, the owner or operator must comply with the requirements of Section 7 of this regulation.

Section 3. Design and Installation of New Tank Systems or Components. (1) Owners or operators of new tanks sytems or components must ensure that the foundation, structural support, seams, connections, and pressure controls (if applicable) are adequately designed and that the tank system has sufficient structural strength, compatibility with the waste(s) to be stored or treated, and corrosion protection so that it will not collapse, rupture, or fail. The owner or operator must obtain a written assessment reviewed and certified by an independent, qualified professional engineer registered in the Commonwealth of Kentucky in accordance with Section 7(4) of 401 KAR 38:070, attesting that the system has sufficient structural integrity and is acceptable for the storing and treating of hazardous waste. This assessment must include, at a minimum, the following information:

(a) Design standard(s) according to which the tank(s) and the ancillary equipment is or will

be constructed:

(b) Hazardous characteristics of the waste(s) to be handled;

(c) For new tank systems or components in which the external shell of a metal tank or any external metal component of the tank system is or will be in contact with the soil or with water, a determination by a corrosion expert of:

1. Factors affecting the potential for corrosion, including but not limited to:

a. Soil moisture content;

b. Soil pH;

c. Soil sulfides level;

d. Soil resistivity;

e. Structure to soil potential;

f. Influence of nearby underground metal structures (e.g., piping);

g. Stray electric current;

h. Existing corrosion-protection measures (e.g., coating, cathodic protection); and

2. The type and degree of external corrosion protection that are needed to ensure the integrity of the tank system during the use of the tank system or component, consisting of one (1) or more of the following:

a. Corrosion-resistant materials of construction such as special alloys, fiberglass-reinforced plastic, etc.;

b. Corrosion-resistant coating (such as epoxy, fiberglass, etc.) with cathodic protection (e.g., impressed current or sacrificial anodes); and

c. Electrical isolation devices such as insulating joints, flanges, etc.

(d) For underground tank system components that are likely to be affected by vehicular traffic, a determination of design or operational measures that will protect the tank system against potential damage; and

(e) Design considerations to ensure that:

1. Tank foundations will maintain the load of a full tank;

2. Tank systems will be anchored to prevent flotation or dislodgment where the tank system is placed in a saturated zone, or is located within a seismic fault zone; and

3. Tank systems will withstand the effects of frost heave.

(2) The owner or operator of a new tank system must ensure that proper handling procedures are adhered to in order to prevent damage to the system during installation. Prior to covering, enclosing, or placing a new tank system or component in use, an independent, qualified installation inspector or an independent, qualified professional engineer registered in the Commonwealth of Kentucky, either of whom is trained and experienced in the proper installation of tank systems, must inspect the system or component for the presence of any of the following items:

(a) Weld breaks;

(b) Punctures;

(c) Scrapes of protective coatings;

(d) Cracks;

(e) Corrosion; or

(f) Other structural damage or inadequate construction or installation.

All discrepancies must be remedied before the tank system is covered, enclosed, or placed in use.

(3) New tank systems or components and piping that are placed underground and that are backfilled must be provided with a backfill material that is a noncorrosive, porous, homogeneous substance and that is carefully installed so that the backfill is placed completely around the tank and compacted to ensure that the tank and piping are fully and uniformly supported.

(4) All new tanks and ancillary equipment must be tested for tightness prior to being covered, enclosed, or placed in use. If a tank system is found not to be tight, all repairs necessary to remedy the leak(s) in the system must be performed prior to the tank system being covered, enclosed, or placed in use.

(5) Ancillary equipment must be supported and protected against physical damage and excessive stress due to settlement, vibration, expansion, or contraction.

(6) The owner or operator must provide the type and degree of corrosion protection necessary, based on the information provided under subsection (1)(c) of this section, to ensure the integrity of the tank system during use of the tank system. The installation of a corrosion protection system that is field fabricated must be supervised by an independent corrosion expert to ensure proper installation.

(7) The owner or operator must obtain and keep on file at the facility written statements by those persons required to certify the design of the tank system and supervise the installation of the tank system in accordance with the requirements of subsections (2) through (6) of this section to attest that the tank system was properly designed and installed and that repairs, pursuant to subsections (2) and (4) of this section were performed. These written statements must also include the certification statement as required in Section 7(4) of 401 KAR 38:070.

Section 4. Containment and Detection of Releases. (1) In order to prevent the release of hazardous waste or hazardous constituents to the environment, secondary containment that meets the requirements of this section must be provided (except as provided in subsections (6) and (7) of this section):

(a) For all new tank systems or components, prior to their being put into service;

(b) For all existing tank used to store or treat EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, and F027, within two (2) years after January 12, 1987;

(c) For those existing tank systems of known and documentable age, within two (2) years after January 12, 1987 or when the tank systems have reached fifteen (15) years of age, whichever comes later;

(d) For those existing tank systems for which the age cannot be documented within eight (8) years of January 12, 1987, but if the age of the facility is greater than seven (7) years, secondary containment must be provided by the time the facility reaches fifteen (15) years of age, or within two (2) years of January 12, 1987, whichever comes later; and

(e) For tanks systems that store or treat materials that become hazardous wastes subsequent to the date of promulgation of this regulation within the time intervals required in subsections (1)(a) through (d) of this section, except that the date that a material becomes a hazardous waste must be used in place of the date of promulgation of this regulation.

(2) Secondary containment systems must be:

(a) Designed, installed, and operated, to

prevent any migration of wastes or accumulated liquid out of the system to the soil, groundwater, or surface water at any time during the use of the tank system; and

(b) Capable of detecting and collecting releases and accumulated liquids until the collected material is removed.

(3) To meet the requirements of subsection (2) of this section, secondary containment systems must be at a minimum:

(a) Constructed of or lined with materials that are compatible with the waste(s) to be placed in the tank system and must have sufficient strength and thickness to prevent failure due to pressure gradients (including static head and external hydrological forces), physical contact with the waste to which they are exposed climatic conditions, the stress of installation, and the stress of daily operation (including stresses from nearby vehicular traffic);

(b) Placed on a foundation or base capable of providing support to the secondary containment system, resistance to pressure gradients above and below the system, and capable of preventing failure due to settlement, compression, or uplift;

(c) Provided with a leak-detection system that is designed and operated so that it will detect the failure of either the primary and secondary containment structure or any release of hazardous waste or accumulated liquid in the secondary containment system within twenty-four (24) hours, or at the earliest practicable time if the existing detection technology or sites conditions will not allow detection of a release within twenty-four (24) hours; and

(d) Sloped or otherwise designed or operated to drain and remove liquids resulting from leaks, spills, or precipitation. Spilled or leaked waste and accumulated precipitation must be removed from the secondary containment system within twenty-four (24) hours, or in as timely a manner as is possible to prevent harm to human health or the environment, if removal of the released waste or accumulated precipitation cannot be accomplished within twenty-four (24) hours.

(4) Secondary containment for tanks must include one (1) or more of the following devices:

(a) A liner (external to the tank);

(b) A vault;

(c) A double-walled tank; or

(d) An equivalent device as approved by the director.

(5) In addition to the requirements of subsections (2), (3), and (4) of this section, secondary containment systems must satisfy the following requirements:

(a) External liner systems must be:

1. Designed or operated to contain 100 percent of the capacity of the largest tank within its boundary;

2. Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five (25) year, twenty-four (24) hour rainfall event;

3. Free of cracks or gaps; and

4. Designed and installed to completely surround the tank and to cover all surrounding earth likely to come into contact with the waste if the waste is released from the tank(s) (i.e., capable of preventing lateral as well as vertical migration of the waste).

(b) Vault systems must be:

1. Designed or operated to contain 100 percent of the capacity of the largest tank within its boundary;

2. Designed or operated to prevent run-on or infiltration of precipitation into the secondary containment system unless the collection system has sufficient excess capacity to contain run-on or infiltration. Such additional capacity must be sufficient to contain precipitation from a twenty-five (25) year, twenty-four (24) hour rainfall event;

3. Constructed with chemical-resistant water stops in place at all joints (if any);

4. Provided with an impermeable interior coating or lining that is compatible with the stored waste and that will prevent migration of waste into the concrete;

5. Provided with a means to protect against the formation of and ignition of vapors within the vault, if the waste being stored or treated:

a. Meets the definition of ignitable waste under Section 2 of 401 KAR 31:030; or

b. Meets the definition of reactive waste under Section 4 of 401 KAR 31:030 and which may form an ignitable or explosive vapor.

6. Provided with an exterior moisture barrier or be otherwise designed or operated to prevent migration of moisture into the vault if the vault is subject to hydraulic pressure.

(c) Double-walled tanks must be:

1. Designed as an integral structure (i.e., an inner tank within an outer shell) so that any release from the inner tank is contained by the outer shell;

2. Protected, if constructed of metal, from both corrosion of the primary tank interior and of the external surface of the outer shell; and

3. Provided with a built-in continuous leak detection system capable of detecting a release within twenty-four (24) hours or at the earliest practicable time, if the owner or operator can demonstrate to the director, and the director concurs, that the existing leak detection technology or site conditions will not allow detection of a release within twenty-four (24) hours.

(6) Ancillary equipment must be provided with full secondary containment (e.g., trench, jacketing, double-walled piping) that meets the requirements of subsections (2) and (3) of this section except for:

(a) Above-ground piping (exclusive of flanges, joints, valves, and connections) that are visually inspected for leaks on a daily basis;

(b) Welded flanges, welded joints, and welded connections that are visually inspected for leaks on a daily basis;

(c) Sealless or magnetic coupling pumps, that are visually inspected for leaks on a daily basis; and

(d) Pressurized above-ground piping systems with automatic shutoff devices (e.g., excess flow check valves, flow metering shutdown devices, loss of pressure actuated shutoff devices) that are visually inspected for leaks on a daily basis.

(7) The owner or operator may obtain a variance from the requirements of this section if the director finds, as a result of a demonstration by the owner or operator, either: that alternative design and operating practices,

together with location characteristics, will prevent the migration of any hazardous waste or hazardous constituents into the groundwater or surface water at least as effectively as secondary containment during the active life of the tank system; or that in the event of a release that does migrate to groundwater or surface water, no substantial present or potential hazard will be posed to human health or the environment. New underground tank systems may not, per a demonstration in accordance with paragraph (b) of this subsection, be exempted from the secondary containment requirements of this section. Application for a variance as allowed in this subsection does not waive compliance with the requirements of this regulation for new tank systems.

(a) In deciding whether to grant a variance based on a demonstration of equivalent protection of groundwater and surface water, the director will consider:

1. The nature and quantity of the waste;

2. The proposed alternate design and operation;

3. The hydrogeologic setting of the facility, including the thickness of soils between the tank system and groundwater; and

4. All other factors that would influence the quality and mobility of the hazardous constituents and the potential for them to migrate to groundwater or surface water.

(b) In deciding whether to grant a variance based on a demonstration of no substantial present or potential hazard, the director will consider:

1. The potential adverse effects on groundwater, surface water, and land quality taking into account:

a. The physical and chemical characteristics of the waste in the tank system, including its potential for migration;

b. The hydrogeological characteristics of the facility and surrounding land;

c. The potential for health risks caused by human exposure to waste constituents;

d. The potential for damage to wildlife, crops, vegetation, and physical structures caused by exposure to waste constituents; and

e. The persistence and permanence of the potential adverse effects;

2. The potential adverse effects of a release on groundwater quality, taking into account:

a. The quantity and quality of groundwater and the direction of groundwater flow;

b. The proximity and withdrawal rates of groundwater in the area;

c. The current and future uses of groundwater in the area; and

d. The existing quality of groundwater, including other sources of contamination and their cumulative impact on the groundwater quality;

3. The potential adverse effects of a release on surface water quality taking into account:

a. The quantity and quality of groundwater and the direction of groundwater flow;

b. The patterns of rainfall in the region;

c. The proximity of the tank system to surface waters;

d. The current and future uses of surface waters in the area and any water quality standards established for those surface waters; and

e. This existing quality of surface water, including other sources of contamination and the cumulative impact on surface water quality; and

4. The potential adverse effects of a release on the land surrounding the tank system, taking into account:

a. The patterns of rainfall in the region; and

b. The current and future uses of the surrounding land.

(c) The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of paragraph (a) of this subsection, at which a release of hazardous waste has occurred from the primary tank system but has not migrated beyond the zone of engineering control (as established in the variance), must:

1. Comply with the requirements of Section 7 of this regulation except subsection (4) of that section; and

2. Decontaminate or remove contaminated soil to the extent necessary to:

a. Enable the tank system for which the variance was granted to resume operation with the capability for the detection of and response to releases at least equivalent to the capability it had prior to the release; and

b. Prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water; and

3. If contaminated soil cannot be removed or decontaminated in accordance with subparagraph 2 of this paragraph, comply with the requirements in Section 8(2) of ~~this regulation.~~ e 401-34:190

(d) The owner or operator of a tank system, for which a variance from secondary containment had been granted in accordance with the requirements of paragraph (a) of this subsection, at which a release of hazardous waste has occurred from the primary tank system and has migrated beyond the zone of engineering control (as established in the variance), must:

1. Comply with the requirements of Sections 7(1), (2), (3), and (4) of this regulation;

2. Prevent the migration of hazardous waste or hazardous constituents to groundwater or surface water, if possible, and decontaminate or remove contaminated soil. If contaminated soil cannot be decontaminated or removed, or if groundwater has been contaminated, the owner or operator must comply with the requirements of Section 8(2) of this regulation; and

3. If repairing, replacing, or reinstalling the tank system, provide secondary containment in accordance with the requirements of subsections (1) through (6) of this section or reapply for a variance from secondary containment and meet the requirements for new tank systems in Section 3 of this regulation if the tank system is replaced. The owner or operator must comply with these requirements even if contaminated soil can be decontaminated or removed and groundwater or surface water has not been contaminated.

(8) The following procedures must be followed in order to request a variance from secondary containment:

(a) The director must be notified in writing by the owner or operator that he intends to conduct and submit a demonstration for a variance from a secondary containment as allowed in subsection (7) of this section according to the following schedule:

1. For existing tank systems, at least twenty-four (24) months prior to the date that secondary containment must be provided in accordance with subsection (1) of this section.

2. For new tank systems, at least thirty (30) days prior to entering into a contract for installation of the tank system.

(b) As part of the notification, the owner or operator must also submit to the director a description of the steps necessary to conduct the demonstration and a timetable for completing each of the steps. The demonstration must address each of the factors listed in subsection (7)(a) or (b) of this section.

(c) The demonstration for a variance must be completed and submitted to the director within 180 days after notifying the director of an intent to conduct the demonstration; and

(d) The director will inform the public, through a newspaper notice, of the availability of the demonstration for a variance. The notification shall be placed in a daily or weekly major local newspaper of general circulation, and shall provide at least thirty (30) days from the date of the notice for the public to review and comment on the demonstration for a variance. The director also will hold a public hearing, in response to a request or at his own discretion, whenever such a hearing might clarify one (1) or more issues concerning the demonstration for a variance. Public notice of the hearing will be given at least thirty (30) days prior to the date of the hearing and may be given the same time as notice of the opportunity for the public to review and comment on the demonstration. These two (2) notices may be combined.

(e) The director will approve or disapprove the request for a variance within ninety (90) days of receipt of the demonstration from the owner or operator and will notify in writing the owner or operator and each person who submitted written comments or requested notice of the variance decision. If the demonstration for a variance is incomplete or does not include sufficient information, the ninety (90) day time period will begin when the director receives a complete demonstration, including all information necessary to make a final determination. If the public comment period in paragraph (d) of this subsection is extended, the ninety (90) day time period will be similarly extended.

7. All tank systems, until such time as secondary containment meeting the requirements of this section is provided, must comply with the following:

a. For nonenterable underground tanks, a leak test that meets the requirements of Section 2(1)(e) of this regulation must be conducted at least annually.

b. For other than nonenterable underground tanks and for all ancillary equipment, an annual leak test, as described in subsection (1)(a) of this section or an internal inspection or other tank integrity examination by an independent, qualified, professional engineer registered in the Commonwealth of Kentucky that addresses cracks, leaks, corrosion and erosion must be conducted at least annually. The owner or operator must remove the stored waste from the tank, if necessary, to allow the condition of all internal tank surfaces to be assessed.

c. The owner or operator must maintain on file at the facility a record of the results of the assessments conducted in accordance with subsections (1)(a) through (c) of this section.

d. If a tank system or component is found to be leaking or unfit for use as a result of the leak test or assessment in subsections (1)(a) through (c) of this section, the owner or operator must comply with the requirements of Section 7 of this regulation.

Section 5. General Operating Requirements. [(1) Treatment or storage of hazardous waste in tanks must comply with Section 8(2) of 401 KAR 35:020.]

(1) [(2)] Hazardous wastes or treatment reagents must not be placed in a tank system if they could cause the tank, [or] its ancillary equipment, or the secondary containment system [inner liner] to rupture, leak, corrode or otherwise fail [before the end of its intended life].

(2) The owner or operator must use appropriate controls and practices to prevent spills and overflows from tank or secondary containment systems. These include at a minimum:

(a) Spill prevention controls (e.g., check valves, dry discount couplings);

(b) Overfill prevention controls (e.g., level sensing devices, high level alarms, automatic feed cutoff, or bypass to a standby tank); and

(c) Maintenance of sufficient freeboard in uncovered tanks to prevent overtopping by wave or wind action or by precipitation.

(3) The owner or operator must comply with the requirements of Section 7 of this regulation if a leak or spill occurs in the tank system.

(4) Tanks holding hazardous waste shall be labeled "hazardous waste" upon the date that hazardous waste is first added to the tank.

[(3) Uncovered tanks must be operated to ensure at least sixty (60) centimeters (approximately two (2) feet) of freeboard unless the tank is equipped with a containment structure (e.g., dike or trench), a drainage control system or a diversion structure (e.g., standby tank) with a capacity that equals or exceeds the volume of the top sixty (60) centimeters (2 feet) of the tank.]

[(4) Where hazardous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow (e.g., a waste feed cutoff system or bypass system to a standby tank).]

[(5) Tanks holding hazardous waste shall be labeled "Hazardous Waste" upon the date that hazardous waste is first added to the tank.]

Section 6. [4.] Inspections. (1) The owner or operator [of a tank] must inspect, where present, at least once each operating day:

(a) Overfilling/spill control equipment (e.g., waste-feed cutoff systems, bypass systems, and drainage systems) to ensure that it is in good working order;

(b) The above-ground portions of the tank system, if any, to detect corrosion or releases of waste;

(c) Data gathered from monitoring equipment and leak-detection equipment (e.g., pressure and temperature gauges, monitoring wells) to ensure that the tank system is being operated according to its design; and

(d) The construction materials and the area immediately surrounding the externally accessible portion of the tank system including the secondary containment structures (e.g., dikes) to detect erosion or signs of releases of hazardous waste (e.g., wet spots, dead vegetation).

(2) The owner or operator must inspect

cathodic protection systems, if present, according to, at a minimum, the following schedule to ensure that they are functioning properly:

(a) The proper operation of the cathodic protection system must be confirmed within six (6) months after initial installation and annually thereafter; and

(b) All sources of impressed current must be inspected and/or tested, as appropriate, at least bimonthly (i.e., every other month).

(3) The owner or operator must document in the operating record of the facility an inspection of those items in subsections (1) and (2) of this section.

[(1) Discharge control equipment (e.g., waste feed cutoff systems, bypass systems and drainage systems) at least once each operating day to ensure that it is in good working order;]

[(2) Data gathered from monitoring equipment (e.g., pressure and temperature gauges) at least once each operating day to ensure that the tank is being operated according to its design;]

[(3) The level of waste in the tank, at least once each operating day, to ensure compliance with Section 2(3) of this regulation;]

[(4) The construction materials of the tank, at least weekly, to detect corrosion of leaking of fixtures or seams; and]

[(5) The construction materials of, and the area immediately surrounding, discharge confinement structures (e.g., dikes), at least weekly, to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation).]

[Section 5. Closure. At closure, all hazardous waste and hazardous waste residues must be removed from tanks, discharge control equipment and discharge confinement structures.]

Section 7. Response to Leaks or Spills and Disposition of Leaking or Unfit-for-use Tank Systems. A tank system or secondary containment system from which there has been a leak or spill, or which is unfit for use, must be removed from service immediately, and the owner or operator must satisfy the following requirements:

(1) Cessation of use; prevent flow or addition of wastes. The owner or operator must immediately stop the flow of hazardous waste into the tank system or secondary containment system and inspect the system to determine the cause of the release.

(2) Removal of waste from tank system or secondary containment system.

(a) If the release was from the tank system, the owner/operator must, within twenty-four (24) hours after detection of the leak or, if the owner/operator demonstrates that that is not possible, at the earliest practicable time remove as much of the waste as is necessary to prevent further release of hazardous waste to the environment and to allow inspection and repair of the tank system to be performed.

(b) If the material released was to a secondary containment system, all released materials must be removed within twenty-four (24) hours or in as timely a manner as is possible to prevent harm to human health and the environment.

(3) Containment of visible releases to the environment. The owner/operator must immediately conduct a visual inspection of the release and based upon that inspection:

(a) Prevent further migration of the leak or spill to soils or surface water; and

(b) Remove and properly dispose of any visible contamination of the soil or surface water.

(4) Notifications and reports.

(a) Any release to the environment except as provided in paragraph (b) of this subsection, must be reported to the director within twenty-four (24) hours of detection. If the release has been reported pursuant to 40 CFR Part 302 that report will satisfy this requirement.

(b) A leak or spill of hazardous waste is exempted from the requirements of this subsection if it is:

1. Less than or equal to a quantity of one (1) pound; and

2. Immediately contained and cleaned up.

(c) Within thirty (30) days of detection of a release to the environment, a report containing the following information must be submitted to the director:

1. Likely route of migration of the release;

2. Characteristics of the surrounding soil (soil composition, geology, hydrogeology, climate);

3. Results of any monitoring or sampling conducted in connection with the release (if available). If sampling or monitoring data relating to the release are not available within thirty (30) days, these data must be submitted to the director as soon as they become available;

4. Proximity to down-gradient drinking water, surface water, and population areas; and

5. Description of response actions taken or planned.

(5) Provision of secondary containment, repair or closure.

(a) Unless the owner/operator satisfied the requirements of paragraphs (b) through (d) of this subsection, the tank system must be closed in accordance with Section 8 of this regulation.

(b) If the cause of the release was a spill that has not damaged the integrity of the system, the owner/operator may return the system to service as soon as the released waste is removed and repairs, if necessary, are made.

(c) If the cause of the release was a leak from the primary tank system into the secondary containment system, the system must be repaired prior to returning the tank system to service.

(d) If the source of the release was a leak to the environment from a component of a tank system without secondary containment, the owner/operator must provide the component of the system from which the leak occurred with secondary containment that satisfies the requirements of Section 4 of this regulation before it can be returned to service, unless the source of the leak is an above-ground portion of a tank system. If the source is an above-ground component that can be inspected visually, the component must be repaired and may be returned to service without secondary containment as long as the requirements of subsection (6) of this section are satisfied. If a component is replaced to comply with the requirements of this paragraph that component must satisfy the requirements for new tank systems or components in Sections 3 and 4 of this regulation. Additionally, if a leak has occurred in any portion of a tank system component that is not readily accessible for visual inspection (e.g., the bottom of an in-ground or on-ground tank), the entire component must be provided with

secondary containment in accordance with Section 4 of this regulation prior to being returned to use.

(6) Certification of major repairs. If the owner/operator has repaired a tank system in accordance with subsection (5) of this section, and the repair has been extensive (e.g., installation of an internal liner, repair of a ruptured primary containment or secondary containment vessel), the tank system must not be returned to service unless the owner/operator has obtained a certification by an independent qualified, professional engineer registered in the Commonwealth of Kentucky in accordance with Section 7(4) of 401 KAR 38:070 that the repaired system is capable of handling hazardous wastes without release for the intended life of the system. This certification must be submitted to the director within seven (7) days after returning the tank system to use.

Section 8. Closure and Postclosure Care. (1) At closure of a tank system, the owner/operator must remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated soils, and structures and equipment contaminated with waste, and manage them as hazardous waste, unless Section 3(4) of 401 KAR 31:010 applies. The closure plan, closure activities, cost estimates for closure, and financial responsibility for tank systems must meet all of the requirements specified in 401 KAR 35:070 through 35:130.

(2) If the owner or operator demonstrates that not all contaminated soil can be practicably removed or decontaminated as required in subsection (1) of this section, then the owner or operator must close the tank system and perform postclosure care in accordance with the closure and postclosure care requirements that apply to landfills in Section 4 of 401 KAR 35:230. In addition, for the purposes of closure, postclosure, and financial responsibility, such a tank system is then considered to be a landfill, and the owner/operator must meet all of the requirements for landfills specified in 401 KAR 35:070 through 35:130.

(3) If an owner or operator has a tank system which does not have secondary containment that meets the requirements in Section 4(2) through (6) of this regulation and which is not exempt from the secondary containment requirements in accordance with Section 4(7) of this regulation then:

(a) The closure plan for the tank system must include both a plan for complying with subsection (1) of this section and a contingent plan for complying with subsection (2) of this section;

(b) A contingent postclosure plan for complying with subsection (2) of this section must be prepared and submitted as part of the permit application;

(c) The cost estimates calculated for closure and postclosure care must reflect the costs of complying with the contingent closure plan and the contingent postclosure plan, if these costs are greater than the costs of complying with the closure plan prepared for the expected closure under subsection (1) of this section.

(d) Financial assurance must be based on the cost estimates in paragraph (c) of this subsection.

(e) For the purposes of the contingent closure and postclosure plans, such a tank system is considered to be a landfill, and the contingent plans must meet all of the closure, postclosure and financial responsibility requirements for landfills under 401 KAR 35:070 through 35:130.

(f) For new tank systems that will close in accordance with subsection (2) of this section, the owner or operator shall demonstrate compliance with 401 KAR 38:500.

Section 9. [6.] Special Requirements for Ignitable or Reactive Waste. (1) Ignitable or reactive waste must not be placed in a tank unless:

(a) The waste is treated, rendered or mixed before or immediately after placement in the tank system so that:

1. The resulting waste, mixture, or dissolved [dissolution of] material no longer meets the definition of ignitable or reactive waste under Sections 2 or 4 [and 3] of 401 KAR 31:030; and

2. Section 8(2) of 401 KAR 35:020 is complied with; or

(b) The waste is stored or treated in such a way that it is protected from any material or conditions that [which] may cause the waste to ignite or react; or

(c) The tank system is used solely for emergencies.

(2) The owner or operator of a facility where [which treats or stores] ignitable or reactive waste is stored or treated in [covered] tanks must comply with the [buffer zone] requirements for the maintenance of protective distances between the waste management area and any public ways, streets, alleys, or an adjoining property line that can be built upon as required [tanks contained] in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code" (1977 or 1981), incorporated by reference in Section 3 of 401 KAR 30:010.

Section 10. [7.] Special Requirements for Incompatible Wastes. (1) Incompatible wastes, or incompatible wastes and materials [(see 401 KAR 35:330 for examples)] must not be placed in the same tank system, unless Section 8(2) of 401 KAR 35:020 is complied with.

(2) Hazardous waste must not be placed in a tank system that has not been decontaminated and that [an unwashed tank which] previously held an incompatible waste or material, unless Section 9 [8](2) of 401 KAR 35:020 is complied with.

Section 11. [3.] Waste Analysis and Trial Tests. (1) In addition to performing the waste analysis required by Section 4 of 401 KAR 35:020, the owner/operator must whenever a tank system is to be used to treat chemically [treat] or to store a hazardous waste that [which] is substantially different from waste previously treated or stored in that tank system; or

[(2)] treat chemically [treat] hazardous waste with a substantially different process than any previously used in that tank system; [the owner or operator must before treating or storing the different waste or using the different process:]

(2) [(a)] Conduct waste analyses and trial treatment or storage tests (e.g., bench scale or pilot plant scale tests); or

(3) [(b)] Obtain written, documented information on [of] similar [storage or treatment of similar] waste under similar

operating conditions, to show that the [this] proposed treatment or storage will meet the [all applicable] requirements of Section 5[2](1) [and (2)] of this regulation.

Section 12. Special Requirements for Generators of Between 100 and 1,000 kg/mo that Accumulate Hazardous Waste in Tanks. (1) The requirements of this section apply to small quantity generators of more than 100 kg but less than 1,000 kg of hazardous waste in a calendar month that accumulate hazardous waste in tanks for less than 180 days (or 270 days if the generator must ship the waste greater than 200 miles), and do not accumulate over 6,000 kg on-site at any time.

(2) Generators of between 100 and 1,000 kg/mo hazardous waste must comply with the following general operating requirements:

(a) Treatment or storage of hazardous waste in tanks must comply with Section 8 of 401 KAR 35:020.

(b) Hazardous wastes or treatment reagents must not be placed in a tank if they could cause the tank or its inner liner to rupture, leak, corrode, or otherwise fail before the end of its intended life.

(c) Uncovered tanks must be operated to ensure at least sixty (60) centimeters (two (2) feet) of freeboard, unless the tank is equipped with a containment structure (e.g., dike or trench), a drainage control system, or a diversion structure (e.g., stand-by tank) with a capacity that equals or exceeds the volume of the top sixty (60) centimeters (two (2) feet) of the tank.

(d) Where hazardous waste is continuously fed into a tank, the tank must be equipped with a means to stop this inflow (e.g., waste feed cutoff system or bypass system to a stand-by tank).

(3) Generators of between 100 and 1,000 kg/mo accumulating hazardous waste in tanks must inspect, where present:

(a) Discharge control equipment (e.g., waste feed cutoff systems, bypass systems, and drainage systems) at least once each operating day, to ensure that it is in good working order;

(b) Data gathered from monitoring equipment (e.g., pressure and temperature gauges) at least once each operating day to ensure that the tank is being operated according to its design;

(c) The level of waste in the tank at least once each operating day to ensure compliance with Section 3 of this regulation;

(d) The construction materials of the tank at least weekly to detect corrosion or leaking of fixtures or seams; and

(e) The construction materials of, and the area immediately surrounding, discharge confinement structures (e.g., dikes) at least weekly to detect erosion or obvious signs of leakage (e.g., wet spots or dead vegetation).

(4) Generators of between 100 and 1,000 kg/mo accumulating hazardous waste in tanks must, upon closure of the facility, remove all hazardous waste from tanks, discharge control equipment, and discharge confinement structures.

(5) Generators of between 100 and 1,000 kg/mo must comply with the following special requirements for ignitable or reactive waste:

(a) Ignitable or reactive waste must not be placed in a tank, unless:

1. The waste is treated, rendered, or mixed before or immediately after placement in a tank so that:

a. The resulting waste, mixture, or dissolution of material no longer meets the definition of ignitable or reactive waste under Sections 2 and 4 of 401 KAR Chapter 31:030; and

b. Section 9(2) of 401 KAR 35:020 is complied with; or

2. The waste is stored or treated in such a way that it is protected from any material or conditions that may cause the waste to ignite or react; or

3. The tank is used solely for emergencies.

(b) The owner or operator of a facility which treats or stores ignitable or reactive waste in covered tanks must comply with the buffer zone requirements for tanks contained in Tables 2-1 through 2-6 of the National Fire Protection Association's "Flammable and Combustible Liquids Code," (1977 or 1981) (incorporated by reference, see Section 3 of 401 KAR 30:010).

(6) Generators of between 100 and 1,000 kg/mo must comply with the following special requirements for incompatible wastes:

(a) Incompatible wastes, or incompatible wastes and materials; (see Appendix V for examples) must not be placed in the same tank, unless Section 9 of 401 KAR 35:020 is complied with.

(b) Hazardous waste must not be placed in an unwashed tank which previously held an incompatible waste or material unless Section 9(2) of 401 KAR 35:020 is complied with.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at noon.
PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: Hazardous waste sites or facilities which store or treat waste in tanks may be affected by the amendments to this regulation. The cabinet has no estimate of the actual number of such facilities.

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

1. First year: See item (6).

2. Continuing costs or savings: See item (6).

3. Additional factors increasing or decreasing costs (note any effects upon competition): See item (6).

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The additional items to be

reviewed will not significantly affect cost. The savings to the environment will more than offset the cost.

2. Continuing costs or savings: See (2)(a)1.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) This regulation was amended to be identical to the federal changes published in the July 14, 1986 (51 FR 25422-25486) federal register and corrected in the August 15, 1986 (51 FR 29430-29431) federal register.

Alternative. 1. Less stringent. Kentucky could not have been less stringent on this requirement and still have maintained authorization to administer the RCRA hazardous waste program.

2. More stringent. The cabinet could have chosen to be more stringent. However, the federal requirements are adequate to protect human health and the environment.

3. Present proposal. The present proposal is identical to the federal regulations and is the most appropriate to maintain consistency with the federal program.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. This regulation applies only to tanks used for the storage, treatment, or disposal of hazardous waste.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 265.190 through 265.201 promulgated on July 14, 1986 (51 FR 25422-25486) and corrected on August 15, 1986 (51 FR 29430-29431).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments adopt requirements which are identical to those standards adopted by the U.S. Environmental Protection Agency on July 14, 1986 and August 15, 1986. No standards or responsibilities are imposed which are more strict than those imposed by the U.S. EPA.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

401 KAR 35:200. Surface impoundments (IS).

RELATES TO: KRS 224.033, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.866, 224.867

NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in the storage, treatment, and disposal of hazardous waste obtain a permit. KRS 224.866 requires the cabinet to establish standards for these permits, to require adequate financial responsibility, and to establish minimum standards for closure for all facilities and the postclosure monitoring and maintenance of hazardous waste disposal facilities. KRS 224.867 requires that corrective action must be initiated prior to permit issuance, renewal or amendment; groundwater monitoring and corrective action requirements applicable to new surface impoundments are applicable to interim status surface impoundments which continue to receive waste after July 26, 1982; additional requirements necessary to protect public health and the environment may be imposed at existing surface impoundments; and air emissions at surface impoundments may be regulated, monitored or controlled. This chapter establishes minimum standards for hazardous waste sites or facilities qualifying for interim status. This regulation establishes minimum standards for surface impoundments.

Section 1. Applicability. The requirements in this regulation apply to owners and operators of sites or facilities that use surface impoundments to treat, store or dispose of hazardous waste, except as Section 1 of 401 KAR 35:010 provides otherwise.

Section 2. General Operating Requirements. A surface impoundment must maintain enough freeboard to prevent any overtopping of the dike by overfilling, wave action, or a storm. There must be at least sixty (60) centimeters (approximately two (2) feet) of freeboard.

Section 3. Containment System. All earthen dikes must have a protective cover, such as grass, shale or rock, to minimize wind and water erosion and to preserve their structural integrity.

Section 4. Waste Analysis and Trial Tests. In addition to the waste analyses required by Section 4 of 401 KAR 35:020, whenever a surface impoundment is to be used to:

(1) Chemically treat a hazardous waste which is substantially different from waste previously treated in that impoundment; or

(2) Chemically treat hazardous waste with a substantially different process than any previously used in that impoundment, the owner or operator must, before treating the different waste or using the different process:

(a) Conduct waste analyses and trial treatment tests (e.g., bench scale or pilot scale tests); or

(b) Obtain written, documented information on similar treatment of similar waste under similar

operating conditions, to show that this treatment will comply with Section 8(2) of 401 KAR 35:020.

Section 5. Inspections. The owner or operator must inspect:

(1) The freeboard level at least once each operating day to ensure compliance with Section 2 of this regulation; and

(2) The surface impoundment, including dikes and vegetation surrounding the dike, at least once a week to detect any leaks, deterioration or failures in the impoundment.

Section 6. Closure and Postclosure Care. (1) At closure, the owner or operator must [may elect to remove from the impoundment]:

(a) Remove or decontaminate all waste residues, contaminated containment system components (liners, etc.), contaminated subsoils, and structures and equipment contaminated with waste and leachate, and manage them as hazardous waste unless Section 3(4) of 401 KAR 31:010 applies; or [Standing liquids;]

(b) Close the impoundment and provide postclosure care for a landfill under 401 KAR 35:070 and Section 4 of 401 KAR 35:230 including the following: [Waste and waste residues;]

1. Eliminate free liquids by removing liquid wastes or solidifying the remaining wastes and waste residues;

2. Stabilize remaining wastes to a bearing capacity sufficient to support the final cover; and

3. Cover the surface impoundment with a final cover designed and constructed to:

a. Provide long-term minimization of the migration of liquids through the closed impoundment;

b. Function with minimum maintenance;

c. Promote drainage and minimize erosion or abrasion of the cover;

d. Accommodate settling and subsidence so that the cover's integrity is maintained; and

e. Have a permeability less than or equal to the permeability of any bottom liner system or natural subsoils present.

[(c) The liner, if any; and]

[(d) Underlying and surrounding contaminated soil.]

(2) In addition to the requirements of 401 KAR 35:070 and Section 4 of 401 KAR 35:230 during the postclosure care period, the owner or operator of a surface impoundment in which wastes, waste residues, or contaminated materials remain after closure in accordance with the provisions of subsection (1)(b) of this section must: [If the owner or operator removes all the impoundment materials in subsection (1) of this section, or can demonstrate under Sections 3(3) and 3(4) of 401 KAR 31:010 that none of the materials listed in subsection (1) of this section remaining at any stage of removal are hazardous wastes, the impoundment is not further subject to the requirements of this chapter.]

(a) Maintain the integrity and effectiveness of the final cover, including making repairs to the cover as necessary to correct the effects of settling, subsidence, erosion, or other events;

(b) Maintain and monitor the groundwater monitoring system and comply with all other applicable requirements of 401 KAR 35:060; and

(c) Prevent run-on and run-off from eroding or otherwise damaging the final cover.

[(3) If the owner or operator does not remove all the impoundment materials in subsection (1) of this section, or does not make the demonstration in subsection (2) of this section, he must close the impoundment and provide postclosure care as for a landfill under 401 KAR 35:070 and Section 4 of 401 KAR 35:230. If necessary to support the final cover specified in the approved closure plan, the owner or operator must treat remaining liquids, residues and soils by removal of liquids, drying or other means. If the owner or operator did not specify in the original Part A application that the impoundment is a disposal facility, the requirements of 401 KAR 38:500 must be satisfied in order for the surface impoundment to become a disposal facility.]

Section 7. Special Requirements for Ignitable or Reactive Waste. Ignitable or reactive waste must not be placed in a surface impoundment unless:

(1) The waste is treated, rendered or mixed before placement in the impoundment so that: the resulting waste mixture no longer meets the definition of ignitable or reactive waste under Section 2 or 4 of 401 KAR 31:030; or

(2) The surface impoundment is used solely for emergencies.

Section 8. Special Requirements for Incompatible Wastes. Incompatible wastes or incompatible wastes and materials (see 401 KAR 35:330 for examples) must not be placed in the same surface impoundment.

Section 9. Recordkeeping. The owner or operator must record the level of liquid in the surface impoundment every day with respect to a fixed reference elevation.

Section 10. Design Requirements. (1) The owner or operator of a surface impoundment must install two (2) or more liners and a leachate collection system in accordance with Section 2(3) of 401 KAR 34:200, with respect to each new unit, replacement of an existing unit, or lateral expansion of an existing unit that is within the area identified in the Part A permit application, and with respect to waste received beginning May 8, 1985.

(2) The owner or operator of each unit referred to in subsection (1) of this section must notify the cabinet at least sixty (60) days prior to receiving waste. The owner or operator of each facility submitting notice must file a Part B application within six (6) months of the receipt of such notice by the cabinet.

(3) Subsection (1) of this section will not apply if the owner or operator demonstrates to the cabinet and the cabinet finds for such surface impoundment, that alternative design and operating practices, together with location characteristics, will prevent the migration of any hazardous constituent into the ground water or surface water at least as effectively as such liners and leachate collection systems.

(4) The double liner requirement set forth in subsection (1) of this section may be waived by the cabinet for any monofill, if:

(a) The monofill contains only hazardous wastes from foundry furnace emission controls or metal casting molding sand, and such wastes do not contain constituents which would render the wastes hazardous for reasons other than the EPA

toxicity characteristics in Section 5 of 401 KAR 31:030; and

(b) The owner or operator demonstrates that:

1. The monofill:

a. Has at least one (1) liner for which there is no evidence that such liner is leaking. For the purposes of this regulation the term "liner" means a liner designed, constructed, installed, and operated to prevent hazardous waste from passing into the liner at any time during the active life of the facility, or a liner designed, constructed, installed, and operated to prevent hazardous waste from migrating beyond the liner to adjacent subsurface soil, ground water, or surface water at any time during the active life of the facility. In the case of any surface impoundment which has been exempted from the requirements of subsection (1) of this section on the basis of a liner designed, constructed, installed, and operated to prevent hazardous waste from passing beyond the liner, at the closure of such impoundment the owner or operator must remove or decontaminate all waste residues, all contaminated liner material, and contaminated soil to the extent practicable. If all contaminated soil is not removed or decontaminated, the owner or operator of such impoundment must comply with appropriate postclosure requirements, including but not limited to ground water monitoring and corrective action;

b. Is located more than one-fourth (1/4) mile from an underground source of drinking water (as that term is defined in 401 KAR 30:010); and

c. Is in compliance with generally applicable ground water monitoring requirements for facilities with permits issued in accordance with 401 KAR Chapter 38; or

2. The monofill is located, designed and operated so as to assure that there will be no migration of any hazardous constituent into ground water or surface water at any future time.

3. In the case of any unit in which the liner and leachate collection system has been installed pursuant to the requirements of subsection (1) of this section and in good faith for compliance with subsection (1) of this section and with guidance documents governing liners and leachate collection systems under subsection (1) of this section, no liner or leachate collection system which is different from that which was so installed pursuant to subsection (1) of this section will be required for such unit by the cabinet when issuing the first permit to such facility, except that the cabinet not be precluded from requiring installation of a new liner when the cabinet has reason to believe that any liner installed pursuant to the requirements of subsection (1) of this section is leaking.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The requirements of this regulation apply to owners and operators of sites or facilities that use interim status surface impoundments to treat, store, or dispose of hazardous waste, except as Section 1 of 401 KAR 35:010 provides otherwise. Currently, there are 19 facilities with interim status surface impoundments in Kentucky.

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

1. First year: None. The costs or savings to those affected would be incurred or accrued upon closure of the facility. The new closure standards are more explicit and thus should result in a saving to companies who will close under the new standards. Companies will have better knowledge of the expectations for closure than the previous regulations provided. However, less will be subject to individual interpretation, and some companies may experience a slightly higher closure cost.

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. This regulation imposes new requirements for closure and postclosure care, which provide conformance between certain interim status requirements for surface impoundments and those requirements contained in the permitting rules of 401 KAR Chapter 34. It imposes no recordkeeping or paperwork requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. The promulgating administrative body will experience a savings upon review of closure plans since the new standards are more explicit and will need less interpretation.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The following concerns the requirements for closure and postclosure care. Alternative. 1. Less stringent. The cabinet could have chosen not to adopt the new requirements for closure and postclosure care. However, Kentucky could not have been less stringent and still have maintained authorization to administer the RCRA hazardous waste program. To have adopted less stringent provisions would have afforded Kentucky's public health and environment less protection than provided by the national program.

2. More stringent. Kentucky could have been more stringent by adopting additional requirements for closure and postclosure care. However, this would be unnecessary because the

present requirements provide adequate protection to public health and environment.

3. Present proposal. The present proposal is identical to the federal program. It adopts new requirements for closure and postclosure care, which provide conformance between certain interim status requirements for surface impoundments and those requirements contained in the final facility standards in 401 KAR Chapter 34.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. This regulation applies to owners and operators of sites or facilities that use interim status surface impoundments to treat, store, or dispose of hazardous waste, except as Section 1 of 401 KAR 35:010 provides otherwise.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 265.228 promulgated on March 19, 1987 (52 FR 8704-8722).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No standards or responsibilities are imposed which are more strict than those imposed by the U.S. EPA.

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

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 36:030. Recyclable materials used in a manner constituting disposal.**

RELATES TO: KRS 224.033, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.866

NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in recycling of hazardous waste obtain a permit. KRS 224.866 requires the cabinet to establish standards for these permits, to require adequate financial responsibility, and to establish minimum standards for closure for all hazardous waste recycling facilities. This chapter establishes minimum standards for hazardous waste recycling facilities. This regulation establishes minimum standards for recyclable materials which are used in a manner constituting disposal.

Section 1. Applicability. (1) This regulation applies to recyclable materials that are applied to or placed on the land:

(a) Without mixing with any other substance(s); or

(b) After mixing <u>or combination</u> with any other substance(s)<u>.</u> [, unless the recyclable material undergoes a chemical reaction so as to become inseparable from the other substance(s) by physical means; or]

[(c) After combination with any other substance(s) if the resulting combined material is not produced for the general public's use.] These materials will be referred to throughout this regulation as "materials used in a manner that constitutes disposal."

(2) Products produced for the general public's use that are used in a manner that constitutes disposal and that contain recyclable materials are not subject to the requirements in this regulation if the recyclable materials have undergone a chemical reaction in the course of producing the product so as to become inseparable by physical means. Commercial fertilizers that are produced for the general public's use that contain recyclable materials are not subject to the requirements in this regulation.

Section 2. Standards Applicable to Generators and Transporters of Materials Used in a Manner that Constitutes Disposal. Generators and transporters of materials that are used in a manner that constitutes disposal are subject to the applicable requirements of 401 KAR Chapters 32 and 33 and the notification requirement under KRS 224.864(3).

Section 3. Standards Applicable to Storers of Materials That Are to be Used in a Manner That Constitutes Disposal Who Are Not the Ultimate Users. Owners or operators of facilities that store recyclable materials that are to be used in a manner that constitutes disposal, but who are not the ultimate users of the materials, are regulated under all applicable provisions of 401 KAR 34:010 through 401 KAR 34.210, 401 KAR 35:010 through 401 KAR 35:210 and 401 KAR Chapter 38 and the notification requirements under 401 KAR 34.020, Section 2 and 401 KAR 35:020, Section 2.

Section 4. Standards Applicable to Users of Materials that are Used in a Manner that Constitutes Disposal. (1) Owners or operators of facilities that use recyclable materials in a manner that constitutes disposal are regulated under all applicable provisions of 401 KAR 34:010 through 401 KAR 34:230, 401 KAR 35:010 through 401 KAR 35.230 and 401 KAR Chapter 38 and the notification requirements under 401 KAR 34.020, Section 2 and 401 KAR 35:020, Section 2. (These requirements do not apply to products which contain these recyclable materials under the provisions of Section 1(2) of this regulation.)

