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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 February 8, 1988. See tentative agenda on pages 1571-1572 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
February 8, 1988
(Rm. 109, Capitol Annex @ 2 p.m.)

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

Division of Waste Management

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401 KAR 31:040. Lists of hazardous wastes.
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401 KAR 32:030. Pretransport requirements.
401 KAR 32:040. Recordkeeping and reporting.
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401 KAR 33:020. Compliance with the manifest system and recordkeeping.

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401 KAR 34:010. General provisions for facilities.
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Division of Waste Management (continued)

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Harness Racing Rules
811 KAR 1:090. Stimulants and drugs.

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811 KAR 2:060. Pari-mutuel wagering.

Department of Housing, Buildings and Construction

Boilers and Pressure Vessels
815 KAR 15:010. Definitions. (Deferred since November meeting)

CABINET FOR HUMAN RESOURCES
Department for Social Insurance

Food Stamp Program
904 KAR 3:030 & E. Application process.
904 KAR 3:045 & E. Coupon issuance procedures.

Department for Social Services

Day Care
905 KAR 2:010. Standards for all child day care facilities. (Amended After Hearing) (Deferred from December meeting)

REGULATION REVIEW PROCEDURE

Filing and Publication

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

Public Hearing

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

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

If the hearing is cancelled, the administrative body shall notify the Compiler and the Compiler of the cancellation. If the hearing is held, the administrative body shall submit within fifteen (15) days following the hearing a statement of consideration summarizing the comments received at the hearing and the administrative body's responses to the comments.

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

Review Procedure

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

EMERGENCY REGULATIONS NOW IN EFFECT

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

STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the 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.

WALLACE G. WILKINSON, Governor
HARRY J. COWHERD, M.D., Secretary

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Division of Management & Development
(Proposed Amendment)

904 KAR 2:116E. Low income home energy assistance program.

RELATES TO: KRS 194.050
PURSUANT TO: KRS 194.050
EFFECTIVE: January 14, 1988
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility as prescribed by Public Law 97-35 (Title XXVI of the Omnibus Budget Reconciliation Act of 1981 as amended) to administer a program to provide assistance for eligible low income households within the Commonwealth of Kentucky to help meet the costs of home energy. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth the eligibility and benefits criteria for each of two (2) components of energy assistance, subsidy and crisis under the Home Energy Assistance Program (HEAP).

Section 1. Application. Each household or authorized representative of the household requesting assistance shall be required to complete an application and provide such information as may be deemed necessary to determine eligibility and benefit amount in accordance with the procedural requirements prescribed by the cabinet. An "authorized representative" is that person applying on behalf of a household who presents to the cabinet or its representative a written statement signed by the appropriate household member authorizing that person to apply on the household's behalf. An application shall not be considered completed until all information necessary to determine eligibility and benefit amount is received.

Section 2. Definitions. Terms used in HEAP are

defined as follows:

(1) "Principal residence" is that place where a person is living voluntarily and not on a temporary basis; the place he/she considers home; the place to which, when absent, he/she intends to return; and such place is identifiable from other residences, commercial establishments, or institutions.

(2) "Energy" is defined to include electricity, gas, and any other fuel such as coal, wood, oil, bottled gas, etc., that is used to sustain reasonable living conditions.

(3) "Household" means any individual or group of individuals who are living together in the principal residence as one (1) economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.

(4) "Economic unit" is one (1) or more persons sharing common living arrangements.

(5) "Subsidy component" is that portion of benefits reserved as energy assistance for heating.

(6) "Crisis component" is that component administered by local organizations under contract with the cabinet to provide fuel, heaters, blankets and/or sleeping bags, vouchers to purchase these items, or minor repair of the heating system to eligible households who are without heat, or will be without fuel within five (5) days, or receive a notice of disconnection of service, or require a heat system repair to obtain adequate heat.

(7) "Life threatening situation" is defined as without heat or will be without heat within forty-eight (48) hours and temperatures at a dangerous level for household members.

Section 3. Eligibility Criteria. (1) A household must meet the following conditions of eligibility for receipt of a HEAP payment under the subsidy and crisis components:

(a) For purposes of determining eligibility, the amount of continuing and noncontinuing earned and unearned gross income including lump sum payments received by the household during the calendar month preceding the month of application will be considered. Income received on an irregular basis will be prorated.