(2)(a) The use of waste or used oil or other material, which is contaminated with dioxin or any other hazardous waste for dust suppression or road treatment is prohibited.

(b) In accordance with KRS 224.864(2), any person engaged in spreading waste or used oil or other material shall make a determination as to whether such waste is hazardous pursuant to criteria specified in 401 KAR Chapter 31. This determination shall be carried in the vehicle whenever waste or used oil or other material is

being applied for dust suppression or road treatment.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at noon.
PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director
(1) Type and number of entities affected: This regulation affects persons who generate, transport, store or use recyclable materials made from hazardous wastes in a manner constituting disposal. Currently there are no companies engaged in any of these activities in Kentucky.
(a) Direct and indirect costs or savings to those affected:
1. First year: None. THe proposed amendment corrects an unintended redundancy between Section 1 and 2 and indicates clearly that hazardous wastes are always subject to regulation prior to being used in a manner constituting disposal. However, there are neither costs or savings associated with this clarification.
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. The proposed amendments are technical in nature and will not affect the promulgating administrative body.
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.
(4) Assessment of alternative methods; reasons why alternatives were rejected: The present proposal is identical to the federal regulations promulgated on June 5, 1987. The proposed amendment corrects a redundance of Section 1(1)(a) and (b) of 401 KAR 36:030 by replacing the language with wording that indicates hazardous wastes are always regulated prior to use in a manner constituting disposal. It does not alter the existing requirements, but does enhance the clarity of the requirements. Alternatives were not considered for this technical correction.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: None
TIERING: Was tiering applied? Yes. This regulation applies only to persons who generate, transport, store or use recyclable materials made from hazardous wastes in a manner constituting disposal.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 266.20 promulgated on June 5, 1987 (52 FR 21306-21307).
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: The proposed amendments to this regulation adopt requirements which are identical to those standards adopted by the U.S. Environmental Protection Agency on June 5, 1987. No standards or responsibilities are imposed which are more strict than those imposed by the U.S. EPA.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable.

## NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
### Department for Environmental Protection
### Division of Waste Management
### (Proposed Amendment)

**401 KAR 36:040. Hazardous waste burned for energy recovery [and used oil burned for energy recovery].**

RELATES TO: KRS 224.033, 224.830 through 224.877, 224.994
PURSUANT TO: KRS Chapter 13A, 224.033, 224.866, 224.867
NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in recycling of hazardous waste obtain a permit. KRS 224.866 requires the cabinet to establish standards for these permits, to require adequate financial responsibility, and to establish minimum standards for closure for all hazardous waste recycling facilities. This chapter establishes minimum standards for hazardous waste recycling facilities. This regulation establishes minimum standards for hazardous waste burned for energy recovery.

Section 1. Applicability of Standards for Hazardous Waste Burned for Energy Recovery. (1) The requirements in Sections 1 through 6 of this regulation apply to hazardous wastes that are burned for energy recovery in any boiler or industrial furnace that is not regulated under 401 KAR 34:240 or 401 KAR 35:240, except as

provided by subsection (2) of this section. Such hazardous wastes burned for energy recovery are termed "hazardous waste fuel." Fuel produced from hazardous waste by processing, blending or other treatment is also hazardous waste fuel. (This regulation does not apply, however, to gas recovered from hazardous waste management activities when such gas is burned for energy recovery.)

(2) The following hazardous wastes are not regulated under the provisions of Sections 1 through 6 of this regulation:

(a) Used oil burned for energy recovery that is also a hazardous waste solely because it exhibits a characteristic of hazardous waste identified in 401 KAR Chapter 31. Such used oil is subject to regulation under Sections 1 [7] through 5 [11] of 401 KAR 36:050 [this regulation] rather than Sections 1 through 6 of this regulation; and

(b) Hazardous wastes that are exempt from regulation under the provisions of Section 4 of 401 KAR 31:010 and Section 6(1)(c)5 through 9 of 401 KAR 31:010, and hazardous wastes that are subject to the special requirements for limited quantity generators under the provisions of Section 5 of 401 KAR 31:010.

Section 2. Prohibitions [for Hazardous Waste Burned for Energy Recovery]. (1) A person may market hazardous waste fuel only:

(a) To persons who have notified the cabinet of their hazardous waste fuel activities [in accordance with Section 2 of 401 KAR 34:020] and have a U.S. EPA identification number; and

(b) If the fuel is burned, to persons who burn the fuel in boilers or industrial furnaces identified in subsection (2) of this section.

(2) Hazardous waste fuel may be burned for energy recovery in only the following devices:

(a) Industrial furnaces identified in 401 KAR 30:010;

(b) Boilers, as defined in 401 KAR 30:010, that are identified as follows:

1. Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes; or

2. Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale.

(3) No fuel which contains any hazardous waste may be burned in any cement kiln which is located within the boundaries of any incorporated municipality with a population greater than 500,000 (based on the most recent census statistics) unless such kiln fully complies with regulations that are applicable to incinerators.

Section 3. Standards Applicable to Generators of Hazardous Waste Fuel. (1) Generators of hazardous waste that is used as fuel or used to produce a fuel are subject to the requirements of 401 KAR Chapter 32;

(2) Generators who market hazardous waste fuel to a burner also are subject to Section 5 of this regulation; and

(3) Generators who are burners also are subject to Section 6 of this regulation.

Section 4. Standards Applicable to Transporters of Hazardous Waste Fuel. Transporters of hazardous waste fuel (and hazardous waste that is used to produce a fuel) are subject to the requirements of 401 KAR Chapter 33.

Section 5. Standards Applicable to Marketers of Hazardous Waste Fuel. Persons who market hazardous waste fuel are termed "marketers" and are subject to the requirements of this section. Marketers include generators who market hazardous waste fuel directly to a burner, persons who receive hazardous waste from generators and produce, process, or blend hazardous waste fuel from these hazardous wastes and persons who distribute but do not process a blend hazardous waste fuel.

(1) Prohibitions. The prohibitions under Section 2 of this regulation shall apply.

(2) [Notification.] Notification [requirements under Section 2] of [401 KAR 34:020 shall be followed for] hazardous waste fuel activities. Even if a marketer has previously notified the cabinet of his hazardous waste management activities and obtained a U.S. EPA identification number, he must renotify to identify his hazardous waste fuel activities.

(3) Storage. The applicable provisions of Section 5 of 401 KAR 32:030, 401 KAR 34:010 through 401 KAR 34:210, 401 KAR 35:010 through 401 KAR 35:210, and 401 KAR Chapter 38 shall apply for storage.

(4) Off-site shipment. The standards for generators in 401 KAR Chapter 32 shall apply when a marketer initiates a shipment of hazardous waste fuel.

(5) Required notices.

(a) Before a marketer initiates the first shipment of hazardous waste fuel to a burner or another marketer, he must obtain a one (1) time written and signed notice from the burner or marketer certifying that:

1. The burner or marketer has notified the cabinet [in accordance with Section 2 of 401 KAR 34:020] and identified his waste-as-fuel activities; and

2. If the recipient is a burner, the burner will burn the hazardous waste fuel only in an industrial furnace or boiler identified in Section 2(2) of this regulation.

(b) Before a marketer accepts the first shipment of hazardous waste fuel from another marketer, he must provide the other marketer with a one (1) time written and signed certification that he has notified the cabinet in accordance with Section 2 of 401 KAR 34:020 and identified his hazardous waste fuel activities.

(6) Recordkeeping. In addition to the applicable recordkeeping requirements of 401 KAR Chapters 32, 34, and 35, a marketer must keep a copy of each certification notice he receives or sends for three (3) years from the date he last engages in a hazardous waste fuel marketing transaction with the person who sends or receives the certification notice.

Section 6. Standards Applicable to Burners of Hazardous Waste Fuel. Owners and operators of industrial furnaces and boilers identified in Section 2(2) of this regulation that burn hazardous waste fuel are "burners" and are subject to the following requirements:

(1) Prohibitions. The prohibitions under Section 2(2) of this regulation shall apply.

(2) [Notification.] Notification [requirements in accordance with Section 2] of [401 KAR 34:020

shall apply for] hazardous waste fuel activities. Even if a burner has previously notified the cabinet of his hazardous waste management activities and obtained a U.S. EPA identification number, he must renotify to identify his hazardous waste fuel activities.

(3) Storage.

(a) For short term accumulation by generators who burn their hazardous waste fuel on site, the applicable provisions of Section 5 of 401 KAR 32:030 shall apply;

(b) For existing storage facilities, the applicable provisions of 401 KAR 35:010 through 35:210, and 401 KAR Chapter 38 shall apply; and

(c) For new storage facilities, the applicable provisions of 401 KAR 34:010 through 34:210, and 401 KAR Chapter 38 [shall apply].

(4) Required notices. Before a burner accepts the first shipment of hazardous waste fuel from a marketer, he must provide the marketer with a one (1) time written and signed notice certifying that:

(a) He has notified the cabinet [in accordance with Section 2 of 401 KAR 34:020] and identified his waste-as-fuel activities; and

(b) He will burn the fuel only in a boiler or furnace identified in Section 2(2) of this regulation.

(5) Recordkeeping. In addition to the applicable recordkeeping requirements of 401 KAR Chapters 34 and 35, a burner must keep a copy of each certification notice that he sends to a marketer for three (3) years from the date he last receives hazardous waste fuel from that marketer.

[Section 7. Applicability of Standards for Used Oil Burned for Energy Recovery. (1) The requirements in this section and Sections 8 through 11 of this regulation apply to used oil that is burned for energy recovery in any boiler or industrial furnace that is not regulated under 401 KAR 34:240 or 401 KAR 35:240, except as provided by subsections (3) and (5) of this section. Such used oil is termed "used oil fuel." Used oil fuel includes any fuel produced from used oil by processing, blending, or other treatment.]

[(2) "Used oil" means any oil that has been refined from crude oil, used, and as a result of such use, is contaminated by physical or chemical impurities.]

[(3) Except as provided by subsection (4) of this section,used oil that is mixed with hazardous waste and burned for energy recovery is subject to regulation as hazardous waste fuel under Sections 1 through 6 of this regulation. Used oil containing more than 1000 ppm of total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in 401 KAR 31:040. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in 401 KAR 31:170).]

[(4) Used oil burned for energy recovery is subject to regulation under this section and Sections 8 through 11 of this regulation rather than as hazardous waste fuel under Sections 1 through 6 of this regulation if it is a hazardous waste solely because it:]

[(a) Exhibits a characteristic of hazardous waste identified in 401 KAR 31:030, provided that it is not mixed with a hazardous waste; or]

[(b) Contains hazardous waste generated only by a person subject to the special requirements for limited quantity generators under Section 5 of 401 KAR 31:010.]

[(5) Except as provided by subsection (3) of this section, used oil burned for energy recovery, and any fuel produced from used oil by processing, blending, or other treatment, is subject to regulation under this section and Sections 8 through 11 of this regulation unless it is shown not to exceed any of the allowable levels of the constituents and properties in the specification shown in Table 1. Used oil fuel that meets the specification is subject only to the analysis and recordkeeping requirements under Section 10(2)(a) and (f) of this regulation. Used oil fuel that exceeds any specification level is termed "off-specification used oil fuel."]

[Table 1.]

[USED OIL EXCEEDING ANY SPECIFICATION LEVEL IS SUBJECT TO SECTIONS 7 THROUGH 11 OF THIS REGULATION WHEN BURNED FOR ENERGY RECOVERY[a]]

| [Constituent/property | Allowable level |
|---|---|
| Arsenic | 5 ppm maximum |
| Cadmium | 2 ppm maximum |
| Chromium | 10 ppm maximum |
| Lead | 100 ppm maximum |
| Flash Point | 100°F minimum |
| Total halogens | 4000 ppm maximum[b]] |

[[a]The specification does not apply to used oil fuel mixed with a hazardous waste other than limited quantity generator hazardous waste.
[b]Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste under the rebuttable presumption provided under subsection (3) of this section. Such used oil is subject to Section 1 through 6 of this regulation rather than Sections 7 through 11 of this regulation when burned for energy recovery unless the presumption of mixing can be successfully rebutted.]

[Section 8. Prohibitions for Used Oil Burned for Energy Recovery. (1) A person may market off-specification used oil for energy recovery only:]

[(a) To burners or other marketers who have notified the cabinet of their used oil management activities stating the location and general description of such activities, and who have an EPA identification number; and]

[(b) To burners who burn the used oil in an industrial furnace or boiler identified in subsection (2) of this section.]

[(2) Off-specification used oil may be burned for energy recovery in only the following devices:]

[(a) Industrial furnaces identified in 401 KAR 30:010; or]

[(b) Boilers, as defined in 401 KAR 30:010, that are identified as follows:]

[1. Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;]

[2. Utility boilers used to produce electric power, steam, or heated or cooled air or other

gases or fluids for sale; or]

[3. Used oil-fired space heaters provided that:]

[a. The heater burns only used oil that the owner or operator generates or used oil received from do-it-yourself oil changers who generated used oil as household waste;]

[b. The heater is designed to have a maximum capacity of not more than five-tenths (0.5) million Btu per hour; and]

[c. The combustion gases from the heater are vented to the ambient air.]

[Section 9. Standards Applicable to Generators of Used Oil Burned for Energy Recovery. (1) Except as provided in subsections (2) and (3) of this section, generators of used oil are not subject to Sections 7 through 11 of this regulation.]

[(2) Generators who market used oil directly to a burner are subject to Section 10 of this regulation.]

[(3) Generators who burn used oil are subject to Section 11 of this regulation.]

[Section 10. Standards Applicable to Marketers of Used Oil Burned for Energy Recovery. (1) Persons who market used oil fuel are termed "marketers." However, the following persons are not marketers subject to Sections 7 through 11 of this regulation:]

[(a) Used oil generators, and collectors who transport used oil received only from generators, unless the generator or collector markets the used oil directly to a person who burns it for energy recovery. However, persons who burn some used oil fuel for purposes of processing or other treatment to produce used oil fuel for marketing are considered to be burning incidentally to processing. Thus, generators and collectors who market to such incidental burners are not marketers subject to Sections 7 through 11 of this regulation;]

[(b) Persons who market only used oil fuel that meets the specification under Section 7(5) of this regulation and who are not the first person to claim the oil meets the specification (i.e., marketers who do not receive used oil from generators or initial transporters and marketers who neither receive nor market off-specification used oil fuel).]

[(2) Marketers are subject to the following requirements:]

[(a) Analysis of used oil fuel. Used oil fuel is subject to regulation under Sections 7 through 11 of this regulation unless the marketer obtains analyses or other information documenting that the used oil fuel meets the specifications provided under Section 7(5) of this regulation;]

[(b) Prohibitions. The prohibitions under Section 8(1) of this regulation shall apply;]

[(c) Notification. Notification to the cabinet stating the location and general description of used oil management activities is required. Even if a marketer has previously notified the cabinet of his hazardous waste management activities in accordance with Section 2 of 401 KAR 34:020 and obtained a U.S. EPA identification number, he must renotify to identify his used oil management activities.]

[(d) Invoice system. When a marketer initiates a shipment of off-specification used oil, he must prepare and send the receiving facility an invoice containing the following information:]

[1. An invoice number;]

[2. His own EPA identification number and the EPA identification number of the receiving facility;]

[3. The names and addresses of the shipping and receiving facilities;]

[4. The quantity of off-specification used oil to be delivered;]

[5. The date(s) of shipment or delivery; and]

[6. The following statement: "This used oil is subject to EPA regulation under 40 CFR Part 266 of Kentucky regulation under 401 KAR Chapter 36."]

[(e) Required notices.]

[1. Before a marketer initiates the first shipment of off-specification used oil to a burner or other marketer, he must obtain a one (1) time written and signed notice from the burner or marketer certifying that:]

[a. The burner or marketer has notified EPA stating the location and general description of his used oil management activities; and]

[b. If the recipient is a burner, the burner will burn the off-specification used oil only in an industrial furnace or boiler identified in Section 8(2) of this regulation; and]

[2. Before a marketer accepts the first shipment of off-specification use oil from another marketer subject to the requirements of this section, he must provide the marketer with a one (1) time written and signed notice certifying that he has notified EPA of his used oil management activities; and]

[(f) Recordkeeping.]

[1. Used oil fuel that meets the specification. A marketer who first claims under subsection (2)(a) of this section that used oil fuel meets the specification must keep copies of analysis (or other information used to make the determination) of used oil for three (3) years. Such marketers must also record in an operating log and keep for three (3) years the following information on each shipment of used oil fuel that meets the specification. Such used oil fuel is not subject to further regulation, unless it is subsequently mixed with hazardous waste or unless it is mixed with used oil so that it no longer meets the specification.]

[a. The name and address of the facility receiving the shipment;]

[b. The quantity of used oil fuel delivered;]

[c. the date of shipment or delivery; and]

[d. A cross-reference to the record of used oil analysis (or other information used to make the determination that the oil meets the specification) required under subsection (2)(f)1 of this section.]

[2. Off-specification used oil fuel. A marketer who receives or initiates an invoice under the requirements of this section must keep a copy of each invoice for three (3) years from the date the invoice is received or prepared. In addition, a marketer must keep a copy of each certification notice that he receives or sends for three (3) years from the date he last engages in an off-specification used oil fuel marketing transaction with the person who sends or receives the certification notice.]

[Section 11. Standards Applicable to Burners of Used Oil Burned for Energy Recovery. Owners and operators of facilities that burn used oil fuel are "burners" and are subject to the following requirements:]

[(1) Prohibitions. The prohibitions under

Section 8(2) of this regulation shall apply.]

[(2) Notification. Burners of off-specification used oil fuel must notify the cabinet stating the location and general description of used oil management activities, except that owners and operators of used oil-fired space heaters that burn used oil fuel under the provisions of Section 8(2)(b) of this regulation are exempt from these notification requirements. Even if a burner has previously notified the cabinet of his hazardous waste management activities in accordance with Section 2 of 401 KAR 34:020 and obtained a EPA identification number, he must renotify to identify his used oil management activities.]

[(3) Required notices. Before a burner accepts the first shipment of off-specification used oil from a marketer, he must obtain the marketer a one (1) time written and signed notice certifying that:]

[(a) He has notified the cabinet stating the location and general description of his used oil management activities; and]

[(b) He will burn the used oil only in an industrial furnace or boiler identified in Section 8(2) of this regulation; and]

[(4) Used oil fuel analysis.]

[(a) Used oil fuel burned by the generator is subject to regulation under Sections 7 through 11 of this regulation unless the burner obtains analysis (or other information) documenting that the used oil meets the specifications provided under Section 7(5) of this regulation.]

[(b) Burners who treat off-specification used oil fuel by processing, blending, or other treatment to meet the specification provided under Section 7(5) of this regulation must obtain analyses (or other information) documenting that the used oil meets the specifications.]

[(5) Recordkeeping A burner who receives an invoice under the requirements of this section must keep a copy of each invoice for three (3) years from the date the invoice is received. Burners must also keep for three (3) years copies of analyses of used oil fuel as may be required by subsection (4) of this section. In addition, he must keep a copy of each certification notice that he sends to a marketer for three (3) years from the date he last receives off-specification used oil from that marketer.]

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: This regulation applies to generators, transporters, marketers, and burners of hazardous waste fuel. There are 92 burners of hazardous waste fuel in Kentucky.

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

1. First year: None. The proposed amendments to this regulation make technical corrections; no changes were made which would result in any costs or savings to 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: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. The proposed amendments to this regulation make technical corrections; no changes were made which would result in any costs or savings to the promulgating administrative body.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The amendments to this regulation are identical to the federal regulations promulgated on April 13, 1987. These amendments do not change any of the standards for hazardous waste burned for energy recovery; it was unnecessary to consider more or less stringent alternatives. Alternative. 1. Less stringent. Kentucky could not have been less stringent on this requirement and still have maintained authorization to administer the RCRA hazardous waste program. To have adopted less stringent provisions would have afforded Kentucky's public health and environment less protection than that provided by the national program.

2. More stringent. It was unnecessary to consider more stringent alternatives since the amendments to the regulation made technical corrections.

3. Present proposal. The present proposal makes technical corrections to the regulation by deleting references to Section 2 of 401 KAR 34:020. A reference to 401 KAR 38:050 was added in Section 6, and "hazardous fuel" was changed to read "hazardous waste fuel."

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? This regulation applies to generators, transporters, marketers, and burners of hazardous waste fuel.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 266.31, 40 CFR 266.34, and 40 CFR 266.35 promulgated on April 13, 1987 (52 FR 11819-11822).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments adopt requirements which are identical to those standards adopted by the U.S. Environmental Protection Agency on April 13, 1986.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 38:010. General provisions for permitting.**

RELATES TO: KRS 224.033, 224.036, 224.071, 224.087, 224.830 through 224.877, 224.994

PURSUANT TO: KRS 13A.210, 224.033, 224.866

NECESSITY AND FUNCTION: KRS 224.842 and 224.866 require any person who treats, stores, recycles or disposes of hazardous waste to first obtain a hazardous waste site or facility permit from the Natural Resources and Environmental Protection Cabinet.

Coverage. The permit regulations of this chapter establish provisions for the hazardous waste permit program under KRS Chapter 224. The regulations of this chapter cover the basic permitting requirements, including application requirements, standard permit conditions, and monitoring and reporting. The regulations of this chapter are part of a regulatory scheme implementing the hazardous waste provisions of KRS Chapter 224. Additional requirements are in different Chapters of the Kentucky Administrative Regulations. The following table indicates where the regulations implementing the hazardous waste provisions of KRS Chapter 224 appear in the Kentucky Administrative Regulations:

| Section of KRS Chapter 224 | Coverage | Final Regulation |
|---|---|---|
| KRS Chapter 224 | Overview, definitions and General provisions | 401 KAR Chapter 30 |
| KRS 224.864 | Identification and listing of hazardous waste | 401 KAR Chapter 31 |
| KRS 224.864 | Generators of hazardous waste | 401 KAR Chapter 32 |
| KRS 224.873 | Transporters of hazardous waste | 401 KAR Chapter 33 |
| KRS 224.830-224.877 | Standards for hazardous waste sites or facilities | 401 KAR Chapters 34 and 35 |
| KRS Chapter 224 | Permit requirements for hazardous waste sites or facilities | 401 KAR Chapter 38 |
| KRS 224.871 | Fees for registration and permits | 401 KAR Chapter 39 |
| KRS Chapter 224 | Enforcement and compliance monitoring | 401 KAR Chapter 40 |

The hazardous waste permit program relies upon technical requirements which are contained in 401 KAR Chapters 34 and 35. The technical regulations are used by the cabinet to determine what conditions are applicable to each permit and to determine compliance with KRS Chapter 224.

Overview of the hazardous waste site or facility permit program. Not later than ninety (90) days after the original promulgation or revision of regulations in 401 KAR Chapter 31 (identifying and listing hazardous wastes) all generators and transporters of hazardous waste and all owners or operators of hazardous waste treatment, storage, or disposal facilities must file a notification of that activity under KRS Chapter 224. Six (6) months after the initial promulgation of the 401 KAR Chapter 31 regulations, treatment, storage, or disposal of hazardous waste by any person who has not applied for or received a permit is prohibited. A permit application consists of two (2) parts, Part A (see 401 KAR 401 KAR 38:080) and Part B (see 401 KAR 38:090 through 401 KAR 38:210). For "existing hazardous waste sites or facilities," the requirement to submit an application is satisfied by submitting only Part A of the permit application to the U.S. EPA and submitting either Part A of the application or its Kentucky equivalent (Registration of Intent to Apply for a Permit) to the cabinet until the cabinet sets the date for submitting Part B of the application. Timely submission of both notification under KRS Chapter 224 and the Part A application form or its equivalent qualifies owners and operators of existing hazardous waste sites or facilities for interim status. Facility owners and operators with interim status are treated as having been issued a permit until the cabinet makes a final determination on the permit application. Facility owners and operators with interim status must comply with interim status standards set forth in 401 KAR Chapter 35. Facility owners and operators with interim status are not relieved from complying with other state requirements. For existing hazardous waste sites or facilities, the cabinet shall set a date, giving at least six (6) months notice, for submission of Part B of the application. There is no form for Part B of the application; rather, Part B must be submitted in narrative form and contain the information set forth in 401 KAR 38:090, 401 KAR 38:100, and the applicable requirements in 401 KAR 38:150 through 401 KAR 38:210. Owners or operators of new hazardous waste sites or facilities must submit Part A, or its equivalent, and Part B of

the permit application at least 180 days before physical construction is expected to commence. This chapter establishes the permitting process for hazardous waste sites or facilities. This regulation establishes the general provisions for permitting.

Section 1. Scope of the Permit Requirements. (1) The permit program has separate additional regulations that contain technical requirements. These separate regulations are used by permit issuing authorities to determine what requirements must be placed in permits if they are issued. These separate regulations are located in 401 KAR 30:020 and Chapters 34 and 35.

(2) This section sets forth the specific requirements for the hazardous waste site or facility permitting program. KRS 224.866 requires a permit for the "treatment," "storage," or "disposal" of any "hazardous waste" as identified or listed in 401 KAR Chapter 31. The terms "treatment facility," "storage facility," and "disposal facility," are defined in 401 KAR 30:010. Owners and operators of hazardous waste management units must have permits during the active life (including the closure period) of the unit, and, for any unit which closes after January 26, 1983, during any postclosure care period required under Section 8 of 401 KAR 34:070 and during any compliance period specified under Section 7 of 401 KAR 34:060, including any extension of that compliance period under Section 7(3) of 401 KAR 34:060.

(a) Specific inclusions. Owners and operators of certain facilities require hazardous waste site or facility permits as well as permits under other programs for certain aspects of the facility operation. Hazardous waste site or facility permits are required for:

1. Injection wells that dispose of hazardous waste, and associated surface facilities that treat, store, or dispose of hazardous waste (see Section 5 of 401 KAR 38:060). However, the owner and operator with a UIC permit issued by the cabinet under an approved or promulgated UIC program, or by EPA, will be deemed to have a permit for the injection well itself if they comply with the requirements of Section 1(2) of 401 KAR 38:060 (permit by rule for injection wells).

2. Treatment, storage, or disposal of hazardous waste at facilities requiring an NPDES permit or KPDES permit when the cabinet program is approved by EPA. However, the owner and operator of a publicly owned treatment works receiving hazardous waste will be deemed to have a permit for that waste if they comply with the applicable requirements of Section 1(3) of 401 KAR 38:060 (permit by rule for POTW's).

3. Barges or vessels that dispose of hazardous waste by ocean disposal and onshore hazardous waste treatment, or storage facilities associated with an ocean disposal operation. However, the owner and operator will be deemed to have a permit for ocean disposal for the barge or vessel itself if they comply with the requirements of Section 1(1) of 401 KAR 38:060 (permit by rule for ocean disposal barges and vessels).

(b) Specific exclusions. The following persons are among those who are not required to obtain a hazardous waste site or facility permit:

1. Generators who accumulate hazardous waste on-site for less than the time periods [ninety (90) days, as] provided in Section 5 of 401 KAR 32:030 or in accordance with the standards in Section 5 of 401 KAR 31:010.

2. Farmers who dispose of hazardous waste pesticides from their own use as provided in Section 2 of 401 KAR 32:050.

3. Persons who own or operate facilities solely for the treatment, storage, or disposal of hazardous waste excluded from regulations under this chapter by Section 4 of 401 KAR 31:010 except as provided in 401 KAR 38:060 [or Section 5 of 401 KAR 31:010 (small generator exemption)].

4. Owners or operators of totally enclosed treatment facilities as defined in 401 KAR 30:010.

5. Owners and operators of elementary neutralization units or of waste water treatment units as defined in 401 KAR 30:010 as provided in ~~subsections 1(4) and (5) of this regulation~~ [Section 1(5) of 401 KAR 38:010].

6. Transporters storing manifested shipments of hazardous waste in containers meeting the requirements of Section 1 of 401 KAR 32:030, at a transfer facility for a period of ten (10) days or less.

7. Persons adding absorbent material to waste in a container (as defined in Section 1 of 401 KAR 30:010) and persons adding waste to absorbent material in a container provided that these actions occur at the time waste is first placed in the container; and Section 8(2) of 401 KAR 34:020, and Sections 2 and 3 of 401 KAR 34:180 are complied with.

(c) Further exclusions.

1. A person is not required to obtain a hazardous waste permit for treatment or containment activities taken during immediate response to any of the following situations:

a. A discharge of a hazardous waste;

b. An imminent and substantial threat of a discharge of hazardous waste;

c. A discharge of a material which, when discharged, becomes a hazardous waste.

2. Any person who continues or initiates hazardous waste treatment or containment activities after the immediate response is over is subject to all applicable requirements of this chapter for those activities.

(d) Permits for less than an entire facility. The cabinet may issue or deny a permit for one (1) or more units at a facility without simultaneously issuing or denying a permit to all of the units at the facility. The interim status of any unit for which a permit has not been issued or denied is not affected by the issuance or denial of a permit to any other unit at the facility.

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

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

(2) The National Historic Preservation Act of 1966. 16 USC 470, et seq. Section 106 of the Act and implementing regulations (36 CFR Part 800) require the adoption measures before issuing a

license, when feasible to mitigate potential adverse effects of the licensed activity and properties listed or eligible for listing in the National Register of Historic Places. The Act's requirements are to be implemented in cooperation with State Historic Preservation Officers and upon notice to, and when appropriate, in consultation with the Advisory Council on Historic Preservation.

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

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

Section 3. Effect of a Permit. (1) Compliance with a hazardous waste permit during its term constitutes compliance with KRS Chapter 224 for purposes of enforcement. However, a permit may be modified, revoked and reissued, or terminated during its term for cause as set forth in [Sections 3 and 4 of] 401 KAR 38:040 and in 401 KAR Chapter 40.

(2) The issuance of a permit does not convey any property rights of any sort, or any exclusive privilege.

(3) The issuance of a permit does not authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local laws or regulations.

Section 4. Prohibition of Use of Unpermitted Facility. (1) Restrictions. No person shall deliver hazardous waste to a facility for treatment, storage, or disposal unless the owner/operator has:

(a) Registered with the cabinet as an existing hazardous waste facility in operation on or before November 19, 1980; or

(b) Qualified for interim status in accordance with Section 1(1) of 401 KAR 38:020; or

(c) [(b)] Been granted a hazardous waste site or facility permit by the cabinet.

(2) Permit required. No person shall engage in the storage, treatment, or disposal of hazardous waste without first obtaining construction or operation permits from the cabinet as specified in KRS 224.866(1).

(3) Issuance of a federal permit to own or operate a hazardous waste site or facility will not relieve the owner or operator of the responsibility to comply with the requirements of this chapter.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The amendments made to this regulation (including the amendments proposed as identical to the federal regulation at 40 CFR 270.1 on March 24, 1986), do not substantially alter the existing requirements. The amendments clarify requirements which are already in existence in the effective waste management regulations. Thus, there will not be any entities affected within Kentucky. Individuals who may wish to read the amended regulation to ascertain that their interpretation of the existing requirements is correct include: 410 registered hazardous waste generators; 629 registered small quantity hazardous waste generators; 479 limited quantity generators; and unknown number of wastewater treatment plant owners or operators accepting hazardous waste for treatment; and an unknown number of owners or operators of elementary neutralization units.

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

1. First year: There will be no substantial impact on any of the companies or individuals affected by the proposed amendments. The proposed amendments to this regulation are all technical amendments designed to clarify existing requirements or correct erroneous cites. There should be no cost or savings to the regulated community.

2. Continuing costs or savings: None. See note in (1)(a)1.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None. See note in (1)(a)1.

(b) Reporting and paperwork requirements: The proposed amendments to this regulation will not result in an increase or decrease in the reporting and paperwork requirements for the regulated community.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: There will be no impact on the promulgating administrative body resulting from the proposed amendments. The changes proposed to this regulation are technical clarifications or corrections to erroneous cites and thus have no impact on the substantive requirements.

2. Continuing costs or savings: None. See note in (2)(a)1.

3. Additional factors increasing or decreasing costs: None. See note in (2)(a)1.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The cabinet

chose to adopt verbatim the federal regulation at 40 CFR 270.1 as amended on March 24, 1986 (51 FR 10146-10176) which clarifies the exclusion from permitting requirements for generators during the accumulation period. Alternative. 1. Less stringent. The cabinet could have chosen to be less stringent by exempting generators from permit requirements regardless of the length of time hazardous waste was accumulated on site. However, this would have been inconsistent with the existing requirements in 401 KAR 32:030, Section 5 which stipulates that generators must obtain a permit for storage beyond 90 days, small quantity generators must obtain a permit for storage beyond 180 days (or 270 days if the waste is shipped more than 200 miles), and, in 401 KAR 31:010 - Section 5, limited quantity generators must obtain a permit to store in excess of 1000 kg.

2. More stringent. The cabinet could have chosen to be more stringent by requiring a permit for generators who accumulate hazardous waste on site. However, this would have been inconsistent with the existing requirements in 401 KAR 32:030, Section 5 and 401 KAR 31:010, Section 5 which allow on-site accumulation without a permit.

3. Present proposal. The present proposal is identical to the federal requirements. It clarifies the existing requirements by referencing generator accumulation time limits. The cabinet chose this alternative since it provides clarification on the existing requirements to the regulated community.

(b) The cabinet chose to make several technical corrections to the existing language to make this regulation consistent with other existing regulations, to clarify the existing language, and to correct erroneous cites. These technical corrections do not result in more stringent or less stringent interpretation of the regulations. Thus the only alternative considered was whether to include these technical corrections in this proposal. Because the waste management regulations were written in a manner intended to be consistent with each other, the cabinet chose to make the technical corrections to reduce confusion among the regulated community and improve the clarity of the requirements.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. The proposed amendments affect only those entities which are excluded from permitting requirements. A correction of an erroneous cite in Section 3 of this regulation will affect only those permits which are modified, revoked and reissued or terminated during the term of the permit.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 270.1 promulgated on March 24, 1986. In addition, five technical clarifications have been made which do not alter existing requirements but explain the existing requirements; provide additional regulations cites which can be referenced; delete erroneous regulations cites; and remove/add language to eliminate conflicts within the waste management regulations.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: The proposed amendments adopt requirements which are identical to those standards adopted by the U.S. EPA on March 24, 1986. In addition, five technical corrections were made (not based on federal regulations) to clarify the existing requirements for the regulated community or which eliminate conflicts between the requirements in this regulation and the other waste management regulations.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: The amendments made to this regulation do not impose additional requirements or responsibilities other than those adopted by the U.S. EPA or than those already in effect in the waste management regulations. Technical corrections were made to this regulation to improve the clarity and consistency of the waste management regulations in 401 KAR Chapters 30 through 40.

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management
(Proposed Amendment)

**401 KAR 38:020. Interim status provisions.**

RELATES TO: KRS 224.033, 224.036, 224.071, 224.087, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.866

NECESSITY AND FUNCTION: KRS 224.842 and 224.866 require any person who treats, stores, recycles or disposes of hazardous waste to first obtain a hazardous waste site or facility permit from the cabinet. This chapter establishes the permitting process for hazardous waste sites or facilities. An overview of the permit program is found in the Necessity and Function of 401 KAR 38:010. This regulation establishes permitting standards for interim status facilities.

Section 1. Qualifying for Interim Status. (1) Any person who owns or operates: an "existing hazardous waste site or facility;" or a facility in existence on November 8, 1984 if the Hazardous and Solid Waste Amendments of 1984 render the facility subject to the requirements of 401 KAR Chapters 30, 31, 34, 35, 36, 38, and 39; or a facility in existence on the effective date of this regulation if amendments made to 401 KAR Chapters 34, 35, 36, 38 or 39 on that date render the facility subject to those regulations shall have interim status and shall be treated as having been issued a permit to the extent he or she has:

(a) Complied with the requirements of KRS 224.866 pertaining to notification of an existing hazardous waste activity; and

(b) Complied with the requirements of 401 KAR 38:070 governing submission of Part A

applications.

(2) When the cabinet determines on examination or reexamination of a Part A application (or its equivalent, Registration of Intent to Apply for a Permit) that it fails to meet the standards of these regulations, it may notify the owner or operator that the application is deficient and that the owner or operator is therefore not entitled to interim status. The owner or operator will then be subject to enforcement procedures for operating without a permit.

(3) Subsection (1) of this section shall not apply to any facility which has been previously denied a permit or if authority to operate the facility under 401 KAR Chapters 30 through 39 and KRS Chapter 224 has been previously terminated.

Section 2. Operation During Interim Status. (1) During the interim status period the facility, except as provided in Section 3 of the regulation, shall not:

(a) Treat, store or dispose of hazardous waste not specified in Part A of the permit application (or its equivalent, Registration of Intent to Apply for a Permit);

(b) Employ processes not specified in Part A of the permit application (or its equivalent, Registration of Intent to Apply for a Permit); or

(c) Exceed the design capacities specified in Part A of the permit application (or its equivalent, Registration of Intent to Apply for a Permit).

(2) During interim status, owners or operators shall comply with the interim status standards in 401 KAR Chapter 35.

Section 3. Changes During Interim Status. (1) New hazardous wastes not previously identified in Part A of the permit application (or its equivalent, Registration of Intent to Apply for a Permit) may be treated, stored, or disposed at a facility if the owner or operator submits a revised Part A permit application (or its equivalent) prior to such a change.

(2) Increases in the design capacity of processes used at a facility may be made if the owner or operator submits a revised Part A permit application (or its equivalent) prior to such a change (along with a justification explaining the need for the change) and the cabinet approves the change because of a lack of available treatment, storage, or disposal capacity at other hazardous waste sites or facilities.

(3) Changes in the processes for the treatment, storage, or disposal of hazardous waste may be made at a facility or additional processes may be added if the owner or operator submits a revised Part A permit application (or its equivalent) prior to such a change (along with a justification explaining the need for the change) and the cabinet approves the change because:

(a) It is necessary to prevent a threat to human health or the environment to avert an emergency situation; or

(b) It is necessary to comply with cabinet regulations (including 401 KAR Chapter 35 or federal or local laws.

(4) Changes in the ownership or operational control of a facility may be made if the new owner or operator submits a revised Part A permit application [(or its equivalent)] no later than ninety (90) days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the requirements of 401 KAR 35:080 through 401 KAR 35:130, (financial requirements), until the new owner or operator has demonstrated to the cabinet that he is complying with 401 KAR 35:080 through 401 KAR 35:130. [All other interim status duties are transferred effective immediately upon the date of the change of ownership or operational control of the facility. Upon demonstration to the cabinet by] The new owner or operator must demonstrate [of] compliance with 401 KAR 35:080 through 401 KAR 35:130 within six (6) months of the date of the change in the ownership or the operational control of the facility. Upon demonstration to the cabinet by the new owner or operator of compliance with 401 KAR 35:080 through 401 KAR 35:130, the cabinet will notify the old owner or operator in writing that he no longer needs to comply with 401 KAR 35:080 through 401 KAR 35:130 as of the date of demonstration. All other interim status duties are transferred effective immediately upon the date of the change of ownership or operational control of the facility[, the cabinet shall notify the old owner or operator in writing that he no longer needs to comply with 401 KAR 35:080 through 401 KAR 35:130 as of the date of demonstration].

(5) In no event shall changes be made to a hazardous waste site or facility during interim status which amount to reconstruction of the facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds fifty (50) percent of the capital cost of a comparable entirely new hazardous waste site or facility. Changes under this section do not include changes made solely for the purpose of complying with requirements of Section 3 of 401 KAR 35:190 for tanks and ancillary equipment.

(6) Closure of the facility during interim status shall, at a minimum, be in accordance with 401 KAR 34:060, Section 12.

Section 4. Termination of Interim Status. Interim status terminates when:

(1) Final administrative disposition of a permit application is made; or

(2) Interim status is terminated as provided in Section 5 of 401 KAR 38:040.

(3) For owners or operators of each land disposal facility which has been granted interim status prior to November 8, 1984, on November 8, 1985, unless:

(a) The owner or operator submits a Part B application for a permit for such facility prior to that date; and

(b) The owner or operator certifies that such facility is in compliance with all applicable ground water monitoring and financial responsibility requirements.

(4) For owners or operators of each land disposal facility which is in existence on November 8, 1984 or the date applicable amendments are made to 401 KAR Chapters 30 through 39 which render the facility subject to the requirements in 401 KAR Chapters 30 through 39 and which is granted interim status, twelve (12) months after the date on which the facility first becomes subject to such permit requirement unless the owner or operator of such facility:

(a) Submits a Part B application for a permit for such facility before the date twelve (12) months after the date on which the facility

first becomes subject to such permit requirements; and

(b) Certifies that such facility is in compliance with all applicable ground water monitoring and financial responsibility requirements.

(5) For owners or operators of each incinerator facility on November 8, 1989, unless the owner or operator of the facility submits a Part B application for a permit for an incinerator facility by November 8, 1986.

(6) For owners or operators of any facility (other than a land disposal or an incinerator facility) on November 8, 1992, unless the owner or operator of the facility submits a Part B application for a permit for the facility by November 8, 1988.

Section 5. Deadlines for Submission of Part B of the Application. All hazardous waste sites or facilities which have submitted Part A of the application or its equivalent will be required to submit Part B of the application within six (6) months of the cabinet's decision to require such submittal, according to Section 2(4) of 401 KAR 38:070 [Section 5(1)(d) of 401 KAR 38:040]. The cabinet may base its decision to require Part B of the application upon receiving Phase II or final authorization from the US EPA. However, in accordance with KRS 224.866(1), the cabinet may require submission of Part B of the application at any time.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The amendments to this regulation apply to all facilities which operate under interim status.

(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. Although changes are proposed to the requirements for facilities operating under interim status, the changes will not result in additional costs or savings to the promulgating administrative body.

2. Continuing costs or savings: None. See note in item (2)(a)1.

3. Additional factors increasing or decreasing costs: None. See note in item (2)(a)1.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) Requirements for facilities operating under interim status have been adopted identical to those promulgated by the U.S. EPA on May 2, 1986 and July 14, 1986. Alternative. 1. Less stringent. Kentucky could not have been less stringent on this requirement and still have maintained authorization to administer the RCRA hazardous waste program. To have adopted less stringent provisions would have afforded Kentucky's public health and environment less protection than provided by the national program.

2. More stringent. The cabinet chose not to adopt more stringent standards for interim status because the present proposal will adequately protect public health and the environment.

3. Present proposal. The present proposal allows for reconstruction of a hazardous waste site if done solely for the purpose of complying with requirements of Section 3 of 401 KAR 35:190.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. This regulation applies only to interim status hazardous waste facilities.

## FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 270.72(d) promulgated on May 2, 1986 (51 FR 16459) and July 14, 1986 (51 FR 25486). In addition there was one other technical correction made which does not alter existing requirements.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: The proposed amendments to this regulation adopt requirements that are identical to those standards adopted by the U.S. EPA on May 2, 1986 and July 14, 1986. No standards or responsibilities are imposed which are more strict than those imposed by the U.S. EPA.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect.

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management
(Proposed Amendment)

401 KAR 38:030. Conditions applicable to all permits.

RELATES TO: KRS 224.033, 224.830 through 224.877, 224.994
PURSUANT TO: KRS Chapter 13A, 224.033, 224.866
NECESSITY AND FUNCTION: KRS 224.842 and 224.866 require any person who treats, stores, recycles or disposes of hazardous waste to first obtain a hazardous waste site or facility permit from the cabinet. This chapter establishes the permitting process for hazardous waste sites or facilities. An overview of the permit program is found in the Necessity and Function of 401 KAR 38:010. This regulation establishes the conditions applicable to all permits.

Section 1. Conditions Applicable to All Permits. All conditions applicable to all permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation to these regulations must be given in the permit.

(1) Duty to comply. The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the appropriate Kentucky Revised Statute and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application. However, the permittee need not comply with the conditions of this permit to the extent and for the duration such noncompliance is authorized in an emergency permit (see Section 4 of 401 KAR 38:010).

(2) Duty to reapply. If the permittee wishes to continue an activity regulated by this permit after the expiration date of this permit, the permittee must apply for and obtain a new permit.

(3) Duty to halt or reduce activity. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(4) Duty to mitigate. In the event of noncompliance with the permit, the permittee shall take all reasonable steps to minimize releases to the environment, and shall carry out such measures as are reasonable to prevent significant adverse impacts on human health and the environment.

(5) Proper operation and maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems only when necessary to achieve compliance with the conditions of the permit.

(6) Permit actions. This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a modification of planned changes or anticipated noncompliance, does not stay any permit condition.

(7) Property rights. This permit does not convey any property rights of any sort, or any exclusive privilege.

(8) Duty to provide information. The permittee shall furnish the cabinet, within a reasonable time, any information which the cabinet may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permittee shall also furnish to the cabinet upon request copies of records required to be kept by this permit.

(9) Inspection and entry. The permittee shall allow the cabinet or an authorized representative, upon the presentation of credentials and other documents as may be required by law, to:

(a) Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

(b) Have access to and copy at reasonable times any records that must be kept under the conditions of this permit;

(c) Inspect at reasonable times any facility's equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit; and

(d) Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the appropriate Kentucky Revised Statutes, any substances or parameters at any location.

(10) Monitoring and records.

(a) Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity.

(b) The permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, the certification required by Section 4(2)(i) of 401 KAR 34:050, and records of all data used to complete the application for this permit, for a period of at least three (3) years from the date of the sample, measurement, report, certification or application. This period may be extended by request of the cabinet at any time. In addition, the permittee shall maintain records from all groundwater monitoring wells and associated groundwater surface elevations, for the active life of the facility, and for disposal facilities for the postclosure care period as well.

(c) Records of monitoring information shall include:

1. The date, exact place, and time of sampling or measurements;
2. The individual(s) who performed the sampling or measurements;
3. The date(s) analyses were performed;
4. The individual(s) who performed the analyses;
5. The analytical techniques or methods used; and
6. The results of such analyses.

(11) Signatory requirement. All applications, reports, or information submitted to the cabinet shall be signed and certified (see Section 7 of 401 KAR 38:070).

(12) Reporting requirements.

(a) Planned changes. The permittee shall give notice to the cabinet as soon as possible of any planned physical alterations or additions to the permitted facility.

(b) Anticipated noncompliance. The permittee shall give advance notice to the cabinet of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. In addition, for a new hazardous waste site or facility, the permittee may not commence treatment, storage, or disposal of hazardous waste; and for a facility being modified the permittee may not treat, store, or dispose of hazardous waste in the modified portion of the facility until:

1. The permittee has submitted to the cabinet, by certified mail or hand delivery, a letter signed by the permittee and a professional engineer registered in Kentucky stating that the facility has been constructed or modified in compliance with the permit; and

2.a. The cabinet has inspected the modified or newly constructed facility and finds it is in compliance with the conditions of the permit; or

b. Within fifteen (15) days of the date of submission of the letter in subparagraph 1 of this paragraph, the permittee has not received notice from the cabinet of its intent to inspect, prior inspection is waived and the permittee may commence treatment, storage, or disposal of hazardous waste.

(c) Transfers. This permit is not transferable to any person except after notice to the cabinet. The cabinet may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under the appropriate statute (see Section 1 of 401 KAR 38:040 [3 of this regulation], in some cases, modification or revocation and reissuance is mandatory).

(d) Monitoring reports. Monitoring results shall be reported at the intervals specified in this permit.

(e) Compliance schedules. Reports of compliance or noncompliance with or any progress reports on interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than fourteen (14) days following each scheduled date.

(f) Immediate reporting. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within two (2) hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of the noncompliance and its cause; the period of noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance. The following shall be included as information which must be reported orally within two (2) hours:

1. Information concerning release of any hazardous waste that may cause an endangerment to public drinking water supplies, including both surface water and groundwater used for public drinking water supply.

2. Any information of a release or discharge of hazardous waste, or of a fire or explosion from a hazardous waste site or facility, which could threaten the environment or human health outside the facility. The description of the occurrence and its cause shall include:

a. Name, address, and telephone number of the owner or operator;

b. Name, address, and telephone number of the facility;

c. Date, time and type of incident;

d. Name and quantity of material(s) involved;

e. The extent of injuries, if any;

f. An assessment of actual or potential hazards to the environment and human health outside the facility, where this is applicable; and

g. Estimated quantity and disposition of recovered material that resulted from the incident. The cabinet may waive the five (5) day written notice requirement in favor of a written report within fifteen (15) days.

(g) Other noncompliance. The permittee shall report all instances of noncompliance not reported under paragraphs (a), (d), (e) and (f) of this subsection at the time monitoring reports are submitted. The reports shall contain the information listed in paragraph (f) of this subsection.

(h) The following reports required by 401 KAR Chapter 34 shall be submitted:

1. Manifest discrepancy report. If a significant discrepancy in a manifest is discovered, the permittee must attempt to reconcile the discrepancy. If not resolved within fifteen (15) days, the permittee must submit a letter or report including a copy of the manifest to the cabinet (see Section 3 of 401 KAR 34:050).

2. Unmanifested waste report. Must be submitted to the cabinet within fifteen (15) days of receipt of unmanifested waste (see Section 7 of 401 KAR 34:050).

3. Annual report. An annual report must be submitted covering facility activities during the previous calendar year (see Section 6 of 401 KAR 34:050).

4. Waste minimization report. Must be submitted to the cabinet annually stating that the generator of the hazardous waste has a program in place to reduce the volume or quantity and toxicity of such waste to the degree determined by the generator to be economically practicable. The proposed method of treatment, storage, or disposal is that practicable method currently available to the generator which minimizes the present and future threat to human health and the environment.

(i) Other information. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the cabinet, he shall promptly submit such facts or information.

(j) All permits issued by the cabinet will be subject to any future statutory or regulatory changes whose purpose is the protection of the health and welfare of the citizens of the Commonwealth or their environment.

Section 2. Requirements for Recordkeeping and Reporting of Monitoring Results. All permits

shall specify:

(1) Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);

(2) Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring:

(3) Applicable reporting requirements based upon the impact of the regulated activity and as specified in KRS Chapter 224 and the Kentucky Hazardous Waste Management Regulations. Reporting shall be no less frequent than specified in the above regulations.

Section 3. Establishing Permit Conditions. (1) In addition to conditions required for all permits in Section 1 of this regulation, the cabinet shall establish conditions [as required] on a case-by-case basis in permits under Section of 401 KAR 38:040 (duration of permit), Section 4 of this regulation, [401 KAR 38:060] (schedule of compliance), Section 2 of this regulation (monitoring), and for cabinet issued permits only Section 4(2) of this regulation [401 KAR 38:060] (alternate schedules of compliance) and Section 3 of 401 KAR 38:010 (effect of a permit). In addition, each hazardous waste site or facility permit shall include permit conditions necessary to achieve compliance with each of the applicable requirements specified in the Kentucky Hazardous Waste Management Regulations. In satisfying this provision, the cabinet may incorporate applicable requirements of the Kentucky Hazardous Waste Management Regulations directly into the permit or establish other permit conditions that are based on these regulations.

(2) Individual programs.

(a) Each hazardous waste site or facility permit shall include permit conditions necessary to achieve compliance with KRS Chapter 224 and regulations [promulgated pursuant thereto], including each of the applicable requirements specified in 401 KAR Chapters 34, [and] 36 and 37. In satisfying this provision, the secretary [cabinet] may incorporate applicable requirements of 401 KAR Chapters 34, [and] 36 and 37 directly into the permit or establish other permit conditions that are based on these requirements.

(b) Each permit issued under KRS 224.855 and 224.866 shall contain terms and conditions as the cabinet determines necessary to protect human health and the environment.

Section 4. General. (1) The permit may, when appropriate, specify a schedule of compliance leading to compliance with the appropriate statute and regulations.

(a) Time for compliance. Any schedules of compliance under this regulation shall require compliance as soon as possible.

(b) Interim dates. Except as provided in subsection (2)(a)2 of this section, if a permit establishes a schedule of compliance which exceeds one (1) year from the date of permit issuance, the schedule shall set forth intern requirements and the dates for their achievement.

1. The time between interim dates shall not exceed one (1) year.

2. If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than one (1) year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

(c) Reporting. The permit shall be written to require that no later than fourteen (14) days following each interim date and the final date of compliance, the permittee shall notify the cabinet in writing of its compliance or noncompliance with the interim or final requirements.

(2) Alternative schedules of compliance. A permit applicant or permittee may cease conducting regulated activities (by receiving a terminal volume of hazardous waste at a hazardous waste site or facility; and for treatment and storage hazardous waste sites or facilities, closing pursuant to the applicable requirements, and, for disposal hazardous waste sites or facilities, closing and conducting postclosure care pursuant to the applicable requirements), rather than continue to operate and meet permit requirements as follows:

(a) If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

1. The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or

2. The permittee shall cease conducting permitted activities before noncompliance with any interim or final compliance schedule requirement already specified in the permit.

(b) If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination which will ensure timely compliance with applicable requirements.

(c) If the permittee is undecided whether to cease conducting regulated activities, the cabinet may issue or modify a permit to contain two (2) schedules as follows:

1. Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the permittee's decision is to continue conducting regulated activities;

2. One (1) schedule shall lead to timely compliance with applicable requirements;

3. The second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements;

4. Each permit containing two (2) schedules shall include a requirement that after the permittee has made a final decision under paragraph (a) of this subsection he shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.

(d) The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the cabinet, such as a resolution of the board of directors of a corporation.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at noon.
PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director
(1) Type and number of entities affected: There are 45 hazardous waste facilities in Kentucky which may be affected by the proposed amendments to this regulation.
(a) Direct and indirect costs or savings to those affected:
1. First year: None. The proposed amendments to this regulation will not result in any direct and indirect costs or savings to those affected. The amendments make technical changes by adding and correcting regulatory cites. They also require that generators make a waste minimization certification statement on the annual report.
2. Continuing costs or savings: None. See (1)(a)1.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None. See (1)(a)1.
(b) Reporting and paperwork requirements: The amendments require that generators make a waste minimization certification statement on the annual report. This statement certifies that the generator has a program in place to reduce the volume or quantity and toxicity of hazardous waste to the degree economically practicable.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None. The proposed amendments will not result in any direct or indirect costs or savings to the promulgating administrative body.
2. Continuing costs or savings: None. See note in (2)(a)1.
3. Additional factors increasing or decreasing costs: None. See note in (2)(a)1.
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.
(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The proposed amendments adopt requirements for all permits which are identical to the requirements promulgated November 7, 1986 (51 FR 40572-40654). The proposed amendments include a certification statement for waste minimization. Also, incorrect regulatory cites were replaced with correct ones.
Alternative. 1. Less stringent. Kentucky could not have been less stringent on its requirement and still have maintained authorization to administer the RCRA hazardous waste program. To have adopted less stringent provisions would have afforded Kentucky's public health and environment less protection than that provided by the national program.
2. More stringent. The cabinet could have chosen to be more stringent than the federal provisions. However, the proposed amendments are adequate to protect public health and the environment.
3. Present proposal. The present proposal makes technical clarifications which correct erroneous regulation cites; it also requires generators to make a waste minimization certification statement on the annual report.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: None
TIERING: Was tiering applied? Yes. This regulation applies only to hazardous waste facilities.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 270.32 promulgated on November 7, 1986 (51 FR 40572-40654). Technical clarifications have been made that do not alter existing requirements but delete erroneous regulation cites. A certification statement for waste minimization is now required on the annual report.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments to this regulation adopt requirements which are identical to those standards adopted by the U.S. Environmental Protection Agency on November 7, 1986. Technical clarifications, not based on the federal regulations, were made to this regulation. No standards or responsibilities are imposed which are more strict than those imposed by the U.S. EPA.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division of Waste Management
(Proposed Amendment)

**401 KAR 38:040. Changes to permits; expiration of permits.**

RELATES TO: KRS 224.033, 224.036, 224.071, 224.087, 224.830 through 224.877, 224.994
PURSUANT TO: KRS Chapter 13A, 224.033, 224.866
NECESSITY AND FUNCTION: KRS 224.842 and 224.866 require any person who treats, stores, recycles or disposes of hazardous waste to first obtain a hazardous waste site or facility permit from the cabinet. This chapter establishes the permitting process for hazardous waste sites or facilities. An overview of the permit program is found in the Necessity and Function of 401 KAR 38:010. This regulation establishes permitting standards on duration, termination, renewal and deadlines.

Section 1. Transfer of Permits. A permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued (under Section 2(2)(b) of this regulation) or a minor modification made (under Section 3(4) of this regulation) to identify the new permittee and incorporate such other requirements as may be necessary under KRS Chapter 224 and the waste management regulations.

Section 2. Major Modification or Revocation and Reissuance of Permits. When the cabinet receives any information (for example, if the cabinet inspects the facility, receives information submitted by the permittee as required in the permit under Section 1 of 401 KAR 38:030, receives a request for modification or revocation and reissuance under Section 2 of 401 KAR 38:050, or conducts a review of permit file), the cabinet may determine whether or not one (1) or more of the causes listed in subsections (1) and (2) of this section for modification or revocation and reissuance or both exist. If cause exists, the cabinet may modify or revoke and reissue the permit accordingly, subject to the limitations of subsection (3) of this section and may request an updated application if necessary. When a permit is modified, only the conditions subject to modification are reopened. If a permit is revoked and reissued, the entire permit is reopened and subject to revision and the permit is reissued for a new term (see Section 2(4) of 401 KAR 38:050. If cause does not exist under this section or Section 3 of this regulation, the cabinet shall not modify or revoke and reissue the permit. If a permit modification satisfies the criteria in Section 3 of this regulation for "minor modifications," the permit may be modified without a draft permit or public review. Otherwise, a draft permit must be prepared and other procedures in 401 KAR 38:050 and, if applicable, 401 KAR 38:500 followed.

(1) Causes for modification. Paragraphs (a) through (d) of this subsection are causes for modification but not revocation and reissuance of permits. Paragraphs (a) through (d) of this subsection may be causes for revocation and reissuance as well as modification, when the permittee requests or agrees.

(a) Alterations. There are material and substantial alterations or additions to the permitted hazardous waste site or facility or activity which occurred after permit issuance which justify the application of permit conditions that are different or absent in the existing permit.

(b) Information. The cabinet has received new information. Permits for wells may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance.

(c) New regulations. The standards or regulations on which the permit was based have been changed by promulgation of new or amended standards or regulations or by judicial decision after the permit was issued. Except as provided in paragraph (e) of this subsection, permits may be modified during their terms for this cause as follows:

1. For promulgation of new or amended standards or regulations, when:

a. The permit condition requested to be modified was based on an effective hazardous waste management regulation; and

b. The cabinet has revised, withdrawn, or modified that portion of the regulation on which the permit condition was based; and

c. A permittee requests modification in accordance with Section 2 of 401 KAR 38:050 within ninety (90) days after notice of the action on which the request is based.

2. For judicial decisions, a court of competent jurisdiction has remanded and stayed cabinet promulgated regulations, if the remand and stay concern that portion of the regulations or guidelines on which the permit condition was based and a request is filed by the permittee in accordance with Section 2 of 401 KAR 38:050 within ninety (90) days of judicial remand.

(d) Compliance schedules. The cabinet determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, materials shortage, or other events over which the permittee has little or no control and for which there is no reasonably available remedy (see also Section 3 of this regulation on minor modifications).

(e) The cabinet may modify a permit:

1. When modification of a closure plan is required under 401 KAR 34:070, Section 3(2) or 4(2).

2. When the cabinet receives notification of expected closure under 401 KAR 34:070, Section 4, and finds that any of the following previously granted permit conditions are no longer warranted:

a. Extension of the ninety (90) or 180 day periods under 401 KAR 34:070, Section 4;

b. Modification of an extended postclosure care period under 401 KAR 34:070, Section 7;

c. Continuation of security requirements under 401 KAR 34:070, Section 7(2); or

d. Permission to disturb the integrity of the containment system under 401 KAR 34:070, Section 7(3).

3. When the permittee has filed a request under 401 KAR 34:120, Section 4 for a variance to the level of financial responsibility or when the secretary demonstrates under 401 KAR 34:120, Section 5 that an upward adjustment of the level of financial responsibility is required.

4. When the corrective action program

specified in the permit under Section 11 of 401 KAR 34:060 has not brought the regulated unit into compliance with the groundwater protection standard within a reasonable period of time.

5. To include a detection monitoring program meeting the requirements of Section 9 of 401 KAR 34:060, when the owner or operator has been conducting a compliance monitoring program under Section 10 of 401 KAR 34:060 or a corrective action program under Section 11 of 401 KAR 34:060 and the compliance period ends before the end of the postclosure care period for the unit.

6. When a permit requires a compliance monitoring program under Section 10 of 401 KAR 34:060, but monitoring data collected prior to permit issuance indicate that the facility is exceeding the groundwater protection standard.

7. To include the conditions applicable to units at a facility that were not previously included in the site or facility's permit.

8. When a land treatment unit is not achieving complete treatment of hazardous constituents under its current permit conditions.

9. To include conditions applicable in new or amended standards or regulations.

10. When modification is necessary to protect the public health or the environment.

11. To include conditions applicable as result of a hearing or enforcement action as specified in 401 KAR Chapter 40.

(f) Not withstanding any other provision in this section, when a permit for a land disposal facility is reviewed by the cabinet under Section 5(4) of this regulation, the cabinet shall modify the permit as necessary to assure that the facility continues to comply with the currently applicable requirements in 401 KAR Chapters 30 through 39.

(2) Causes for modification or revocation and reissuance. The following are causes to modify or, alternatively, revoke and reissue a permit:

(a) Cause exists for termination under Section 4 of this regulation and the cabinet determines that modification or revocation and reissuance is appropriate.

(b) The cabinet has received notification (as required in the permit in Section 1(12)(c) of 401 KAR 38:030 of a proposed transfer of the permit.

(c) Cause exists for termination under Section 2(1)(e) and (f) of this regulation, and the cabinet determines that modification or revocation and reissuance is appropriate.

(3) Facility siting. Suitability of the facility location will not be considered at the time of permit modification or revocation and reissuance unless new information or standards indicate that a threat to human health or the environment exists which was unknown at the time of permit issuance.

Section 3. Minor Modifications of Permits. Upon consent of the permittee, the cabinet may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this section, without following the procedures of 401 KAR 38:050. Any permit modification not processed as a minor modification under this section must be made for cause and with a 401 KAR 38:050 draft permit, public notice as required in Section 2 of this regulation and, if applicable, compliance with 401 KAR 38:500 must be demonstrated. Minor modifications may only:

(1) Correct typographical errors;

(2) Require more frequent monitoring or reporting by the permittee;

(3) Change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; or

(4) Allow for a change in ownership or operational control of a site or facility where the cabinet determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility[, financial coverage and liability] between the current and new permittees has been submitted to the cabinet. Changes in the ownership or operational control of a site or facility may be made if the new owner or operator submits a revised permit application no later than ninety (90) days prior to the scheduled change. When a transfer of ownership or operational control of a site or facility occurs, the old owner or operator shall comply with the requirements of 401 KAR 34:080 through 34:176 (financial requirements), until the new owner or operator has demonstrated to the cabinet that he is complying with the requirements in 401 KAR 34:080 through 34:176. The new owner or operator must demonstrate compliance with the requirements in 401 KAR 34:080 through 34:176 within six (6) months of the date of the change in the ownership or operational control of the site or facility. Upon demonstration to the cabinet by the new owner or operator of compliance with the requirements in 401 KAR 34:080 through 34:176, the cabinet will notify the old owner or operator in writing that he no longer needs to comply with the requirements in 401 KAR 34:080 through 34:176 as of the date of demonstration.

(5) Change the lists of facility emergency coordinators or equipment in the permit's contingency plan;

(6) Change estimates of maximum inventory under Section 3(1)(b) of 401 KAR 34:070; or

(7) Change estimates of expected year of closure or schedules for final closure under Section 3(1)(d) of 401 KAR 34:070;

(8) Approve periods longer than ninety (90) days or 180 days under Section 4(1) and (2) of 401 KAR 34:070.

(9) Change the ranges of the operating requirements set in the permit to reflect the results of the trial burn, provided that the change is minor.

(10) Change the operating requirements set in the permit for conducting a trial burn, provided that the change is minor.

(11) Grant one (1) extension of the time period for determining operational readiness following completion of construction, for up to 720 hours operating time for treatment of hazardous waste.

(12) Change the treatment program requirements for land treatment units under Section 2 of 401 KAR 34:220 to improve treatment of hazardous constituents, provided that the change is minor.

(13) Change any conditions specified in the permit for land treatment units to reflect the results of field tests or laboratory analyses used in making a treatment demonstration in accordance with Section 8 of 401 KAR 38:080, provided that the change is minor.

(14) Allow a second treatment demonstration for land treatment to be conducted when the

results of the first demonstration have not shown the conditions under which the waste or wastes can be treated completely as required by Section 3(1) of 401 KAR 34:220, provided the conditions of the second demonstration are substantially the same as the conditions for the first demonstration.

(15) Allow treatment of hazardous wastes not previously specified in the permit if:

(a) The hazardous waste has been prohibited from one (1) or more methods of land disposal under 401 KAR 37:030 and treatment standards have been established under 401 KAR 37:040;

(b) Treatment is in accordance with the standards established under Section 2 of 401 KAR 37:040, or a variance established under Section 5 of 401 KAR 37:040;

(c) Handling and treatment of the restricted waste will not present risks substantially different from those of wastes listed in the permit; and

(d) Cabinet approval of a minor permit modification request is granted. No permit changes can occur except for the addition of new waste codes and administrative or technical changes necessary to handle new wastes. Changes in treatment processes or physical equipment may not be made under this subsection.

Section 4. Termination of Permits. (1) The cabinet may terminate a permit during its term or deny a permit renewal application for the following causes:

(a) Noncompliance by the permittee with any condition of the permit;

(b) The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time;

(c) A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or

(d) A violation of any requirement of KRS Chapter 224 or the respective regulations promulgated pursuant thereto (including 401 KAR 40:040).

(2) The cabinet shall follow the applicable procedures in this regulation and in 401 KAR 38:050 and 401 KAR Chapter 40 in terminating any permit under this section.

Section 5. Duration of Permit. (1) Term of permit. Hazardous waste site or facility permits shall be effective for a fixed term not to exceed ten (10) years. (See also Section 5 of 401 KAR 38:060, Interim permits for UIC wells.)

(2) Modification of term of permit. Except as provided in Section 6 of this regulation, the term of a permit shall not be extended by modification beyond the maximum duration specified in subsection (1) of this section.

(3) Reduced term of permit. The cabinet may issue any permit for a duration that is less than the full allowable term under subsection (1) of this section.

(4) Each permit for a land disposal facility shall be reviewed by the cabinet five (5) years after the date of permit issuance or reissuance and shall be modified as necessary, as provided in Section 2 of this regulation.

Section 6. Continuation of Expiring Permits. (1) The conditions of an expired permit continue in force until the effective date of a new permit if:

(a) The permittee has submitted a timely application under 401 KAR 38:090 and 401 KAR 38:100 and the applicable requirements in 401 KAR 38:150 through 401 KAR 38:210 and which is a complete (under Section 1(3) of 401 KAR 38:070) application for a new permit, paid the appropriate fees due (under 401 KAR Chapter 39); and

(b) The cabinet through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit (for example, when issuance is impracticable due to time or resources constraints).

(2) Effect. Permits continued under this section remain fully effective and enforceable.

(3) Enforcement. When the permittee is not in compliance with the conditions of the expiring or expired permit, the cabinet may choose to do any or all of the following:

(a) Initiate enforcement action based upon the permit which has been continued;

(b) Issue a notice of intent to deny the new permit under Section 3 of 401 KAR 38:050. If the permit is denied, the owner or operator would then be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a permit;

(c) Issue a new permit under 401 KAR 38:050 with appropriate conditions; or

(d) Take other actions authorized by 401 KAR Chapters 30 through 40.

(4) State continuation. As provided in 40 CFR 270.51(d), an EPA issued permit shall not continue in force beyond its expiration date under federal law if at that time the cabinet is the RCRA permitting authority.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The amendments to this regulation will affect any owner or operator of a permitted hazardous waste facility which transfers ownership or operational control to a new owner/operator or who wishes to add a waste stream for treatment at a facility. Currently there are 45 permitted facilities in Kentucky. A relatively small percent of these facilities will require a minor

modification to transfer ownership or operational control of the facility and a very small percent of these facilities may qualify for a minor modification to add new waste streams.

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

1. First year: For those companies wishing to add a new waste stream(s) as a minor modification, the approximate savings to the company derived from the amendments to this regulation will be approximately $500 to $1000 for plan preparation and staff time plus $1,500 for the major modification fee. The cost to an affected company would total between $100 and $300 for staff time, preparation of a minor modification request including payment of a $50 minor modification fee. The amendment stipulating that prior to release of the old owner or operator from financial responsibility requirements, the new owner/operator must demonstrate financial responsibility is a clarification of the existing requirements. The existing requirements (see 401 KAR 38:020, Section 3(4)) have been specified in this regulation. Since the requirement was already in effect, there will be no cost or savings to those companies affected by this amendment.

2. Continuing costs or savings: The costs and savings resulting from the amendments to this regulation will normally occur as a one-time-only event to the affected company. Thus, there are no continuing costs or savings.

3. Additional factors increasing or decreasing costs (note any effects upon competition): It should be noted that the amendments to this regulation for adding a new waste stream(s) will result in a substantial savings to those affected. In the absence of these amendments, the existing requirements currently would require that addition of a new waste stream(s) would be considered a major modification.

(b) Reporting and paperwork requirements: For companies adding a new waste stream(s) in accordance with the amendments to this regulation, the paperwork requirements will be reduced. For companies affected by the amendment to the minor modification requirements for transfer of ownership or operational control, there will be no impact in paperwork and reporting requirements.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The amendment to minor modifications for transfer to permits to a new owner or operator will have no impact in costs or savings on the promulgating administrative agency. The amendment to the minor modification requirements for adding a new waste stream(s) will result in a savings to the promulgating agency for those few companies who qualify for the minor modification procedures instead of the current requirement to consider this situation as a major modification.

2. Continuing costs or savings: There will be no continuing costs or savings to the promulgating agency except as companies apply for a minor modification to add waste streams. The promulgating administrative agency may realize a small savings.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The cabinet chose to adopt the minor modification requirements from the November 7, 1986 (40 CFR 270.42) federal regulations verbatim.

Alternative. 1. Less stringent. The cabinet could have chosen to be less stringent by incorporating other situations as minor modifications to the permit. However, the Resource Conservation and Recovery Act requires states to adopt standards which are at least as stringent as the U.S. EPA standards for hazardous waste management. Since Kentucky has obtained final authorization to operate the state hazardous waste management program in lieu of the federal program and because continued authorization is a goal of the promulgating administrative agency, the cabinet chose not to propose less stringent requirements.

2. More stringent. The cabinet could have chosen to be more stringent by not adopting the new requirements and continuing to review requests for addition of new waste stream(s) as a major modification. In reviewing the federal regulatory requirements, the cabinet found that the restrictions on addition of new waste streams would protect public health and the environment. To be considered a minor modification, the treatment facility must demonstrate that the new waste stream(s): (1) have been banned from land disposal; (2) will be treated in accordance with regulatory requirements; (3) do not present risks that are substantially different from wastes already permitted; and (4) will not result in changes to the treatment equipment or process. Failure to meet any one stipulation would require that the request be processed as a major modification. Thus, the cabinet determined that the federal requirements were adequate to protect Kentucky's public health and the environment.

3. Present proposal. The present proposal adopts verbatim the changes made to the federal regulations for minor modifications (November 7, 1986), because the new requirements provide an economical alternative to facilities wishing to amend their permit to include new waste streams while providing adequate protection to public health and environment.

(b) The cabinet chose to adopt the minor modification requirements from the May 2, 1986 (40 CFR 270.42) federal regulations verbatim.

Alternative. 1. Less stringent. The cabinet could have chosen to be less stringent by altering the requirements so that financial responsibility for the facility could lapse during transfer of ownership or operational control. The cabinet rejected this alternative since it provides no protection for public health and the environment during transfer of ownership/operational control.

2. More stringent. The cabinet could not have chosen to be more stringent since the proposed amendments require financial responsibility must be maintained by the old owner or operator until the new owner or operator demonstrates financial responsibility for the site.

3. Present proposal. The present proposal simply clarifies an existing requirement that financial responsibility for a facility must be maintained through transfer of ownership or operational control. The amendment explicitly

identifies a requirement found elsewhere (401 KAR 38:020, Section 3) that financial responsibility must be maintained since the requirement already exists, the cabinet chose to include the clarification in this section to ensure compliance by the regulated community.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. The amendments to this regulation apply only to permitted facilities who wish to modify their permit by (1) transferring ownership or operational control to a new owner or operator and (2) adding new waste streams under special circumstances.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The proposed amendments to this regulation adopt verbatim requirements for minor modification to hazardous waste permit applications from 40 CFR 270.42 promulgated by the U.S. EPA on May 2, 1986 (51 FR 16422-16459) and November 7, 1986 (51 FR 40572-40654).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: The proposed amendments to this regulation impose identical standards to those promulgated by the U.S. EPA on May 2, 1986 and November 7, 1986.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. Standards imposed are identical to the federal standards.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 38:070. Application procedures.**

RELATES TO: KRS 224.033, 224.036, 224.071, 224.087, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.866

NECESSITY AND FUNCTION: KRS 224.842 and 224.866 require any person who treats, stores, recycles or disposes of hazardous waste to first obtain a hazardous waste site or facility permit from the cabinet. This chapter establishes the permitting process for hazardous waste sites or facilities. An overview of the permit program is found in the Necessity and Function of 401 KAR 38:010. This regulation establishes the application procedures.

Section 1. General Application Requirements. (1) Permit application. Any person who is required to have a permit (including new applicants and permittees with expiring permits) shall complete, sign, and submit an application to the cabinet as described in Sections 1 through 6 of this regulation and 401 KAR 38:020. Persons currently authorized with interim status under 401 KAR 38:020 shall apply for permits when required by the cabinet. Persons covered by permits by rule, Section 1 of 401 KAR 38:060, need not apply except as required by 401 KAR 38:500 for disposal facilities permitted by rule. Procedures for applications, issuance and administration of emergency permits are found exclusively in Section 2 of 401 KAR 38:060. Procedures for application issuance and administration of research, development, and demonstration permits are found exclusively in Section 6 of 401 KAR 38:060.

(2) Applicant; who applies? When a facility or activity is owned by one (1) person but is operated by another person, it is the operator's duty to obtain a permit, and the owner must also sign the permit application.

(3) Completeness. The cabinet shall not issue a permit before receiving a complete application for a permit except for permits by rule or emergency permits. An application for a permit is complete when the cabinet receives an application form and any supplemental information which are completed to the satisfaction of the cabinet. An application for a permit is complete notwithstanding the failure of the owner or operator to submit the exposure information described in Section 9 of this regulation. However, failure by the applicant to submit exposure information may be grounds for denial of the permit or revocation of an issued permit.

(4) Information requirements. All applicants for permits shall provide the applicable information in compliance with 401 KAR 38:080 through 401 KAR 38:210 to the cabinet, using the application form provided by the cabinet.

(5) Number of copies. Any person who requires a hazardous waste site or facility permit shall submit two (2) copies of the application. If the application for a permit includes an incinerator or a facility which requires groundwater monitoring, three (3) copies of the application must be submitted to the cabinet. Additional copies may be required prior to permit issuance.

Section 2. Existing Hazardous Waste Sites or Facilities and Interim Status Qualifications. (1) Owners and operators of existing hazardous waste sites or facilities or of hazardous waste sites or facilities in existence on the effective date of statutory or regulatory amendments that render the facility subject to the requirement to have a permit must submit Part A of their permit application or its equivalent (Registration of Intent to Apply for a Permit) to the cabinet no later than:

(a) Six (6) months after the date of publication of regulations which first require them to comply with the standards set forth in 401 KAR Chapters 35 or 36; or

(b) Thirty (30) days after the date they first become subject to the standards set forth in 401 KAR Chapters 35 or 36, whichever first occurs.

(2) The cabinet may extend the date by which owners and operators of specified classes of existing hazardous waste management facilities must submit Part A of their permit application or its equivalent if the cabinet finds that:

(a) There has been substantial confusion as to

whether the owners and operators of such facilities were required to file a permit application; and

(b) Such confusion is attributable to ambiguities in the waste management regulations.

(3) The cabinet may by compliance order extend the date by which the owner and operator of an existing hazardous waste site or facility must submit Part A of their permit application or its equivalent.

(4) Any time after promulgation of the appropriate regulatory requirement the owner and operator of an existing hazardous waste site or facility may be required to submit Part B of their permit application. Any owner or operator shall be allowed at least six (6) months from the date of request to submit Part B of the application. Any owner or operator of an existing hazardous waste site or facility may voluntarily submit Part B of the application at any time. Notwithstanding the above, any owner or operator of an existing hazardous waste site or facility must submit a Part B permit application in accordance with the dates specified in Section 4 of 401 KAR 38:020. Any owner or operator of a land disposal facility in existence on the effective date of statutory or regulatory amendments that render the facility subject to the requirement to have a hazardous waste site or facility permit must submit a Part B application in accordance with the dates specified in Section 4 of 401 KAR 38:020.

(5) Failure to furnish a requested Part B application on time, or to furnish in full the information required by the Part B application, is grounds for termination of interim status under 401 KAR 38:050.

(6) Owners and operators of existing hazardous waste sites or facilities which close under interim status without submitting Part B of the permit application shall, at a minimum, comply with the corrective action requirements in Section 12 of 401 KAR 38:060.

Section 3. New Hazardous Waste Sites or Facilities. (1) Except as provided in subsection (3) of this section, no person shall begin physical construction of a new hazardous waste site or facility without having submitted Part A or its equivalent and Part B of the permit application and received an effective hazardous waste site or facility permit (see Section 12 of 401 KAR 38:050).

(2) An application for a permit for a new hazardous waste site or facility (including both Part A or its equivalent, and Part B) may be filed at any time after promulgation of the standards in 401 KAR 34:180, et seq., applicable to such facility. The application shall be filed with the cabinet. All applications must be submitted at least 180 days before physical construction is expected to commence.

(3) Notwithstanding subsection (1) of this section, a person may construct a facility for the incineration of polychlorinated biphenyls pursuant to an approval issued by the Administrator of the U.S. Environmental Protection Agency under Section (6)(e) of the Toxic Substances Control Act and any person owning or operating such a facility may, at any time after construction or operation of such facility has begun, file an application for a permit to incinerate hazardous waste authorizing such facility to incinerate waste identified or listed under KRS 224.864(3) and the regulations promulgated pursuant thereto.

(4) An application for a permit for a new hazardous waste disposal facility must be in compliance with the requirements specified in KRS 224.855 and 401 KAR 38:500 regarding approval by the local government or the Kentucky Regional Integrated Waste Treatment and Disposal Facility Siting Board.

Section 4. Updating Permit Applications. (1) If any owner or operator of a hazardous waste site or facility has filed Part A of a permit application or its equivalent and has not yet filed Part B, the owner or operator shall file an amended Part A application or its equivalent with the cabinet:

(a) No later than the effective date of regulatory provisions listing or designating wastes as hazardous in addition to those listed or designated previously in 401 KAR Chapter 31, if the facility is treating, storing or disposing of any of the newly listed or designated waste; or

(b) As necessary to comply with Section 3 of 401 KAR 38:020 for changes during interim status.

(2) The owner or operator of a facility who fails to comply with the updating requirements of subsection (1) of this section does not receive interim status as to the wastes not covered by a duly filed Part A application or its equivalent.

Section 5. Reapplications. Any hazardous waste site or facility with an effective permit shall submit a new application at least 180 days before the expiration date of the effective permit, unless permission for a later date has been granted by the cabinet. (The cabinet shall not grant permission for applications to be submitted later than the expiration date of the existing permit.)

Section 6. Recordkeeping. Applicants shall keep records of all data used to complete permit applications and any supplemental information submitted under Section 1(4) of this regulation and 401 KAR 38:080 through 38:210, for a period of at least three (3) years from the date the application is signed.

Section 7. Signatures to Permit Applications and Reports. (1) Applications. All permit applications shall be signed as follows:

(a) For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means:

1. A president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or

2. The manager of one (1) or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales or expenditures exceeding $25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(b) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively; or

(c) For a municipality, state, federal, or other public agency: by either a principal executive officer or ranking elected official.

For purposes of this section, a principal executive officer of a federal agency includes:

1. The chief executive officer of the agency; or

2. A senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., regional administrators of EPA).

(2) Reports. All reports required by permits, and other information requested by the cabinet, shall be signed by a person described in subsection (1) of this section, or by a duly authorized representative of that person. A person is a duly authorized representative only if:

(a) The authorization is made in writing by a person described in subsection (1) of this section;

(b) The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, operator of a well or a well field, superintendent, or position of equivalent responsibility (a duly authorized representative may thus be either a named individual or any individual occupying a named position); and

(c) The written authorization is submitted to the cabinet.

(3) Changes to authorization. If an authorization under subsection (2) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of subsection (2) of this section must be submitted to the cabinet prior to or together with any reports, information, or applications to be signed by an authorized representative.

(4) Certification. Any person signing a document under subsections (1) or (2) of this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Section 8. Confidentiality of Information. (1) Claims of confidentiality. In accordance with KRS 224.036 ~~or~~ 400 KAR 1:060, any information submitted to the cabinet pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, the cabinet may make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures in KRS 224.036 (Public Information) and any other provision of the waste management regulations relating to confidentiality of information.

(2) Denial of claims of confidentiality. Claims that the name and address of any permit applicant or permittee is confidential will be denied.

Section 9. Exposure Information. (1) After August 8, 1985, any Part B application submitted by an owner or operator of a facility that stores, treats, or disposes of hazardous waste in a surface impoundment or landfill must be accompanied by information reasonably ascertainable by the owner or operator, on the potential for the public to be exposed to hazardous wastes or hazardous constituents through releases related to the unit. At a minimum, such information must address:

(a) Reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;

(b) The potential pathways of human exposure to hazardous wastes or constituents resulting from the releases described under paragraph (a) of this subsection; and

(c) The potential magnitude and nature of the human exposure resulting from such releases.

(2) By August 8, 1985, owners and operators of a landfill or a surface impoundment who have already submitted a Part B application must submit the exposure information required in subsection (1) of this section.

(3) Information required by this section may in part satisfy the requirements of KRS 224.866(1) and Section 2(19) of 401 KAR 38:090.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The proposed amendment to this regulation will affect owners and operators applying for a hazardous waste facility permit. There are 45 hazardous waste facilities in Kentucky.

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

1. First year: None. The proposed amendment makes a technical correction by adding a reference to 400 KAR 1:060; it does not change any of the procedures or requirements regarding the hazardous waste permit application process. The amendment will not result in any direct and

indirect costs or savings to those affected.
2. Continuing costs or savings: None. See item (1)(a)1.
3. Additional factors increasing or decreasing costs (note any effects upon competition): See item (1)(a)1.
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None. The proposed amendment to this regulation will not result in any direct or indirect costs or savings to the promulgating administrative body. The amendment does not change any standards or requirements in the regulation; a reference to 400 KAR 1:060 is added. This addition will have no effect on the promulgating administrative body.
2. Continuing costs or savings: None. See (2)(a)1.
3. Additional factors increasing or decreasing costs: None. See (2)(a)1.
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.
(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The present proposal makes a technical correction by adding a reference to 400 KAR 1:060. The proposed amendment does not change any of the requirements of the regulation, therefore it was unnecessary to consider more or less stringent alternatives.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: None
TIERING: Was tiering applied? Yes. The proposed amendment to this regulation applies only to owners and operators applying for a hazardous waste facility permit.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: Not applicable. The proposed amendment to this regulation is not based on standards contained in the federal mandate; it adds a reference to 400 KAR 1:060.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendment does not impose stricter requirements or responsibilities on the regulated entities. This amendment is not based on standards contained in the federal mandate.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The proposed amendment does not impose stricter standards.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 38:090. General contents of Part B application.**

RELATES TO: KRS 224.033, 224.036, 224.071, 224.087, 224.830 through 224.877, 224.994
PURSUANT TO: KRS Chapter 13A, 224.033, 224.866, 224.867
NECESSITY AND FUNCTION: KRS 224.842 and 224.866 require any person who treats, stores, recycles or disposes of hazardous waste to first obtain a hazardous waste site or facility permit from the cabinet. This chapter establishes the permitting process for hazardous waste sites or facilities. An overview of the permit program is found in the Necessity and Function of 401 KAR 38:010. This regulation establishes the general contents of the Part B application.

Section 1. Contents of Part B Application. Part B of the permit application consists of the general information requirements of this regulation and the specific informational requirements in 401 KAR 38:100 through 38:210 applicable to the facility. The Part B information requirements presented in this regulation and 401 KAR 38:100 through 401 KAR 38:210 reflect the information requirements necessary for the cabinet to determine compliance with 401 KAR Chapter 34 standards. If owners and operators of hazardous waste sites or facilities can demonstrate that the information prescribed in Part B cannot be provided to the extent required, the cabinet may make allowance for submission of such information on a case-by-case basis. Information required in Part B shall be submitted to the cabinet and signed in accordance with requirements in Section 2 of 401 KAR 38:070. Certain technical data, such as design drawings and specifications, and engineering studies shall be certified by a professional engineer registered in Kentucky.

Section 2. General Information Requirements. The following information is required for all hazardous waste sites or facilities, except as Section 1 of 401 KAR 34:010 provides otherwise:
(1) A general description of the facility.
(2) Chemical and physical analyses of the hazardous wastes to be handled at the facility. At a minimum, these analyses shall contain all the information which must be known to treat, store, or dispose of the wastes properly in accordance with 401 KAR Chapter 34.
(3) A copy of the waste analysis plan required by Section 4(2) of 401 KAR 34:020 and, if applicable, Section 4(3) of 401 KAR 34:020.
(4) A description of the security procedures and equipment required by Section 5 of 401 KAR 34:020, or a justification demonstrating the reasons for requesting a variance of this requirement.
(5) A copy of the general inspection schedule required by Section 6(2) of 401 KAR 34:020; include where applicable, as part of the inspection schedule, specific requirements in Section 5 of 401 KAR 34:180, Section 4(9) of 401 KAR 34:190, Section 6 of 401 KAR 34:190, Section 4 of 401 KAR 34:200, Section 5 of 401 KAR 34:210, Section 4 of 401 KAR 34:220, and Section

4 of 401 KAR 34:230.

(6) A justification of any request for a variance(s) of the preparedness and prevention requirements of 401 KAR 34:030.

(7) A copy of the contingency plan required by 401 KAR 34:030; include, where applicable, as part of the contingency plan, specific requirements in 401 KAR 34:190, 34:200 and 34:210.

(8) A description of procedures, structures, or equipment used at the facility to:

(a) Prevent hazards in unloading operations (for example, ramps, special fork lifts);

(b) Prevent run-off from hazardous waste handling areas to other areas of the facility or environment, or to prevent flooding (for example, berms, dikes, trenches);

(c) Prevent contamination of water supplies;

(d) Mitigate effects of equipment failure and power outages; and

(e) Prevent undue exposure of personnel to hazardous waste (for example, protective clothing).

(9) A description of precautions to prevent accidental ignition or reaction of ignitable, reactive or incompatible wastes as required to demonstrate compliance with Section 8 of 401 KAR 34:020 including documentation demonstrating compliance with Section 8(3) of 401 KAR 34:020.

(10) Traffic pattern, estimated volume (number, types of vehicles) and control (for example, show turns across traffic lanes, and stacking lanes, if appropriate; describe access road surfacing and load bearing capacity; show traffic control signals).

(11) Facility location information:

(a) In order to determine the applicability of the seismic standard, Section 9(1) of 401 KAR 34:020, the owner or operator of a new facility must identify the political jurisdiction (e.g., county, township, or election district) in which the facility is proposed to be located.

(b) If the facility is proposed to be located in an area listed in 401 KAR 34:340 the owner or operator shall demonstrate compliance with the seismic standard. This demonstration may be made using either published geologic data or data obtained from field investigations carried out by the applicant. The information provided must be of such quality to be acceptable to geologists experienced in identifying and evaluation seismic activity. The information submitted must show that either:

1. No faults which have had displacement in Holocene time are present, or no lineations which suggest the presence of a fault (which have had displacement in Holocene time) within 3,000 feet of a facility are present, based on data from:

a. Published geologic studies;

b. Aerial reconnaissance of the area within a five (5) mile radius from the facility;

c. An analysis of aerial photographs covering a 3,000 foot radius of the facility; and

d. If needed to clarify the above data, a reconnaissance based on walking portions of the area within 3,000 feet of the facility; or

2. If faults (to include lineations) which have had displacement in Holocene time are present within 3,000 feet of a facility, no faults pass within 200 feet of the portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted, based on data from a comprehensive geologic analysis of the site. Unless a site analysis is otherwise conclusive concerning the absence of faults within 200 feet of such portions of the facility, data shall be obtained from a subsurface exploration (trenching) of the area within a distance no less than 200 feet from portions of the facility where treatment, storage or disposal of hazardous waste will be conducted. Such trenching shall be performed in a direction that is perpendicular to known faults (which have had displacement in Holocene time) passing within 3,000 feet of the portions of the facility where treatment, storage, or disposal of hazardous waste will be conducted. Such investigation shall document with supporting maps and other analyses the location of any faults found.

(c) Owners and operators of all facilities shall provide an identification of whether the facility is located within a 100-year flood plain, floodway or seasonal high water tables in accordance with Section 9(2) of 401 KAR 34:020. This identification must indicate the source of data for such determination and include a copy of the relevant Federal Insurance Administration (FIA) flood map, if used, or the calculations and maps used where a FIA map is not available. Information shall also be provided identifying the 100-year flood level and any other special flooding factors (e.g. wave action) which must be considered in designing, constructing, operating, or maintaining the facility to withstand washout from a 100-year flood. Note: Where maps for the National Flood Insurance Program produced by the Federal Insurance Administration (FIA) of the Federal Emergency Management Agency are available, they will normally be determinative of whether a facility is located within or outside of the 100-year flood plain. However, where the FIA map excludes an area (usually areas of the flood plain less than 200 feet in width), these areas must be considered and a determination made as to whether they are in the 100-year flood plain. Where FIA maps are not available for a proposed facility location, the owner or operator must use equivalent mapping techniques to determine whether the facility is within the 100-year flood plain, and if so located, what the 100-year flood elevation would be.

(d) Owners and operators of facilities located in the 100-year flood plain must provide the following information:

1. Engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as a consequence of a 100-year flood;

2. Structural or other engineering studies showing the design of operational units (e.g., tanks, incinerators) and flood prevention devices (e.g., floodwalls, dikes) at the facility and how these will prevent washout and inundation of the waste;

3. If applicable, and in lieu of subparagraphs 1 and 2 of this paragraph a detailed description of procedures to be followed to remove hazardous waste to safety before the facility is flooded, including:

a. Timing of such movement relative to flood levels, including estimated time to move the waste, to show that such movement can be completed before floodwaters reach the facility;

b. A description of the location(s) to which the waste will be moved and demonstration that those facilities will be eligible to receive hazardous waste in accordance with the

regulations under 401 KAR Chapters 34 through 38;

c. The planned procedures, equipment, and personnel to be used and the means to ensure that such resources will be available in time for use; and

d. The potential for accidental discharges of the waste during movement.

(e) Existing facilities NOT in compliance with Section 9(2) of 401 KAR 34:020 shall provide a plan showing how the facility will be brought into compliance and a schedule for compliance.

(12) An outline of both the introductory and continuing training programs by owners or operators to prepare persons to operate or maintain the hazardous waste site or facility in a safe manner as required to demonstrate compliance with Section 7 of 401 KAR 34:020. A brief description of how training will be designed to meet actual job tasks in accordance with requirements in Section 7(1)(c) of 401 KAR 34:020.

(13) A copy of the closure plan and, where applicable, the postclosure plan required by Sections 3 and 8 of 401 KAR 34:070, and Section 8 of 401 KAR 34:190. Include, where applicable, as part of the plans, specific requirements in Section 9 of 401 KAR 34:180, Section 5 of 401 KAR 34:190, Section 6 of 401 KAR 34:200, Section 8 of 401 KAR 34:210, Section 8 of 401 KAR 34:220, Section 6 of 401 KAR 34:230, and Section 8 of 401 KAR 34:240.