(b) Gross income for the calendar month preceding the month of application must be at or below the applicable amount shown on the income scale for the appropriate size household. Excluded from consideration as income are payments received by a household from a federal, state, or local agency designated for a special purpose and which the applicant must spend for that purpose, payments made to others on the household's behalf, loans, reimbursements for expenses, incentive payments (WIN and JTPA) normally disregarded in AFDC, federal payments or benefits which must be excluded according to federal law, and Supplemental Medical Insurance premiums.

Income Scale

Family Size	Monthly	Yearly
1	$ 504	$ 6,050
2	678	8,140
3	852	10,230
4	1,027	12,320
5	1,201	14,410
6	1,375	16,500

(c) For each household member more than six (6), the above income eligibility limitation for six (6) will be increased by $174 monthly or $2,090 yearly for each additional household member.

(d) The household must have total liquid assets at the time of application of not more than $5,000. Excluded assets are cars, household or personal belongings, principal residence, cash surrender value of insurance policies, prepaid burial policies, real property, and cash on hand or in a bank account if said cash is income considered under paragraph (a) of this subsection.

(e) Applicants for the crisis component must be without heat, or will be without fuel within five (5) days, or have received a notice of disconnection of service, or require a heat system repair to obtain adequate heat.

(2) Households are eligible to receive benefits under the subsidy component once and under the crisis component not to exceed the maximum amount of benefits.

Section 4. Benefit Levels. Payment amounts for the subsidy and crisis components are set at a level to serve a maximum number of households while providing a reasonably adequate benefit relative to energy costs. In the subsidy component, the highest level of assistance will be provided to households with lowest incomes and highest energy costs in relation to income, taking into account family size.

(1) Payments to eligible households under the subsidy component will be made for the full benefit amount based on type of energy for heating, monthly household income, and household size as specified in the following benefit scales.

Benefit Scales
Subsidy Component

Scale A.
Energy Sources: Electricity

Monthly Household Income	Payment Amount Household Size 1 and 2	Household Size 3 or More
$ 0 - $400	$123	$135
$401 - $800	$105	$117
Over $800	---	$101

Scale B.
Energy Sources: LP Gas (Propane), Fuel Oil, Kerosene, Natural Gas

Monthly Household Income	Payment Amount Household Size 1 and 2	Household Size 3 or More
$ 0 - $400	$113	$125
$401 - $800	$ 95	$107
Over $800	---	$ 88

Scale C.
Energy Sources: Coal, Wood

Monthly Household Income	Payment Amount Household Size 1 and 2	Household Size 3 or More
$ 0 - $400	$100	$112
$401 - $800	$ 82	$ 94
Over $800	---	$ 75

(2) If the cabinet receives only a percentage of the federal funds authorized by Congress, benefits to eligible households under the subsidy component may be reduced proportionately.

(3) Benefits to eligible households under the crisis component shall be in the form of fuel or other energy for heating, heaters, blankets, and/or sleeping bags, vouchers to purchase these item, or repair to a heating system to obtain adequate heat. The contracting agency will determine the type and value of assistance necessary to alleviate the crisis, not to exceed a maximum of $300 total benefit value per eligible household.

Section 5. Benefit Delivery Methods. Benefits shall be provided to eligible households as follows:

(1) Whenever feasible, payment under the subsidy component is authorized by a two (2) party check made payable to the recipient and the provider or landlord if the heating is included as an undesignated portion of rent.

(2) When a two (2) party check is not issued under the subsidy component, the recipient shall sign a statement as part of the application prior to receipt of funds affirming that benefits received under HEAP shall be utilized solely for home energy.

(3) Under the subsidy component, at the recipient's discretion, the total benefit may be made in separate authorizations to facilitate payment to more than one (1) provider (e.g., when the recipient heats with both a wood stove and electric space heaters). However, the total amount of the payments may not exceed the maximum for the primary source of energy for heating. The household will decide how to divide payment if more than one (1) provider is used.

(4) For the crisis component, no direct cash payments shall be made to the recipient. Benefits shall be provided to eligible households by the contracting agency in the amount and value determined by the contracting agency necessary to alleviate the crisis, not to exceed the maximum allowable payment. Payments under the crisis component will be authorized to the energy provider by one (1) party checks upon delivery of fuel, heaters, blankets, and/or sleeping bags, restoration or continuation of service, or upon repair of the heating system.

Section 6. Right to a Fair Hearing. Any individual has a right to request and receive a fair hearing in accordance with 904 KAR 2:055, Hearings and appeals.