(14) For hazardous waste disposal units that have been closed [existing facilities], documentation that [a] notices [has been placed in the deed or appropriate alternate instrument as] required under [by] Section 9 [10] of 401 KAR 34:070 have been filed.

(15) The most recent closure cost estimate for the facility prepared in accordance with Section 1 of 401 KAR 34:090 and [plus] a copy of the documentation required to demonstrate financial assurance under Sections 2 through 12 of [mechanism adopted in compliance with] 401 KAR 34:090. For a new facility, a copy of the required documentation may be submitted sixty (60) days prior to the initial receipt of hazardous wastes, if that is later than the submission of the Part B.

(16) Where applicable, the most recent postclosure cost estimate for the facility prepared in accordance with Section 1 of 401 KAR 34:100 plus a copy of the documentation required to demonstrate financial assurance under Sections 2 through 12 of [mechanism adopted in compliance with] 401 KAR 34:100. For a new facility, a copy of the required documentation may be submitted sixty (60) days prior to the initial receipt of hazardous wastes, if that is later than the submission of the Part B.

(17) Where applicable, a copy of the insurance policy or other documentation which comprises compliance with the requirements of 401 KAR 34:120. For a new facility, documentation showing the amount of insurance meeting the specification of Section 1 of 401 KAR 34:120 and if applicable, Section 2 of 401 KAR 34:120 that the owner or operator plans to have in effect before initial receipt of hazardous waste for the treatment, storage, or disposal. A request for a variance in the amount of required coverage, for a new or existing facility, may be submitted as specified in 401 KAR 34:120.

(18) A topographic map showing a distance of 1000 feet around the facility at a scale of 2.5 centimeters (approximately one (1) inch) equal to not more than 61.0 meters (approximately 200 feet). Contours must be shown on the map. The contour interval must be sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. For example, contours with an interval of 1.5 meters (approximately five (5) feet), if relief is greater than 6.1 meters (approximately twenty (20) feet), or an interval of 0.6 meters (approximately two (2) feet), if relief is less than 6.1 meters (approximately twenty (20) feet). Owners and operators of hazardous waste sites or facilities located in mountainous areas should use larger contour intervals to adequately show topographic profiles of facilities. The map shall clearly show the following:

(a) Map scale and date;

(b) 100 year flood plain area and, if applicable, floodway and areas of seasonal high water table;

(c) Surface waters including intermittent streams;

(d) Surrounding land uses (residential, commercial, agricultural, recreational);

(e) A wind rose (i.e., prevailing wind-spread and direction);

(f) Orientation of the map (north arrow);

(g) Legal boundaries of the hazardous waste site or facility;

(h) Access control (fences, gates);

(i) Injection and withdrawal wells both on-site and off-site;

(j) Buildings; treatment, storage, or disposal operations; or other structures (recreation areas, run-off control systems, groundwater monitoring systems, access and internal roads, storm, sanitary, and process sewerage systems, loading and unloading areas, fire control facilities, etc.);

(k) Barriers for drainage or flood control; and

(l) Location of operational units within the hazardous waste site or facility where hazardous waste is (or will be) treated, stored, or disposed (including equipment cleanup areas).

(19) In addition to information required by the cabinet pursuant to this section, all applicants for construction permits must submit to the cabinet a plan in accordance with KRS 224.866(1). The plan must address each of the following issues specifically, must document the applicant's decisions with respect to the proposal, must make reasonable justification for actions taken and demonstrate that the proposed facility can be integrated into the surroundings in an environmentally compatible manner, including but not limited to insuring that hydrologic, seismologic, geologic and soil considerations have been adequately addressed in the application and operational plan. The plan must include:

(a) An evaluation of alternatives including other site locations and treatment, storage and disposal approaches (see KRS 224.866(1)(a));

(b) An evaluation of the public health, safety and environmental aspects on the affected community (see KRS 224.866(1)(b));

(c) An evaluation of the social and economic impacts of the proposal on the affected community (see KRS 224.866(1)(b));

(d) An evaluation of mitigation procedures to alleviate problems identified in paragraphs (a), (b), and (c) of this subsection (see KRS 224.866(1)(d)); and

(e) An evaluation of the relationship of the

proposal to local planning and existing development (see KRS 224.866(1)(e)).

(f) In the case of hazardous waste landfills or other sites or facilities for the land disposal of hazardous waste the provisions of paragraphs (c) and (e) of this subsection shall be determined by the local unit of government pursuant to KRS 224.855(5); in the case of a regional integrated waste treatment and disposal demonstration facility the provisions of paragraphs (c) and (e) of this subsection shall be determined by the siting board established pursuant to KRS 224.2203.

(20) A showing of the past compliance record for both the applicant and any other individual or entity designated to own or operate the hazardous waste site or facility (as required by KRS 224.866(1) as follows:

(a) Organizational structure:

1. If the applicant is a proprietorship, a detailed listing of:

a. The proprietors and their respective interests, whether ownership or otherwise.

b. Any partnership (general or limited), joint venture, or corporation in which the applicant holds as much as or more than a twenty-five (25) percent interest (whether ownership or otherwise).

2. If the applicant is a partnership, either general or limited, a detailed listing of:

a. Each of the partners and their respective interests, whether ownership or otherwise.

b. Any corporation, joint venture, partnership (general or limited), or proprietorship in which any of the constituent partners of the applicant holds as much as or more than twenty-five (25) percent interest (whether ownership or otherwise);

c. Any corporation, joint venture, proprietorship, or partnership (general or limited) which holds as much as or more than a twenty-five (25) percent interest (whether ownership or otherwise) in any of the nonindividual constituent partners comprising the applicant.

3. If the applicant is a corporation, a detailed listing of:

a. The officers, directors, and major stockholders;

b. Any corporation of which the applicant is either a subsidiary or which holds as much as or more than a twenty-five (25) percent interest (either in stock or assets) in the applicant;

c. Any corporations which are either subsidiaries of the applicant or in which the applicant holds as much as or more than a twenty-five (25) percent interest (either in stock or assets);

d. Any proprietorship, partnership (general or limited), or joint venture in which the applicant holds as much as or more than a twenty-five (25) percent interest, whether ownership or otherwise.

4. If the applicant is a joint venture, a detailed listing of:

a. All other joint venturers, and the respective interests (whether ownership or otherwise) of each;

b. Any proprietorship, partnership (general or limited), joint venture or corporation in which the applicant holds as much as or more than a twenty-five (25) percent interest (whether ownership or otherwise).

(b) For the purposes of paragraph (c) of this subsection, the listing of violations of laws, rules or regulations should include the following areas:

1. Solid or hazardous waste management;

2. Air pollution;

3. Water;

4. OSHA with respect to hazardous materials or hazardous substances; and

5. Transportation with respect to hazardous materials or hazardous substances.

(c) For each and every individual or other entity listed in paragraph (a) of this subsection, a detailed listing of all violations of federal or state laws, rules or regulations concerning the areas listed in paragraph (b) of this subsection (whether either judicial or administrative proceedings are pending or completed) that have resulted or could result in either criminal convictions or civil or administrative fines as much as or more than $1,000.

(d) For each and every individual or other entity listed in paragraph (a) of this subsection, a current financial statement prepared by a certified public accountant.

(e) Hazardous waste sites or facilities which have been regulated under interim status shall be exempt from the requirements of this subsection unless the cabinet specifies otherwise in writing.

(21) An evaluation of subsurface geologic formations and surface topography for solution or karst features. The owner or operator shall demonstrate compliance with either paragraph (a) or (b) of this subsection.

(a) If the owner or operator demonstrates to the satisfaction of the cabinet that the facility is not underlain by soluble limestone, he is exempt from all of the requirements of this subsection.

(b) If the owner or operator does not make the demonstration of paragraph (a) of this subsection, the owner or operator must satisfy the requirements in paragraph (c)1 or (c)2 of this subsection. In addition, the owner or operator shall demonstrate that:

1. The facility has been designed to withstand any gradual or sudden land subsidence which is characteristic of areas underlain by soluble limestone; and

2. No contamination into or through any fractures, channels or solution features will occur.

(c) Except as provided in paragraph (a) of this subsection, the owner or operator shall comply with either subparagraph 1 or 2 of this paragraph.

1. The owner or operator shall:

a. Establish the presence and extent of all fractures, channels and solution features in the bedrock beneath the facility and describe how such features will be sealed, filled, isolated or otherwise neutralized to prevent subsidence; and

b. Describe how such solution features will be monitored to demonstrate compliance with the criteria of paragraph (b)1 and 2 of this subsection; or

2. The owner or operator shall design, operate and maintain a double-liner system which must be installed beneath the facility and which includes a leak detection system that meets the criteria of paragraph (b)1 and 2 of this subsection. The design of the double-lined facility must meet all the specifications of Section 3 of 401 KAR 34:200 (surface

impoundments), Section 3 of 401 KAR 34:210 (waste piles) and Section 3 of 401 KAR 34:230 (landfills), as applicable.

(22) The actual test data showing that the liner is or will be compatible with the waste, if applicable.

(23) For land disposal facilities, if a case-by-case extension has been approved under Section 5 of 401 KAR 37:010 or a petition has been approved under Section 6 of 401 KAR 37:010, a copy of the notice of approval for the extension or petition is required.

(24) The documentation on waste minimization required by 401 KAR 38:030, Section 1(12)(h)4.

(25) [(23)] Applicants may be required to submit such information as may be necessary to enable the cabinet to carry out its duties under state laws as required in this chapter.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The proposed amendments to this regulation may affect hazardous waste management facilities. There are 45 such facilities in Kentucky.

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

1. First year: See note in item (6) Any Additional Information or Comments.

2. Continuing costs or savings: See note in item (6) Any Additional Information or Comments.

3. Additional factors increasing or decreasing costs (note any effects upon competition): See note in item (6) Any Additional Information or Comments.

(b) Reporting and paperwork requirements: The proposed amendments to this regulation require facilities with hazardous waste disposal units closed prior to the submission of the application to submit documentation that notices in the deed have been filed; a copy of the demonstration of financial assurance must be included with submission of the Part B application or sixty days prior to the initial receipt of hazardous wastes, whichever is later; land disposal facilities with approved case-by-case extensions or approved petitions must submit a copy of the notice of approval for the extension or petition.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) Facilities with hazardous waste disposal units closed prior to submission of the application must submit documentation that notices in the deed required under Section 9 of 401 KAR 34:070 have been filed. Alternative. 1. Less stringent. The cabinet could have chosen to be less stringent by not adopting the federal requirements. However, this would have afforded less protection to Kentucky's environment and public health than that afforded by the national program.

2. More stringent. The cabinet could have chosen to be more stringent by adopting additional provisions. However, the present proposal is adequate to protect the environment and public health in Kentucky.

3. Present proposal. The proposed amendments require facilities with hazardous waste disposal units closed prior to the submission of the application to submit documentation that notices indeed have been filed.

(b) A copy of the demonstration of financial assurance must be included with submission of the Part B application or 60 days prior to the initial receipt of hazardous wastes, whichever is later. Alternative. 1. Less stringent. The cabinet could have chosen to be less stringent by not adopting the federal requirements. However, this would have afforded Kentucky's environment and public health less protection than that afforded by the national program.

2. More stringent. The cabinet could have chosen to be more stringent by adopting additional provisions. However, the present proposal is adequate to protect Kentucky's environment and public health.

3. Present proposal. The proposed amendments require that a copy of the demonstration of financial assurance must be included with the submission of Part B application, or sixty days prior to the initial receipt of hazardous wastes, whichever is later.

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

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

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

(6) Any additional information or comments: The impact of this regulation has not been analyzed for those requirements which are equivalent to those found in the corresponding federal regulation, 40 CFR 270.14. The impact of the federal program was analyzed in 51 FR 40632-40636, November 7, 1986. A copy of the November 7, 1986 federal register has been filed with the regulations compiler of the Legislative Research Commission.

TIERING: Was tiering applied? Yes. This regulation applies only to those persons applying for a hazardous waste site or facility permit to treat, store, recycle or dispose of hazardous waste.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 270.14 promulgated on May 2, 1986 (51 FR 16422-16459), July 14, 1986 (51 FR 25422-25486), and November 7, 1986, (51 FR 40572-40654).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments adopt requirements which are identical to those standards adopted by the U.S. Environmental Protection Agency on May 2, 1986, July 14, 1986, and November 7, 1986.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 38:100. Specific Part B requirements for ground water protection.**

RELATES TO: KRS 224.033, 224.036, 224.071, 224.087, 224.830 through 224.877, 224.994
PURSUANT TO: KRS Chapter 13A, 224.033, 224.866
NECESSITY AND FUNCTION: KRS 224.842 and 224.866 require any person who treats, stores, recycles, or disposes of hazardous waste to first obtain a hazardous waste site or facility permit from the cabinet. This chapter establishes the permitting process for hazardous waste sites or facilities. An overview of the permit program is found in the Necessity and Function of 401 KAR 38:010. This regulation establishes the additional Part B requirements necessary for the protection of ground water.

Section 1. Applicability. This regulation applies to all owners or operators of hazardous waste surface impoundments, piles, land treatment units, and landfills except as otherwise provided in Section 1(2) of 401 KAR 34:060.

Section 2. Part B Requirements for Ground Water Protection. In addition to the information required by 401 KAR 38:080, 38:090, and the applicable requirements of 401 KAR 38:150 through 401 KAR 38:210, the following additional information regarding protection of ground water is required from owners or operators of hazardous waste surface impoundments, piles, land treatment units, and landfills, except as otherwise provided in Section 1(2) of 401 KAR 34:060.

(1) A summary of the ground water monitoring data obtained during the interim status period under 401 KAR 35:060, where applicable.

(2) Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including ground water flow direction and rate, and the basis for such identification (i.e., the information obtained from hydrogeologic investigations of the facility area).

(3) On the topographic may required under Section 2(18) of 401 KAR 38:090, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under Section 6 of 401 KAR 34:060, the proposed location of ground water monitoring wells, as required under Section 8 of 401 KAR 34:060, and to the extent possible, the information required in subsection (2) of this section.

(4) A description of any plume of contamination that has entered the ground water from a regulated unit at the time that the application is submitted that:

(a) Delineates the extent of the plume on the topographic map required under Section 2(18) of 401 KAR 38:090; and

(b) Identifies the concentration of each constituent from 401 KAR 31:170 throughout the plume or identifies the maximum concentrations of each constituent from 401 KAR 31:170 in the plume.

(5) Detailed plans and an engineering report describing the proposed ground water monitoring program to be implemented to meet the requirements of Section 8 of 401 KAR 34:060;

(6) If the presence of hazardous constituents has not been detected in the ground water at the time of permit application, the owner or operator must submit sufficient information, supporting data and analyses to establish a detection monitoring program which meets the requirements of Section 9 of 401 KAR 34:060. This submission must address the following items as specified under Section 9 of 401 KAR 34:060:

(a) A proposed list of indicator parameters, waste constituents, or reaction products that can provide a reliable indication of the presence of hazardous constituents in the ground water;

(b) A proposed ground water monitoring system;

(c) Background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

(d) A description of proposed sampling, analysis and statistical comparison procedures to be utilized in evaluating ground water monitoring data.

(7) If the presence of hazardous constituents has been detected in the ground water at the point of compliance at the time of permit application, the owner or operator must submit sufficient information, supporting data, and analyses to establish a compliance monitoring program which meets the requirements of Section 10 of 401 KAR 34:060. The owner or operator must also submit an engineering feasibility plan for a corrective action program necessary to meet the requirements of Section 11 of 401 KAR 34:060, except as provided in Section 9(8)(e) of 401 KAR 34:060, unless the owner or operator obtains written authorization in advance from the director to submit a proposed permit schedule for submittal of such a plan. To demonstrate compliance with Section 10 of 401 KAR 34:060, the owner or operator must address the following items:

(a) A description of the wastes previously handled at the facility;

(b) A characterization of the contaminated ground water, including concentrations of hazardous constituents;

(c) A list of hazardous constituents for which compliance monitoring will be undertaken in accordance with Sections 8 and 10 of 401 KAR 34:060;

(d) Proposed concentration limits for each hazardous constituent, based on the criteria set forth in Section 5 of 401 KAR 34:060;

(e) Detailed plans and an engineering report describing the proposed ground water monitoring system, in accordance with the requirements of Section 8 of 401 KAR 34:060; and

(f) A description of proposed sampling, analysis, and statistical comparison procedures to be utilized in evaluating ground water monitoring data.

(8) If hazardous constituents have been measured in the ground water which exceed the concentration limits established under Section 5 of 401 KAR 34:060, or if ground water monitoring conducted at the time of permit application under 401 KAR 35:060 at the waste boundary indicates the presence of hazardous constituents from the facility in the ground water over established background concentrations, the owner or operator must submit sufficient information, supporting data, and analyses to establish a corrective action program which meets the requirements of Section 11 of 401 KAR 34:060. To demonstrate compliance with Section 11 of 401 KAR 34:060, the owner or operator must address, at a minimum, the following items:

(a) A characterization of the contaminated ground water, including concentrations of hazardous constituents;

(b) The concentration limit for each hazardous constituent found in the ground water as set forth in Section 4 of 401 KAR 34:060;

(c) Detailed plans and an engineering report describing the corrective action to be taken; and

(d) A description of how the ground water monitoring program will demonstrate the adequacy of the corrective action.

(e) The permit may contain a schedule for submittal of the information required in paragraphs (c) and (d) of this subsection provided the owner or operator obtains written authorization from the secretary prior to submittal of the permit application.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: This amendment to this regulation affects hazardous waste facilities which must monitor their groundwater.

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

1. First year: None. The proposed amendments do not impose any new requirements on those affected; the information related to corrective action planning was required before these amendments were promulgated. The amendments change the timing of the submittal of the information.

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: Owners/operators will be required to obtain advance written authorization from the secretary waiving the corrective action information requirements if the corrective action plan for regulated units is to be developed through a permit schedule of compliance.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The requirement that the secretary grant written authorization to owners/operators seeking a wavier from the corrective action information requirements may result in a small cost to the promulgating administrative body. This cost would stem from the paperwork required to process the written authorization.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) Information related to detailed corrective action planning may be developed after permit issuance through schedules of compliance included in the permit. If the corrective action plan for regulated units is to be developed through a permit schedule of compliance, owner/operators will be required to obtain advance written authorization from the secretary waiving these information requirements.

Alternative. 1. Less stringent. The cabinet could have chosen to be less stringent by not requiring owner/operators to develop information related to corrective action planning. However, the present proposal will provide increased protection to the Commonwealth's groundwater supply.

2. More stringent. The cabinet could have chosen to be more stringent by requiring that information related to detailed corrective action planning be developed prior to permit issuance. However, the present proposal is adequate to protect the environment and public health in Kentucky.

3. Present proposal. The present proposal allows that information related to detailed corrective action planning may be developed after permit issuance through schedules of compliance included in the permit.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. This regulation applies only to those hazardous waste facilities which must monitor their groundwater.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 270.14(c) promulgated on June 22, 1987 (52 FR 23447-23450).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments adopt requirements which are identical to those standards adopted by the U.S. Environmental Protection Agency on June 22, 1987.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 38:160. Specific Part B requirements for tanks.**

RELATES TO: KRS 224.033, 224.036, 224.071, 224.087, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.866, 224.867

NECESSITY AND FUNCTION: KRS 224.842 and 224.866 require any person who treats, stores, recycles, or disposes of hazardous waste to first obtain a hazardous waste site or facility permit from the cabinet. This chapter establishes the permitting process for hazardous waste sites or facilities. An overview of the permit program is found in the Necessity and Function of 401 KAR 38:010. This regulation establishes specific Part B requirements for facilities that treat or store hazardous waste in tanks.

Section 1. Applicability. The requirements in this regulation apply to all owners or operators of hazardous waste sites or facilities that treat or store or will treat or store hazardous waste in tanks.

Section 2. Specific [Additional] Part B Information Requirements for Tank Systems. Except as otherwise provided in Section 1 of 401 KAR 34:010 and Section 1 of 401 KAR 34:190, [In addition to the information required by 401 KAR 38:080, and 401 KAR 38:090, and 401 KAR 38:100,] owners and operators of facilities that use or will use tanks to store or treat hazardous waste[, except as otherwise provided in Section 1 of 401 KAR 34:010 and Section 1 of 401 KAR 34:190,] must provide the following information in addition to the information required by 401 KAR 38:080, 401 KAR 38:090, and 401 KAR 38:100: [a description of design and operation procedures which demonstrate compliance with the requirements of Sections 2, 3, 6, and 7, of 401 KAR 34:190, including:]

(1) A written assessment that is reviewed and certified by an independent, qualified, professional engineer registered in the state of Kentucky as to the structural integrity and suitability for handling hazardous waste of each tank system, as required under Sections 2 and 3 of 401 KAR 34:190; [References to design standards or other available information used (or to be used) in design and construction of the tank;]

(2) Dimensions and capacity of each tank; [A description of design specifications including identification of construction materials and lining materials (include pertinent characteristics such as corrosion or erosion resistance);]

[(3) Tank dimensions, capacity, and shell thickness;]

(3) [(5) A] description of feed systems, safety cutoff, bypass systems, and pressure controls (e.g., vents); [and]

(4) A diagram of piping, instrumentation, and process flow for each tank system;

(5) A description of materials and equipment used to provide external corrosion protection, as required under Section 3(1)(c)2 of 401 KAR 34:190;

(6) For new tank systems, a detailed description of how the tank system(s) will be installed in compliance with Section 3(2) through (5) of 401 KAR 34:190; [A description of procedures for handling incompatible, ignitable, or reactive wastes, including the use of buffer zones.]

(7) Detailed plans and description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of Section 4(1) through (6) of 401 KAR 34:190; [Where applicable, a description of the containment and detection systems to demonstrate compliance with Section 8 of 401 KAR 34:190 (Management of chlorinated dioxins, dibenzofurans, and phenols) must include at least the following:]

(8) For tank systems for which a variance from the requirements of Section 4 of 401 KAR 34:190 is sought (as provided by Section 4(7) of 401 KAR 34:190):

(a) Detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous waste or hazardous constituents into the groundwater or surface water during the life of the facility; or

(b) A detailed assessment of the substantial present or potential hazards posed to human health or the environment should a release enter the environment;

(9) Description of controls and practices to

prevent spills and overflows, as required under Section 5(2) of 401 KAR 34:190; and

(10) For tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of Sections 10 and 11 of 401 KAR 34:190.

[(a) Drawings and a description of the basic design parameters, dimensions, and materials of construction of the containment system.]

[(b) Capacity of the containment system relative to the design capacity of the tank(s) within the system.]

[(c) Description of the system to detect leaks and spills, and how precipitation and run-on will be prevented from entering into the detection system.]

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: This regulation may affect those facilities that treat or store hazardous waste in tanks.

(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: The proposed amendments to this regulation revise the specific Part B information required of owners and operators of tank systems.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The following concerns the revision of the specific Part B information for tanks. Alternative. 1. Less stringent. The cabinet could have chosen to be less stringent by not adopting the federal standards. This would have lessened the information requirements of owners and operators of facilities using tanks to store or treat hazardous waste. Without this information, it may be more difficult to alleviate the problems caused by a release to the environment.

2. More stringent. The cabinet could have chosen to be more stringent by requiring owners and operators of facilities using tanks to provide additional information in the Part B application. However, the present proposal requires sufficient information from these persons.

3. Present proposal. The proposed amendments revise the specific Part B information for tanks by tailoring the requirements to the technical standards for tanks in 401 KAR 34:190.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. This regulation applies only to facilities that treat or store hazardous waste in tanks.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 270.16 promulgated on July 14, 1986 (51 FR 25422-25486) and August 15, 1986 (51 FR 29430-29431).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments adopt requirements which are identical to those standards adopted by the U.S. Environmental Protection Agency on July 14, 1986 and August 15, 1986.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

## NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
## Department for Environmental Protection
## Division of Waste Management
## (Proposed Amendment)

### 401 KAR 39:010. Generator registration fees.

RELATES TO: KRS 224.033, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.871

NECESSITY AND FUNCTION: KRS 224.033(20) states that the cabinet may provide by regulation for a reasonable schedule of fees for the cost of processing applications for permits, exemptions, and partial exemptions. KRS 224.871 requires the

cabinet to promulgate regulations requiring the payment of reasonable fees for hazardous waste registration certificates and permits. The purpose of this chapter is to establish a fee schedule for hazardous waste management. This regulation establishes the fees for the registration of hazardous waste generators.

Section 1. Applicability. This regulation applies to all generators of hazardous waste in Kentucky who are required by Section 3 of 401 KAR 32:010 to register with the cabinet.

Section 2. Schedule of Fees for Application for Registration. All applications for registration as a hazardous waste generator of more than 100 kilograms in a calendar month shall be accompanied by the appropriate fee set forth below:

(1) The fee for registration as a hazardous waste generator shall be based on the number of hazardous waste streams generated according to the following schedule:

| Number of Waste streams | Registration Fee |
|---|---|
| 1-5 | $200 |
| 6-10 | 250 |
| 11-15 | 300 |
| 16-20 | 350 |
| 21-25 | 400 |
| 26-30 | 450 |
| 30 or more | 500 |

(2) Modification fee. If a registrant desires to increase by an additional hazardous waste the number of hazardous wastes he generates, the fee for the processing of such modification shall be fifty (50) dollars. A modification fee will also be required if the name of the company or the authorized contact person changes.

Section 3. Submittal of Fee. The appropriate fee shall be submitted to the cabinet with the application for registration. The check should be made payable to the Kentucky State Treasurer.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at noon.
PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director
(1) Type and number of entities affected: This regulation applies to 1,049 hazardous waste generators in Kentucky that generate more than 100 kilograms of hazardous waste in a calendar month.
(a) Direct and indirect costs or savings to those affected:
1. First year: None. The proposed amendment to this regulation will not result in any direct and indirect costs or savings to those affected. The amendment clarifies that registration fees are applicable to generators generating more than 100 kilograms of hazardous waste in a calendar month.
2. Continuing costs or savings: None. See note in (1)(a)1.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None. See note in (1)(a)1.
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None. The amendments to this regulation will have no effect on the promulgating administrative body as it clarifies that registration fees are to be submitted by generators of more than 100 kilograms of hazardous waste in a calendar month.
2. Continuing costs or savings: None. See note in (2)(a)1.
3. Additional factors increasing or decreasing costs: None. See note in (2)(a)1.
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.
(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) A technical change was made to clarify that the fees apply only to those persons who generate more than 100 kilograms of hazardous waste in a calendar month. This amendment was made to clarify the regulation, therefore, it was unnecessary to consider more or less stringent alternatives. Alternative. 1. Less stringent. Not applicable.
2. More stringent. Not applicable.
3. Present proposal. The proposed amendment clarifies the regulation by stating that the registration fees apply to those persons who generate more than 100 kilograms of hazardous waste in a calendar month.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: None
TIERING: Was tiering applied? Yes. This regulation is tiered to apply to hazardous waste generators that generate more than 100 kilograms of hazardous waste in a calendar month.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation are state specific to clarify fees for generators who generate more than 100 kilograms of hazardous waste in a calendar month.
2. Does the proposed regulation impose stricter requirements or other responsibilities

on the regulated entities than those required by the federal mandate: Yes. This regulation imposes a responsibility not required by the federal mandate; generators of more than 100 kilograms of hazardous waste in a calendar month must pay a registration fee.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: KRS 224.871 requires the cabinet to promulgate regulations requiring the payment of reasonable fees for hazardous waste registration certificates and permits. This regulation imposes a registration fee on generators of more than 100 kilograms of hazardous waste in a calendar month.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 39:080. Recycling fees.**

RELATES TO: KRS 224.033, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.871

NECESSITY AND FUNCTION: KRS 224.033(20) states that the cabinet may provide by regulation for a reasonable schedule of fees for the cost of processing applications for permits, exemptions, and partial exemptions. KRS 224.871 requires the cabinet to promulgate regulations requiring the payment of reasonable fees for hazardous waste registration certificates and permits. The purpose of this chapter is to establish a fee schedule for hazardous waste management. This regulation establishes the fee schedule for permits for recyclers of hazardous waste.

Section 1. Applicability. This regulation applies to all persons considered to be recyclers in accordance with the criteria contained in Section 1 of 401 KAR 35:010 and 401 KAR Chapter 36.

Section 2. Schedule of Fees for Recycling. A fee shall be required in order to register as a recycler of hazardous wastes. The fee to register as a hazardous waste recycler is $200. Generators who generate less than 100 kg of hazardous waste in a calendar month (i.e., limited quantity generators) shall be exempt from the registration fee for recycling activities.

Section 3. Submittal of Fees. The required fees shall be submitted to the cabinet with the permit application. All checks should be made payable to the Kentucky State Treasurer.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: This regulation affects recyclers who generate less than 100 kg of hazardous waste in a calendar month (limited quantity generators). Currently there are 543 limited quantity generators registered in kentucky; however, an unknown number of limited quantity generators exist in Kentucky because there is no requirement to register for limited quantity generators. However, of those limited quantity generators registered, approximately 100 were also registered recyclers.

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

1. First year: The proposed amendments will result in a savings of $200 to generators who generate less than a 100 kg of hazardous waste in a calendar month (i.e., limited quantity generators) who register as recyclers.

2. Continuing costs or savings: See note in (1)(a)1 above.

3. Additional factors increasing or decreasing costs (note any effects upon competition): No factors will increase cost; however, with the elimination of the $200 fee for limited quantity generators cost will decrease by $200.

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The cost to the promulgating administrative body will be $200 for each limited quantity generator who operates a hazardous waste recycling unit in lost fees. However, the benefits to the environment to encourage legitimate on-site recycling by limited quantity generators will outweigh the costs in staff time for registration activities.

2. Continuing costs or savings: See note in (2)(a)1 above.

3. Additional factors increasing or decreasing costs: See note in (2)(a)1 above.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The $200 fee for registering as a hazardous waste recycler is proposed to be waived for generators producing less than 100 kg of hazardous waste per month. Alternative. 1. Less stringent. The cabinet cannot be less stringent than the current proposal since it eliminates the fee for recyclers that generate less than 100 kg of hazardous waste a month.

2. More stringent. The cabinet could have chosen to increase the registration fee or to retain the existing fee. However, the existing fee is seen as a disincentive for very small generators to recycle their hazardous waste on

site.

3. Present proposal. The present proposal eliminates the $200 recycling registration fee. In keeping with the requirements in KRS 224.862, the promulgating administrative body intends to encourage on-site recycling by limited quantity generators. Since numerous limited quantity generators have objected to the existing $200 fee as unreasonable and offering a disincentive to continue recycling activities, the cabinet is proposing to waive the fee requirement. The requirement to register as a recycler is maintained to ensure compliance monitoring of recycling activities to protect public health and the environment.

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

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

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

(6) Any additional information or comments: Since February 1986 when the recycling registration requirements went into effect, limited quantity generators have stated that the $200 cost to register outweighs the monetary benefit of conducting on-site recycling. Many of these small businesses operated silver recovery units on photographic equipment; the yield of valuable silver was significantly smaller than the cost of registering the recycling unit since often these companies did not approach the 100 kg limit level of waste generation. Even for companies recycling quantities of wastes (i.e., small solvent distillation units) near the 100 kg limit, the $200 registration fee is a strong disincentive to continue recycling a maximum of approximately 300 gallons per year. The alternatives to recycling include direct discharge to sewers through an existing regulatory exemption and expensive treatment or disposal of the waste through commercial facilities.

TIERING: Was tiering applied? Yes. This regulation applies to recyclers who generate less than 100 kg of hazardous waste in a calendar month (i.e., limited quantity generators).

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: Fees are not assessed under the federal regulatory system, thus there is no comparable mandate suggested or contained in the federal regulations with regard to registration fees. KRS Chapter 224 provides that the cabinet shall establish fees for the processing, review and issuance of certificates and permits. The amendment to this regulation waives the $200 registration fee charged for recyclers who generate less than 100 kg of hazardous waste in a calendar month.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. The proposed amendment to this regulation will not impose stricter requirements on regulated entities, but will eliminate a fee of $200 imposed upon recyclers who generate less than 100 kg of hazardous waste in a calendar month. Under the federal regulations, no fees are assessed.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: The amendment to this regulation does not impose additional requirements or responsibilities but will eliminate fee of $100 charged to recyclers who generate less than 100 kg of hazardous waste in a calendar month.

**NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET**
**Department for Environmental Protection**
**Division of Waste Management**
**(Proposed Amendment)**

**401 KAR 42:010. General provisions for underground storage tanks.**

RELATES TO: KRS 224.033(27), 224.862(3), (4)
PURSUANT TO: KRS Chapter 13A, 224.033(4), (5), (22) through (25), 224.994
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to develop and conduct programs which provide for the prevention, abatement and control of contaminants which may threaten the environment. KRS 224.814 requires the cabinet to regulate underground storage tanks by requiring notification, minimum construction and performance standards, leak detection, recordkeeping, reporting releases, corrective actions, closure, financial responsibility and other requirements to protect public health and the environment. This chapter identifies requirements for underground storage tanks. This regulation prohibits installing tanks which are not protected against corrosion and provides for a notification process for identification of all underground storage tanks.

Section 1. Applicability. This regulation applies to all owners or operators of underground storage tanks as defined in Section 2 of this regulation. The provisions of this regulation also apply to persons who deposit regulated substances into underground storage tanks or sell underground storage tanks.

Section 2. Definitions. When used in this chapter the following terms shall have the meanings given below:

(1) "Operator" means any person in control of, or having responsibility for, the daily operation of the underground storage tank.

(2) "Owner" means:

(a) In the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances; and

(b) In the case of any underground storage tank in use before November 8, 1984, but no longer in use on that date, any person who owned such tank immediately before discontinuation of its use.

(3) "Person" has the same meaning as provided in 401 KAR 30:010, Section 1, except that such term includes a consortium, a joint venture, and a commercial entity.

(4) "Regulated substance" means:

(a) Any substance defined in Section 101(14) of the Comprehensive Environmental Response,

Compensation and Liability Act of 1980 (but not including any substance regulated as a hazardous waste under 401 KAR Chapters 30 through 39); and

(b) Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (sixty (60) degrees Fahrenheit and 14.7 pounds per square inch absolute).

(5) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from an underground storage tank into ground water, surface water, or subsurface soils.

(6) "Underground storage tank" means any one (1) or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is ten (10) per centum or more beneath the surface of the ground. Such term does not include any:

(a) Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

(b) Tank used for storing heating oil for consumptive use on the premises where stored;

(c) Septic tank;

(d) Pipeline facility (including gathering lines):

1. Regulated under the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671, et seq.); or

2. Regulated under the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001, et seq.); or

3. Which is an intrastate pipeline facility regulated under KRS 278.470, et seq., and 278.992, or other applicable state laws.

(e) Surface impoundment, pit, pond, or lagoon;

(f) Storm water or wastewater collection system;

(g) Flow-through process tank;

(h) Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; or

(i) Storage tank situated in an underground area (such as a basement, cellar, mine working, drift, shaft, or tunnel) if the storage tank is situated upon or above the surface of the floor; and

(j) Any pipes connected to any tank which is described in paragraphs (a) through (i) of this subsection.

Section 3. Interim Prohibition. (1) No person may install an underground storage tank for the purpose of storing regulated substances unless such tank (whether of single or double wall construction):

(a) Will prevent release due to corrosion or structural failure for the operational life of the tank;

(b) Is cathodically protected against corrosion, constructed of noncorrosive material, steel clad with a noncorrosive material, designed in a manner to prevent the release or threatened release of any stored substance; and

(c) The material used in the construction or lining of the tank is compatible with the substance to be stored.

(2) Notwithstanding subsection (1) of this section, if soil tests conducted in accordance with ASTM Standard G57-78, or another standard approved by the cabinet, show that soil resistivity in an installation location is 12,000 ohm-cm or more (unless a more stringent standard is prescribed by the cabinet), a storage tank without corrosion protection may be installed in that location upon approval by the cabinet.

Section 4. Notification Requirements. (1) On or before May 8, 1986, each owner of an underground storage tank currently in use must submit, on a form designated by the cabinet, a notice of the existence of such tank to the cabinet.

(2) On or before May 8, 1986, each owner of an underground storage tank taken out of operation after January 1, 1974 (unless the owner knows that such tank has been permanently removed from the ground), must submit on a form designated by the cabinet, a notice of the existence of such tank to the cabinet.

(3) Any owner that brings an underground storage tank into use after May 8, 1986, must, within thirty (30) days of bringing such tank into use, submit on a form designated by the cabinet, a notice of the existence of such tank to the cabinet.

(4) Owners required to submit notices under subsections (1) through (3) of this section must provide notices to the cabinet for each tank they own. Owners may provide notice for several tanks using one (1) notification form but owners who own more than one (1) place of operation within Kentucky must file a separate notification form for each separate place of operation.

(5) Notices required to be submitted under subsections (1) through (3) of this section must provide all of the information indicated on the prescribed form for each tank for which notice must be given.

(6) Beginning <u>on December 8, 1985 through June 8, 1987</u> [thirty (30) days after the promulgation of this rule, and for eighteen (18) months thereafter], any person who deposits regulated substances in an underground storage tank must make reasonable efforts to notify the owner or operator of such tank of the owner's obligations under subsections (1) through (3) of this section.

(7) Beginning thirty (30) days after the cabinet issues new tank performance standards pursuant to KRS Chapter 224, any person who sells a tank intended to be used as an underground storage tank must notify the purchaser of such tank of the owner's notification obligations under subsections (1) through (3) of this section.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until

the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: This regulation affects all owners and operators of underground storage tanks, except for those listed as exempt from regulation. There are an estimated 33,000 underground storage tanks in Kentucky.

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

1. First year: None. The proposed amendment makes no changes in the provisions for underground storage tanks. Therefore, no direct and indirect costs or savings will be realized by the affected parties.

2. Continuing costs or savings: None. See note in item (1)(a)1.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None. See note in item (1)(a)1.

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. The proposed amendment clarifies a compliance date and will enhance the ability of the promulgating agency to enforce the requirements.

2. Continuing costs or savings: None. See note in item (2)(a).

3. Additional factors increasing or decreasing costs: None. See note in item (2)(a).

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The proposed amendment makes the state language identical to the federal regulations promulgated on April 21, 1986. The amendment does not change the requirements for underground storage tanks; the amendment simply clarifies a compliance date in keeping with the federal law. There were no alternatives to consider since the compliance date is stipulated by federal law.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. This regulation applies only to owners or operators of underground storage tanks containing petroleum and other hazardous substances defined under the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 280.3 promulgated on April 21, 1986 (51 FR 13497-13498).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments adopt requirements which are identical to those standards adopted by the U.S. Environmental Protection Agency on April 21, 1986.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

## CORRECTIONS CABINET
## (Proposed Amendment)

**501 KAR 6:020. Corrections policies and procedures.**

RELATES TO: KRS Chapters 196, 197, 439

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

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on December 4 [July 15], 1987 and hereinafter should be referred to as Corrections Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

| | |
|---|---|
| 1.1 | Legal Assistance for Corrections Staff |
| 1.2 | News Media [(Amended 7/15/87)] |
| 1.6 | Extraordinary Occurrence Reports |
| 1.9 | Institutional Duty Officer |
| 1.11 | Population Counts and Reporting Procedures |
| 1.12 | Operation of Motor Vehicles by Corrections Cabinet Employees |
| 2.1 | Inmate Canteen |
| 2.10 | Surplus Property |
| 3.1 | Code of Ethics |
| 3.2 | Inclement Weather and Emergency Conditions Policy |
| 3.3 | Holding of Second Jobs by Bureau Employees |
| 3.7 | Employment of Relatives |
| 3.10 | Staff Clothing and Personal Appearance |
| 3.12 | Institutional Staff Housing |
| 3.14 | Corrections Cabinet Payroll Deduction Policy and Procedure |
| 4.1 | Attendance at Professional Meetings |
| 4.2 | Staff Training and Development |
| 4.3 | Firearms and Chemical Agents Training |
| 4.4 | Educational Assistance Program |
| 6.1 | Open Records Law |
| 7.2 | Asbestos Abatement |
| 8.4 | Emergency Preparedness |
| 9.1 | Use of Force |
| 9.3 | Transportation of Convicted Offenders |

9.4 Transportation of Inmates to Funerals or Bedside Visits
9.5 Return of Escapees by Automobile
9.6 Contraband
9.7 Storage, Issue and Use of Weapons Including Chemical Agents
9.8 Search Policy
9.9 Transportation of Inmates
9.10 Security Inspections
9.11 Tool Control
9.15 Institutional Entry and Exit Policy and Procedures
9.18 Informants
9.19 Found Lost or Abandoned Property
10.2 Special Management Inmates
10.3 Safekeepers
10.4 Special Needs Inmates
11.2 Nutritional Adequacy of the Diet for Inmates
11.3 Special Diet Procedures
13.1 Pharmacy Policy and Formulary
13.2 Health Maintenance Services
13.3 Medical Alert System
13.4 Health Program Audits
13.5 Acquired Immune Deficiency Syndrome
14.2 Personal Hygiene Items
14.3 Marriage of Inmates
14.4 Legal Services Program
14.6 Inmate Grievance Procedures
15.1 Hair and Grooming Standards
15.2 Offenses and Penalties
15.3 Meritorious Good Time
15.4 Governor's Meritorious Good Time Award
15.5 Restoration of Forfeited Good Time
15.6 Adjustment Procedures and Programs
16.1 General Inmate Visiting Procedure
16.2 Inmate Correspondence
16.3 Telephone Calls
16.4 Inmate Packages
17.1 Inmate Personal Property
17.2 Assessment Center Operations
17.3 Controlled Intake of Inmates
18.4 Classification of the Inmate
18.5 Custody/Security Guidelines
18.6 Classification Document
18.7 Transfers
18.8 Guidelines for Transfers Between Institutions
18.9 Out-of-State Transfers [(Amended 7/15/87)]
18.10 Preparole Progress Reports
18.11 Kentucky Correctional Psychiatric Center Transfer Procedures
18.12 Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill
18.13 Population Categories
18.15 Protective Custody
19.1 Government Services Projects
19.2 Community Services Projects
20.1 Study Release
20.6 Vocational Study Release
22.1 Privilege Trips
25.1 Gratuities
25.2 Public Official Notification of Release of an Inmate
25.3 Prerelease
25.4 Inmate Furloughs
25.6 Community Center Program
25.7 Expedient Release
25.8 Extended Furloughs
[27.1 Supervision: Case Classification (Deleted 12/4/87)]
27.2 Risk/Needs Administration
[27.4 Supervision Plan: General (Deleted 12/4/87)]
[27.8 Travel Restrictions (Deleted 12/4/87)]
[27.9 Conditions of Supervision (Deleted 12/4/87)]
27.10 Preliminary Revocation Procedures
[27.11 Apprehension and Transportation of Violators of Probation, Parole and Conditional Release (Deleted 12/4/87)]
[27.12 Fugitive Section/Probation and Parole (Deleted 12/4/87)]
[27.13 Supervision Fee (Deleted 12/4/87)]
[27.14 Interstate Compact (Deleted 12/4/87)]
[27.18 Absconder Procedures (Deleted 12/4/87)]
[27.19 Technical Violators (Deleted 12/4/87)]
[27.20 Intensive Supervision (Deleted 12/4/87)]
[28.2 Investigations: General (Deleted 12/4/87)]
[28.3 Presentence Investigations (To the Court) (Deleted 12/4/87)]
[28.4 Preparole (Presentence) Investigation (To the Institution and State Parole Board) (Deleted 12/4/87)]
[28.5 Special Report to the Parole Board (Deleted 12/4/87)]
[28.7 Out-of-State Investigations (Deleted 12/4/87)]

27-02-01 Duties of Probation and Parole Officers (Added 12/4/87)
27-03-01 Workload Formula Supervisor/Staff Ratio (Added 12/4/87)
27-05-01 Testimony, Court Demeanor and Availability of Legal Services (Added 12/4/87)
27-06-01 Availability of Supervision Services (Added 12/4/87)
27-06-02 Equal Access to Services (Added 12/4/87)
27-07-01 Cooperation with Law Enforcement Agencies (Added 12/4/87)
27-09-01 Kentucky Community Resources Directory (Added 12/4/87)
27-10-01 Pretrial Diversion (Added 12/4/87)
27-11-01 Intensive Supervision (Added 12/4/87)
27-12-01 Supervision: Case Classification (Added 12/4/87)
27-12-04 Conditions of Regular Supervision/Request for Modification (Added 12/4/87)
27-12-05 Releasee's Report (Added 12/4/87)
27-12-06 Grievance Procedures for Offenders (Added 12/4/87)
27-12-07 Employment, Education/Vocational Referral (Added 12/4/87)
27-12-08 Supervision Plan (Added 12/4/87)
27-12-09 Casebook (Added 12/4/87)
27-12-10 Guidelines for Monitoring Supervision Fee (Added 12/4/87)
27-12-11 Guidelines for Monitoring Financial Obligations Ordered by the Releasing Authority (Added 12/4/87)
27-12-12 Other Financial Obligations (Not Ordered by Releasing Authority) (Added 12/4/87)
27-12-13 Community Service Work (Added 12/4/87)
27-12-14 Client Travel Restrictions (Added 12/4/87)
27-12-15 Advanced Supervision (Added 12/4/87)
27-13-02 Alcohol Detection (Added 12/4/87)
27-14-01 Interstate Compact Transfers (Added 12/4/87)
27-14-02 Interstate Compact Out-of-state Probation and Parole Violation (Added 12/4/87)
27-15-01 Supervision Report: Violations, Unusual Incidents (Added 12/4/87)
27-17-01 Absconder Procedures (Added 12/4/87)

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| 27-18-01 | Probation and Parole Issuance of Detainer/Warrant (Added 12/4/87) |
| 27-21-01 | Apprehension and Transportation of Probation and Parole Violators (Added 12/4/87) |
| 27-22-01 | Fugitive Unit - Apprehensions (Added 12/4/87) |
| 27-22-02 | Fugitive Unit - Transportation of Fugitives (Added 12/4/87) |
| 27-23-01 | In-state Transfer (Added 12/4/87) |
| 27-24-01 | Closing Supervision Report (Added 12/4/87) |
| 27-24-02 | Reinstatement of Clients to Active Supervision (Added 12/4/87) |
| 27-25-01 | Application for Final Discharge from Parole (Added 12/4/87) |
| 27-26-01 | Assistance to Former Clients and Dischargees (Added 12/4/87) |
| 27-27-01 | Restoration of Civil Rights (Added 12/4/87) |
| 28-01-01 | Probation and Parole Investigation Reports (Introduction, Definitions, Confidentiality, Timing, and General Comments) (Added 12/4/87) |
| 28-01-02 | Probation and Parole Investigation Reports (Administrative Responsibilities) (Added 12/4/87) |
| 28-01-03 | Probation and Parole Investigation Reports (Presentence/Postsentence Investigation Interview Procedure) (Added 12/4/87) |
| 28-01-04 | Probation and Parole Investigation Reports (Presentence/Postsentence Verification, Composition, Case Material and Submission Schedules) (Added 12/4/87) |
| 28-01-05 | Probation and Parole Investigation Reports (Computation of Jail Custody Credit) (Added 12/4/87) |
| 28-01-06 | Probation and Parole Investigation Reports (Misdemeanant Presentence Investigation Reports for the Circuit and District Courts) (Added 12/4/87) |
| 28-01-07 | Probation and Parole Investigation Reports (Supplemental Postsentence Investigation Report, Case Material, and Submission Schedule) (Added 12/4/87) |
| 28-01-08 | Probation Parole Investigation Reports (Partial Investigation Reports and Submission Schedule) (Added 12/4/87) |
| 28-01-09 | Expedient Release Program (Added 12/4/87) |

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: December 4, 1987
FILED WITH LRC: December 4, 1987 at 4 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for January 21, 1988 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: 2,149 employees of the Corrections Cabinet, 6,818 inmates, 17,308 parolees and probationers, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the 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 6:030. 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 December 15 [November 13], 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 |

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| 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 05-00-02 | Research Activities |
| KSR 05-00-03 | Management Information Systems |
| KSR 06-00-01 | Inmate Master File |
| KSR 06-00-02 | Records Audit |
| KSR 06-00-03 | Kentucky Open Records Law |
| KSR 07-00-02 | Institutional Tower Room Regulations |
| KSR 07-00-04 | Handling of PCB Articles and Containers |
| KSR 07-00-05 | Proper Removal of Transformers |
| KSR 07-00-06 | Asbestos Abatement [(Added 11/13/87)] |
| KSR 08-00-07 | Inmate Family Emergency - Life Threatening Illness or Death in Inmate's Immediate Family |
| KSR 08-00-08 | Death of an Inmate/Notification of Inmate Family in Case of Serious Injury, Critical Medical Emergency, Major Surgery |
| KSR 08-00-09 | Emergency Preparedness Training |
| KSR 09-00-04 | Horizontal Gates/Box 1 Entry and Exit Procedure |
| KSR 09-00-05 | Gate I Entrance and Exit Procedure |
| KSR 09-00-09 | Search Policy |
| KSR 09-00-14 | Use of Force |
| KSR 09-00-21 | Crime Scene Camera |
| KSR 09-00-22 | Collection, Preservation, and Identification of Physical Evidence |
| KSR 09-00-23 | Drug Abuse Testing |
| KSR 09-00-25 | Inmate Motor Vehicle Operator's License |
| KSR 09-00-26 | Contraband Outside Institutional Perimeter |
| KSR 09-00-27 | Construction Crew Entry/Exit |
| KSR 09-00-28 | Restricted Areas (Added 12/15/87) |
| KSR 10-00-02 | Special Management Inmates Operations, Rules and Regulations for Unit D |
| KSR 10-00-03 | Special Needs Unit |
| KRS 10-00-04 | Unit D Admission/Release Ticket |
| KSR 11-00-01 | Meal Planning for the General Population |
| KSR 11-00-02 | Special Diets |
| KSR 11-00-03 | Food Service Inspections |
| KSR 11-00-04 | Dining Room Dress Code for Inmates |
| KSR 11-00-06 | Health Standards/Regulations for Food Service Employees |
| KSR 11-00-07 | Early Chow Line Passes for Medically Designated Inmates |
| KSR 12-00-01 | Inmate Summer Dress Regulations |
| KSR 12-00-02 | Sanitation and General Living Conditions |
| KSR 12-00-03 | State Items Issued to Inmates |
| KSR 12-00-07 | Regulations for Inmate Barbershop (Amended 12/15/87) |
| KSR 13-00-01 | Identification of Mentally Retarded Inmates |
| KSR 13-00-02 | Hospital Operations, Rules and Regulations |
| KSR 13-00-03 | Medication for Inmates Leaving Institution Grounds |
| KSR 13-00-04 | Dental Care for Inmates |
| KSR 13-00-05 | Medical and Dental Sick Call |
| KSR 13-00-06 | Infection Control |
| KSR 13-00-07 | Referral of Inmates Considered to Have Severe Emotional Disturbances |
| KSR 13-00-08 | Institutional Laboratory Procedures |
| KSR 13-00-09 | Institutional Pharmacy Procedures |
| KSR 13-00-10 | Requirements for Medical Personnel |
| KSR 13-00-11 | Preliminary Health Evaluation and Establishment of Inmate Medical Record |
| KSR 13-00-12 | Vision Care/Optometry Services |
| KSR 13-00-14 | Periodic Health Examinations for Inmates |
| KSR 13-00-15 | Medical Alert System |
| KSR 13-00-16 | Suicide Prevention and Intervention Program |
| KSR 14-00-01 | Inmate Rights |
| KSR 14-00-02 | A/C Center and Unit D Inmate Access to Legal Aide Services |
| KSR 14-00-04 | Inmate Grievance Procedure |
| KSR 14-00-05 | Inmate Marriages |
| KSR 14-00-06 | Inmate Legal Aides |
| KSR 15-00-01 | Operational Procedures and Rules and Regulations for Unit A, B, and C |
| KSR 15-00-02 | Regulations Prohibiting Immate Control or Authority Over Other Inmate(s) |
| KSR 15-00-03 | Governor's Meritorious Good Time Award |
| KSR 15-00-04 | Restoration of Forfeited Good Time |
| KSR 15-00-05 | Differential Status for SU (QUIT) Inmates |
| KSR 15-00-06 | Inmate I.D. Cards |
| KSR 15-00-07 | Inmate Rules and Discipline - Adjustment Committee Procedures |
| KSR 15-00-08 | Firehouse Living Area |
| KSR 16-00-01 | Visiting Regulations |
| KSR 16-00-02 | Inmate Correspondence and Mailroom Operations [(Amended 11/13/87)] |
| KSR 16-00-03 | Inmate Access to Telephones |
| KSR 17-00-01 | Housing Unit Assignment |
| KSR 17-00-03 | Notifying Inmates' Families of Admission and Procedures for Mail and Visiting |
| KSR 17-00-04 | Assessment/Classification Center Operations, Rules and Regulations |
| KSR 17-00-05 | Dormitory 10 Operations |
| KSR 17-00-06 | Identification Department Admission and Discharge Procedures |
| KSR 17-00-07 | Inmate Personal Property |
| KSR 18-00-01 | Special Management Inmates - Unit D Classification |

| | |
|---|---|
| KSR 18-00-04 | Returns from Other Institutions |
| KSR 18-00-05 | Transfer of Residents to Kentucky Correctional Psychiatric Center |
| KSR 18-00-06 | Classification |
| KSR 18-00-07 | Special Notice Form |
| KSR 19-00-01 | Inmate Work Incentives |
| KSR 19-00-02 | On-the-job Training Program (Amended 12/15/87) |
| KSR 19-00-03 | Safety Inspections of Inmate Work Assignment Locations |
| KSR 20-00-01 | Vocational School Referral and Release Process |
| KSR 20-00-03 | Academic School Programs |
| KSR 20-00-04 | Criteria for Participation in Jefferson Community College Program |
| KSR 20-00-08 | Integration of Vocational and Academic Education Programs |
| KSR 21-00-01 | Legal Aide Office and Law Library Services and Supervision |
| KSR 21-00-02 | Inmate Library Services |
| KSR 21-00-03 | Library Services for Unit D |
| KSR 22-00-03 | Inmate Organizations |
| KSR 22-00-07 | Inmate News Magazine |
| KSR 23-00-02 | Chaplain's Responsibility and Inmate Access to Religious Representatives |
| KSR 23-00-03 | Religious Programming |
| KSR 25-00-01 | Discharge of Residents to Hospital or Nursing Home |
| KSR 25-00-02 | Violations of Law or Code of Conduct by Inmates on Parole Furlough |
| KSR 25-00-03 | Preparole Progress Report |

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for January 21, 1988 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: 493 employees of the Kentucky State Reformatory, 1444 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 6:050. Luther Luckett Correctional Complex.**

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on December 15 [October 12], 1987 and hereinafter should be referred to as Luther Luckett Correctional Complex Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

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|---|---|
| LLCC 01-08-01 | Institutional Legal Assistance |
| LLCC 01-09-01 | Public Information and News Media Access |
| LLCC 01-12-01 | Duty Officer Responsibilities |
| LLCC 02-01-02 | Fiscal Management: Accounting Procedures |
| LLCC 02-01-03 | Fiscal Management: Agency Funds |
| LLCC 02-01-04 | Fiscal Management: Insurance |
| LLCC 02-03-01 | Fiscal Management: Audits |
| LLCC 02-06-01 | Property Inventory |
| LLCC 02-07-01 | Screening Disbursements from Inmate Personal Accounting |
| LLCC 03-01-01 | General Guidelines for LLCC Employees |
| LLCC 03-01-02 | Service Regulations, Attendance Accumulation and use of Leave |
| LLCC 03-02-01 | Proper Dress for Uniformed Personnel |
| LLCC 03-02-02 | Replacement of Damaged or Destroyed Personal Property |
| LLCC 03-03-01 | Employee Grievance Mechanism |
| LLCC 03-04-01 | Employee Records |
| LLCC 03-05-01 | Personnel Registers |
| LLCC 03-06-01 | Work Planning: Employee Evaluations and Evaluation Control |
| LLCC 03-08-01 | Shift Transfers |
| LLCC 03-08-02 | Rotation of Correctional Officers Between Central Security and Unit Management Staff |
| LLCC 03-09-01 | Promotion Board |
| LLCC 03-10-01 | Affirmative Action: EEO |
| LLCC 03-12-01 | Confidentiality of Information Roles and Services of |

| | |
|---|---|
| | Consultants, Contract Personnel and Volunteers |
| LLCC 08-01-01 | Offender Records |
| LLCC 08-04-01 | Storage of Expunged Records |
| LLCC 08-05-01 | Psychological and Psychiatric Reports (Added 12/15/87) |
| LLCC 10-03-09 | Duties and Responsibilities of Building 1 and 2 Officer |
| LLCC 11-03-01 | LLCC Population Categories |
| LLCC 11-07-01 | Adjustment Procedures for Minor Rule Violations |
| LLCC 11-09-01 | Rules and Regulations of the Unit |
| LLCC 11-13-01 | Inmate Dress and Use of Access Areas |
| LLCC 11-15-01 | Postparole Furloughs |
| LLCC 11-16-01 | Restoration of Forfeited Good Time |
| LLCC 11-18-02 | Use of Monitor Telephone |
| LLCC 11-19-01 | Unit Shakedowns/Control of Excess Property |
| LLCC 11-20-01 | Program Services for "Special Needs"/Mentally Ill Inmates |
| LLCC 12-01-01 | Special Management Inmates |
| LLCC 12-01-02 | Disciplinary Segregation Time Calculation (WTR) |
| LLCC 12-04-01 | Guidelines for (7E) PC Unit/General Living Conditions |
| LLCC 13-01-01 | Dining Room Guidelines |
| LLCC 13-04-01 | Food Service: Meals |
| LLCC 13-04-02 | Food Service: Menu, Nutrition and Special Diets |
| LLCC 13-05-02 | Medical Screening of Food Handlers |
| LLCC 13-06-01 | Food Service: Inspections and Sanitation |
| LLCC 13-07-01 | Food Service: Purchasing, Storage and Farm Products |
| LLCC 13-08-01 | OJT Food Service Training Placement |
| LLCC 14-01-01 | Sanitation, Living Condition Standards, and Clothing Issue |
| LLCC 14-05-01 | Institutional Inspections |
| LLCC 15-01-01 | Health Maintenance Services; Sick Call and Pill Call |
| LLCC 15-02-01 | Mental Health/Psychological Services |
| LLCC 15-03-01 | Pharmacy |
| LLCC 15-03-02 | Use of Psychotropic Medications |
| LLCC 15-04-01 | Dental Services |
| LLCC 15-05-02 | Licensure and Training Standards |
| LLCC 15-06-02 | Specialized Health Services |
| LLCC 15-06-03 | Emergency Medical/Dental Care Services |
| LLCC 15-06-04 | First Aid/CPR Training Program |
| LLCC 15-06-05 | Suicide Prevention and Intervention Program |
| LLCC 15-07-01 | Health Records |
| LLCC 15-08-01 | Special Diets |
| LLCC 15-12-01 | Special Needs Unit |
| LLCC 15-14-01 | Informed Consent |
| LLCC 15-15-01 | Medical Restraints |
| LLCC 15-16-01 | Health Education/Special Health Programs |
| LLCC 15-17-01 | Serious and Infectious Diseases |
| LLCC 16-01-01 | Inmate Rights and Responsibilities |
| LLCC 16-02-01 | Inmate Grievance Procedure |
| LLCC 16-03-01 | Inmate Legal Services |
| LLCC 17-01-01 | Due Process/Disciplinary Procedure |
| LLCC 18-01-01 | Inmate Correspondence (Amended 12/15/87) |
| LLCC 18-01-02 | Issuance of Legal Mail to Inmate Population |
| LLCC 18-02-01 | Inmate Visiting |
| LLCC 18-02-03 | Extended Visit and Furloughs |
| LLCC 18-02-04 | Meritorious Visits |
| LLCC 18-03-03 | Inmate Visiting (DSU/ASU) |
| LLCC 20-01-01 | Personal Property Control |
| LLCC 20-02-01 | Authorized Inmate Personal Property [(Amended 10/12/87)] |
| LLCC 20-03-01 | Unauthorized Items |
| LLCC 20-04-02 | Inmate Canteen |
| LLCC 20-05-01 | Inmate Control of Personal Funds |
| LLCC 20-05-02 | Storage and Disposition of Monies Received on Weekends, Holidays, and Between 4 p.m. and 8 a.m. Weekdays |
| LLCC 20-06-01 | Procedure for Sending Appliances to Outside Dealers for Repair |
| LLCC 21-02-01 | Classification/Security Levels |
| LLCC 21-03-01 | Classification Process |
| LLCC 22-01-01 | OJT/Job Assignments |
| LLCC 23-01-01 | Academic School |
| LLCC 26-01-01 | Religious Services |
| LLCC 28-01-01 | Privileged Trips |
| LLCC 28-03-01 | Temporary Release/Community Center Release |
| LLCC 28-04-01 | Preparole Progress Report |
| LLCC 28-04-02 | Parole Eligibility Dates |

GEORGE W. WILSON, Secretary

APPROVED BY AGENCY: December 15, 1987

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

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for January 21, 1988 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: 221 employees of the Luther Luckett Correctional Complex, 624 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 6:070. Kentucky Correctional Institution for Women.**

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 December [April] 15, 1987 and hereinafter should be referred to as Kentucky Correctional Institution for Women 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.

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|---|---|
| KCIW 01-06-01 | Legal Assistance for Corrections Staff |
| KCIW 01-08-01 | News Media Access [(Amended 4/15/87)] |
| KCIW 02-01-01 | Comprehensive Insurance Coverage |
| KCIW 02-02-01 | Fiscal Management: Audits |
| KCIW 02-02-03 | Fiscal Management: Checks |
| KCIW 02-02-04 | Institution Purchasing Procedures |
| KCIW 02-03-01 | Inventory Control of Nonexpendable Personal Property |
| KCIW 02-03-03 | Criteria for Selection of Bidders and Vendors |
| KCIW 02-04-01 | Accounting Procedures |
| KCIW 02-05-01 | Inmate Canteen/Staff Canteen |
| KCIW 02-07-01 | Release of CETA Money Earned |
| KCIW 03-01-01 | Travel Expense Reimbursement |
| KCIW 03-02-01 | General Orders for Staff |
| KCIW 03-02-02 | Inclement Weather and Emergency Conditions |
| KCIW 03-03-01 | Employee Grievance Procedure |
| KCIW 03-05-01 | Employee Personnel File |
| KCIW 03-06-01 | Affirmative Action and the Equal Employment Opportunity Complaint Procedure |
| KCIW 03-08-01 | Employee Performance Evaluations |
| KCIW 03-09-01 | Payroll and Personnel Manning Records |
| KCIW 03-10-01 | Promotion Committee |
| KCIW 03-11-01 | Personnel Registers |
| KCIW 03-12-01 | Criminal History Checks on all Personnel and the Recruitment and Employment of Ex-Offenders |
| KCIW 06-01-01 | Inmate Records |
| KCIW 06-01-02 | Transfers to Community Centers and the Minimum Security Unit |
| KCIW 06-01-03 | Storage of Expunged Records [(Amended 4/15/87)] |
| KCIW 10-01-01 | Special Management Unit General Operation and Regulations |
| KCIW 10-01-02 | Special Management Unit Programs, Placement and Review |
| KCIW 11-01-01 | Food Service Operation Inspections |
| KCIW 11-01-02 | Budgeting, Accounting, and Purchasing Procedures for Food Products |
| KCIW 11-02-01 | Menu Preparation/Special Diets |
| KCIW 11-03-01 | General Guidelines for Food Service Operations Manager |
| KCIW 11-03-02 | General Guidelines for Food Service Workers |
| KCIW 11-04-01 | Health Standards, Regulations for Food Service Workers |
| KCIW 12-01-01 | Control of Pests and Vermin |
| KCIW 12-02-01 | Laundry Facilities/Clothing Issuance (Amended 12/15/87) [(Amended 4/15/87)] |
| KCIW 12-02-03 | Donated Items [(Amended 4/15/87)] |
| KCIW 12-04-01 | Sanitation and General Living Conditions (Amended 12/15/87) |
| KCIW 13-01-01 | Provision of Medical and Dental Care |
| KCIW 13-01-02 | Preliminary Health Screening and Appraisal |
| KCIW 13-01-03 | Use of Pharmaceutical Products |
| KCIW 13-03-01 | Emergency Care |
| KCIW 13-03-02 | Infirmary Care and Outside Services |
| KCIW 13-03-03 | Outside Hospital Security |
| KCIW 13-04-01 | Medical Alert System |
| KCIW 13-04-02 | Psychiatric/Psychological Services |
| KCIW 13-06-01 | Informed Consent [(Amended 4/15/87)] |
| KCIW 13-07-01 | Detoxification and Alcohol or Chemical Dependency Guidelines |
| KCIW 13-08-01 | Medical Exams for New Employees |
| KCIW 13-09-01 | Suicide Prevention and Intervention Program [(Added 4/15/87)] |
| KCIW 14-01-02 | Inmate Rights |
| KCIW 14-02-01 | Access to Attorneys and Designated Counsel Substitutes |
| KCIW 14-03-01 | Inmates Are Not Subject to Discrimination Based on Race, Religion, National Origin, Sex, Handicap, or Political Beliefs |
| KCIW 14-04-01 | Inmate Grievance Procedure |
| KCIW 15-01-01 | Offenses and Penalties |
| KCIW 15-01-02 | Adjustment Committee Procedures and Programs |
| KCIW 15-03-01 | Inmate Rule Book |
| KCIW 15-04-01 | Incentive Levels System |
| KCIW 15-06-01 | Restriction Guidelines [(Added 4/15/87)] |
| KCIW 16-01-01 | Inmate Correspondence |
| KCIW 16-01-02 | Inmate Mail Distribution |
| KCIW 16-01-03 | Staff Mail |
| KCIW 16-02-01 | Inmate Access to Telephone |
| KCIW 16-02-02 | Intra-Institution Phone Calls |
| KCIW 16-03-01 | Inmate Visiting Regulations |
| KCIW 16-03-02 | Unauthorized Items for Picnic Lunches, Food Packages and Regular Packages |
| KCIW 16-04-01 | Inmate Indigent Fund (Amended 12/15/87) |
| KCIW 16-05-01 | Commercial Vendor Packages, Appliance and Drug Store Orders (Amended 12/15/87) |
| KCIW 17-01-01 | Assessment Center Operation and Reception Programs |
| KCIW 17-01-02 | Assessment/Classification Center Operations, Rules and Regulations |
| KCIW 17-01-03 | Assessment and Classification Unit Property Guidelines |
| KCIW 17-02-01 | Identification Department Admissions |
| KCIW 17-03-01 | Notifying Inmates Families of Admission and Procedures for Mail and Visiting |

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| KCIW 17-05-01 | Inmate Personal Property Guidelines (Amended 12/15/87) |
| KCIW 18-01-02 | Institutional Housing Assignments |
| KCIW 18-02-01 | Classification Procedures |
| KCIW 18-05-01 | Special Needs Inmates |
| KCIW 18-06-01 | Institutional Status Codes |
| KCIW 19-01-01 | Inmate Work/Program Assignments |
| KCIW 19-03-01 | Landscape and Maintenance Work Details |
| KCIW 20-01-01 | Education Programs |
| KCIW 20-01-03 | Vocational Education: Curriculum Flexible Schedule, Upgrade Programs and Release Preparation Program |
| KCIW 20-01-04 | Entry - Exit Vocational School [(Amended 4/15/87)] |
| KCIW 20-01-05 | Vocational Programs: Approved, Assessed and Contain Guidelines for Vocational Records |
| KCIW 20-01-06 | Vocational Education: Staffing Patterns/Requirements [(Amended 4/15/87)] |
| KCIW 20-01-07 | Vocational Counselor |
| KCIW 20-01-08 | Vocational Education: Community Resources and the Integration with Academic Progress [(Amended 4/15/87)] |
| KCIW 20-01-09 | Vocational Education: Support Equipment |
| KCIW 20-01-10 | Control of Flammable, Hazardous, Toxic and Caustic Materials in the Vocational Area |
| KCIW 22-01-04 | Inmate Club Activities |
| KCIW 23-01-01 | Religious Services |
| KCIW 25-01-01 | Preparole Progress Report |
| KCIW 25-02-01 | Temporary Release/Community Center |
| KCIW 25-02-02 | Furloughs (Amended 12/15/87) |
| KCIW 25-03-01 | Escorted Leave into the Community |

GEORGE W. WILSON, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for January 21, 1988 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: 81 employees of the Kentucky Correctional Institution for Women, 172 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1.
3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

## EDUCATION AND HUMANITIES CABINET
## Department for the Blind
## (Proposed Amendment)

**720 KAR 1:010. Federal Vocational Rehabilitation Program.**

RELATES TO: KRS 163.450 to 163.470
PURSUANT TO: KRS Chapter 13A
NECESSITY AND FUNCTION: KRS 163.450 to 163.470 designates the Department for the Blind to be responsible for all rehabilitation services for citizens of the Commonwealth of Kentucky who are blind and visually impaired. These regulations adopt federal rules governing the services, personnel, and administration of the Department for the Blind required as a condition for the agency to receive federal funds and to administer federal vocational rehabilitation programs. P.L. 93-112, as amended, requires the submission of a Three (3) Year State Plan for Vocational Rehabilitation Services to the Secretary of the United States Department of Education, and P.L. 93-516, as amended, requires the submission to the Commissioner of Rehabilitation Services, Department of Education, an application for designation as state licensing agency to administer the Randolph-Sheppard Vending Facility Program.

Section 1. Pursuant to the authority vested by KRS 163.450 to 163.470, the Kentucky State Plan for Vocational Rehabilitation Services for the Blind and Visually Impaired, as amended, for the period October 1, 1985, through September 30, 1987, effective October 1, 1985, is presented herewith for filing with the Legislative Research Commission and incorporated by reference. A copy of said plan may be obtained from the Department for the Blind, Education and Humanities Cabinet.

Section 2. Pursuant to the authority vested by KRS 163.450 to 163.470, the Kentucky Application for Designation for the Randolph-Sheppard Vending Facility Program, effective November 15, 1979, as amended December 15, 1987 [October 15, 1985], is presented herewith for filing with the Legislative Research Commission and incorporated by reference. A copy of said application [plan] may be obtained from the Department for the Blind, Education and Humanities Cabinet.

CHARLES W. McDOWELL, Executive Director
APPROVED BY AGENCY: December 14, 1987
FILED WITH LRC: December 14, 1987 at 4 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on Monday, January 25, 1988, at 10 a.m. at the Frankfort Office of the Department for the Blind, 427 Versailles Road. Those interested in attending this meeting shall contact: Charles W. McDowell, Kentucky Department for the Blind, 427 Versailles Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sue G. Simon

(1) Type and number of entities affected: 49 vending facilities operated by 61 legally blind individuals under the Division of Kentucky Business Enterprises Program (KBEP).

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

1. First year: $1,400 average annual savings per individual.

2. Continuing costs or savings: Approximately same as Number 1 each year.

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

(b) Reporting and paperwork requirements: Facility manager required to file monthly earnings statement.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: $85,000 costs.

2. Continuing costs or savings: $85,000 annually.

3. Additional factors increasing or decreasing costs: Departmental receipts received from the blind operators of the vending facilities will decrease $85,000 annually. The $85,000 decrease in departmental receipts will be replaced through the Interstate Vending Program receipts.

(b) Reporting and paperwork requirements: Annual Federal Report of Vending Facility Program (A-15).

(3) Assessment of anticipated effect on state and local revenues: The $85,000 decrease in departmental receipts does not adversely affect the department, since these funds are being replaced by proceeds from the Interstate Vending Program which is also operated under the auspices of the Department for the Blind.

(4) Assessment of alternative methods; reasons why alternatives were rejected: These changes benefit all parties involved.

(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: The department collects set-aside charges levied on the blind operators of Business Enterprises Program's vending facilities. The department is reducing the set-aside payments made by the blind vendors from 10% of net proceeds earned in each facility to 5%. This reduction in departmental receipts will be replaced by proceeds generated in the Interstate Vending Program. This program, administerd by the department and the Transportation Cabinet, under Section III of the Federal Surface Assistance Transportation Act of 1982, allows the Department for the Blind to receive a commission from a commercial firm operating vending facilities in Kentucky interstate highway rest areas. The department is currently receiving an average of 13% of gross sales from the highway vending facilities. The department received approximately $380,000 in SFY '87 in receipts from the highway facilities.

These funds will enable the department to improve the current operation of the vending facility program by the reduction in set-aside payments, the establishment of a health insurance program for the blind vendors, the maintenance of state-owned equipment, the modernization of existing vending facilities, and the placement of more blind individuals into new locations.

TIERING: Was tiering applied? No. This regulation applies uniformly to each participant in the Kentucy Business Enterprises Program.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The proposed state compliance standards track the minimum uniform standards mandated under the federal Randolph-Sheppard Act, 20 U.S.C. 107 et seq. and implementing regulations at 34 CFR Part 395 et seq. The federal regulations impose affirmative responsibilities on the state licensing agencies to promulgate regulations specifying rights and responsibilities of participating licensed vendors under the Randolph-Sheppard vending facility program. 34 CFR 395.4. These proposed regulations submitted by the Department for the Blind fulfill this mandate by specifying how its Division of Kentucky Business Enterprises Program (KBEP) will administer the vending facility program by specifying the procedures and standards for acceptance into KBEP training and subsequent licensing; transfer and promotion criteria; the due process entitlements and available administrative remedies; the set-aside charges; and other rights and responsibilities of the licensed vendors and the department.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: These regulations do not impose stricter requirements on licensed Randolph-Sheppard vendors under KBEP. However, these regulations are more specific by detailing procedures for entry and licensing under the Kentucky program and the requisite rights and entitlements under this particular state program as is required by the federal regulations.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: These specified standards, procedures, and responsibilities are required to be promulgated by the state licensing agencies under the federal Randolph-Sheppard Act to appropriately inform all participating qualified blind persons of their rights and responsibilities under KBEP.

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

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

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

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1910 of the Code of Federal Regulations revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby adopted by reference with the following additions, exceptions, and deletions.

(1) 29 CFR Part 1910.1 shall read as follows:

"The provisions of this regulation adopt and extend the applicability of established federal standards contained in 29 CFR Part 1910 to all employers, employees, and places of employment throughout the Commonwealth except those excluded in KRS 338.021."

(2) 29 CFR Part 1910.2 shall read as follows: As used in this part, unless the context clearly requires otherwise:

(a) "Act" means KRS Chapter 338.

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

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

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

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

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

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

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

(3) 29 CFR 1910.16(b)(2)(ix), Longshoring and Marine Terminals, shall be amended as follows: Amendments as published in the Federal Register, Volume 52, Number 186, September 25, 1987 are adopted by reference.

(4) [(3)] 29 CFR 1910.19(f) "Special Provisions for Air Contaminants," is removed as published in the Federal Register, Volume 50, Number 240, December 13, 1985, is adopted by reference.

(5) 29 CFR 1910.19(i), Special Provisions for Air Contaminants, shall be amended as follows: Amendments as published in the Federal Register, Volume 52, Number 176, September 11, 1987 are adopted by reference.

(6) [(4)] 29 CFR 1910.20 "Access to employee exposure and medical records" is amended as follows:

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

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

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

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

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

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

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

(9) [(7)] 29 CFR 1910.95 "Hearing Conservation Program" is amended as follows:

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

(b) 29 CFR 1910.95(h)(4) shall read: Audiometric examinations shall be administered in a room meeting the requirements listed in Appendix D: Audiometric Test Rooms. When an

audiometric test room is located in a mobile test van, background sound pressure level measurements shall be taken at each testing location.

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

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

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

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

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

This Appendix is Mandatory.

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

1. Sound Pressure Output Check.

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

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

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

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

2. Linearity check.

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

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

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

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

3. Tolerances.

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

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

| Frequency, Hz | Reference threshold level for TDH-39 earphones, dB | Sound level meter reading dB |
|---|---|---|
| 500 | 11.5 | 81.5 |
| 1000 | 7.0 | 77.0 |
| 2000 | 9.0 | 79.0 |
| 3000 | 10.0 | 80.0 |
| 4000 | 9.5 | 79.5 |
| 6000 | 15.5 | 85.5 |
| 8000 | 13.0 | 83.0 |

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

| Frequency, Hz | Reference threshold level for TDH-49 earphones, dB | Sound level meter reading dB |
|---|---|---|
| 500 | 13.5 | 83.5 |
| 1000 | 7.5 | 77.5 |
| 2000 | 11.0 | 81.0 |
| 3000 | 9.5 | 79.5 |
| 4000 | 10.5 | 80.5 |
| 6000 | 13.5 | 83.5 |
| 8000 | 13.0 | 83.0 |

(10) [(8)] 29 CFR 1910.101(b) shall be amended by revocation of referenced pamphlets P-1-1965 and the adoption of P-1-1974, herein filed by reference.

(11) [(9)] 29 CFR 1910.106 "Flammable and combustible liquids" is amended as follows: 29 CFR 1910.106(a)(3) shall read: "The term automotive service station, or service stations, shall mean that portion of property where flammable or combustible liquids used as motor fuel are stored and dispensed from fixed equipment and into the fuel tanks of motor vehicles and shall include any facilities available for the sale and servicing of tires, batteries, accessories and for minor automotive maintenance work and shall also include private stations not accessible or open to the public such as those used by commercial, industrial or governmental establishments. This section shall not apply to agriculture."

(12) [(10)] 29 CFR 1910.106(g)(1)(i)(g), Flammable and Combustible Liquids as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is removed.

(13) [(11)] 29 CFR 1910.120, Hazardous Waste Operations and Emergency Response, as published in the Federal Register, December 19, 1986, Volume 51, No. 244, is adopted by reference.

(14) [(12)] 29 CFR 1910.120, Hazardous Waste Operations and Emergency Response, as published in the Federal Register, May 4, 1987, Volume 52, No. 85, is adopted by reference.

(15) [(13)] 29 CFR 1910.134 is amended as follows:

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

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

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

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

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

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

CANISTER FOR _____
(Name of atmospheric contaminant)

or

CARTRIDGE FOR _____
(Name of atmospheric contaminant)

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

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

_____
(Name of atmospheric contaminant)

b. For respiratory protection in atmospheres containing

_____
(Type of particulate contaminant)

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

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

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

TABLE I-1
Color Assigned to Canister or Cartridge

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

NOTES:

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

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

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

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

(16) [(14)] 29 CFR 1910.141(c)(2)(i) shall read as follows: "(1) Each water closet shall occupy a separate compartment with walls or partitions between fixtures sufficiently high to assure privacy."

(17) [(15)] Amendment to 29 CFR 1910.145(f), Accident Prevention Tags, as published in Federal Register, Volume 51, Number 182,

September 19, 1986, is adopted by reference.

(18) [(16)] 29 CFR 1910.151 relating to medical services and first aid shall be changed to read as follows:

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

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

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

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

(19) [(17)] 29 CFR 1910.156(a)(2) "Application" is amended to read: "The requirements of this section apply to fire brigades; industrial fire departments; private fire departments; and municipal public fire departments and fire protection districts. Personal protective equipment requirements apply to members of fire brigades and fire departments performing interior structural fire fighting. The requirements of this section do not apply to airport crash rescue, forest fire fighting operations, or volunteer fire fighters."

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

(21) 29 CFR 1910.177(a)(2), Servicing Multipiece and Single Piece Rim Wheels, shall be amended as follows: Amendments as published in the Federal Register, Volume 52, Number 186, September 25, 1987 are adopted by reference.

(22) [(19)] Revisions to 29 CFR 1910.179(j)(2)(iii) and (iv), Overhead and Gantry Cranes, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, are adopted by reference.

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

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

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

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

(27) [(24)] 29 CFR 1910.217(b)(7)(xii) relating to machines using part revolution clutches shall be amended by adding the following:

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

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

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

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

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

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

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

(33) 29 CFR 1910.268(c), Telecommunications, shall be revised as follows: Revisions as published in the Federal Register, Volume 52, Number 187, September 28, 1987 are adopted by reference.

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

(35) [(31)] 29 CFR 1910.440(a)(1), Commercial Diving Recordkeeping Requirements, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is removed.

(36) [(32)] 29 CFR 1910 Subpart T Appendix B "Commercial Diving Operations" as published in the Federal Register, Volume 50, Number 6, January 9 1985, is adopted by reference.

(37) [(33)] 29 CFR 1910.1000, "Air Contaminants," Table Z-1 is amended as published in the Federal Register, Volume 50, Number 240, December 13, 1985, is adopted by reference.

(38) 29 CFR 1910.1000, Table Z-2, Benzene, shall be amended as follows: Amendments as published in the Federal Register, Volume 52, Number 176, September 11, 1987 are adopted by reference.

(39) [(34)] 29 CFR 1910.1001 "Asbestos" is amended as follows:

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

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

(c) 29 CFR 1910.1001(d)(6)(iv) is amended to add: "The employer shall ensure that all analyses are performed in accordance with the

elements outlined in Appendix A, and that all asbestos counters meet the criterion specified in Appendix A. This notice shall be given prior to the start of the analyses."

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

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

(40) [(35)] 29 CFR 1910.1001, Occupational Exposure to Asbestos, Tremolite, Anthophylite, and Actinolite, as published in Federal Register, October 17, 1986, Volume 51, No. 201, is adopted by reference.

(41) [(36)] 29 CFR 1910.1001, Occupational Exposure to Asbestos, Tremolite, Anthophylite, and Actinolite, as published in Federal Register, May 12, 1987, Volume 52, No. 91, is adopted by reference.

(42) [(37)] 29 CFR 1910.1005 4,4'-methylene bis (2-chloroaniline) and 29 CFR 1910.1003 through .1016 paragraphs (c)(6), Laboratory Activities, printed in the Federal Register, Volume 39, Number 125, June 27, 1974, are in effect.

(43) [(38)] Paragraph 1910.1005(c)(7) of the 29 CFR 1910 General Industry Standards shall read as follows:

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

(44) [(39)] 29 CFR 1910.1025 "Occupational Exposure to Lead" shall be amended as follows: "Table 1 - Implementation Schedule" is amended to read:

TABLE 1 - Implementation Schedule

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

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

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

(45) 29 CFR 1910.1028, Benzene, as published in the Federal Register, Volume 52, Number 176, September 11, 1987 is adopted by reference.

(46) [(40)] 29 CFR 1910.1029 "Coke Oven Emissions" shall be amended as follows: Revision as published in the Federal Register, Volume 50, Number 178, September 13, 1985 are adopted by reference.

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

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

(49) 29 CFR 1910.1200, Hazard Communication, shall be amended as follows: Amendments as published in the Federal Register, Volume 52, Number 163, August 24, 1987 are adopted by reference.

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

CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: December 1, 1987

FILED WITH LRC: December 14, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing concerning these regulations has been scheduled for January 28, 1988 at 1 p.m. (EST) to be held at the Kentucky Labor Cabinet, U.S. 127 Building, Bay 2 Conference Room, Frankfort, Kentucky. Those interested in attending must provide by January 23, 1988, written notice to Mr. Guy Schoolfield, Kentucky Labor Cabinet, Division of Education and Training, OSH Technical Assistance Branch, U.S. 127 Building South, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Guy Schoolfield

(1) Type and number of entities affected: This regulation affects: 1) all employers in the Commonwealth with operations involving servicing multipiece and single piece rim wheels; 2) all employers in the Commonwealth with operations involving benzene; 3) all employers in the Commonwealth with operations involving telecommunications training records; and 4) all employers in the Commonwealth with operations involving hazardous chemicals.

(a) Direct and indirect costs or savings to those affected: 1) No costs or savings to employers will occur as a result of this adoption of amendments. 2) These adoptions or amendments will be approximately $100 per affected employee, annually. 3) No costs or savings to employers will occur as a result of this adoptin of revisions. 4) The cost of this amendment will be approximately $5 per affected employee, per week.

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: No reports or records are required by these adoptions or amendments.

(2) Effects on the promulgating administrative body:

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

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: No additional reports or records are required by these adoptions or amendments.

(3) Assessment of anticipated effect on state and local revenues: These adoptions or amendments will have no affect on state and local revenues.

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

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No regulations, rules or governmental policy conflict, overlap, or duplicate these adoptions or amendments.

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. The Occupational Safety and Health Program targets its scheduled inspections toward those industries or firms that pose higher risks to worker health and safety or from which the OSH Program has received worker complaints.

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

**803 KAR 2:027. Adoption of 29 CFR Parts 1915, 1917, 1918 and 1919, maritime employment.**

RELATES TO: KRS Chapter 338

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to adopt by reference established federal standards and national consensus standards is also given to the Board. The following regulations contain those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of Maritime employment. Necessary for effective enforcement of the purposes and policies of the Occupational Safety and Health Act which is to insure so far as is possible, safe and healthful working conditions of Kentucky workers (KRS 338.011).

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1915 as published in the April 20, 1983, Federal Register, Part 1917 as published in July 5, 1983, Federal Register, and Parts 1918 and 1919 of the Code of Federal Regulations revised as of July 1, 1981, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby adopted by reference with the following additions, exceptions, and deletions.

(1) 29 CFR 1915.1, 1918.1, and 1919.1 shall read as follows: "The provisions of this regulation adopt and extend the applicability of established Federal Maritime Standards contained in 29 CFR 1915, 1916, 1917, 1918, and 1919 to all Maritime employers, Maritime employees, and places of Maritime employment throughout the Commonwealth except those excluded in KRS 338.021."

(2) 29 CFR 1915.4(b) and 1918.3(b) "Secretary" is changed to read: "Commissioner" means the Commissioner of the Department of Workplace Standards, Labor Cabinet, Commonwealth of Kentucky, or his authorized representative.

(3) 29 CFR 1919.2(d) "Assistant Secretary" is changed to read: "Commissioner" means the Commissioner of the Department of Workplace Standards, Department of Workplace Standards, Commonwealth of Kentucky, or his authorized representative.

(4) 29 CFR 1915.97, Health and Sanitation, is revised to read as follows: Revisions as published in the Federal Register, Volume 52, Number 163, August 24, 1987.

(5) 29 CFR 1915.99, Hazard Communication, as published in the Federal Register, Volume 52, Number 163, August 24, 1987 is adopted by reference.

(6) [(4)] Revision to 29 CFR 1915.113(b)(1), Shackles and Hooks, as published in the Federal Register, Volume 51, Number 188, September 29, 1986 is adopted by reference.

(7) [(5)] Revision to 29 CFR 1915.172(d), Portable Air Receivers and Other Unfired Pressure Vessels, as published in the Federal

Register, Volume 51, Number 188, September 29, 1986, is adopted by reference.

(8) 29 CFR 1917.1(a)(2)(ix), Scope and Applicability, shall be amended as follows: Amendments as published in the Federal Register, Volume 52, Number 186, September 25, 1987 are adopted by reference.

(9) 29 CFR 1917.28, Hazard Communication, as published in the Federal Register, Volume 52, Number 163, August 24, 1987 is adopted by reference.

(10) 29 CFR 1917.44(o), General Rules Applicable to Vehicles, shall be amended as follows: Amendments as published in the Federal Register, Volume 52, Number 186, September 25, 1987 are adopted by reference.

(11) 29 CFR 1918.90, Hazard Communication, as published in the Federal Register, Volume 52, Number 163, August 24, 1987 is adopted by reference.

(12) [(6)] 29 CFR 1919.2(e) "Administration" is changed to read: "Program" means the Kentucky Occupational Safety and Health Program, Frankfort, Kentucky.

(13) [(7)] An employer, required under 29 CFR 1915, 1918 or 1919 to report information to the U.S. Department of Labor, or any subsidiary thereof, shall instead report such information to the Department of Workplace Standards, Labor Cabinet, U.S. 127 South, Frankfort, Kentucky 40601.

CAROL M. PALMORE, Chairman
APPROVED BY AGENCY: December 1, 1987
FILED WITH LRC: December 14, 1987 at 11 a.m.
PUBLIC HEARING SCHEDULED: A public hearing concerning these regulations has been scheduled for January 28, 1988 at 1 p.m. (EST) to be held at the Kentucky Labor Cabinet, U.S. 127 Building, Bay 2 Conference Room, Frankfort, Kentucky. Those interested in attending must provide by January 23, 1988, written notice to Mr. Guy Schoolfield, Kentucky Labor Cabinet, Division of Education and Training, OSH Technical Assistance Branch, U.S. 127 Building South, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Guy Schoolfield
(1) Type and number of entities affected: This regulation affects: 1) all employers in the Commonwealth with operations involving hazardous chemicals in maritime employment (public sector only); and 2) all employers in the Commonwealth with operations involving servicing multipiece and single piece rim wheels at marine terminals (public sector only).
(a) Direct and indirect costs or savings to those affected: 1) The cost of this amendment will be approximately $5 per affected employee, per week. 2) No costs or savings to employers will occur as a result of this adoption of amendments.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No reports or records are required by the adoption of these amendments.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: No costs or savings to the Kentucky OSH Program will occur as a result of this adoption of amendments.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No additional reports or records are required by this adoption of amendments.
(3) Assessment of anticipated effect on state and local revenues: This adoption of amendments will have no affect on state and local revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No regulations, rules or governmental policy conflict, overlap, or duplicate this adoption of amendments.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. The Occupational Safety and Health Program targets its scheduled inspections toward those industries or firms that pose higher risks to worker health and safety or from which the OSH Program has received worker complaints.

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

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

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

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1926 of the Code of Federal Regulations, revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby adopted by reference with the following additions, exceptions, and deletions:
(1) 29 CFR Part 1926.1 shall read as follows:
The provisions of this regulation adopt and extend the applicability of established federal standards contained in 29 CFR Part 1926 to all employers, employees, and places of employment throughout the Commonwealth except those excluded in KRS 338.021."
(2) 29 CFR 1926.58, Asbestos, tremolite, anthophylite, and actinolite, as published in the Federal Register, Volume 51, Number 119,

June 20, 1986 is adopted by reference with the following amendments:

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

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

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

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

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

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

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

(3) 29 CFR 1926.58, Occupational Exposure to Asbestos, Tremolite, Anthophylite, and Actinolite, as published in Federal Register, May 12, 1987, Volume 52, No. 91, is adopted by reference.

(4) 29 CFR 1926.59, Hazard Communication, as published in Federal Register, August 24, 1987, Volume 52, Number 163, is adopted by reference.