Section 7. Time Standards. Under the subsidy component, the cabinet shall make an eligibility determination promptly after receipt of a completed and signed application but not to exceed thirty (30) days. Under the crisis component, completed applications will be processed such that the crisis is resolved within forty-eight (48) hours and in life threatening situations within eighteen (18) hours. Applicants under the crisis component will have no more than ten (10) working days from the date of application to provide information necessary to complete the application.

Section 8. Effective Dates. The following shall be the implementation and termination dates for HEAP:

(1) Applications for the subsidy component shall be accepted from [as follows:]

[(a)] households containing at least one (1) member who is elderly (age sixty (60) or older) or receiving benefits on the basis of 100 percent disability [may apply] beginning October 19, 1987 and ending no later than October 30, 1987.

[(b) Applications shall be accepted from all households beginning November 16, 1987 and ending no later than December 30, 1987.]

(2) Applications for the crisis component shall be accepted beginning January 11, 1988 and ending no later than April 29, 1988.

(3) Applications shall be processed in the order taken until funds are expended. HEAP subsidy component shall be terminated by the secretary when actual and projected component expenditures have resulted in utilization of available funds or December 30, 1988, whichever comes first.

(4) HEAP may be reactivated after termination under the same terms and conditions as shown in this regulation should additional federal funds be made available for that purpose.

Section 9. Allocation of Funds. (1) Up to fifteen (15) percent of the total HEAP allocation shall be reserved for weatherization assistance.

(2) Up to $9,590,422 of benefit funds [$6,000,000] shall be reserved for the crisis component. Eighty-five (85) percent of the funds reserved for the crisis component shall be allocated, by local administering agency, based upon the poverty levels of the counties served by the local administering agency in accordance with the 1980 Census. Fifteen (15) percent of the funds plus any additional funds made available from the subsidy component shall be held by the contracting agency as a contingency fund to be allocated to any local administering agency of the state chosen at the discretion of the contracting agency to provide low income home energy assistance in accordance with its contract. On February 8, 1988, all unobligated allocations may be reallocated as necessary by the contracting agency with the concurrence of the Department for Social Insurance.

(3) Up to $5,000,000 of [Remaining] benefit funds available under Public Law 97-35 [less $25,000 reserved under subsection (5) of this section] shall be reserved for the subsidy component. [Fifty (50) percent of the funds available under the subsidy component shall be reserved for households eligible to apply beginning October 19, 1987 and ending no later than October 30, 1987. The remaining fifty (50) percent plus any funds remaining available after October 30, 1987 shall be reserved for households applying beginning November 16, 1987 and ending no later than December 30, 1987. The funds available for the households applying beginning November 16, 1987 shall be allocated by area development district based upon the level of poverty in accordance with the 1980 Census. Any funds remaining available under the subsidy component after December 30, 1987 shall be made available under the crisis component contingency fund held by the contracting agency.]

(4) Up to $400,000 of the contingency fund under subsection (2) of this section shall be reserved to assure component availability until March 15, 1988 for emergency crisis assistance for households who are without heat.

(5) Up to $25,000 [of the funds in Section 3 of this regulation] shall be reserved for the Preventive Assistance Program administered by the Department for Social Services to assist families with an energy payment not to exceed $300 per family if the payment will prevent the removal of a child from a family or if it will assist in reuniting a child with the family.

Section 10. Energy Provider Responsibilities. Any provider accepting payment from HEAP for energy provided to eligible recipients is required to comply with the following:

(1) Reconnection of utilities and/or delivery of fuel must be accomplished upon certification for payment;

(2) The household must be charged in the normal billing process the difference between the actual cost of the home energy and the amount of payment made through this program. For balances remaining after acceptance of the HEAP payment, the customer must be offered the opportunity for a deferred payment arrangement or a level payment plan;

(3) HEAP recipients shall not be treated adversely than households not receiving benefits;

(4) The household on whose behalf benefits are paid shall not be discriminated against, either in the costs of goods supplied or the services provided; and

(5) A landlord shall not increase the rent of recipient households on the basis of receipt of this payment.

MIKE ROBINSON, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: January 6, 1988
FILED WITH LRC: January 14, 1988 at 11 a.m.