(5) [(4)] 29 CFR 1926.103 "Respiratory Protection" Table E-4 is amended as follows:

Table E-4
Respirator Protection Factors[a]

| Type of Respirator | Permitted for Use in Oxygen-deficient Atmosphere | Permitted for Use in Immediately-dangerous-to-life-or-health Atmosphere[f] | Respirator Protection Factor | |
|---|---|---|---|---|
| | | | Qualitative Test | Quantitative Test |
| Particulate-filter, quarter-mask or half-mask face-piece[b,c] | No | No | 10 | As measured on each person with maximum of 100. |
| Vapor-or gas-removing, quarter-mask or half-mask facepiece[c] | No | No | 10, or maximum use limit of cartridge or canister for vapor or gas, which-ever is less. | As measured on each person with maximum of 100, or maximum use limit of cart-ridge or canister for vapor or gas,[i,j] whichever is less. |
| Combination particu-late-filter and vapor- or gas-removing, quarter-mask or half-mask facepiece[b,c] | No | No | 10, or maximum use limit or cartridge or canister for vapor or gas, which-ever is less. | As measured on each person with maximum of 100, or maximum use limit of cart-ridge or canister for vapor or gas,[i,j], whichever is less. |
| Particulate-filter, full facepiece[b] | No | No | 100 | As measured on each person with maximum of 100 if dust, fume or mist filter is used, or maximum of 1000 if high-efficiency filter is used. |

| | | | | |
|---|---|---|---|---|
| Vapor- or gas-removing, full facepiece | No | No | 100, or maximum use limit of cartridge or canister for vapor or gas, whichever is less. | As measured on each person with maximum of 1000, or maximum use limit of cartridge or canister for vapor or gas[i,j], whichever is less. |
| Combination particulate-filter and vapor- or gas-removing, full facepiece[b] | No | No | 100, or maximum use limit of cartridge or canister for vapor or gas, whichever is less. | As measured on each person with maximum of 100 if dust, fume or mist filter is used and maximum of 1000 if high-efficiency filter is used, or maximum use limit of cartridge or canister for vapor or gas, whichever is less. |
| Powered particulate-filter, any respiratory-inlet covering[b,c,d] | No | No (yes, if escape provisions are provided[d]) | N/A | N/A |
| | No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 100 if dust, fume, or mist filter is used and 3000 if high-efficiency filter is used. | | | |
| Powered vapor- or gas-removing, any respiratory-inlet covering[c,d] | No | No (yes, if escape provisions are provided[d]) | N/A | N/A |
| | No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 3000, or maximum use limit of cartridge or canister for vapor or gas[i,j] whichever is less. | | | |
| Powered combination particulate-filter and vapor- or gas-removing, any respiratory-inlet covering[b,c,d] | No | No (yes, if escape provisions are provided[d]) | N/A | N/A |
| | No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 100 if dust, fume, or mist filter is used and 3000 if high-efficiency filter is used, or maximum use limit of cartridge or canister for vapor or gas,[i,j], whichever is less. | | | |
| Airline, demand, quarter-mask or half-mask facepiece, with or without escape provisions[c,e] | Yes[f] | No | 10 | As measured on each person, but limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values |
| Air-line, demand, full facepiece, with or without escape provisions[e] | Yes[f] | No | 100 | As measured on each person, but limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values |
| Air-line, continuous-flow or pressure-demand type, any facepiece, without escape provisions[c] | Yes[f] | No | N/A | N/A |
| | No tests are required due to positive-pressure operation of respirator. The protection factor provided by the respirator is limited to use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values. | | | |

| | | | | |
|---|---|---|---|---|
| Air-line, continuous-flow or pressure-demand type, any facepiece, with escape provisions[c,e] | Yes[g] | Yes | N/A | N/A |
| | No tests are required due to positive-pressure operation of respirator. The maximum protection factors is 10000 plus[h]. | | | |
| Air-line, continuous-flow, helmet, hood, suit without escape provisions | Yes[f] | No | N/A | N/A |
| | No tests are required due to positive-pressure operation of respirator. The protection factor provided by the respirator is limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values. | | | |
| Air-line, continuous-flow, helmet, hood, or suit, with escape provisions[e] | Yes[g] | Yes | N/A | N/A |
| | No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 10000 plus[h]. | | | |
| Hose mask, with or without blower, full facepiece | Yes[f] | No | 10 | As measured on each person, but limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values. |
| Self-contained breathing apparatus, demand-type open-circuit or negative-pressure-type closed-circuit, quarter-mask or half-mask facepiece[c] | Yes[f] | No | 10 | As measured on each person, but limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values. |
| Self-contained breathing apparatus, demand-type open-circuit or negative-pressure-type closed-circuit, full facepiece or mouthpiece/nose clamp[c] | Yes[f] (Yes, if respirator is used for mine rescue and mine recovery operations.) | No (yes, if respirator is used for mine rescue and mine recovery operations.) | 100 | As measured on each person, but limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values except when the respirator is used for mine rescue and mine recovery operations. |
| Self-contained breathing apparatus, pressure-demand-type open-circuit or positive-pressure-type closed-circuit, quarter-mask or half-mask facepiece, full facepiece, or mouthpiece/nose clamp[c] | Yes[g] | Yes | N/A | N/A |
| | No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 10000 plus. | | | |
| Combination respirators not listed. | The type and mode of operation having the lowest respirator protection factor shall be applied to the combination respirator. | | | |

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) [(7)] 29 CFR 1926.200(g)(2), .201(a)(2) and .202 shall be amended to require signs, signaling and barricades to conform to specifications as set forth in ANSI D6.1 "Manual of Uniform Traffic Control Devices for Streets and Highways" (1978 Edition).

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

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

(11) [(10)] 29 CFR 1926.451(a)(4) shall read as follows: Guardrails and toeboards shall be installed on all open sides and ends of platforms more than ten (10) feet above the ground or floor, except needle beam scaffolds and floats (see paragraphs (p) and (w) of this section). Toeboards shall not be required on the loading side of platforms which are loaded by means of a high lift tractor or fork truck provided that employees are prohibited from entering the area beneath the scaffolding where they could be exposed to objects which might fall from the scaffolding. Scaffolds four (4) to ten (10) feet in height, having a minimum horizontal dimension in either direction of less than forty-five (45) inches, shall have standard guardrails installed on all open sides and ends of the platform.

(12) 29 CFR 1926.550(b)(2), Cranes and Derricks shall be revised as follows: Revisions

as published in the Federal Register, Volume 52, Number 187, September 28, 1987 are adopted by reference.

(13) [(11)] 29 CFR 1926.552(b)(8) of the paragraph on "Material hoists" shall read as follows: All material hoists shall conform to the requirements of ANSI A10.5-1969, Safety Requirements for Material Hoists, with the exception that material hoists manufactured prior to January 1, 1970 may be used with a drum pitch diameter at least eighteen (18) times the nominal rope diameter provided the hoisting wire rope is at least equal in flexibility to 6 x 37 classification wire rope.

(14) 29 CFR 1926.552(c)(15), Material Hoists, Personnel Hoists and Elevators shall be revised as follows: Revisions as publised in the Federal Register, Volume 52, Number 187, September 28, 1987 are adopted by reference.

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

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

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

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

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

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

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

(e) 1926.902(d) Explosives or blasting agents shall be transported in separate vehicles unless the detonators are packaged in specified containers and transported all in compliance with DOT Regulation 49 CFR 177.835(g).

(f) 29 CFR 1926.903(e), Underground Transportation of Explosives, shall be revised as follows: Revisions as published in the Federal Register, Volume 52, Number 187, September 28, 1987 are adopted by reference.

(g) [(f)] 1926.903(o) deleted.

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

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

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

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

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

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

(n) [(m)] 1926.906(s) Leading wires shall remain shorted and not be connected to the blasting machine or other source of current

until the charge is to be fired.

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

(p) [o] 1926.910(b) Sufficient time shall be allowed, not less than fifteen (15) minutes in tunnels, for the smoke and fumes to leave the blasted area before returning to the shot. An inspection of the area and the surrounding rubble shall be made by the blaster to determine if all charges have been exploded before employees are allowed to return to the operation.

(18) [(15)] Amend subparagraph 1926.950(c)(1)(i) to read as follows:

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

CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: December 1, 1987

FILED WITH LRC: December 14, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing concerning these regulations has been scheduled for January 28, 1988 at 1 p.m. (EST) to be held at the Kentucky Labor Cabinet, U.S. 127 Building, Bay 2 Conference Room, Frankfort, Kentucky. Those interested in attending must provide by January 23, 1988, written notice to Mr. Guy Schoolfield, Kentucky Labor Cabinet, Division of Education and Training, OSH Technical Assistance Branch, U.S. 127 Building South, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Guy Schoolfield

(1) Type and number of entities affected: This regulation affects all employers in the Commonwealth with operations involving test and inspection records for cranes and derricks; material hoists, personnel hoists and elevators; underground transportation of explosives.

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

1. First year:

2. Continuing costs or savings:

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

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

(2) Effects on the promulgating administrative body:

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

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

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

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

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

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. The OSH Program targets its scheduled inspections toward those industries or firms which pose higher risks to worker health and safety or from which the OSH Program has received worker complaints.

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

### 803 KAR 2:032. Adoption of 29 CFR Part 1928.

RELATES TO: KRS Chapter 338

PURSUANT TO: KRS Chapter 13A

NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules, regulations, and standards. Express authority to adopt by reference established federal standards and national concensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance, Department of Workplace Standards, in the area of agriculture. Necessary for effective enforcement of the purposes and policies of the Occupational Safety and Health Act which is to insure so far as is possible, safe and healthful working conditions of Kentucky workers (KRS 338.011).

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1928 of the Code of Federal Regulations revised as of July 1, 1981, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby adopted by reference with the following additions, exceptions and deletions.

(1) 29 CFR 1928, Hazard Communication, shall be amended as follows: Amendments as published in the Federal Register, Volume 52, Number 163, August 24, 1987 are adopted by reference.

(2) 29 CFR Part 1928.1 shall read as follows:

"This part contains Occupational Safety and Health Standards applicable to agriculture operations. The provisions of this regulation adopt and extend the applicability of established federal standards contained in 29 CFR Part 1928 to all employers, employees, and places of employment throughout the Commonwealth except those excluded in KRS 338.021."

CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: December 1, 1987

FILED WITH LRC: December 14, 1987 at 11 a.m.

PUBLIC HEARING SCHEDULED: A public hearing concerning these regulations has been scheduled

for January 28, 1988 at 1 p.m. (EST) to be held at the Kentucky Labor Cabinet, U.S. 127 Building, Bay 2 Conference Room, Frankfort, Kentucky. Those interested in attending must provide by January 23, 1988, written notice to Mr. Guy Schoolfield, Kentucky Labor Cabinet, Division of Education and Training, OSH Technical Assistance Branch, U.S. 127 Building South, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Guy Schoolfield
(1) Type and number of entities affected: This regulation affects all employers in the Commonwealth with operations involving hazardous chemicals.
(a) Direct and indirect costs or savings to those affected: The cost of this amendment will be approximately $5.00 per affected employee, per week.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No reports or records are required by the adoption of this amendment.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: No costs or savings to the Kentucky OSH Program will occur as a result of this amendment.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No additonal reports or records are required as a result of this amendment.
(3) Assessment of anticipated effect on state and local revenues: This amendment will have no affect on state and local revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No regulations, rules, or governmental policy conflict, overlap, or duplicate this amendment.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. The OSH Program targets its scheduled inspections toward those industries or firms which pose higher risks to worker health and safety or from which the OSH Program has received worker complaints.

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

**811 KAR 1:090. Stimulants and drugs.**

RELATES TO: KRS 230.630(1), (3), 230.640, 230.700
PURSUANT TO: KRS 230.630(3), (4), (7)
NECESSITY AND FUNCTION: To regulate conditions under which harness racing shall be conducted in Kentucky. The function of this regulation is to provide for the testing of horses for stimulants and drugs and the regulation of stimulants and drugs.

Section 1. (1) At every meeting except as stated herein where pari-mutuel wagering is permitted, the winning horse in every heat and/or race shall be subjected to a urine test and/or a blood test and the winning horse and second place horse in every perfecta or quinella race may be subjected to a urine test and/or a blood test for the purpose of determining thereby the presence of any drug, stimulant, sedative, depressant, or medicine. The winning horse and/or the second and third horses in a trifecta may be tested the same as in the rule above. Also, the judges may order any horse in a race to be subjected to a urine, blood and/or saliva test. Such tests shall be made only by qualified veterinarians and by laboratories designated by the commission. In addition to the above, the winning horse and second horse in every heat or dash of a race at any track with a total purse in excess of $5,000 may be subjected to both blood and a urine test. Positive tests during time trials shall be treated as a violation. The winning time shall be disallowed and the trainer of record may be fined, suspended or both.
(2) The commission may, in its discretion, or at the request of a member, authorize or direct a saliva, blood, urine or other test of any horse racing at any meeting.

Section 2. (1) During the taking of the blood and/or urine sample by the veterinarian, the owner, trainer or authorized agent may be present at all times. Samples so taken shall be placed in two (2) containers and shall immediately be sealed and the evidence of such sealing indicated thereon by the signature of the representative of the owner or trainer. One (1) part of the sample is to be placed in a depository under the supervision of the presiding judge and/or any other agency the commission may designate to be safeguarded until such time as the report on the chemical analysis of the other portion of the split sample is received.
(2) Should a positive report be received, an owner or trainer shall have the right to have the other portion of the split sample inserted in with a subsequent group being sent for testing or may demand that it be sent to another chemist for analysis, the cost of which will be paid by the party requesting the test.

Section 3. (1) Whenever there is a positive test finding the presence of any drug, stimulant, sedative or depressant present, in the postrace test, the laboratory shall immediately notify the presiding judge who shall immediately report such findings to the commission.
(2) When a positive report is received from the laboratory by the presiding judge, the persons held responsible shall be notified and a thorough investigation shall be conducted by or on behalf of the judges. A time shall be set by the judges for a hearing to dispose of the matter. The time set for the hearing shall not exceed four (4) racing days after the responsible persons were notified. The hearing may be continued, if in the opinion of the

judges, circumstances justify such action.

(3) Should the chemical analysis of saliva, blood, urine or other sample of the postrace test taken from a horse indicate the presence of a forbidden narcotic, stimulant, depressant, or local anesthetic, it shall be considered prima facie evidence that such has been administered to the horse.

(4) Upon receipt of written notification of a positive test finding, the judges shall not cause the immediate suspension of the horse from further participation in racing.

Section 4. Any person or persons who shall administer or influence or conspire with any other person or persons to administer to any horse any drug, medicament, stimulant, depressant, narcotic or hypnotic to such horse within forty-eight (48) hours of his race, shall be subject to penalties provided in this rule. No horse shall be tubbed in ice in the paddock prior to their racing commitment.

Section 5. Whenever the postrace test or tests prescribed in Section 1 disclose the presence in any horse of any drug, stimulant, depressant or sedative, in any amount whatsoever, it shall be presumed that the same was administered by the person or persons having control and/or care and/or custody of such horse with the intent thereby to affect the speed or condition of such horse and the result of the race in which it participated.

Section 6. A trainer shall be responsible at all times for the condition of all horses trained by him. No trainer shall start a horse or permit a horse in his custody to be started if he knows, or if by the exercise of reasonable care he might have known or have cause to believe, that the horse has received any drug, stimulant, sedative, depressant, medicine or other substance that could result in a positive test. Every trainer must guard or cause to be guarded each horse trained by him in such manner and for such period of time prior to racing the horse so as to prevent any person not employed by or connected with the owner or trainer from administering any drug, stimulant, sedative, depressant, or other substance resulting in a postrace positive test.

Section 7. Any owner, trainer, driver or agent of the owner, having the care, custody and/or control of any horse who shall refuse to submit such horse to a saliva test or other tests as herein provided or ordered by the judges shall be guilty of a violation of this rule. Any horse that refuses to submit to a prerace blood test shall be required to submit to a postrace saliva and urine test regardless of its finish.

Section 8. Any horse in which an offense was detected under any section of this rule shall be placed last in the order of finish and all winnings of such horse shall be forfeited and paid over to the commission for redistribution among the remaining horses in the race entitled to same. No such forfeiture and redistribution of winnings shall effect the distribution of the pari-mutuel pools at tracks where pari-mutuel wagering is conducted, when such distribution of pools is made upon the official placing at the conclusion of the heat or dash.

Section 9. Prerace Blood Test. Where there is a prerace blood test which shows that there is an element present in the blood indicative of a stimulant, depressant or any unapproved medicament, the horse shall immediately be scratched from the race and an investigation conducted by the officials to determine if there was a violation of Section 4 of this regulation.

Section 10. Hypodermic Syringe Prohibited. No person except a licensed veterinarian approved by the commission shall have within the grounds of a licensed harness race track in or upon the premises which he occupies, or has a right to occupy, or in his personal property or effects any hypodermic syringe, hypodermic needle, or other devices which can be used for the injection or other infusion into a horse of a drug, stimulant or narcotic. Every licensed harness racing association upon the grounds of which horses are lodged or kept, is required to use all reasonable effort to prevent violation of this rule.

Section 11. (1) All veterinarians practicing on the grounds of an extended pari-mutuel meeting shall keep a log of their activities on a form provided by the commission and shall submit a copy of it to the commission office of the track each day of a race meeting. The log shall include:

(a) Name of horse;
(b) Nature of ailment;
(c) Type of treatment;
(d) Date and hour of treatment.

(2) It shall be the responsibility of the veterinarian to report to the presiding judge any internal medication given by him by injection or orally to any horse after he has been declared to start in any race.

Section 12. (1) Any veterinarian practicing veterinary medicine on a race track where a race meeting is in progress or any other person using a needle or syringe shall use only one (1) time disposable type needles and a disposable needle shall not be reused. The disposable needles shall be kept in his possession until disposed of by him off the track.

(2) No veterinarian, assistant veterinarian or employee of same shall leave a needle or syringe with anyone on a race track where a race meeting is in progress except upon written authorization from the commission.

Section 13. (1) Only the commission veterinarian may approve and prescribe the use of lasix for racing providing that the commission veterinarian actually sees the horse bleed from the nostrils or the horse is scoped and declared a bleeder. The commission veterinarian must accompany the practitioner when a horse is scoped. If the commission veterinarian agrees that the horse is a bleeder, the horse shall qualify and meet the standards of the meeting. Only the commission veterinarian shall administer lasix prior to a race, which includes qualifying, nonbetting, pari-mutuel races and time trials. The use of oral lasix is forbidden. A schedule for scoping will be maintained by the commission veterinarian. The Kentucky Harness Racing Commission shall keep a record of horses using lasix for the first time.

(2) A lasix use form (blue) must be submitted to the commission office at the track for

approval of the use of lasix.

(3) If the trainer no longer wishes to use lasix, a no-use form (white) must be submitted to the commission office at the track and the horse must perform in a qualifying race without the use of lasix and meet the standards of the meeting before being allowed to race without lasix. To be permitted to use lasix again, the horse must qualify and meet the standards of the meeting.

(4) No more than 250 milligrams four (4) hours prior to a race shall be administered.

(5) A fee of ten (10) dollars is to be paid to the commission veterinarian at the time of service by those who wish to have lasix administered to their horses; this fee to cover the services of the commission veterinarian and the cost of testing.

(6) Testing will be quantitative, with those exceeding thirty (30) nanograms per milliliter of blood tested resulting in a warning to the owner. Testing will be at random, not to exceed six (6) samples per day. A mutual decision to take random samples will be made by the commission veterinarian and the judges. A second violation shall result in a fine against the owner, not to exceed $5,000.

(7) Should a horse bleed through normal treatment with lasix, the horse would not be eligible to race for 120 days. After 120 days, the horse must again qualify on lasix. Should the horse bleed again, it would not be eligible to race for one (1) year.

Section 14. [13.] The penalty for violation of any sections of this rule, unless otherwise provided, shall be a fine of not to exceed $5,000, suspension for a fixed or indeterminate time, or both; or expulsion.

[Section 14. The effective date of this amendment shall be January 1, 1987.]

CARL B. LARSEN, Executive Director
APPROVED BY AGENCY: December 3, 1987
FILED WITH LRC: December 14, 1987 at 2 p.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on January 21, 1988 at 10 a.m. at the office of the Kentucky Harness Racing Commission. Anyone interested in attending this hearing shall notify in writing: Carl B. Larsen, Executive Director, Kentucky Harness Racing Commission, Suite 300, 535 West Second Street, Lexington, Kentucky 40508, at least five days before the hearing.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carl B. Larsen
(1) Type and number of entities affected: Horsemen
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None additional.
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Regulation affects all horsemen.

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

**811 KAR 2:060. Pari-mutuel wagering.**

RELATES TO: KRS 230.610 to 230.770
PURSUANT TO: KRS 13A.010 et seq.
NECESSITY AND FUNCTION: To regulate conditions under which quarter horse, appaloosa and Arabian racing shall be conducted in Kentucky. The function of this regulation is to outline the requirements for the operation of pari-mutuel wagering.

Section 1. Pari-mutuel System of Wagering Required. With the approval of the commission, each association licensed to conduct racing in this state may permit wagering [only] on races conducted by such association on the grounds of such association; an [no] association may accept wagers on races conducted elsewhere by another association. All such permitted wagering shall be under the pari-mutuel system, employing an electric totalizator approved by the commission. All systems of wagering other than pari-mutuel, such as bookmaking and auction-pool selling, are prohibited and any person participating or attempting to participate in prohibited wagering shall be ejected or excluded from association grounds.

Section 2. Totalizator Required. Each association shall install and operate during its race meeting an electric totalizator approved by the commission. Such totalizator shall be tested daily under the supervision of the commission to insure its proper working order.

Section 3. Records to be Maintained. The pari-mutuel manager shall maintain complete records of all wagering so the commission may upon review ascertain for any race: the opening line and subsequent odds fluctuations, the amount, and at which window, wagers were placed on any betting interest, and such other information as the commission may from time to time require. A copy of such wagering records shall be retained by each association and safeguarded for a period not less than two (2) years and may not be destroyed without permission of the commission.

Section 4. Calculation and Distribution of Pools. The only pari-mutuel wagering pools

permitted in this state shall be for win, place, show, daily double, exacta and quinella, each with separate and independent calculation and distribution. From each pool there shall be deducted by each association the commission as provided by KRS 138.515, with the remainder being the net pool for distribution as payoffs to ticket holders as follows:

(1) Win pool. The amount wagered on the horse or betting interest which finished first is deducted from the net pool, the balance remaining being the profit; the profit is divided by the amount wagered on the horse or betting interest finishing first, such quotient being the profit per dollar wagered to win; payoff includes return of amount wagered and profit thereon.

(a) In the event of a dead heat for first involving horses of two (2) different betting interests, the win pool is distributed as if a place pool; if involving horses of three (3) different betting interests, the win pool is distributed as if a show pool.

(b) In the event no win ticket is sold on the horse which finishes first, the net in pool is distributed to holders of win tickets on the horse finishing second.

(2) Place pool. The amounts wagered to place on the first two (2) horses to finish are deducted from the net pool to determine the profit; the profit is divided into two (2) equal amounts; one-half (1/2) of the profit is divided by the amount wagered to place on the first finisher, such quotient being the profit per dollar wagered to place on the first finisher; and one-half (1/2) of the profit is divided by the amount wagered to place on the second finisher, such quotient being the profit per dollar wagered to place of such second finisher; payoffs include return of amount wagered and profit thereon as to each of the first two (2) finishers.

(a) In the event of a dead heat for first: between horses representing the same betting interest, the place pool is distributed as if a win pool; if between horses representing two (2) different betting interests, the place pool is distributed as if one (1) betting interest finished first and the other finished second; if between horses representing three (3) different betting interests, the place pool is distributed as if a show pool.

(b) In the event of a dead heat for second: between horses representing the same betting interest, the place pool is distributed as if no dead heat occurred; if between horses representing two (2) or more different betting interests, the profit is divided in half, with one-half (1/2) allocated for wagers to place on the horse which finished first, and other half divided equally so as to allocate one-fourth (1/4) of the profit on the net place pool for wagers to place on each of two (2) horses finishing in a dead heat for second, or one-sixth (1/6) of the profit for wagers to place on each of three (3) horses finishing in a dead heat for second.

(c) In the event the first and second finishers comprise a single betting interest, the place pool is distributed as if a win pool.

(d) In the event no place ticket is sold on a horse which finishes first or second, then the horse which finished third shall replace that horse in the distribution of wagers in the place pool.

(3) Show pool. The amounts wagered to show on the first three (3) horses to finish are deducted from the net pool to determine the profit; the profit is divided into three (3) equal amounts; one-third (1/3) of the profit is divided by the amount wagered to show on the first finisher, such quotient being the profit is divided by the amount wagered to show on the second finisher, such quotient being the profit per dollar wagered to show on such second finisher; and one-third (1/3) of the profit is divided by the amount wagered to show on the third finisher, such quotient being the profit per dollar wagered to show on such third finisher; payoffs include return of amount wagered and profit thereon as to each of the first three (3) finishers.

(a) In the event of a dead heat for first: between two (2) horses involving different betting interests, or three (3) horses involving three (3) different betting interests, the show pool is distributed as if no dead heat occurred; if between two (2) horses involving the same betting interest two-thirds (2/3) of the profit is allocated to wagers to show on the coupled betting interest, and one-third (1/3) allocated to wagers to show on the other horse among the first three (3) finishers; if between three (3) horses involving one (1) betting interest, the show pool is distributed as if a win pool.

(b) In the event of a dead heat for second: between two (2) horses involving two (2) different betting interests, the show pool is distributed as if no dead heat occurred; if between horses involving the same betting interest, two-thirds (2/3) of the profit shall be allocated to wagers to show on the coupled betting interest, and one-third (1/3) allocated to wagers to show on the horse finishing first; if between three (3) horses involving two (2) or three (3) betting interests, one-third (1/3) of the profit is allocated to wagers to show on the horse finishing first, and the remaining two-thirds (2/3) of the profit is divided equally by the number of betting interests finishing in a dead heat for second for proportionate distribution on wagers to show for each such betting interest finishing in a dead heat for second.

(c) In the event of a dead heat for third: between horses involving the same betting interests, the show pool is distributed as if no dead heat occurred; if between horses involving two (2) or more betting interests, two-thirds (2/3) of the profit shall be allocated to wagers to show on the first two (2) finishers, and the remaining one-third (1/3) is divided equally by the number of betting interests finishing in a dead heat for third for proportionate distribution on wagers to show for each such betting interest finishing in a dead heat for third.

(d) In the event the first three (3) horses to finish comprise one (1) betting interest, the show pool shall be distributed as a win pool. In the event two (2) horses coupled as a single betting interest finish first and second, or first and third, or second and third, two-thirds (2/3) of the profit shall be allocated to wagers to show on the other horse among the first three (3) finishers.

(e) In the event one (1) horse coupled in the betting by reason of being in the mutuel field or part of a mutuel entry finishes first or second, and another horse included in the same

betting interest finishes in a dead heat for third; one-half (1/2) of the profit in the show pool shall be allocated to wagers on such field or entry, one-third (1/3) of the profit in the show pool shall be allocated to wagers on the horse finishing first or second, and the remaining one-sixth (1/6) of such profit shall be allocated to wagers on the horse finishing in a dead heat for third with such field or entry.

(f) In the event only two (2) horses finish, the show pool, if any, shall be distributed as if a place pool; if only one (1) horse finishes, the place and show pools, if any, shall be distributed as if a win pool; if no horse finishes, all money wagered on such race shall be refunded upon presentation and surrender of pari-mutuel tickets sold thereon. In the event no show ticket is sold on a horse which finishes first, or second, or third, then, the horse which finished fourth shall replace that horse in the distribution of wagers in the show pool.

(4) Daily double pool. The amount wagered on the winning combination, such being the horse or betting interest which finishes first in the first daily double race, is deducted from the net pool to determine the profit; the profit is divided by the amount wagered on the winning combination, such quotient being the profit per dollar wagered on the winning daily double combination; payoff includes the amount wagered and profit thereon.

(a) In the event of a dead heat for first involving two (2) different betting interests, in one (1) of the two (2) daily double races, the daily double pool is distributed as if a place pool, with half the profit allocated to wagers combining the single winner of one (1) daily double race and one (1) of the betting interests involved in the dead heat in the other daily double race, with the other half of the profit allocated to wagers combining the single winner of one (1) daily double race and the other betting interest involved in the dead heat in the other daily double race.

(b) In the event of dead heats for first involving different betting interests in each of the daily double races, resulting in four (4), or six (6), or nine (9), winning combinations for proportionate allocation for each such winning daily double wager.

(c) In the event no daily double ticket is sold combining the horse or betting interest which finishes first in one (1) of the daily double races, the daily double pool is distributed as if win pool with the profit allocated to wagering combinations which include the horse or betting interest which finished first in one (1) of the daily double races.

(d) In the event no daily double ticket is sold combining the horses or betting interests which finished first in both the first and second race of the daily double, then the winning combination for distribution of the daily double profit shall be that combining the horses or betting interests which finished second in each of the daily double races.

(e) If after daily double wagering has commenced and a horse not coupled with another as a betting interest in the first race of the daily double is excused by the stewards or is prevented from racing because of failure of the starting-gate to open properly, then daily double wagers combining such horse shall be deducted from the daily double pool and refunded upon presentation and surrender of daily double tickets thereon.

(f) If, prior to closing of the daily double wagering, a scheduled starter in the second half of the daily double which is not coupled in the betting with another horse is excused by the stewards, then daily double wagers combining such horse shall be deducted from the daily double pool and refunded upon presentation and surrender of daily double tickets thereon.

(g) If after the first race of the daily double has been run, and a horse not coupled with another as a betting interest in the second race of the daily double is excused by the stewards or prevented from racing because of failure of the starting-gate door to open properly, then daily double wagers combining the winner of the first daily double race with such horses prevented from racing in the second daily double race shall be allocated consolation payoffs:

1. Consolation daily double payoffs shall be determined by dividing the net daily double pool by the amount wagered combining the winner of the first daily double race with every horse or betting interest scheduled to start in the second daily double race, such quotient being the consolation payoff per dollar wagered combining the winner of the first daily double race with such horse prevented from racing in the second daily double race;

2. Such consolation payoffs shall be deducted from the net daily double pool before calculation and allocation of wagers on the winning daily double combination.

(h) If for any reason the first daily double race is cancelled or declared "no race" by the stewards, then the entire daily double pool shall be refunded upon presentation and surrender of daily double tickets thereon. If for any reason the second daily double race is cancelled or declared "no race" by the stewards after the first daily double race is declared official, then the net daily double pool shall be distributed to wagering combinations which include the horse or betting interest which finished first in the first daily double race.

(i) If no daily double ticket is sold requiring distribution, then the entire daily double pool shall be refunded upon presentation and surrender of daily double tickets thereon.

(5) Quinella pool. The amount wagered on the winning combination, such being the first two (2) finishers irrespective of which horse finishes first and which horse finishes second, is deducted from the net pool to determine the profit; the profit is divided by the amount wagered on the winning combination, such quotient being the profit per dollar wagered on the winning quinella combination; payoff includes the amount wagered and profit thereon.

(a) In the event of a dead heat for first: between horses involving two (2) different betting interests, the net quinella pool is distributed as if no dead heat occurred; if between horses involving three (3) different betting interests, the net quinella pool is distributed as if a show pool and is allocated to wagers combining any of the three (3) horses finishing in a dead heat for first.

(b) In the event of a dead heat for second: between horses involving two (2) different betting interests, the net quinella pool is distributed as if a place pool and is allocated to wagers combining the first finisher with either horse finishing in a dead heat for

second; if between horses involving three (3) different betting interests, the net quinella pool is distributed as if a show pool, and allocated to wagers combining the first horse with each of the three (3) horses finishing in a dead heat for second.

(c) In the event horses representing a single betting interest finish first and second, the net quinella pool shall be allocated to wagers combining such single betting interest with the horse or betting interest which finishes third.

(d) In the event no quinella ticket is sold combining:

1. The first finisher with one (1) of the horses finishing in a dead heat for second, then the net quinella pool is allocated to wagers combining the first finisher with the other horse finishing in a dead heat for second;

2. The first finisher with either of the horses finishing in a dead heat for second, then the net quinella pool is allocated to wagers combining the two (2) horses which finished in the dead heat for second;

3. The first finisher with either of the horses finishing in a dead heat for second, or combining the two (2) horses which finished in a dead heat for second, then the net quinella pool is distributed as if a show pool and is allocated to wagers combining any of the first three (3) finishers with any other horses;

4. The first two (2) finishers, then the net quinella pool shall be distributed as if a place pool and is allocated to wagers combining the first finisher with any other horses, and wagers combining the second finisher with any other horse.

5. Horses or betting interest as would require distribution, then the entire quinella pool shall be refunded upon presentation and surrender of quinella tickets thereon;

(6) Exacta pool. The exacta pool is a contract by the purchaser of a ticket combining two (2) horses in a single race, selecting the two (2) horses that will subsequently finish first and second in that race. Payment of the ticket shall be made only to the purchaser who has selected the same order of finish as officially posted.

(a) The exacta is not a "parlay" and has no connection with or relation to the win, place and show betting and will be calculated as an entirely separate pool.

(b) If no ticket is sold on the winning combination of an exacta pool, the net pool shall be distributed equally between holders of tickets selecting the winning horse to finish first and/or holders of tickets selecting the second place horse to finish second.

(c) If no ticket is sold that would require distribution of an exacta pool to winner as above defined, the association shall make a complete and full refund of exacta pool.

(d) In case of a dead heat between two (2) horses for first place, the net exacta pool shall be calculated and distributed as a place pool to holders of tickets of the winning combinations. In case of a dead heat between two (2) horses for second place, the exacta pool shall be figured as a place pool, the holders of tickets combining the winning horse and the two (2) horses finishing second participating in the payoff.

(e) In the event of a dead heat for second place, if no ticket is sold on one (1) of the two (2) winning combinations, the entire net pool shall be calculated as a win pool and distributed to those holding tickets on the other winning combination. If no tickets combine the winning horse with either of the place horses in the dead heat, the exacta pool shall be calculated and distributed as a place pool to holders of tickets representing any interest in the net pool.

(f) In the event of an entry finishing first and second, the net exacta pool shall be distributed to holders of tickets selecting the entry to win combined with the horse finishing third.

(7) Trifecta pool. The trifecta is a contract by the purchaser of a ticket combining three (3) horses in a single race, selecting the three (3) horses that will subsequently finish first, second and third in that race. Payment of the ticket shall be made only to the purchaser who has selected the same order of finish as officially posted.

(a) The trifecta is not a parlay and has no connection with or relation to the win, place and show betting and will be calculated as an entirely separate pool.

(b) If no ticket is sold on the winning combination of a trifecta pool, the net pool shall be distributed to the holders of tickets selecting the win and place finishers in that order. If no ticket is sold combining the win and place finish, the net pool will be distributed to the holders of tickets selecting the winner.

(c) If no ticket is sold that would require distribution of the net trifecta pool to a winner as above defined, the association shall make a full refund of the trifecta pool.

(d) In the event of a dead heat or dead heats, all trifecta tickets selecting the correct order of finish, counting a horse in a dead heat as finishing in either position dead heated, shall be winning tickets. The payoff will be calculated as a place pool.

(e) No entries or field horses shall be allowed in any race that the trifecta is being sold.

(f) For the purpose of trifecta wagering the trifecta race shall be drawn to consist of eight (8) starters and four (4) also eligibles.

(8) Refunds.

(a) If after win, place, or show wagering has commenced, a horse not coupled with another as a betting interest is excused by the stewards or is prevented from racing because of failure of the starting-gate door to open properly, the wagers on such horse shall be deducted from the win, place, and show pools, as the case may be, and refunded upon presentation and surrender thereof. If more than one (1) horse represents a single betting interest by reason of coupling as a mutuel entry or mutuel field, such single betting interest being the sole subject of a wager or part of a combination in a daily double, exacta or quinella or trifecta wager, then there shall be no refund unless all of the horses representing such single betting interest are excused by the stewards and/or are prevented from racing because of failure of the starting-gate doors to open properly.

(b) If after exacta and, quinella and trifecta wagering has commenced, a horse not coupled with another as a betting interest is excused by the stewards or is prevented from racing because of failure of the starting-gate to open properly, then exacta and, quinella and trifecta wagers combining such horse with any other horse or

betting interest shall be deducted from the exacta and, quinella and trifecta pool and refunded upon presentation and surrender of exacta and, quinella and trifecta quinella tickets thereon.

(9) Race cancelled. If for any reason a race is cancelled or declared "no race" by the stewards after wagering has commenced on such race, then all wagering thereon shall be refunded upon presentation and surrender of pari-mutuel tickets thereon; except as to daily double wagers upon cancellation of the second daily double race, which shall be distributed as provided under subsection (4)(h) of this section.

(10) Totalizator breakdown. In the event of an irreparable breakdown of the totalizator during the wagering on a race, the wagering on that race shall be declared closed and the payoff shall be computed on the sums wagered in each pool up to the time of the breakdown.

Section 5. Minimum Wager and Payoff. The minimum wager to be accepted by any licensed association shall be two (2) dollars. The minimum payoff on a two (2) dollar wager shall be two (2) dollars and twenty (20) cents. In the event of a minus pool, the minimum payoff on each one (1) dollar wager shall be one (1) dollar and five (5) cents.

Section 6. Minors Prohibited from Wagering. No minor shall be permitted by any licensed association to purchase or cash a pari-mutuel ticket.

Section 7. Odds or Payoffs Posted. Approximate odds, based on win pool betting for finishing first for each betting interest, shall be posted on one (1) or more boards or television screens within view of the wagering public, at intervals of not more than ninety (90) seconds. If daily double wagering is conducted, before off-time of the second daily double race, the possible payoff for each two (2) dollar daily double wager combining the winner of the first daily double race with every horse or betting interest in the second daily double race; excepting that, in the event of a dead heat for first in the first daily double race, or a scheduled starter in the second daily double race is excused so as to cause a consolation daily double pool, then posting of all possible payoffs shall not be mandatory, but the association shall make every effort to compute such daily double prices and advise the public of same by posting or public-address announcement as soon as possible and prior to the running of the second daily double race.

Section 8. Betting Explanation. Each association shall cause to be published in the daily race program a general explanation of pari-mutuel betting and an explanation of each type of betting pool offered; such explanation also shall be posted in conspicuous places about the association grounds so as to adequately inform the public. Such explanation shall be submitted to the state steward prior to publication so as to insure an absence of conflict with these rules.

Section 9. Prior Approval Required for Betting Pools. Each association desiring to conduct more than nine (9) betting races on a single day, or desiring to offer daily double, exacta or quinella wagering, shall first apply therefor in writing to the commission and obtain specific approval as to number of betting races and type of wagering to be offered on a single day.

Section 10. Pools Dependent upon Entries. (1) Unless the commission approves a prior written request from the association to alter wagering opportunities for a specific race, each association shall offer win, place, and show wagering on all programmed races involving six (6) or more betting interests.

(2) If horses representing five (5) or fewer betting interests qualify to start in a race, then the association may prohibit show wagering on that race; if horses representing four (4) or fewer betting interests qualify to start in a race, then the association may prohibit both place and show wagering on that race.

(3) If, by reason of a horse being excused by the stewards after wagering has commenced or a horse is prevented from racing because of failure of a starting-gate door to open properly, the number of actual starters representing different betting interests is:

(a) Reduced to five (5), then the association may cancel show wagering on that race and the entire show pool shall be refunded upon presentation and surrender of show tickets thereon;

(b) Reduced to four (4) or fewer, then the association may cancel both place and show wagering on that race and the entire place pool and show pool shall be refunded upon presentation and surrender of such place and show tickets thereon.

Section 11. Pari-mutuel Ticket Sales. (1) No pari-mutuel tickets shall be sold except by the association conducting the races on which such wagers are made. No pari-mutuel ticket may be sold after the totalizator has been locked and no association shall be responsible for ticket sales entered into but not completed by issuance of a ticket before the totalizator has been locked.

(2) Any claim by a person that he has been issued a ticket other than that which he requested, must be made before such person leaves the seller window and before the totalizator is locked.

(3) After purchasing a ticket and after leaving a ticket window, a person shall not be entitled to enter for issuance an incorrect ticket, or claim refund or payment for tickets discarded, or lost, or destroyed, or mutilated beyond identification.

(4) Payment on valid pari-mutuel tickets shall be made only upon presentation and surrender thereof to the association where such wager was made within two (2) years following the running of the race on which such wager was made. Failure to present any such ticket within two (2) years shall constitute a waiver of the right to receive payment thereon.

(5) Payment of valid pari-mutuel tickets shall be made on the basis of the order of finish as purposely posted on the infield results board and declared "official" by the stewards; any subsequent change in such order of finish or award of purse money as may result from a subsequent ruling by the stewards or commission, shall in no way affect the pari-mutuel payoff.

(6) The association shall be responsible for the correctness of all payoff prices posted as

"official" on the infield results board. If an error is made in posting the payoff figures on the public board, and ascertained before any tickets are cashed thereon, then such posting error may be corrected accompanied by a public address announcement, and only the correct amounts shall be used in the payoff, irrespective of the initial error on the public board.

(7) Prior to posting payoffs, the pari-mutuel manager shall require each of the computer printout sheets (calculating sheets) of such race to be proven by the computer (calculator) and the winners verified. Such proof shall show the amounts for commission, breakage, and payoffs, which added together shall equal the total pool. All pay slips are to be checked with computer printout sheets (calculating sheets) as to winners and prices before being issued to cashiers, and all board prices are to be rechecked with the computer printout sheet (calculator) before released to the public.

(8) Whenever the recapitulation of the sales registered by each ticket issuing machine subsequently proves that the actual amount in the pool or pools, is less than the amount used in calculating the payoff, such deficiency shall be deposited in the pool or pools by the association. Should the recapitulation of sales prove that the actual amount in the pool or pools is greater than the amount used in calculating the payoff due to a mechanical error of the totalizator such error resulting in underpayment to the public, then the aggregate of such underpayments shall be paid into the corresponding pool of the next race or races, in such amounts as may be determined by the state steward and the pari-mutuel manager. If any such error should occur in computing the daily double pool, the underpayment shall be added to the daily double pool of the following day. Overpayments and underpayments subsequently discovered upon recapitulation after the close of a meeting may be adjusted, and any underpayment resulting from such final adjustment shall be paid to the Department of Revenue.

Section 12. Betting Interests Involving more than One (1) Horse. When two (2) or more horses entered for the same race are determined by the stewards to have common ties through ownership or training and are joined by the stewards as a "mutuel entry," such mutuel entry shall become a single betting interest and a wager on one (1) horse in a mutuel entry shall be a wager on all horses in the same mutuel entry. When the number of horses competing in a race exceeds the numbering capacity of the totalizator, the racing secretary shall assign the highest pari-mutuel numbers to horses so that the highest numbered horse within the numbering capacity of the totalizator, together with horses of higher numbers, shall be grouped in the "mutuel field" as a single betting interest, and a wager on one (1) horse in the mutuel field shall be a wager on all horses in the same mutuel field.

Section 13. Emergency Situations. In the event any emergency arises in connection with the operation of the pari-mutuel department not provided for by these rules, then the pari-mutuel manager shall make an immediate decision and render a full report to the commission.

CARL B. LARSEN, Executive Director
APPROVED BY AGENCY: December 3, 1987
FILED WITH LRC: December 14, 1987 at 2 p.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on January 21, 1988 at 10 a.m. at the office of the Kentucky Harness Racing Commission. Anyone interested in attending this hearing shall notify in writing: Carl B. Larsen, Executive Director, Kentucky Harness Racing Commission, Suite 300, 535 West Second Street, Lexington, Kentucky 40508, at least five days before the hearing.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Carl B. Larsen
(1) Type and number of entities affected: Horsemen
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None additional.
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None additional.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Regulation affects all horsemen.

## CABINET FOR HUMAN RESOURCES
## Department for Social Insurance
## Division of Management & Development
## (Proposed Amendment)

**904 KAR 3:030. Application process.**

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

Section 1. Application Process. The application process consists of filing and completing an application, an interview and required verification and documentation. The cabinet shall make the application process [applications] readily accessible to households as well as groups and organizations involved in program information activities and [shall provide an application form to anyone upon request].

Section 2. Prompt Action on Applications. The cabinet shall provide eligible households that complete the initial application process an opportunity to participate as soon as possible but not later than thirty (30) days after the application is filed. The department shall notify the household of any action it must take to complete the application process. If verification is lacking, the household will have up to thirty (30) days from the date the missing verification was requested to provide such verification.

Section 3. Expedited Service. The cabinet shall identify households eligible for expedited service at the time the household requests assistance and shall comply with 7 CFR 273.2(i)[(3) and 273.2(i)(4)] when expediting certification and issuance procedures.

[(1) Prior to February 1, 1983 the following households, if otherwise eligible, are entitled to expedited service:]

[(a) Households with zero net monthly income as computed in 7 CFR Part 273.10.]

[(b) Households who are destitute as defined in 7 CFR Part 273.10(e)(3).]

[(2) Effective February 1, 1983, the following households, if otherwise eligible and provided their liquid resources do not exceed $100, are entitled to expedited service:]

[(a) Households with less than $150 in monthly gross income computed in accordance with 7 CFR Part 273.10; or]

[(b) Migrant or seasonable farmworker households who are destitute as defined in 7 CFR Part 273.10(e)(3).]

Section 4. Public Assistance Application Process. Households in which all members are applying for public assistance (PA) and state administered general assistance shall be allowed to simultaneously apply for food stamp benefits. The cabinet shall comply with procedures specified in 7 CFR 273.2(j) in handling PA households.

Section 5. Joint SSI/FS Application Process. Households in which all members are applicants/recipients of Supplemental Security Income (SSI) shall be allowed to simultaneously apply for both SSI and food stamps at the appropriate Social Security Administration office. The cabinet will comply with procedures specified in 7 CFR 273.2(k) in processing these households.

MIKE ROBINSON, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: November 23, 1987
FILED WITH LRC: December 2, 1987 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for January 21, 1988 at 9 a.m. in the Health Services Auditorium, 1st Floor, Health Services Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by January 16, 1988 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: Minimal
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: Minimal
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: None
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Federal mandate, no alternatives available.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Federal regulations must be applied uniformly statewide.

**CABINET FOR HUMAN RESOURCES**
**Department for Social Insurance**
**Division of Management & Development**
**(Proposed Amendment)**

**904 KAR 3:045. Coupon issuance procedures.**

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

Section 1. Basic Issuance Requirements. The cabinet is responsible for the timely and accurate issuance of coupons to eligible households. In issuing coupons the cabinet must insure that:
(1) Only certified households receive benefits;

(2) Coupons are accepted, stored, and protected after delivery to receiving points within the state;

(3) Program benefits are distributed in the correct amounts; and

(4) Coupon issuance and reconciliation activities are properly conducted in accordance with 7 CFR Part 274 and accurately reported to the Food and Nutrition Service.

Section 2. Issuance System. The cabinet shall choose one (1) of the following systems to issue coupons to eligible households:

(1) Direct delivery is a system wherein eligible households pick up and redeem their ATP card at a specified issuance center. Regular mail issuance shall be available to those households which are unable to get to their assigned issuance centers, as determined by the cabinet.

(2) Direct mail is a system wherein coupons are mailed, using at least first class mail, directly to the eligible household.

(3) Alternate issuance is a system used, in accordance with 7 CFR 274.3(c)(3), when circumstances exist which indicate a household may not receive their benefits through the normal issuance system.

(a) Local office pickup is a system whereby a household's benefits are mailed to the local office for the household to pick up.

(b) Certified mail is a system whereby benefits are sent via the postal system and must be signed for before they are obtained.

(c) As determined by the cabinet, other issuance systems may be utilized to ensure receipt of benefits by the eligible household.

Section 3. Issuance Cycles. (1) For ongoing cases the monthly coupon packet/ATP card is mailed to the household/issuance center over the first ten (10) to twenty (20) days of the issuance month, based on the last digit of the recipient's Social Security number.

(2) New approvals, reapprovals and current month recertifications shall have their coupon packet/ATP card mailed to their home/issuance center within thirty (30) days after the date of application in accordance with 7 CFR 273.2(g)(2).

[(a)] Households eligible for expedited service shall have their coupon packet/ATP card made available for <u>participation within five (5) calendar days</u> [pickup no later than the close of business on the fifth calendar day] after the date of application.

[(b) Residents of drug addiction/alcoholic treatment centers and group living arrangement facilities eligible for expedited service shall have their coupon packet/ATP card made available no later than seven (7) days after the date of application.]

Section 4. Replacement Issuances. A total of only two (2) replacements of any kind shall be made during a six (6) month period, except as specified in subsection 4 of this section. Replacements will be issued in accordance with 7 CFR Parts 273.11(i), 274.2(h) and 274.3(c) as follows:

(1) Nonreceipt of coupons/ATP cards must be reported in the period of intended use. Replacements shall be issued no more than ten (10) days after report of nondelivery is received and shall be limited to two (2) times during a six (6) month period. If coupons/ATP cards were returned to central office, <u>their replacement is not considered in the limit stated above</u> [nonreceipt did not occur and the limit stated above does not apply].

(2) Destruction, in an individual household disaster, of coupons/ATP cards after receipt must be reported within ten (10) days of the incident or within the period of intended use, whichever is earlier. Replacements shall be issued within ten (10) days of receipt of request and shall be limited to one (1) time during a six (6) month period. Where FNS has issued a disaster declaration and the household is eligible for emergency food stamp benefits the household shall not receive both the disaster allotment and a replacement allotment under this provision.

(3) Theft of ATP cards after receipt must be reported within ten (10) days of the incident or within the period of intended use, whichever is earlier. Replacements shall be issued within ten (10) days of receipt of request and shall be limited to one (1) time during a six (6) month period.

(4) Improperly manufactured or mutilated coupons shall be replaced with an amount equal to the affected coupons in accordance with 7 CFR Part 273.11(i)(5). There is no limit on the number of times this type of replacement may be made.

(5) Effective April 1, 1985, mutilated ATP cards which are identifiable as being for the current month, belonging to the household which requested the replacement, and which have not expired, shall be replaced provided the request for replacement was made during the period of intended use. Mutilated ATP cards which are not identifiable shall be considered as lost and not replaceable.

(6) Food purchased with food stamps which is subsequently destroyed in an individual disaster, as well as in a natural disaster affecting more than one (1) household, which affects the participating household, may be eligible for replacement of the actual value of loss, not to exceed one (1) month's food stamp allotment. The disaster must be reported within ten (10) days and verified. A replacement shall be issued or the opportunity to obtain a replacement given within ten (10) days of the reported loss and shall be limited to two (2) times during a six (6) month period. Where FNS has issued a disaster declaration and the household is eligible for emergency food stamp benefits the household shall not receive both the disaster allotment and a replacement allotment under this provision.

Section 5. Authorization-to-participate Card. The ATP card is used in areas participating in a direct delivery system.

(1) Effective July 1, 1985 the ATP card shall be valid for the entire month of issuance unless it is issued after the 20th day of the month. Those issued after that date are valid through the last day of the following month.

(2) The household shall be provided with a means of designating an emergency authorized representative who can transact the ATP card in their stead.

Section 6. Coupon Controls. Regardless of which issuance system is used, the cabinet shall:

(1) Establish a coupon inventory management system which insures that coupons are

requisitioned and inventories are maintained in accordance with 7 CFR Parts 274.4(a);

(2) Establish control and security procedures to safeguard coupons similar to those used to protect currency outlined in 7 CFR Part 274.4(b);

(3) Arrange for the ordering of coupons and the prompt verification and written acceptance of each coupon shipment in accordance with 7 CFR Part 274.4(c);

(4) Ensure that coupon issuers and bulk storage points promptly verify and acknowledge, in writing, the contents of each coupon shipment or coupon transfer delivered to them and shall be responsible for the custody, care, control and storage of coupons pursuant to 7 CFR Part 274.5;

(5) Maintain issuance records for a period of three (3) years from the month of origin as outlined in 7 CFR Part 274.7;

(6) Control all issuance documents which establish household eligibility while the documents are transferred and processed within the state agency in accordance with 7 CFR Part 274.7(b); and

(7) Provide security and control for all issuance accountability documents pursuant to 7 CFR Part 274.7(c).

MIKE ROBINSON, Commissioner
E. AUSTIN, JR., Secretary
APPROVED BY AGENCY: November 23, 1987
FILED WITH LRC: December 2, 1987 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for January 21, 1988 at 9 a.m. in the Health Services Auditorium, 1st Floor, Health Services Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by January 16, 1988 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: Minimal

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

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Federal mandate, no alternative available.

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

(a) Necessity of proposed regulation if in conflict: N/A

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. Federal regulations must be applied uniformly statewide.

# PROPOSED REGULATIONS RECEIVED THROUGH NOON, DECEMBER 15

## TOURISM CABINET
## Department of Fish & Wildlife Resources

**301 KAR 1:191. Repeal of 301 KAR 1:190.**

RELATES TO: KRS 150.025, 150.110, 150.170, 150.190
PURSUANT TO: KRS 13A.350, 150.025
NECESSITY AND FUNCTION: It is necessary to unrestrict the sale of musseling licenses in order to insure a fair and equitable distribution to all individuals who desire to become mussel fishermen.

Section 1. 301 KAR 1:190, Special restrictions on the sale of musseling licenses, is hereby repealed.

DON R. McCORMICK, Commissioner
G. WENDELL COMBS, Secretary
CHARLES E. PALMER, JR., Chairman
APPROVED BY AGENCY: December 10, 1987
FILED WITH LRC: December 10, 1987 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on January 26, 1988 at 1:30 p.m. in the meeting room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Peter W. Pfeiffer, Director, Division of Fisheries, Department of Fish & Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don McCormick, Commissioner
(1) Type and number of entities affected: Several hundred individuals that wish to become mussel fishermen.
(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: No significant effects.
(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? No. Regulation being repealed.

## KENTUCKY DEPARTMENT OF AGRICULTURE

**302 KAR 36:010. Disputed claims to bond, certificate of deposit and irrevocable letter of credit proceeds.**

RELATES TO: KRS 251.440, 251.451, 251.720
PURSUANT TO: KRS 251.700
NECESSITY AND FUNCTION: To define and clarify the procedure for settlement of disputed claims to the proceeds of grain storage and grain dealer bonds, certificates of deposit or irrevocable letters of credit.

Section 1. Following the failure of a grain dealer or grain warehouseman the Director, Division of Weights and Measures, shall determine the claims and amounts thereof to be made against the proceeds of a grain warehouseman or grain dealer bond, certificate of deposit or irrevocable letter of credit. Such bond, certificate of deposit or irrevocable letter of credit shall first be applied to pay those individuals whom the director determines to be valid claimants. Such claimants shall be paid on a pro rata basis determined by the director if there are insufficient proceeds to reimburse claimants 100 percent. If proceeds of the bond, certificate of deposit, and/or irrevocable letter of credit remain after reimbursing all claimants 100 percent, the remaining proceeds shall be used to reimburse the Kentucky Grain Insurance Fund for any amounts paid from the fund.

Section 2. The director shall, after determining claims and amounts thereof, send notice to all claimants of the amount to be paid to that claimant and shall give the claimant ten (10) days in which to respond if the claimant does not agree with the figure he is to be paid.

Section 3. If a claim is disputed or if a claimant disagrees with the amount he is to be paid or his entitlement to a portion of the proceeds of the bond, certificate of deposit or irrevocable letter of credit and has requested further consideration of his claim, and if such request has been received by the director within the requisite ten (10) day period, the director shall forward the information concerning the claim, including all associated documents, to the commissioner or his designee to review the claim and make a final determination thereon. The director shall notify the potential claimant, in writing, that a final review of his claim has been scheduled and shall notify the potential claimant of the time and place of such review. At such time and place as has been designated the potential claimant may appear with or without counsel and a review of the claim shall be made. The potential claimant may present such information as he may have at that time and the director may likewise present such information as he has. At the request of the potential claimant, the director or the commissioner, a tape recording or transcript of the conference shall be made. Following the conference and within fifteen (15) days, the

commissioner or his designee shall make a written determination concerning the claim and shall provide a copy of the determination to the Director, Division of Weights and Measures, and to the potential claimant. Within seven (7) days of the conference the commissioner shall issue a proposed determination concerning the claim. Within five (5) days of the proposed determination either the director or the potential claimant may file exceptions to the proposed determination.

Section 4. The commissioner or his designee shall review the entire record, including any exceptions thereto and shall issue a final order allowing, disallowing or modifying the claim and its amount within fifteen (15) days from the date of the conference.

Section 5. A copy of the final order shall be sent to the Director, Division of Weights and Measures, and the potential claimant. The order of the commissioner shall constitute final action by the department. Either the director or the potential claimant may appeal the final order of the commissioner to Franklin Circuit Court within thirty (30) days of the order.

Section 6. Failure to appear at the potential claimant's review or failure to timely request a review of a previously determined claim within the prescribed time period, shall be grounds for the commissioner ordering the claim to remain as originally determined by the director.

DAVID E. BOSWELL, Commissioner
APPROVED BY AGENCY: December 2, 1987
FILED WITH LRC: December 4, 1987 at 4 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on January 25, 1988 at 1 p.m. in the 7th Floor Conference Room of the Capital Plaza Tower, Frankfort, Kentucky. Those interested in attending this hearing shall contact: General Counsel, Department of Agriculture, Room 705, Capital Plaza Tower, Frankfort, Kentucky 40601. Unless written notification of intent to attend a public hearing is received by the promulgating agency at least five (5) days before the hearing date, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Charles Prebble, Director
(1) Type and number of entities affected: Persons whose entitlement to a portion of bond, certificate of deposit, or irrevocable letter of credit proceeds are in dispute.
(a) Direct and indirect costs or savings to those affected:
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A
(b) Reporting and paperwork requirements: No more than are already being done.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs: N/A
(b) Reporting and paperwork requirements: No more than are already being done.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: This alternative appears to be most reasonable.
(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. Will apply to all disputed claims.

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

**401 KAR 36:050. Used oil burned for energy recovery.**

RELATES TO: KRS 224.033, 224.830 through 224.877, 224.994
PURSUANT TO: KRS Chapter 13A, 224.033, 224.866, 224.867
NECESSITY AND FUNCTION: KRS 224.866 requires that persons engaging in recycling of hazardous waste obtain a permit. KRS 224.866 requires the cabinet to establish standards for these permits, to require adequate financial responsibility, and to establish minimum standards for closure for all hazardous waste recycling facilities. This chapter establishes minimum standards for hazardous waste recycling facilities. This regulation establishes minimum standards for used oil burned for energy recovery.

Section 1. Applicability of Standards for Used Oil Burned for Energy Recovery. (1) The requirements in Sections 1 through 5 of this regulation apply to used oil that is burned for energy recovery in any boiler or industrial furnace that is not regulated under 401 KAR 34:240 or 401 KAR 35:240, except as provided by subsections (3) and (5) of this section. Such used oil is termed "used oil fuel." Used oil fuel includes any fuel produced from used oil by processing, blending, or other treatment.
(2) "Used oil" means any oil that has been refined from crude oil, used, and as a result of such use, is contaminated by physical or chemical impurities.
(3) Except as provided by subsection (4) of this section, used oil that is mixed with hazardous waste and burned for energy recovery is subject to regulation as hazardous waste fuel under Sections 1 through 6 of 401 KAR 36:040. Used oil containing more than 1000 ppm of total halogens is presumed to be a hazardous waste because it has been mixed with halogenated hazardous waste listed in 401 KAR 31:040. Persons may rebut this presumption by demonstrating that the used oil does not contain hazardous waste (for example, by showing that the used oil does not contain significant concentrations of halogenated hazardous constituents listed in 401 KAR 31:170).
(4) Used oil burned for energy recovery is subject to regulation under Sections 1 through 5

of this regulation rather than as hazardous waste fuel under Sections 1 through 6 of 401 KAR 36:040 if it is a hazardous waste solely because it:

(a) Exhibits a characteristic of hazardous waste identified in 401 KAR 31:030, provided that it is not mixed with a hazardous waste; or

(b) Contains hazardous waste generated only by a person subject to the special requirements for limited quantity generators under Section 5 of 401 KAR 31:010.

(5) Except as provided by subsection (3) of this section, used oil burned for energy recovery, and any fuel produced from used oil by processing, blending, or other treatment, is subject to regulation under Sections 1 through 5 of this regulation unless it is shown not to exceed any of the allowable levels of the constituents and properties in the specification shown in Table 1. Used oil fuel that meets the specification is subject only to the analysis and recordkeeping requirements under Section 4(2)(a) and (f). Used oil fuel that exceeds any specification level is termed "off-specification used oil fuel."

Table 1
USED OIL EXCEEDING ANY SPECIFICATION LEVEL IS SUBJECT TO SECTIONS 1 THROUGH 5 OF THIS REGULATION WHEN BURNED FOR ENERGY RECOVERY[a]

| Constituent/property | Allowable level |
|---|---|
| Arsenic | 5 ppm maximum |
| Cadmium | 2 ppm maximum |
| Chromium | 10 ppm maximum |
| Lead | 100 ppm maximum |
| Flash point | 100°F minimum |
| Total halogens | 4000 ppm maximum[b] |

[a]The specification does not apply to used oil fuel mixed with a hazardous waste other than limited quantity generator hazardous waste.

[b]Used oil containing more than 1,000 ppm total halogens is presumed to be a hazardous waste under the rebuttable presumption provided under subsection (3) of this section. Such used oil is subject to Sections 1 through 6 of 401 KAR 36:040 rather than Sections 1 through 5 of this regulation when burned for energy recovery unless the presumption of mixing can be successfully rebutted.

Section 2. Prohibitions for Used Oil Burned for Energy Recovery. (1) A person may market off-specification used oil for energy recovery only:

(a) To burners or other marketers who have notified the cabinet of their used oil management activities stating the location and general description of such activities, and who have an EPA identification number; and

(b) To burners who burn the used oil in an industrial furnace or boiler identified in subsection (2) of this section.

(2) Off-specification used oil may be burned for energy recovery in only the following devices:

(a) Industrial furnaces identified in 401 KAR 30:010;

(b) Boilers, as defined in 401 KAR 30:010, that are identified as follows:

1. Industrial boilers located on the site of a facility engaged in a manufacturing process where substances are transformed into new products, including the component parts of products, by mechanical or chemical processes;

2. Utility boilers used to produce electric power, steam, or heated or cooled air or other gases or fluids for sale; or

3. Used oil-fired space heaters provided that:

a. The heater burns only used oil that the owner or operator generates or used oil received from do-it-yourself oil changers who generated used oil as household waste;

b. The heater is designed to have a maximum capacity of not more than 0.5 million Btu per hour; and

c. The combustion gases from the heater are vented to the ambient air.

Section 3. Standards Applicable to Generators of Used Oil Burned for Energy Recovery. (1) Except as provided in subsections (2) and (3) of this section, generators of used oil are not subject to ~~the~~ Sections 1 through 5 of this regulation.

(2) Generators who market used oil directly to a burner are subject to Section 4 of this regulation; and

(3) Generators who burn used oil are subject to Section 5 of this regulation.

Section 4. Standards Applicable to Marketers of Used Oil Burned for Energy Recovery. (1) Persons who market used oil fuel are termed "marketers". Except as provided below, marketers include generators who market used oil fuel directly to a burner, persons who receive used oil from generators and produce, process, or blend used oil fuel from these used oils (including persons sending blended or processed used oil to brokers or other intermediaries), and persons who distribute but do not process or blend used oil fuel. However, the following persons are not marketers subject to Sections 1 through 5 of this regulation:

(a) Used oil generators, and collectors who transport used oil received only from generators, unless the generator or collector markets the used oil directly to a person who burns it for energy recovery. However, persons who burn some used oil fuel for purposes of processing or other treatment to produce used oil fuel for marketing are considered to be burning incidentally to processing. Thus, generators and collectors who market to such incidental burners are not marketers subject to Sections 1 through 5 of this regulation;

(b) Persons who market only used oil fuel that meets the specifications under Section 1(5) of this regulation and who are not the first person to claim the oil meets the specification (i.e., marketers who do not receive used oil from generators or initial transporters and marketers who neither receive nor market off-specification used oil fuel).

(2) Marketers are subject to the following requirements:

(a) Analysis of used oil fuel. Used oil fuel is subject to regulation under Sections 1 through 5 of this regulation unless the marketer obtains analyses or other information documenting that the used oil fuel meets the specifications provided under Section 1(5) of this regulation.

(b) Prohibitions. The prohibitions under Section 2(1) of this regulation shall apply;

(c) Notification. Notification to the cabinet stating the location and general description of

used oil management activities is required. Even if a marketer has previously notified the cabinet of his hazardous waste management activities in accordance with Section 2 of 401 KAR 34:020 and obtained a U.S. EPA identification number, he must renotify to identify his used oil management activities.

(d) Invoice system. When a marketer initiates a shipment of off-specification used oil, he must prepare and send the receiving facility an invoice containing the following information:

1. An invoice number;

2. His own EPA identification number and the EPA identification number of the receiving facility;

3. The names and addresses of the shipping and receiving facilities;

4. The quantity of off-specification used oil to be delivered;

5. The date(s) of shipment or delivery; and

6. The following statement: "This used oil is subject to EPA regulation under 40 CFR Part 266 or Kentucky regulation under 401 KAR Chapter 36."

(e) Required notices.

1. Before a marketer initiates the first shipment of off-specification used oil to a burner or other marketer, he must obtain a one (1) time written and signed notice from the burner or marketer certifying that:

a. The burner or marketer has notified EPA stating the location and general description of his used oil management activities; and

b. If the recipient is a burner, the burner will burn the off-specification used oil only in an industrial furnace or boiler identified in Section 2(2) of this regulation; and

2. Before a marketer accepts the first shipment of off-specification used oil from another marketer subject to the requirements of this section, he must provide the marketer with a one (1) time written and signed notice certifying that he has notified EPA of his used oil management activities; and

(f) Recordkeeping.

1. Used oil fuel that meets the specification. A marketer who first claims under paragraph (a) of this subsection that used oil fuel meets the specification must keep copies of analysis (or other information used to make the determination) of used oil for three (3) years. Such marketers must also record in an operating log and keep for three (3) years the following information on each shipment of used oil fuel that meets the specification. Such used oil fuel is not subject to further regulation, unless it is subsequently mixed with hazardous waste or unless it is mixed with used oil so that it no longer meets the specification.

a. The name and address of the facility receiving the shipment;

b. The quantity of used oil fuel delivered;

c. The date of shipment or delivery; and

d. A cross-reference to the record of used oil analysis (or other information used to make the determination that the oil meets the specification) required under this subparagraph.

2. Off-specification used oil fuel. A marketer who receives or initiates an invoice under the requirements of this section must keep a copy of each invoice for three (3) years from the date the invoice is received or prepared. In addition, a marketer must keep a copy of each certification notice that he receives or sends for three (3) years from the date he last engages in an off-specification used oil fuel marketing transaction with the person who sends or receives the certification notice.

Section 5. Standards Applicable to Burners of Used Oil Burned for Energy Recovery. Owners and operators of facilities that burn used oil fuel are "burners" and are subject to the following requirements:

(1) Prohibitions. The prohibitions under Section 2(2) of this regulation shall apply.

(2) Notification. Burners of off-specification used oil fuel, and burners of used oil fuel who are the first to claim that the oil meets the specification provided under Section 1(5) of this regulation, except burners who burn specification oil that they generate, must notify the cabinet stating the location and general description of used oil management activities. Burners of used oil fuel that meets the specification who receive such oil from a marketer that previously notified the cabinet are not required to notify. Owners and operators of used oil-fired space heaters that burn used oil fuel under the provisions of Section 2(2)(b) of this regulation are exempt from this notification requirement. Even if a burner has previously notified the cabinet of his hazardous waste management activities in accordance with Section 2 of 401 KAR 34:020 and obtained an EPA identification number, he must renotify to identify his used oil management activities.

(3) Required notices. Before a burner accepts the first shipment of off-specification used oil fuel from a marketer, he must provide the marketer a one (1) time written and signed notice certifying that:

(a) He has notified the cabinet stating the location and general description of his used oil management activities; and

(b) He will burn the used oil only in an industrial furnace or boiler identified in Section 2(2) of this regulation.

(4) Used oil fuel analysis.

(a) Used oil fuel burned by the generator is subject to regulation under Sections 1 through 5 of this regulation unless the burner obtains analysis (or other information) documenting that the used oil meets the specifications provided under Section 1(5) of this regulation.

(b) Burners who treat off-specification used oil fuel by processing, blending, or other treatment to meet the specification provided under Section 1(5) of this regulation must obtain analyses (or other information) documenting that the used oil meets the specifications.

(5) Recordkeeping. A burner who receives an invoice under the requirements of this section must keep a copy of each invoice for three (3) years from the date the invoice is received. Burners must also keep for three (3) years copies of analyses of used oil fuel as may be required by subsection (4) of this section. In addition, he must keep a copy of each certification notice that he sends to a marketer for three (3) years from the date he last receives off-specification used oil from that marketer.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the

new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: The amendments to this regulation affect generators, transporters, marketers, storers, and facilities that burn hazardous waste fuel. There are 92 burners of hazardous waste fuel in Kentucky.

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

1. First year: Burners of used oil fuel that meets the specification who receive such oil from a marketer that previously notified the cabinet are not required to notify. This stipulation may result in a small cost savings to burners of used oil fuel.

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: The proposed amendments to this regulation require that burners of used oil fuel who are first to claim that the oil meets the specification provided under Section 1(5) of this regulation (except burners who burn specification oil that they generate) notify the cabinet stating the location and a description of their activities.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The cabinet may incur a cost when burners of used oil fuel who are first to claim that the oil meets the specification provided under Section 1(5) of this regulation must notify the cabinet stating the location and a description of their used oil management activities. The cost would result from the processing of the burner's notification.

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) Burners of used oil fuel who are the first to claim that the oil meets the specification provided under Section 1(5) of this regulation must notify the cabinet of their location and must describe the activities conducted on location. Alternative. 1. Less stringent. The cabinet could have chosen to be less stringent by not adopting the federal standards requiring specified burners of used oil fuel to notify the cabinet. This would have resulted in the cabinet being unaware of the location and activities of a class of used oil fuel burners. A lack of awareness of such activity may increase the likelihood of damage to human health and the environment.

2. More stringent. The cabinet could have chosen to be more stringent by adopting additional requirements for the specified group of burners of used oil fuel. However, the present proposal is adequate to protect human health and the environment.

3. Present proposal. Burners of used oil fuel who are the first to claim that the oil meets the specification provided under Section 1(5) of this regulation except burners that burn specification oil that they generate, must notify the cabinet stating the location and a description of their activities.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? This regulation applies to generators, transporters, marketers, storers, and facilities that burn hazardous waste fuel.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 266.43 and 40 CFR 266.44 promulgated on April 13, 1987 (52 FR 11819-11822).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments to this regulation adopt requirements which are identical to those standards adopted by the U.S. EPA on April 13, 1986.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

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

**401 KAR 37:010. General provisions for land disposal restrictions.**

RELATES TO: KRS 224.033, 224.060, 224.071, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.862, 224.866

NECESSITY AND FUNCTION: KRS 224.866 enables the cabinet to prohibit the land disposal of any hazardous wastes. KRS 224.866 requires that the cabinet allow land disposal of hazardous waste when the disposal methods have been determined by the cabinet to be protective of human health

and the environment for as long as the waste remains hazardous. 401 KAR Chapter 37 establishes land disposal restrictions and treatment standards for hazardous wastes. This regulation establishes waste specific prohibitions on land disposal.

Section 1. Purpose, Scope and Applicability. (1) This part identifies hazardous wastes that are restricted from land disposal and defines those limited circumstances under which an otherwise prohibited waste may continue to be land disposed.

(2) Except as specifically provided otherwise in 401 KAR Chapter 31 or 37, the requirements of 401 KAR Chapter 37 apply to persons who generate or transport hazardous waste and owners and operators of hazardous waste treatment, storage, and disposal facilities.

(3) Prohibited wastes may continue to be land disposed as follows:

(a) Where persons have been granted an extension to the effective date of a prohibition under 401 KAR 37:030 or pursuant to Section 5 of this regulation, with respect to those wastes covered by the extension;

(b) Where persons have been granted an exemption from a prohibition pursuant to a petition under Section 6 of this regulation, with respect to those wastes and units covered by the petition;

(c) Until November 8, 1988, where the wastes are contaminated soil or debris resulting from a response action taken under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or a corrective action required under KRS Chapter 224; or

(d) Where the waste is generated by limited quantity generators of less than 100 kilograms of nonacute hazardous waste per month, or less than one (1) kilogram acute hazardous waste per month as defined in Section 5 of 401 KAR 31:010.

Section 2. Definitions Applicable to 401 KAR Chapter 37. (1) When used in 401 KAR Chapter 37 the following terms have the meanings given below:

(a) "Hazardous constituent or constituents" means those constituents listed in 401 KAR 31:170;

(b) "Land disposal" means placement in or on the land and includes, but is not limited to, placement in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, underground mine or cave, concrete vault or bunker intended for disposal purposes.

(2) All other terms have the meanings given under Section 1 of 401 KAR 30:010, Sections 2 and 3 of 401 KAR 31:010 or Section 2 of 401 KAR 38:010.

Section 3. Dilution Prohibited as a Substitute for Treatment. No generator, transporter, handler, or owner or operator of a treatment, storage, or disposal facility shall in any way dilute a restricted waste or the residual from treatment of a restricted waste as a substitute for adequate treatment to achieve compliance with 401 KAR 37:040.

Section 4. Treatment Surface Impoundment Exemption. (1) Wastes which are otherwise prohibited from land disposal under 401 KAR Chapter 37 may be treated in a surface impoundment or series of impoundments provided that:

(a) Treatment of such wastes occurs in the impoundments;

(b) The residues of the treatment are analyzed, as specified in Section 7 of this regulation, to determine if they meet the applicable treatment standards in Section 2 of 401 KAR 37:040. The sampling method, specified in the waste analysis plan under Section 4 of 401 KAR 34:020 or Section 4 of 401 KAR 35:020, must be designed such that representative samples of the sludge and the supernatant are tested separately rather than mixed to form homogeneous samples. The treatment residues (including any liquid waste) that do not meet the treatment standards promulgated under 401 KAR 37:040, or are not delisted under Section 2 of 401 KAR 31:060, must be removed at least annually. These residues may not be placed in any other surface impoundment for subsequent management. If the volume of liquid flowing through the impoundment or series of impoundments annually is greater than the volume of the impoundment or impoundments, this flow-through constitutes removal of the supernatant for the purpose of this requirement. The procedures and schedule for the sampling of impoundment contents, the analysis of test data, and the annual removal of residue which does not meet the 401 KAR 37:040 treatment standards must be specified in the facility's waste analysis plan as required under Section 4 of 401 KAR 34:020 or Section 4 of 401 KAR 35:020.

(c) The impoundment meets the design requirements of Section 2(3) of 401 KAR 34:200 or Section 10(1) of 401 KAR 35:200, regardless that the unit may not be new, expanded, or a replacement, and be in compliance with applicable groundwater monitoring requirements of 401 KAR 34:060 or 401 KAR Chapter 35 unless:

1. Exempted pursuant to Section 2(4) or (5) of 401 KAR 34:200, or to Section 10(3) or (4) of 401 KAR 35:200; or

2. Upon application by the owner or operator, the secretary after notice and an opportunity to comment has granted a waiver of the requirements on the basis that the surface impoundment:

a. Has at least one (1) liner, for which there is no evidence that such liner is leaking;

b. Is located more than one-quarter (1/4) mile from an underground source of drinking water; and

c. Is in compliance with generally applicable groundwater monitoring requirements for facilities with permits; or

3. Upon application by the owner or operator, the secretary, after notice and an opportunity to comment, has granted a modification to the requirements on the basis of a demonstration that the surface impoundment is located, designed, and operated so as to assure that there will be no migration of any hazardous constituent into groundwater or surface water at any future time.

(d) The owner or operator submits to the secretary a written certification that the requirements of paragraph (c) of this subsection have been met and submits a copy of the waste analysis plan required under paragraph (b) of this subsection. The following certification is required:

I certify under penalty of law that the requirements of Section 4(1)(c) of 401 KAR 37:010 have been met for all surface

impoundments being used to treat restricted wastes. I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Section 5. Procedures for Case-by-case Extensions to an Effective Date. (1) Any person who generates, treats, stores, or disposes of a hazardous waste may submit an application to the secretary for an extension to the effective date of any applicable restriction established under 401 KAR 37:030. The applicant must demonstrate the following:

(a) He has made a good-faith effort to locate and contract with treatment, recovery, or disposal facilities nationwide to manage his waste in accordance with the effective date of the applicable restriction established under 401 KAR 37:030;

(b) He has entered into a binding contractual commitment to construct or otherwise provide alternative treatment, recovery (e.g., recycling), or disposal capacity that meets the treatment standards specified in 401 KAR 37:040;

(c) Due to circumstances beyond the applicant's control, such alternative capacity cannot reasonably be made available by the applicable effective date. This demonstration may include a showing that the technical and practical difficulties associated with providing the alternative capacity will result in the capacity not being available by the applicable effective date;

(d) The capacity being constructed or otherwise provided by the applicant will be sufficient to manage the entire quantity of waste that is the subject of the application;

(e) He provides a detailed schedule for obtaining required operating and construction permits or an outline of how and when alternative capacity will be available;

(f) He has arranged for adequate capacity to manage his waste during an extension and has documented in the application the location of all sites at which the waste will be managed; and

(g) Any waste managed in a surface impoundment or landfill during the extension period will meet the requirements of subsection (8)(b) of this section.

(2) An authorized representative signing an application described under subsection (1) of this section shall make the following certification:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(3) After receiving an application for an extension, the secretary may request any additional information which he deems as necessary to evaluate the application.

(4) An extension will apply only to the waste generated at the individual facility covered by the application and will not apply to restricted waste from any other facility.

(5) On the basis of the information referred to in subsection (1) of this section, after notice and opportunity for comment, and after consultation with appropriate state agencies in all affected states, the secretary may grant an extension of up to one (1) year from the effective date. The secretary may renew this extension for up to one (1) additional year upon the request of the applicant if the demonstration required in subsection (1) of this section can still be made. In no event will an extension extend beyond twenty-four (24) months from the applicable effective date specified in 401 KAR 37:030. The length of any extension authorized will be determined by the secretary based on the time required to construct or obtain the type of capacity needed by the applicant as described in the completion schedule discussed in subsection (1)(e) of this section. The secretary will give public notice of the intent to approve or deny a petition and provide an opportunity for public comment. The final decision on a petition will be published in the Kentucky Administrative Register.

(6) Any person granted an extension under this section must immediately notify the secretary as soon as he has knowledge of any change in the conditions certified to in the application.

(7) Any person granted an extension under this section shall submit written progress reports at intervals designated by the secretary. Such reports must describe the overall progress made toward constructing or otherwise providing alternative treatment, recovery or disposal capacity; must identify any event which may cause or has caused a delay in the development of the capacity; and must summarize the steps taken to mitigate the delay. The secretary can revoke the extension at any time if the applicant does not demonstrate a good-faith effort to meet the schedule for completion, if the cabinet denies or revokes any required permit, if conditions certified in the application change, or for any violation of this chapter.

(8) Whenever the secretary establishes an extension to an effective date under this section, during the period for which such extension is in effect:

(a) The storage restrictions under Section 1(a) of 401 KAR 37:050 do not apply; and

(b) Such hazardous waste may be disposed of at a facility only if each new landfill or surface impoundment unit, each replacement of an existing landfill or surface impoundment unit, and each lateral expansion of an existing landfill or surface impoundment unit at the facility is in compliance with the following requirements:

1. The landfill, if in interim status, is in compliance with the requirements of 401 KAR 35:060 and Section 10(1), (3) and (4) of 401 KAR 35:230;

2. The landfill, if permitted, is in compliance with the requirements of 401 KAR 34:060 and Section 10(3), (4), and (5) of 401 KAR 34:230;

3. The surface impoundment, if in interim status, is in compliance with the requirements of 401 KAR 35:060 and Section 10(1), (3) and (4) of 401 KAR 35:200; or

4. The surface impoundment, if permitted, is in compliance with the requirements of 401 KAR 34:060 and Section 10(3), (4), and (5) of 401 KAR 34:200.

(9) Pending a decision on the application the applicant is required to comply with all

restrictions on land disposal under 401 KAR Chapter 37 once the effective date for the waste has been reached.

Section 6. Petitions to Allow Land Disposal of a Waste Prohibited Under 401 KAR 37:030. (1) Any person seeking an exemption from a prohibition under 401 KAR 37:030 for the disposal of a restricted hazardous waste in a particular unit or units must submit a petition to the secretary demonstrating, to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous. The demonstration must include the following components:

(a) An identification of the specific waste and the specific unit for which the demonstration will be made;

(b) A waste analysis to describe fully the chemical and physical characteristics of the subject waste;

(c) A comprehensive characterization of the disposal unit site including an analysis of background air, soil, and water quality.

(2) The demonstration referred to in subsection (1) of this section must meet the following criteria:

(a) All waste and environmental sampling, test, and analysis data must be accurate and reproducible to the extent that state-of-the-art techniques allow;

(b) All sampling, testing, and estimation techniques for chemical and physical properties of the waste and all environmental parameters must have been approved by the secretary;

(c) Simulation models must be calibrated for the specific waste and site conditions, and verified for accuracy by comparison with actual measurements;

(d) A quality assurance and quality control plan that addresses all aspects of the demonstration must be approved by the secretary; and

(e) An analysis must be performed to identify and quantify any aspects of the demonstration that contribute significantly to uncertainty. This analysis must include an evaluation of the consequences of predictable future events, including, but not limited to, earthquakes, floods, severe storm events, droughts, or other natural phenomena.

(3) Each petition must be submitted to the secretary.

(4) Each petition must include the following statement signed by the petitioner or an authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(5) After receiving a petition, the secretary may request any additional information that reasonably may be required to evaluate the demonstration.

(6) If approved, the petition will apply to land disposal of the specific restricted waste at the individual disposal unit described in the demonstration and will not apply to any other restricted waste at that disposal unit, or to that specific restricted waste at any other disposal unit.

(7) The secretary will give public notice in the Kentucky Administrative Register of the intent to approve or deny a petition and provide an opportunity for public comment. The final decision on a petition will be published in the Kentucky Administrative Register.

(8) The term of a petition granted under this section shall be no longer than the term of the hazardous waste site or facility permit if the disposal unit is operating under a hazardous waste site or facility permit, or up to a maximum of ten (10) years from the date of approval provided under subsection (7) of this section if the unit is operating under interim status. In either case, the term of the granted petition shall expire upon the termination or denial of a hazardous waste site or facility permit, or upon the termination of interim status or when the volume limit of waste to be land disposed during the term of petition is reached.

(9) Prior to the secretary's decision, the applicant is required to comply with all restrictions on land disposal under 401 KAR Chapter 37 once the effective date for the waste has been reached.

(10) The petition granted by the secretary does not relieve the petitioner of his responsibilities in the management of hazardous waste under the hazardous waste management regulations.

Section 7. Waste Analysis. (1) The generator must test his waste or an extract developed using the test method described in 401 KAR 37:100, or use knowledge of the waste to determine if the waste is restricted from land disposal under 401 KAR Chapter 37.

(a) If a generator determines that he is managing a restricted waste under 401 KAR Chapter 37 and the waste exceeds the applicable treatment standards, with each shipment of waste the generator must notify the treatment facility in writing of the appropriate treatment standard set forth in 401 KAR 37:040. The notice must include the following information:

1. EPA Hazardous Waste Number;
2. The corresponding treatment standards;
3. The manifest number associated with the shipment of waste; and
4. Waste analysis data, where available.

(b) If a generator determines that he is managing a restricted waste under 401 KAR Chapter 37, and determines that the waste can be land disposed without further treatment, with each shipment of waste he must submit, to the land disposal facility, a notice and a certification stating that the waste meets applicable treatment standards.

1. The notice must include the following information:
   a. EPA Hazardous Waste Number;
   b. The corresponding treatment standard;
   c. The manifest number associated with the shipment of waste;
   d. Waste analysis data, where available.
2. The certification must be signed by an authorized representative and must state the following:

I certify under penalty of law that I have personally examined and am familiar with the

waste through analysis and testing or through knowledge of the waste to support this certification that the waste complies with treatment standards specified in 401 KAR 37:040. I believe that the information I submitted is true, accurate, and complete. I am aware that there are significant penalties for submitting false certification, including the possibility of a fine and imprisonment.

(c) If a generator's waste is subject to a case-by-case extension under Section 5 of this regulation, an exemption under Section 6 of this regulation, an extension under Section 1(3)(c) of this regulation, or a nationwide variance under 401 KAR 37:030, he must forward a notice with the waste to the land disposal facility receiving his waste, stating that the waste is exempt from the land disposal restrictions.

(d) If the generator determines whether the waste is restricted based solely on his knowledge of the waste, all supporting data used to make this determination must be maintained on-site in the generator's files.

(2) For wastes with treatment standards expressed as concentrations in the waste extract (Section 2 of 401 KAR 37:040), the owner or operator of the treatment facility must test the treatment residues or an extract of such residues developed using the test method described in 401 KAR 37:100 to assure that the treatment residues or extract meet the applicable treatment standards. Such testing must be performed according to the frequency specified in the facility's waste analysis plan as required by Section 4 of 401 KAR 34:020 or Section 4 of 401 KAR 35:020. Where the treatment residues do not meet the treatment standards, the treatment facility must comply with the notice requirements applicable to generators in subsection (1)(a) of this section if the treatment residues will be further managed at a different treatment facility.

(a) A notice must be sent with each waste shipment to the land disposal facility which includes the following information:

1. EPA Hazardous Waste Number;
2. The corresponding treatment standard;
3. The manifest number associated with the shipment of waste; and
4. Waste analysis data, where available.

(b) The treatment facility must submit a certification with each shipment of waste or treatment residue of a restricted waste to the land disposal facility stating that the waste or treatment residue has been treated in compliance with the treatment standards specified in 401 KAR 37:040.

1. For wastes with treatment standards expressed as concentrations in the waste extract or in the waste (Section 2 or 4 of 401 KAR 37:040), the certification must be signed by an authorized representative and must state the following:

I certify under penalty of law that I have personally examined and am familiar with the treatment technology and operation of the treatment process used to support this certification and that, based on my inquiry of those individuals immediately responsible for obtaining this information, I believe that the treatment process has been operated and maintained properly so as to achieve the performance levels specified in 401 KAR 37:040 without dilution of the prohibited waste. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

2. For wastes with treatment standards expressed as technologies (Section 3 of 401 KAR 37:040), the certification must be signed by an authorized representative and must state the following:

I certify under penalty of law that the waste has been treated in accordance with the requirements of Section 3 of 401 KAR 37:040. I am aware that there are significant penalties for submitting a false certification, including the possibility of fine and imprisonment.

(3) The owner or operator of any land disposal facility disposing any waste subject to restrictions under 401 KAR Chapter 37 must have records of the notice and certification specified in either subsections (1) or (2) of this section. The owner or operator of the land disposal facility must test the waste or an extract of the waste developed using the test method described in 401 KAR 37:100 to assure that the wastes or treatment residues are in compliance with the applicable treatment standards. Such testing must be performed according to the frequency specified in the facility's waste analysis plan as required by Section 4 of 401 KAR 34:020 or Section 4 of 401 KAR 35:020.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at noon.
PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

## REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: This regulation applies to the total number of hazardous waste treatment, storage and disposal facilities and generators land disposing affected wastes. There are 45 facilities and 1,049 full and small quantity generators in Kentucky. In the cabinet's estimation, there are no permitted facilities or generators land disposing the affected wastes.

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

1. First year: See item (6).
2. Continuing costs or savings: See item (6).
3. Additional factors increasing or decreasing costs (note any effects upon competition): See item (6).

(b) Reporting and paperwork requirements: There will be an increase in paperwork due to the required waste analysis and petitions to allow land disposal of a waste prohibited under 401 KAR 37:030.

(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: See item (6).
2. Continuing costs or savings: See item (6).
3. Additional factors increasing or decreasing costs: See item (6).
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.
(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The following concerns the adoption of general provisions for land disposal restrictions which are identical to the federal standards. Alternative. 1. Less stringent. Kentucky could not have been less stringent on this requirement and still have maintained authorization to administer the RCRA program.
2. More stringent. The cabinet chose not to be more stringent because the present proposal is adequate to protect public health and the environment.
3. Present proposal. The present proposal is identical to the federal requirements on general provisions for land disposal restrictions.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: The impact of this regulation has not been analyzed for those requirements which are equivalent to those found in the corresponding federal regulation, 40 CFR 268.1 through 40 CFR 268.7. The impact of the federal program was analyzed in (50 FR 40632-40636). A copy of the November 7, 1986 federal register has been filed with the regulations compiler of the Legislative Research Commission.
TIERING: Was tiering applied? No. This regulation applies to the total number of hazardous waste treatment, storage and disposal facilities and generators land disposing the affected wastes.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This regulation adopts verbatim language from the federal regulations promulgated on November 7, 1986 (51 FR 40638-40641). It also adopts technical corrections from the June 4, 1987 federal register (51 FR 21016-21017).
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed language in this regulation is identical to the federal language promulgated on November 7, 1986 and corrected on June 4, 1987.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The proposed amendments do not impose additional requirements or responsibilities than those adopted by the U.S. EPA.

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

**401 KAR 37:030. Prohibitions on land disposal.**

RELATES TO: KRS 224.033, 224.060, 224.071, 224.830 through 224.877, 224.994
PURSUANT TO: KRS Chapter 13A, 224.033, 224.866
NECESSITY AND FUNCTION: KRS 224.866 requires that the cabinet may prohibit the land disposal of any hazardous wastes. KRS 224.866 requires that the cabinet allow land disposal of hazardous waste when the disposal methods have been determined by the cabinet to be protective of human health and the environment for as long as the waste remains hazardous. This chapter establishes land disposal restrictions and treatment standards for hazardous wastes. This regulation establishes waste specific prohibitions on land disposal.

Section 1. Applicability. The requirements in this regulation apply to owners and operators of hazardous waste treatment, storage, and disposal facilities and hazardous waste generators which dispose of hazardous wastes on site or off site except as provided otherwise in Section 2(3) or 3(2) of this regulation.

Section 2. Waste Specific Prohibitions - Solvent Wastes. (1) Effective November 8, 1986, the spent solvent wastes specified in Section 2 of 401 KAR 31:040 as EPA Hazardous Waste Numbers F001, F002, F003, F004, and F005, are prohibited from land disposal (except in an injection well) unless one (1) or more of the following conditions apply:
(a) The generator of the solvent waste is a registered small quantity generator of 100-1000 kilograms of hazardous waste per month; or
(b) The solvent waste is generated from any response action taken under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) or any corrective action taken under KRS Chapter 224 except where the waste is contaminated soil or debris not subject to the provisions of 401 KAR Chapter 37 until November 8, 1988; or
(c) The initial generator's solvent waste is a solvent-water mixture, solvent-containing sludge or solid, solvent-contaminated soil (non-CERCLA or KRS Chapter 224 corrective action) containing less than one (1) percent total F001-F005 solvent constituents listed in Table 1 of Section 3 of 401 KAR 37:040.
(2) Effective November 8, 1988, the F001-F005 solvent wastes listed in subsection (1)(a), (b), and (c) of this section are prohibited from land disposal. Between November 8, 1986, and November 8, 1988, wastes included in subsection (1)(a), (b), and (c) of this section may be disposed of in a landfill or surface impoundment only if the facility is in compliance with the requirements specified in Section 5(8)(b) of 401 KAR 37:010.
(3) The requirements of subsections (1) and (2) of this section do not apply if:
(a) The wastes meet the standards of 401 KAR 37:040; or
(b) Persons have been granted an exemption

from a prohibition pursuant to a petition under Section 6 of 401 KAR 37:010, with respect to those wastes and units covered by the petition; or

(c) Persons have been granted an extension to the effective date of a prohibition pursuant to Section 5 of 401 KAR 37:010, with respect to those wastes covered by the extension.

Section 3. Waste Specific Prohibitions - Dioxin-Containing Wastes. (1) Effective November 8, 1988, the dioxin-containing wastes specified in Section 2 of 401 KAR 31:040 as EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, F027, and F028, are prohibited from land disposal.

(2) The requirements of subsection (1) of this section do not apply if:

(a) The wastes meet the standards of 401 KAR 37:040; or

(b) Persons have been granted an exemption from a prohibition pursuant to a petition under Section 6 of 401 KAR 37:010, with respect to those wastes and units covered by the petition; or

(c) Persons have been granted an extension from the effective date of a prohibition pursuant to Section 5 of 401 KAR 37:010, with respect to those wastes covered by the extension.

(3) Between November 8, 1986, and November 8, 1988, wastes included in subsection (1) of this section may be disposed of in a landfill or surface impoundment only if the facility is in compliance with the requirements specified in Section 5(8)(b) of 401 KAR 37:010 and all other applicable requirements of 401 KAR Chapters 34 and 35.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: This proposed regulation affects the total number of hazardous waste treatment, storage, and disposal facilities and generators land disposing of the affected wastes directly at the generation site or indirectly through commercial land disposal services. There are 45 facilities and 1049 full and small quantity generators in Kentucky. In the cabinet's estimation, there are no facilities permitted for land disposal of such waste or generators land disposing the affected wastes.

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

1. First year: See Item (6).

2. Continuing costs or savings: See Item (6).

3. Additional factors increasing or decreasing costs (note any effects upon competition): See Item (6).

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. See Item 6.

2. Continuing costs or savings: None. See Item (6).

3. Additional factors increasing or decreasing costs: None. See Item (6).

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The proposed regulation places land disposal prohibitions on spent solvent wastes specified as EPA Hazardous Waste Nos. F001, F002, F003, F004 and F005. Alternative. 1. Less stringent. The cabinet could have chosen to be less stringent by not incorporating the federal regulations. However, Kentucky could not have been less stringent on this requirement and still have maintained authorization to administer the RCRA hazardous waste program. To have adopted less stringent provisions would have afforded Kentucky's public health and environment less protection than that provided by the national program.