AMENDED AFTER HEARING

TRANSPORTATION CABINET
Department of Vehicle Regulation
(Amended After Hearing)

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

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

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

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

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

(a) Title 49, Code of Federal Regulations, Part 171, as amended through **February 1, 1988** [July 1, 1987]. Part 171 sets forth general information, regulations and definitions applicable to all hazardous materials transportation;

(b) Title 49, Code of Federal Regulations, Part 172, as amended through **February 1, 1988** [July 1, 1987]. Part 172 lists and classifies those materials which the United States Department of Transportation has designated as hazardous materials for purposes of transportation and prescribes the requirements for shipping papers, package marking, labeling and transport vehicle placarding applicable to the shipment and transportation of those hazardous materials;

(c) Title 49, Code of Federal Regulations, Part 173, as amended through **February 1, 1988** [May 18, 1987]. Part 173 sets forth the general requirements which shippers shall meet for shipments and packaging. For the purposes of this administrative regulation it is only applicable to shipment by air or highway;

(d) Title 49, Code of Federal Regulations, Part 175, as amended through April 20, 1987. Part 175 includes requirements in addition to those contained in Parts 171, 172, and 173 which are applicable to aircraft operators transporting hazardous materials aboard, attached to or suspended from civil aircraft;

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

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

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

Section 2. Applicants for an annual general

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

MARJORIE C. KLEE, Commissioner
C. LESLIE DAWSON, Secretary
APPROVED BY AGENCY: December 22, 1987
FILED WITH LRC: December 23, 1987 at 10 a.m.

PROPOSED AMENDMENTS

GENERAL GOVERNMENT CABINET
Board of Medical Licensure
(Proposed Amendment)

201 KAR 9:101. Definitions relating to paramedics.

RELATES TO: KRS 311.650 to 311.658, 311.990(18)
PURSUANT TO: KRS 311.654
NECESSITY AND FUNCTION: KRS 311.654 directs the State Board of Medical Licensure to adopt rules and regulations relating to paramedics. The function of this regulation is to define terms that are used in regulations promulgated by the board relating to paramedics.

Section 1. Definitions. As used in board regulations relating to paramedics, the following terms shall have the meanings set forth below unless the context requires otherwise:

(1) "Advanced life support unit" means a motor vehicle, vessel, or aircraft designed and used primarily for on-the-scene care or transportation of critically ill or critically injured patients and is equipped with such equipment as specified by the board as being essential to the proper functioning of an advanced life support unit.

(2) "Applicant" means any person applying for training or certification as a paramedic under this regulation.

(3) "Board" means the State Board of Medical Licensure.

(4) "Certificate" means the certificate issued by the Board of Medical Licensure pursuant to this regulation to any individual qualifying pursuant to this regulation to perform the duties of a paramedic.

(5) "Certified" means one who holds a certificate issued pursuant to this regulation.

(6) "Committee" means the Paramedic Advisory Committee as appointed by the board to act in an advisory capacity.

(7) "Emergency situation" means an unforeseen circumstance or combination of circumstances, regardless of place of occurrence, requiring immediate and continued medical response and intervention to safeguard the life or physical well-being of any patient.

(8) "Emergency medical technician (EMT)" means a qualified individual currently certified by the Kentucky Department for Human Resources as an emergency medical technician, emergency medical technician-ambulance, emergency medical technician-instructor, or emergency medical technician instructor-trainer.

(9) "Equipment" means that equipment required by the board to be carried and maintained on an advanced support unit.

(10) "Graduate paramedic" means any person who has successfully completed a board-approved paramedic training course and who has not yet taken the board's certifying examination provided for in these regulations.

(11) "Medical advisor" means a licensed physician selected to supervise paramedics by the provider with the approval of the regional emergency medical services system's clinical director.

(12) "Paramedic" means a person who is primarily involved in the delivery of emergency medical services and is certified under KRS 311.652 to 311.658.

(13) "Paramedic trainee" means a qualified person who is enrolled in a paramedic training course authorized and approved by the board pursuant to this regulation.

(14) "Patient" means an individual who is sick, injured, dead or otherwise incapacitated or helpless.

(15) "Provider" means the operator of any advanced life support unit within the Commonwealth of Kentucky, or any person utilizing a paramedic, paramedic-trainee, or graduate paramedic, except a person utilizing a paramedic as an instructor in a training course authorized and approved by the board.

(16) "Supervising physician" means a licensed physician selected by the medical advisor to supervise paramedics.

(17) "Approved in-service training" means any training approved by the advanced life support provider's medical director.