2. More stringent. The cabinet could have chosen to be more stringent by requiring additional provisions for the prohibition of land disposal of spent solvent wastes F001, F002, F003, F004, and F005. However, the present proposal is adequate to protect the public health and environment in Kentucky.

3. Present proposal. The present proposal adopts the federal standards for prohibiting the land disposal of spent solvent wastes specified as EPA Hazardous Waste Nos. F001, F002, F003, F004, and F005.

(b) The proposed regulation places land disposal prohibitions on dioxin-containing wastes specified as EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, F027, and F028. Alternatives. 1. Less stringent. The cabinet could have chosen to be less stringent by not incorporating the federal regulations. However, Kentucky could not have been less stringent on this requirement and still have maintained authorization to administer the RCRA hazardous waste program. To have adopted less stringent provisions would have afforded Kentucky's public health and environment less protection than that provided by the national program.

2. More stringent. The cabinet could have chosen to be more stringent by requiring additional provisions for the prohibition of land disposal of dioxin-containing wastes F020, F021, F022, F023, F026, F027, and F028. However, the present proposal is adequate to protect the public health and environment in Kentucky.

3. Present proposal. The present proposal adopts the federal standards for prohibiting the land disposal of dioxin-containing wastes specified as EPA Hazardous Waste Nos. F020, F021, F022, F023, F026, F027, and F028.

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

(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: The impact of this regulation has not been analyzed for those requirements which are equivalent to those found in the corresponding federal regulation, 40 CFR 268.30 and 40 CFR 268.31. The impact of the federal program was analyzed in 50 FR 40632-40636, November 7, 1986. A copy of the November 7, 1986 federal register has been filed with the regulations complier of the Legislative Research Commission.
TIERING: Was tiering applied? Yes. This proposed regulation applies only to those hazardous waste treatment, storage and disposal facilities and generators land disposing the affected wastes directly at the generation site or indirectly through commercial land disposal services.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The proposed regulation adopts verbatim language from the federal regulations at 40 CFR Appendix I to Part 268 and 40 CFR Appendix II to Part 268 promulgated on November 7, 1986 (51 FR 40572-40654) and corrected on June 4, 1987 (52 FR 21010-21018).
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed regulation adopts requirements which are identical to those standards adopted by the U.S. Environmental Protection Agency on November 7, 1986.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. This regulation does not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

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

**401 KAR 37:040. Treatment standards.**

RELATES TO: KRS 224.033, 224.060, 224.071, 224.830 through 224.877, 224.994
PURSUANT TO: KRS Chapter 13A, 224.033, 224.862, 224.866, 224.867
NECESSITY AND FUNCTION: KRS 224.866 provides that the cabinet may prohibit the land disposal of any hazardous wastes. KRS 224.866 requires that the cabinet allow land disposal of hazardous waste when the disposal methods have been determined by the cabinet to be protective of human health and the environment for as long as the waste remains hazardous. This chapter establishes land disposal restrictions and treatment standards for hazardous wastes. This regulation establishes treatment standards expressed either as concentrations in waste extract or as specified technologies. This regulation also establishes the procedure for obtaining a variance from the treatment standard.

Section 1. Applicability. The requirements in this regulation apply to hazardous waste generators and hazardous waste treatment sites or facilities.

Section 2. Applicability of Treatment Standards. A restricted waste identified in this regulation may be land disposed without further treatment only if an extract of the waste or of the treatment residual of the waste developed using the test method of Section 1 of 401 KAR 37:100 does not exceed the value shown in Table 1 of this regulation for any hazardous constituent listed in Table 1 (Constituent Concentrations in Waste Extract) for that waste. A restricted waste for which a treatment technology is specified under Section 3(1) of this regulation may be land disposed after it is treated using that specified technology or an equivalent treatment method approved by the secretary under the procedures set forth in Section 3(2) of this regulation.

Section 3. Treatment Standards Expressed as Concentrations in Waste Extract. (1) Table 1 (Constituent Concentrations in Waste Extract) identifies the restricted wastes and the concentrations of their associated hazardous constituents which may not be exceeded by the extract of a waste or waste treatment residual developed using the test method in Section 1 of 401 KAR 37:100 for the allowable land disposal of such waste. Section 2 of 401 KAR 37:100 provides cabinet guidance on treatment methods that have been shown to achieve the Table 1 (Constituent Concentrations in Waste Extract) levels for the respective wastes. Section 2 of 401 KAR 37:100 is not a regulatory requirement but is provided to assist generators and owners/operators in their selection of appropriate treatment methods.

TABLE 1
Constituent Concentrations in Waste Extract

| F001-F005 spent solvents | Concentration (in mg/l) Wastewaters containing spent solvents | All other spent solvent wastes |
|---|---|---|
| Acetone | 0.05 | 0.59 |
| n-Butyl alcohol | 5.0 | 5.0 |
| Carbon disulfide | 1.05 | 4.81 |
| Carbon tetrachloride | .05 | .96 |
| Chlorobenzene | .15 | .05 |
| Cresols (cresylic acid) | 2.82 | .75 |
| Cyclohexanone | .125 | .75 |
| 1,2-dichlorobenzene | .65 | .125 |
| Ethyl acetate | .05 | .75 |
| Ethylbenzene | .05 | .053 |
| Ethyl ether | .05 | .75 |
| Isobutanol | 5.0 | 5.0 |
| Methanol | .25 | .75 |
| Methylene chloride | .20 | .96 |
| Methylene chloride (from the pharmaceutical industry) | 12.7 | .96 |
| Methyl ethyl ketone | 0.05 | 0.75 |
| Methyl isobutyl ketone | 0.05 | 0.33 |
| Nitrobenzene | 0.66 | 0.125 |

| | | |
|---|---|---|
| Pyridine | 1.12 | 0.33 |
| Tetrachloroethylene | 0.079 | 0.05 |
| Toluene | 1.12 | 0.33 |
| 1,1,1-trichloroethane | 1.05 | 0.41 |
| 1,1,2-trichloro-1,2,2-trifluoroethane | 1.05 | 0.96 |
| Trichloroethylene | 0.062 | 0.091 |
| Trichlorofluoromethane | 0.05 | 0.96 |
| Xylene | 0.05 | 0.15 |

| F020-F023 & F026-F028 dioxin containing wastes | Concentration |
|---|---|
| HxCDD-All hexachlorodibenzo-p-dioxins | < 1 ppb |
| HxCDF-All hexachlorodibenzofurans | < 1 ppb |
| PeCDD-All pentachlorodibenzo-p-dioxins | < 1 ppb |
| PeCDF-All pentachlorodibenzofurans | < 1 ppb |
| TCDD-All tetrachlorodibenzo-p-dioxins | < 1 ppb |
| TCDF-All tetrachlorodibenzofurans | < 1 ppb |
| 2,4,5-Trichlorophenol | < 0.05 ppm |
| 2,4,6-Trichlorophenol | < 0.05 ppm |
| 2,3,4,6-Tetrachlorophenol | < 0.10 ppm |
| Pentachlorophenol | < 0.01 ppm |

(2) When wastes with differing treatment standards for a constituent of concern are combined for purposes of treatment, the treatment residue must meet the lowest treatment standard for the constituent of concern.

Section 4. Variance From a Treatment Standard. (1) Where the treatment standard is expressed as a concentration in a waste or waste extract and a waste cannot be treated to the specified level, or where the treatment technology is not appropriate to the waste, the generator or treatment facility may petition the secretary for a variance from the treatment standard. The petitioner must demonstrate that because the physical or chemical properties of the waste differs significantly from wastes analyzed in developing the treatment standard, the waste cannot be treated to specified levels or by the specified methods.

(2) Each petition must be submitted in accordance with the procedures in Section 1 of 401 KAR 31:060.

(3) Each petition must include the following statement signed by the petitioner or an authorized representative:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this petition and all attached documents, and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

(4) After receiving a petition for variance from a treatment standard, the secretary may request any additional information or samples which he may require to evaluate the petition. Additional copies of the complete petition may be requested as needed to send to affected states and the Environmental Protection Agency.

(5) The cabinet will make a tentative decision to grant or deny the petition for a variance. If the tentative decision is to deny, the cabinet will notify the petitioner. If the tentative decision is to grant the petition, the cabinet will propose an amendment to the regulations and provide an opportunity for public comment. The final decision on a variance from a treatment standard will be promulgated in a Kentucky administrative regulation.

(6) A generator, treatment facility, or disposal facility that is managing a waste covered by a variance from the treatment standards must comply with the waste analysis requirements for restricted wastes found under Section 7 of 401 KAR 37:010.

(7) During the petition review process, the applicant is required to comply with all restrictions on land disposal under this chapter once the effective date for the waste has been reached.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: This regulation applies to hazardous waste generators and hazardous waste treatment facilities. There are 420 hazardous waste generators, 629 small quantity generators, 479 limited quantity generators, and 45 facilities currently regulated in Kentucky.

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

1. First year: For companies which generate or treat spent solvents (EPA Waste Numbers F001-F005) and dioxin containing wastes (EPA Waste Number F020-F023 and F026-F028), the standards in this regulation will result in a significant cost for testing whenever land disposal is the waste management method selected. However, because these wastes are extremely mobile in the environment, a significant savings will be realized in long-term liability for land disposed wastes.

For companies which petition for a variance to the treatment method, a significant cost will be experienced in preparation of the petition. However, a long term savings will result if the petition is approved since wastes would no longer be restricted from land disposal (note, though that continued waste analysis is required).

2. Continuing costs or savings: See note in (1)(a)1.

3. Additional factors increasing or decreasing costs (note any effects upon competition): See note in (1)(a)1.

(b) Reporting and paperwork requirements: Under certain circumstances, a generator or

treatment facility may petition the secretary for a variance from the treatment standard. The secretary must allow for public comment after giving notice of the intent to approve a petition.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The promulgating administrative body anticipates no major changes in workload as the result of this regulation since it is anticipated that few generators or facilities will petition for a variance from the treatment methods.

2. Continuing costs or savings: See note in (2)(a)1.

3. Additional factors increasing or decreasing costs: See note in (2)(a)1.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) This proposed regulation establishes the applicability of the treatment standards, expresses treatment standards as concentrations in waste extract, and specifies that a generator or treatment facility may submit a petition for a variance from the treatment standard. Alternative. 1. Less stringent. Kentucky could not have been less stringent on this requirement and still have maintained authorization to administer the RCRA hazardous waste program. To have adopted less stringent provisions would have afforded Kentucky's public health and environment less protection than that provided by the national program.

2. More stringent. The cabinet could have been more stringent by not allowing variances from the treatment standard or by placing additional requirements on generators or treatment facilities submitting petitions for a variance from the treatment standard. However, the present proposal is adequate to protect the public health and environment in Kentucky.

3. Present proposal. The present proposal establishes the applicability of the treatment standards, expresses treatment standards as concentrations in waste extract, and specifies that a generator or treatment facility may submit a petition for a variance from the treatment standard. KRS 224.866 mandates that the list and criteria for prohibiting hazardous wastes from land disposal must be identical to the one adopted by the U.S. EPA and the present proposal fulfills that mandate.

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

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

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

(6) Any additional information or comments: The impact of this regulation has not been analyzed for those requirements which are equivalent to those found in the corresponding federal regulation, 40 CFR 268.40, 40 CFR 268.41, and 40 CFR 268.44. The impact of the federal program was analyzed in 51 FR 40632-40636, November 7, 1986. A copy of the November 7, 1986 federal register has been filed with the regulations complier of the Legislative Research Commission.

TIERING: Was tiering applied? Yes. This regulation applies only to hazardous waste generators and hazardous waste treatment facilities.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 268.40 through 268.44 promulgated on November 7, 1986 (51 FR 40572-40654) and amended on June 4, 1987 (52 FR 21010-21028).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments adopt requirements which are identical to those standards adopted by the U.S. EPA on November 7, 1986 and June 4, 1987.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

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

**401 KAR 37:050. Prohibitions on storage.**

RELATES TO: KRS 224.033, 224.060, 224.071, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.862, 224.866, 224.867

NECESSITY AND FUNCTION: KRS 224.866 requires that the cabinet may prohibit the land disposal of any hazardous wastes. KRS 224.866 requires that the cabinet allow land disposal of hazardous waste when the disposal methods have been determined by the cabinet to be protective of human health and the environment for as long as the waste remains hazardous. This chapter establishes land disposal restrictions and treatment standards for hazardous wastes. This regulation establishes prohibitions on storage of restricted wastes.

Section 1. Applicability. The requirements in this regulation apply to owners and operators of hazardous waste treatment, storage, and disposal facilities as well as hazardous waste generators and transporters.

Section 2. Prohibitions on Storage of Restricted Waste. (1) Except as otherwise provided in this section, the storage of hazardous wastes restricted from land disposal under 401 KAR 37:030 is prohibited, unless the following conditions are met:

(a) A generator stores such wastes in tanks or containers on site solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper

recovery, treatment, or disposal and the generator complies with the requirements in section 5 of 401 KAR 32:030. A generator who is in existence on the effective date of this regulation and who must store hazardous wastes for longer than ninety (90) days due to the regulations under this chapter becomes an owner/operator of a storage facility and must obtain a hazardous waste site or facility permit. Such a facility may qualify for interim status upon compliance with the regulations governing interim status under Section 1 of 401 KAR 38:020.

(b) An owner/operator of a hazardous waste treatment, storage, or disposal facility stores such wastes in tanks or containers solely for the purpose of the accumulation of such quantities of hazardous waste as necessary to facilitate proper recovery, treatment, or disposal and:

1. Each container is clearly labeled with the words "Hazardous Waste," marked to identify its contents and the date each period of accumulation begins;

2. Each tank is clearly labeled with the words "Hazardous Waste," marked with a description of its contents, the quantity of each hazardous waste received, and the date each period of accumulation begins, or such information for each tank is recorded and maintained in the operating record at that facility. Regardless of whether the tank itself is marked, an owner/operator must comply with the operating record requirements specified in Section 4 of 401 KAR 34:050 or Section 4 of 401 KAR 35:050.

(c) A transporter stores manifested shipments of such wastes at a transfer facility for ten (10) days or less.

(2) An owner/operator of a treatment, storage or disposal facility may store such wastes for up to one (1) year unless the cabinet can demonstrate that such storage was not solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.

(3) An owner/operator of a treatment, storage or disposal facility may store such wastes beyond one (1) year, however, the owner/operator bears the burden of proving that such storage was solely for the purpose of accumulation of such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment, or disposal.

(4) The prohibition in subsection (1) of this section does not apply to the wastes which are the subject of an approved petition under Section 6 of 401 KAR 37:010 or a nationwide variance contained in 401 KAR 37:030 or an approved case-by-case extension under Section 5 of 401 KAR 37:010.

(5) The prohibition in subsection (1) of this section does not apply to hazardous wastes that meet the treatment standards specified in 401 KAR 37:040 or the treatment standards specified under the variance in Section 5 of 401 KAR 37:040.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: This proposed regulation will affect hazardous waste generators and owners and operators of treatment, storage and disposal facilities. Currently there are 420 hazardous waste generators, 629 small quantity generators, 479 limited quantity generators, and 45 facilities regulated in Kentucky.

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

1. First year: Generators producing hazardous wastes which are restricted from land disposal may experience significant costs if they are unable to locate alternate treatment, recovery or disposal options within the 90 day accumulation time frame. Costs would include obtaining a storage facility permit to keep their waste on site for longer than 90 days. However, it is not anticipated that many Kentucky generators will be unable to properly dispose of their waste within the 90 day accumulation limit. Facilities which store restricted wastes for up to a year will be required to demonstrate that the storage is necessary. This demonstration will cost the facility a small amount. In addition, new costs will be incurred due to the new marking and labeling requirements for the containers or tanks used for storage. However, it should be noted that the majority of these labeling requirements are currently in existence for all hazardous wastes in storage. The new costs associated with labeling or marking will be small. Finally, facilities which need to store restricted wastes for longer than one year will be required to bear the burden of proof proving that the storage is necessary. However, it is estimated that the costs associated with this demonstration would be relatively small.

2. Continuing costs or savings: See note in (1)(a)1.

3. Additional factors increasing or decreasing costs (note any effects upon competition): See note in (1)(a)1.

(b) Reporting and paperwork requirements: The proposed regulation requires facilities which store restricted wastes for longer than one year to bear the burden of proof that the longer storage was necessary to facilitate recovery, treatment or disposal. The "burden of proof" would take the form of written documentation from the company.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The promulgating administrative body will experience some costs in inspections, and review of the demonstrations required.

However, inspections for storage of restricted wastes will be conducted during routine inspections for generators and facilities and, thus, should add no new costs. Review of the demonstrations that extended storage was necessary will cost the promulgating administrative body a small amount for each one reviewed since this is a new requirement.

2. Continuing costs or savings: See note in (2)(a)1.

3. Additional factors increasing or decreasing costs: See note in (2)(a)1.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) The proposed regulation establishes prohibitions on the storage of hazardous wastes restricted from land disposal under 401 KAR 37:030. The regulation identifies conditions which when met allow for the storage of hazardous waste restricted from land disposal. Alternative. 1. Less stringent. Kentucky could not have been less stringent on this requirement and still have maintained authorization to administer the RCRA hazardous waste program. To have adopted less stringent provisions would have afforded Kentucky's public health and environment less protection than that provided by the national program.

2. More stringent. The cabinet could have chosen to be more stringent by placing additional restrictions or requirements on the storage of restricted hazardous waste. However, the present proposal is adequate to protect the public health and environment in Kentucky.

3. Present proposal. The present proposal establishes prohibitions on the storage of hazardous waste restricted from land disposal under 401 KAR 37:030 and identifies conditions which when met allow for the storage of hazardous waste restricted from land disposal. The present proposal complies with the statutory mandate in KRS 224.866 to adopt a list and criteria for land disposal restrictions which is identical to those promulgated by the U.S. EPA.

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

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

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

(6) Any additional information or comments: The impact of this regulation has not been analyzed for those requirements which are equivalent to those found in the corresponding federal regulation, 40 CFR 268.50. The impact of the federal program was analyzed in 50 FR 40632-40636, November 7, 1986. A copy of the November 7, 1986 federal register has been filed with the regulations compiler of the Legislative Research Commission.

TIERING: Was tiering applied? Yes. This proposed regulation applies to hazardous waste generators, transporters, and owners and operators of treatment, storage, and disposal facilities.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The amendments to this regulation adopt verbatim language from the federal regulations at 40 CFR 268.50 promulgated on November 7, 1986 (51 FR 40572-40654) and June 4, 1987 (52 FR 21010-21018).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; the proposed amendments adopt requirements which are identical to those standards adopted by the U.S. EPA on November 7, 1986 and June 4, 1987, or, invoke standards already in effect in the waste management regulations.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. The amendments made to this regulation do not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

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

**401 KAR 37:100. Appendix on treatment standards.**

RELATES TO: KRS 224.033, 224.060, 224.071, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.862, 224.866, 224.867

NECESSITY AND FUNCTION: KRS 224.866 requires that the cabinet may prohibit the land disposal of any hazardous wastes. KRS 224.866 requires that the cabinet allow land disposal of hazardous wastes when the disposal methods have been determined by the cabinet to be protective of human health and the environment for as long as the waste remains hazardous. This chapter establishes land disposal restrictions and treatment standards for hazardous wastes. This regulation contains the appendix to this chapter concerning treatment standards.

Section 1. Toxicity Characteristic Leaching Procedure (TCLP). Appendix I of 40 CFR Part 268 (51 FR 40643-40652 dated November 7, 1986 and 52 FR 21010-21018 dated June 4, 1987) on the method used to determine whether a solvent waste or a dioxin containing waste requires treatment or when a treated waste meets the applicable treatment standards and the corrections thereto are herein adopted by reference and are included in Section 3(5) of 401 KAR 30:010.

Section 2. Treatment Standards (as Concentrations in the Treatment Residual Extract). Table 1 in this section provides cabinet guidance on treatment methods that have been shown to achieve the levels for the respective wastes included in Table 1 (Constituent Concentrations in Waste Extract) of Section 3 of 401 KAR 37:040. This section is provided to assist generators and owners and operators in their selection of appropriate treatment methods, but does not impose regulatory standards.

TABLE 1
TREATMENT STANDARDS (AS CONCENTRATIONS IN THE TREATMENT RESIDUAL EXTRACT)

(Note: The technologies shown are the basis of the treatment standards. They are not required to be used in meeting the treatment standards.)

| Constituents of F001-F005 Spent Solvent Wastes | Waste Treatability Groups for F001-F005 Spent Solvent Wastes (mg/l) Wastewater | Technology Basis[1] | Wastewater Generated by Pharmaceutical Plant[2] | All Other[3] |
|---|---|---|---|---|
| Acetone | 0.05 | SS | - | 0.59 |
| n-Butyl alcohol | 5.00 | SS | - | 5.00 |
| Carbon disulfide | 1.05 | SS | - | 4.81 |
| Carbon tetrachloride | 0.05 | B | - | 0.96 |
| Chlorobenzene | 0.15 | B&AC | - | 0.05 |
| Cresol (cresylic acid) | 2.82 | AC | - | 0.75 |
| Cyclohexanone | 0.125 | SS | - | 0.75 |
| 1,2-dichlorobenzene | 0.65 | B&AC | - | 0.125 |
| Ethyl acetate | 0.05 | SS | - | 0.75 |
| Ethylbenzene | 0.05 | B | - | 0.053 |
| Ethyl ether | 0.05 | SS | - | 0.75 |
| Isobutanol | 5.00 | SS | - | 5.00 |
| Methanol | 0.25 | SS | - | 0.75 |
| Methylene chloride | 0.20 | B | 12.7 | 0.96 |
| Methyl ethyl ketone | 0.05 | SS | - | 0.75 |
| Methyl isobutyl ketone | 0.05 | SS | - | 0.33 |
| Nitrobenzene | 0.66 | SS&AC | - | 0.125 |
| Pyridine | 1.12 | B&AC | - | 0.33 |
| Tetrachloroethylene | 0.079 | B | - | 0.05 |
| Toluene | 1.12 | B&AC | - | 0.33 |
| 1,1,1-trichloroethane | 1.05 | SS | - | 0.41 |
| 1,1,2-trichloro-1,2,2-trifluoroethane | 1.05 | SS | - | 0.96 |
| Trichloroethylene | 0.062 | B&AC | - | 0.091 |
| Trichlorofluoromethane | 0.05 | B | - | 0.96 |
| Xylene | 0.05 | AC | - | 0.15 |

[1]In some instances other technologies achieved somewhat lower treatment values but waste characterization data were insufficient to identify separate treatability groups. Refer to the BDAT background document (NTIS order number PB87120259) for a detailed explanation of the determination of the treatment standards.

SS = steam stripping.

B = biological treatment.

AC = activated carbon.

[2]Wastewaters generated by pharmaceutical plants must be treated to the standards given for all other wastewaters except in the case of methylene chloride.

[3]The treatment standards in this treatability group are based on incineration.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at noon.

PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: This proposed regulation will affect hazardous waste generators and owners and operators of treatment, storage, and disposal facilities. Currently there are 1,528 hazardous waste generators and 45 facilities regulated in Kentucky.

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

1. First year: None. This proposed regulation contains information regarding treatment methods for solvent wastes and dioxin containing wastes. It also contains information regarding treatment standards. This regulation adopts the Toxicity Characteristic Leaching Procedure by reference and provides a table to assist generators and owners and operators in their selection of appropriate treatment methods. Since this regulation is informational, no costs or savings are associated with it.

2. Continuing costs or savings: None. See note in (1)(a)1.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None. See note in (1)(a)1.

(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None. See note in (1)(a).
2. Continuing costs or savings: None. See note in (1)(a).
3. Additional factors increasing or decreasing costs: None. See note in (1)(a).
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.
(4) Assessment of alternative methods; reasons why alternatives were rejected: This proposed regulation adopts the Toxicity Characteristic Leaching Procedure (TCLP) by reference and it also adopts as Table 1 in Section 2 of this regulation, the Appendix II to 40 CFR Part 268 entitled "Treatment Standards (as concentrations in the treatment residual extract)." This table provides Cabinet guidance on treatment methods that have been shown to achieve the levels for the respective wastes included in Table 1 of Section 3 of 401 KAR 37:040. This proposed regulation is for informational purposes only, it does not change the treatment standards in any way. Kentucky could not have been less stringent on this requirement and still have maintained authorization to administer the RCRA hazardous waste program. Further, KRS 224.866 mandates that the list and criteria for prohibiting hazardous wastes from land disposal must be identical to the one adopted by the U.S. EPA, and the present proposal fulfills that mandate. Thus, no alternatives were considered.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: The impact of this regulation has not been analyzed for those requirements which are equivalent to those found in the corresponding federal regulation, 40 CFR Appendix I of Part 268 and 40 CFR Appendix II of Part 268. The impact of the federal program was analyzed in 51 FR 40632-40636, November 7, 1986. A copy of the November 7, 1986 federal register has been filed with the regulations complier of the Legislative Research Commission.
TIERING: Was tiering applied? Yes. This proposed regulation applies only to hazardous waste generators and owners and operators of treatment, storage, and disposal facilities.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The proposed regulation adopts verbatim language from the federal regulations at 40 CFR Appendix I to Part 268 and 40 CFR Appendix II to Part 268 promulgated on November 7, 1986 (51 FR 40572-40654) and corrected on June 4, 1987 (52 FR 21010-21028).
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No; this proposed regulation adopts requirements which are identical to those standards adopted by the U.S. EPA on November 7, 1986 and June 4, 1987.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: Not applicable. This regulation does not impose additional requirements or responsibilities than those adopted by the U.S. EPA or than those requirements already in effect in the waste management regulations.

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

**401 KAR 39:090. Postclosure fees.**

RELATES TO: KRS 224.033, 224.830 through 224.877, 224.994
PURSUANT TO: KRS Chapter 13A, 224.033, 224.871
NECESSITY AND FUNCTION: KRS 224.033(20) states that the cabinet may provide by regulation for a reasonable schedule of fees for the cost of processing applications for permits, exemptions, and partial exemptions. KRS 224.871 requires the cabinet to promulgate regulations requiring the payment of reasonable fees for hazardous waste registration certificates and permits. The purpose of this chapter is to establish a fee schedule for hazardous waste management. This regulation establishes the fee schedule for permits for the postclosure care period for hazardous waste sites or facilities.

Section 1. Applicability. This regulation applies to all owners and operators of hazardous waste sites or facilities in Kentucky who submit an application for a postclosure permit as specified in Section 1(2) of 401 KAR 38:010. This fee does not apply to owners and operators of hazardous waste sites or facilities that submit a postclosure plan as part of an application for a construction or operation permit as required in Section 4 of 401 KAR 38:010 and pay the fees required by 401 KAR 39:030, 39:040, or 39:050.

Section 2. Schedule of Fees for Postclosure Permits. A fee shall be required in order to obtain a permit for postclosure of a hazardous waste facility. The fee for a postclosure permit is $7,000. site of

Section 3. Submittal of Fees. The required fees shall be submitted to the cabinet with the permit application. All checks should be made payable to the Kentucky State Treasurer.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at noon.
PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18

Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director

(1) Type and number of entities affected: This proposed regulation applies to all owners and operators of hazardous waste facilities that require a postclosure permit.

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

1. First year: A direct cost of $7,000 will be charged for each postclosure permit. The fee is composed of the following costs: Completeness Review of Application - $300; Preliminary Technical Review/Site Investigation - $1,800; Conformation of Construction including Sample Analysis - $2,100; and Technical Review and Permit Issuance - $2,800; Total $7,000. These costs include overhead, clerical and administrative support, travel cost, and public hearing costs.

2. Continuing costs or savings: None. See (1)(a)1.

3. Additional factors increasing or decreasing costs (note any effects upon competition): None. See (1)(a)1.

(b) Reporting and paperwork requirements: None. This proposed regulation establishes a fee for postclosure permits.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None. This proposed regulation will have no effect on the promulgating administrative body. The fee charged will adequately cover the costs associated with a postclosure permit.

2. Continuing costs or savings: None. See (2)(a)1.

3. Additional factors increasing or decreasing costs: None. See (2)(a)1.

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: There will be no effect on state or local revenues from promulgation of this regulation.

(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) This proposed regulation establishes a fee for postclosure permits. Alternative. 1. Less stringent. The cabinet could have chosen to charge less for a postclosure permit. However, the fee established in this regulation will adequately cover the cost of processing such a permit.

2. More stringent. It was unnecessary for the cabinet to be more stringent and charge a higher fee for postclosure permits. The fee established will cover the cost of processing a postclosure permit.

3. Present proposal. The present proposal establishes a fee of $7,000 for a postclosure permit.

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

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

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

(6) Any additional information or comments: The expanded worksheet used to calculate this fee may be obtained from the cabinet.

TIERING: Was tiering applied? Yes. This regulation applies only to owners and operators of hazardous waste facilities that require a postclosure permit.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: Not applicable. This proposed regulation is not based on standards suggested or contained in the federal mandate. KRS 224.871 requires the cabinet to promulgate regulations requiring the payment of reasonable fees for hazardous waste registration certificates and permits.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Yes. This proposed regulation contains a requirement to submit a postclosure permit fee. There is no federal requirement for such a fee.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: The requirement for a postclosure permit fee is not mandated by the federal regulations; however, KRS 224.871 requires the cabinet to promulgate regulations requiring the payment of reasonable fees for hazardous waste certificates or permits.

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

**401 KAR 39:100. Exposure information report fee.**

RELATES TO: KRS 224.033, 224.830 through 224.877, 224.994

PURSUANT TO: KRS Chapter 13A, 224.033, 224.871

NECESSITY AND FUNCTION: KRS 224.033(20) states that the cabinet may provide by regulation for a reasonable schedule of fees for the cost of processing applications for permits, exemptions, and partial exemptions. KRS 224.871 requires the cabinet to promulgate regulations requiring the payment of reasonable fees for hazardous waste certificates and permits. The purpose of 401 KAR Chapter 39 is to establish a fee schedule for hazardous waste management. This regulation establishes the fee schedule for the exposure information reports for permits for hazardous waste sites or facilities.

Section 1. Applicability. This regulation applies to all owners and operators of hazardous waste sites or facilities in Kentucky who submit a permit application containing exposure information reports for storage, treatment or disposal of hazardous waste in a surface impoundment or landfill in accordance with the requirements of Section 9 of 401 KAR 38:070.

Section 2. Schedule of Fees for Exposure Information Report. A fee shall be submitted to the cabinet with the permit application containing the exposure information report. The fee is $5,000.

Section 3. Submittal of Fees. The $5,000 exposure information report fee shall be submitted to the cabinet with the permit application. All checks should be made payable to the Kentucky State Treasurer.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at noon.
PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on January 28, 1988 at 1 p.m. local prevailing time, in the new State Office Building Auditorium at Clinton and High Streets, Frankfort, Kentucky. Any person interested in attending this hearing shall submit by January 23, 1988 a written statement of such interest to: J. Alex Barber, Director, Division of Waste Management, 18 Reilly Road, Frankfort, Kentucky 40601. If no statement of interest is received by close of business on January 23, 1988, the hearing on this regulation may be cancelled. Written comments may also be submitted to the address above. Written comments will be accepted until the end of the comment period, which will be close of business on January 28, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: J. Alex Barber, Director
(1) Type and number of entities affected: This regulation affects hazardous waste facilities which submit a Part B application containing exposure information. The cabinet estimates that less than 20 facilities will submit an exposure information report.
(a) Direct and indirect costs or savings to those affected:
1. First year: There will be a direct cost of $5,000 per hazardous waste facility which submits a Part B application containing exposure information. This fee includes $4,100 for review of the exposure assessment and a site visit by technical staff and by a toxicologist; $400 for clerical support, phone calls and copying; and $500 for laboratory analysis.
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: Hazardous waste facilities will be required to provide information on the potential for the public to be exposed to hazardous waste or hazardous constituents through releases related to the hazardous waste management unit. This information will be submitted to the cabinet as part of the Part B application.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: The $5,000 registration fee will cover the cost of reviewing and analyzing the groundwater and other environmental pathways and toxological information and therefore, the cabinet should not incur any additional costs.
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: All fees collected from this regulation will go directly into the general fund to be rebudgeted in the following fiscal year. There will be no effect on state or local revenues from promulgation of this regulation.
(4) Assessment of alternative methods; reasons why alternatives were rejected: (a) $5,000 registration fee. Alternative. 1. Less stringent. If Kentucky had chosen to charge less for the review of the exposure information report, the fee would not cover the cost of the review.
2. More stringent. It was unnecessary for Kentucky to charge more for review because $5,000 will cover the review expense.
3. Present proposal. The present fee of $5,000 was chosen because it fairly represents the review costs. KRS 224.871 requires the cabinet to promulgate fee regulations equaling the cost of review.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: The expanded worksheet used to calculate this fee may be obtained from the cabinet.
TIERING: Was tiering applied? Yes. This regulation applies to hazardous waste facilities which submit exposure information reports.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This proposed regulation is not based on standards suggested or contained in the federal mandate. KRS 224.871 requires the cabinet to promulgate regulations requiring the payment of reasonable fees for hazardous waste registration certificates or permits.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Yes. This proposed regulation contains a requirement to submit a fee for an exposure information report fee. There is no federal requirement for such a fee.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: The requirement for an exposure information report fee is not mandated by the federal regulations; however, KRS 224.871 requires the cabinet to promulgate regulations requiring the payment of reasonable fees for hazardous waste certificates or permits.

# REPRINT

**COMPILER'S NOTE: The proposed amendment to 904 KAR 2:016 as printed in the Decmeber 1, 1987 Register is being reprinted due to the omission of brackets in Section 5(1)(a) at that time.**

**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.

# ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE

**Minutes of the December 10 and 11, 1987 Meeting**

The December meeting of the Administrative Regulation Review Subcommittee was held on Thursday, December 10, 1987 at 2 p.m. and on Friday, December 11, 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 Haering, the minutes of the November 5 and 6, 1987 meeting were approved.

**Present December 10, 1987 were:**

Members: Representative Mark D. O'Brien, Chairman; Senators Harold Haering and Pat McCuiston; Representatives Jim Bruce and Joe Meyer.

Guests: Representative Donnie Gedling; Arthur "Dutch" Hatterick, Jim Terry, Personnel Board; Tommy Greenwell, Department of Personnel; Greg Holmes, Board of Dentistry, Board of Podiatry, Athletic Commission; Tommy Thompson, Board of Medical Licensure; Susan Stopher, Real Estate Commission; Martin Glazer, L. Wayne Tune, Board of Architects; Ted Crowell, Pete Pfeiffer, Lauren Schaaf, Thomas A. Young, Department of Fish and Wildlife Resources; Wanda Delaplane, Dr. Michael McDonald, Tom Troth, Department of Agriculture; Martha L. Hall, Kenneth M. Hines, Natural Resources & Environmental Protection Cabinet; Connie Malone, Corrections Cabinet; Jim Judy, KAHCF.

LRC Staff: Susan Wunderlich, Joe Hood, Gregory Karambellas, Donna Pierce & Carla Arnold.

**On December 10, 1987, the following action was taken:**

**The Subcommittee determined that the following regulations, as amended, complied with KRS Chapter 13A:**

**General Government Cabinet: Board of Dentistry**

201 KAR 8:390 (General anesthesia, deep sedation, and conscious sedation by dentists.) This regulation was amended to add a definition for "parenteral" relating to sedation techniques; to add the effective date of the "Guidelines" that are incorporated by reference; and to provide that a CRNA must work under the direct supervision of a certified dentist or physician.

**Kentucky Athletic Commission**

201 KAR 27:018 (Referees and seconds to wear surgical gloves.) This regulation was amended to make it clear that additional requirements relating to protective clothing could be imposed by the commission by administrative regulation only.

**Corrections Cabinet: Office of the Secretary**

501 KAR 6:040 (Kentucky State Penitentiary.) A question had been raised on the unit of pay for inmate work. The agency withdrew the proposed amendment to the policy in which pay for inmate work was contained, and agreed to return with an appropriate amendment at a later date.

501 KAR 6:060 (Northpoint Training Center.) It had been pointed out that the provision of transportation of visitors raised questions of liability. The agency amended the policy which governs transportation of visitors to provide that transportation would not be provided but that access routes and local bus schedules would be posted for visitors.

**The Subcommittee determined that the following regulations complied with KRS Chapter 13A:**

**Personnel Board: Personnel Rules**

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

**Department of Personnel: Classified Service**

Chairman O'Brien stated that questions had been raised as to whether the subject matter of this administrative regulation properly fell within the jurisdiction of the Personnel Board; pointed out that questions had been raised as to the effect the job bank and the internal mobility program would have on registers, on the preference granted laid-off employees; and whether or not preference could be given to a cabinet's employees under KRS Chapter 18A which requires competition. He added that it appeared that some legislation relating to this subject matter was being considered for the upcoming session. The Subcommittee approved a motion to request the Legislative Research Commission to refer the subject matter of these administrative regulations to the Personnel Subcommittee of the Interim Joint Committee on State Government. Motion carried.

101 KAR 2:040 (Applications and examinations.)

101 KAR 2:050 (Registers.)

**General Government Cabinet: Board of Medical Licensure**

201 KAR 9:121 (Certification renewal.) Representative Meyer asked whether there are continuing education requirements for members of other professions such as physicians. Agency personnel responded that they believed there were. At Representative Meyer's request agency personnel agreed to inform him of any such continuing education requirements. Representative Bruce stated that such requirements should be required of all categories of a profession.

**Real Estate Commission**

201 KAR 11:220 (Errors and omissions insurance requirements.) Representative Meyer asked if this insurance was insurance procured by the individual broker or agent. Agency personnel responded that it was. Representative Meyer stated that the number of exclusions indicated that clients of brokers/agents would be protected from very little. He pointed out that if an agent misrepresented such factors as the existence of sewers or if he redlined a black client or if damage resulted to the client because of errors of the broker/agent or if a broker/agent misappropriated deposits, the client would not be protected. Agency personnel pointed out that a client may recover from the commission's recovery fund in some cases and, in response to a question by Representative Meyer, stated that coverage was limited to $20,000 and that a client would then have to file an action against his broker/agent. Representative Meyer stated that the public could be misled into believing that insurance coverage was as broad as that provided to protect clients of other professionals against malpractice, etc. The agency proposed two amendments. There was no

motion to accept these amendments. The Subcommittee approved a motion to request the Legislative Research Commission to refer the issues raised by this administrative regulation to the Interim Joint Committee on Banking and Insurance.

**Board of Examiners and Registration of Architects**

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

**Board of Podiatry**

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

201 KAR 25:012 (Licensing examinations.)

**Kentucky Athletic Commission**

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

**Tourism Cabinet: Department of Fish and Wildlife Resources: Game**

301 KAR 2:140 (Seasons for wild turkey.)

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

**Hunting and Fishing**

301 KAR 3:021 (Hunting and fishing license fees.)

**Commerce Cabinet: Department of Agriculture: Livestock Sanitation**

The Subcommittee approved a motion to request the Legislative Research Commission to refer these administrative regulations to the appropriate interim committee for further study and recommendation during the next regular session. Motion carried.

302 KAR 20:040 (Entry into Kentucky.)

302 KAR 20:055 (Brucellosis vaccination, testing and branding requirements.)

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

302 KAR 20:070 (Stockyards.)

302 KAR 20:210 (Pseudorabies surveillance.)

**Natural Resources and Environmental Protection Cabinet: Division for Air Quality: New Source Requirements; Nonattainment Areas**

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

401 KAR 51:052 (Review of new sources in or impacting upon nonattainment 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 6:050 (Luther Luckett Correctional Complex.)

**The Subcommittee deferred the following regulations at the agencies' request:**

**Commerce Cabinet: Department of Agriculture: Kentucky Grain Insurance and Grain Dealers**

302 KAR 34:050 (Grain dealer licensing of federal warehouses.)

**Corrections Cabinet: Office of the Secretary**

501 KAR 6:120 (Blackburn Correctional Complex.) (This regulation was deferred to December 11, 1987.) Questions were raised relating to the unit of pay for inmate work; whether the policy relating to investigation of fires should contain a reference to KRS Chapter 227 governing investigation and reporting of fires; whether the policy relating to hazardous materials complied with SARA, Title III, and the Fayette County hazardous materials ordinance. This administrative regulation was deferred to December 11.

**The Subcommittee had no objections to emergency regulations which had been filed.**

**The Subcommittee recessed at 2:55 p.m. until December 11, 1987.**

**Present December 11, 1987 were:**

Members: Representative Mark D. O'Brien, Chairman; Senator Harold Haering; Representatives Jim Bruce, Ronny Layman and Joe Meyer.

Guests: Connie Malone, Corrections Cabinet; Darrell Baker, Karen Powell, Sandra G. Pullen, Transportation Cabinet; Barbara Adkins, J. Gary Bale, Helen Martin, Department of Education; Betty Beshoar, Patricia Borders, Barbara Coleman, Floyd A. Day, William C. Dobbins, Karen Doyle, Ked Fitzpatrick, Margaret Hockensmith, N. Clifton Howard, Eugenia Jump, Genne Mills, Lynn Owens, Steven Pennington, Lydia Roberts, Lynda Sherrard, Phillip R. Spangler, Ann Tarter, R. Hughes Walker, Mark Yancey, Cabinet for Human Resources; Ted Estes, Alpine Village Schools; Shirley Buckman, Greg Fischer, Central KY Community Action - Head Start; Deborah L. Franklin, Debbie's Home Care; James McGee, Educare Learning Center; Margaret Bridgers, Odessa Greer, Ira Sergent, Jefferson County Association of Child Care Management; Karen Hellard, Susan H. Winans, Kentucky Association for Child Care Management; Lana Messner, Kentucky Association for the Education of Young Children; Carol Adams Bolton, Linda Likins, Kentucky Head Start Association; Mimi Orr, Lisa Smith, Kinder Care; Hanne Karay, Pat Strother, Kinder Kollege; Pauline C. Whalen, Whalen's Hobbyland, D.C.H., Inc.; Dana W. R. Boden, John Kanay.

LRC Staff: Susan Wunderlich, Joe Hood, Gregory Karambellas, Donna Pierce, Rob Williams & Carla Arnold.

**On December 11, 1987, the following action was taken:**

**The Subcommittee determined that the following regulations, as amended, complied with KRS Chapter 13A:**

**Corrections Cabinet: Office of the Secretary**

501 KAR 6:120 (Blackburn Correctional Complex.) The agency amended policy BCC 19-01-01 to specify the jobs for which inmates will be paid at an hourly rate and those for which they would be paid a daily rate. The agency also withdrew policy BCC 08-05-01 and 08-06-01, relating to the duties of the fire safety officer and the handling of hazardous materials. The amendment to policy BCC 02-01-01, relating to the inmate canteen, was also withdrawn.

**Transportation Cabinet: Administration**
600 KAR 1:050 (Employee conduct and working hours.) Chairman O'Brien pointed out that statutory authority to promulgate any administrative regulation relating to personnel matters was granted to the Personnel Department and the Personnel Board, and not to the Transportation Cabinet. He added that this issue was the subject of hearings during the interim. Agency personnel amended this regulation in various sections to replace the words "will" or "must" with the word "shall" when an action or a duty was mandatory; and amended the language governing conflict of interest of cabinet employees to more clearly specify prohibited conduct.

**Education and Humanities Cabinet: Department of Education: Office of Vocational Rehabilitation: Administration**
706 KAR 1:020 (Independent living rehabilitaion services state plan.) The material incorporated by reference in this regulation was technically amended to reflect that the state plan is in conformance with federal requirements.

**The Subcommittee determined that the following regulations complied with KRS Chapter 13A:**

**Education and Humanities Cabinet: Department of Education: Office of Local Services: School Terms, Attendance and Operation**
702 KAR 7:065 (Designation of agent to manage high school interscholastic athletics.)

**Cabinet for Human Resources: Department for Health Services: Maternal and Child Health**
902 KAR 4:050 (Kentucky family planning program.)
**Local Health Departments**
902 KAR 8:020 (Policies and procedures for local health department operations.)
**Hospitalization of Mentally Ill and Mentally Retarded**
902 KAR 12:080 (Policies and procedures for mental health/mental retardation facilities.)
**Disability Determination's Unit**
902 KAR 16:010 (Disability determinations program.)
**Department for Social Insurance: Public Assistance**
904 KAR 2:015 (Supplemental programs for the aged, blind, and disabled.)
**Food Stamp Program**
904 KAR 3:010 (Definitions.)

**Department for Social Services: Child Welfare**
905 KAR 1:010 (Application for permission to place or receive a child.)
**Department for Medicaid Services: Medicaid Services**
907 KAR 1:004 (Resource and income standard of medically needy.)
907 KAR 1:011 (Technical eligibility requirements.)

**The Subcommittee deferred the following regulations at the agencies' request:**

**Transportation Cabinet: Department of Vehicle Regulation: Division of Motor Carriers**
601 KAR 1:115 (Taxicabs.)

**Public Protection and Regulation Cabinet: Department of Housing, Buildings, and Construction: Boilers and Pressure Vessels**
815 KAR 15:010 (Definitions.)

**Cabinet for Human Resources: Department for Health Services: State Health Plan**
902 KAR 17:020 (State health plan process.)
**Day Care**
905 KAR 2:010 (Standards for all child day care facilities.) Agency personnel stated that they were prepared to amend this regulation to delete the crib requirement. They stated that the statute authorizes only the secretary of the cabinet to promulgate or to amend an administrative regulation. Because the new secretary had not been appointed and could not authorize this amendment, the agency requested that this administrative regulation be deferred to the January, 1988 meeting. Chairman O'Brien notified those who had appeared to speak on this regulation to submit written comments to him and invited them to attend the January meeting.

**Other Business:**

903 KAR 6:010. (Work incentive program.) The Subcommittee requested in December 1986 that the agency report back in one year to determine if the cuts made in this regulation were feasible. Agency personnel provided information for the subcommittee showing that the reduction in WIN funds necessitated a reduction in the reimbursement for mileage and meals in order for the program to continue.

**The Subcommittee had no objections to emergency regulations which had been filed.**

**The Subcommittee adjourned at 10:25 a.m. until January 4, 1988.**

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

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| *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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**WASTE MANAGEMENT (cont'd)**
- Manifest, recordkeeping, reporting; 401 KAR 35:050
- Postclosure financial requirements; 401 KAR 35:100
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