C. WILLIAM SCHMIDT, Executive Director
APPROVED BY AGENCY: December 10, 1987
FILED WITH LRC: January 5, 1988 at 1 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on Tuesday, February 23, 1988, at 10 a.m. at the offices of the Kentucky Board of Medical Licensure, The Mall Office Center, 400 Sherburn Lane, Suite 222, Louisville, Kentucky 40207. Those interested in attending or being heard at this hearing shall notify in writing not less than five days prior to February 23, 1988: Mr. C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, The Mall Office Center, 400 Sherburn Lane, Suite 222, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: C. William Schmidt
(1) Type and number of entities affected: All certified paramedics, graduate paramedics and paramedic trainees in the Commonwealth of Kentucky.
(a) Direct and indirect costs or savings to those affected: None
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing

costs (note any effects upon competition): N/A
(b) Reporting and paperwork requirements: N/A
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: N/A
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs: N/A
(b) Reporting and paperwork requirements: N/A
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternatives considered but Paramedic Advisory Committee and Board felt proposed addition to current regulation was in order to assist in evaluating approved in-service training.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments:
TIERING: Was tiering applied? Yes.

GENERAL GOVERNMENT CABINET
Board of Medical Licensure
(Proposed Amendment)

201 KAR 9:161. Skills, authorized procedures.

RELATES TO: KRS 311.650 to 311.658, 311.990(18)
PURSUANT TO: KRS Chapter 13A, 311.654
NECESSITY AND FUNCTION: KRS 311.654 directs the State Board of Medical Licensure to adopt rules and regulations relating to paramedics. The function of this regulation is to prescribe procedures which certified paramedics, graduate paramedics and paramedic trainees are authorized to perform.

Section 1. Authorized Certified Paramedic Procedures. Certified paramedics may perform the procedures and skills of a certified emergency medical technician (EMT). In addition, a certified paramedic may perform any of the procedures set forth in Section 3 of this regulation provided:
(1) A verbal order is given by radio or telephone by the medical advisor or supervising physician (or a direct verbal or written order is given by a licensed physician who is physically present at the scene of the emergency call); and
(2) Provided, further that the certified paramedic is under the supervision of the medical advisor or the supervising physician during the performance of authorized procedures. In addition, a certified paramedic may perform procedures pursuant to written standing orders issued by his medical advisor.

Section 2. Authorized Graduate Paramedic and Paramedic Trainee Procedures. Graduate paramedics and paramedic trainees may perform the procedures and skills of a certified emergency medical technician (EMT). In addition, graduate paramedics and paramedic trainees may, subject to any limitations imposed by the medical advisor or the supervising physician, perform any other procedures specified in Section 3 of this regulation, provided:
(1) Verbal order is given by radio or telephone by the medical advisor or supervising physician (or a direct verbal or written order given by a licensed physician who is physically present at the scene of the emergency call); and
(2) Provided further that the graduate paramedic or paramedic trainee is under the direct supervision of the medical advisor or the supervising physician <u>or registered nurse or paramedic</u> directing the performance of such authorized procedures <u>as authorized by the medical director</u>.

Section 3. Authorized Procedures. Any certified paramedic, graduate paramedic or paramedic trainee, subject to the limitations of this regulation may perform the following procedures:
(1) Suctioning: nasopharyngeal and endotracheal;
(2) Endotracheal and nasotracheal intubation;
(3) Insert nasopharyngeal airway(s);
(4) Defibrillation;
(5) Venipuncture and drawing venous blood for analysis;
(6) Upon proper approval by applicable licensing and regulator authorities possess and administer by the appropriate route (intravenously, subcutaneously, or intramuscularly) the following drugs:
(a) Anticonvulsant(s);
(b) Antiarrythmic agents;
(c) Bronchodilators;
(d) Narcotics;
(e) Narcotic antagonists;
(f) Intravenous fluids or plasma expanders, or both;
(g) Diuretics;
(h) Antihistamine;
(i) Vasoactive drugs;
(j) Poison antidotes;
(k) Cardiotonic drugs;
(l) Alkalizing drugs;
(m) Vagolytic;
(n) Antihypoglycemic agents;
(o) Or such other fluid drugs or medications as the board may prescribe.
(7) Perform nasogastic intubation and suctioning;
(8) Perform urinary catheterization and urine collection;
(9) Perform electrocardiographic monitoring and biomedical telemetry;
(10) Utilize rotating tourniquets;
(11) Apply "anti-shock" trousers;
(12) Administer "breathing treatments" to patients experiencing COPD/asthmatic problems through the use of nebulizer with Brethine or Bronkosal medications.
(13) Conduct such physical examinations for which they have been trained; and
(14) Perform such other procedures as the board may prescribe.

C. WILLIAM SCHMIDT, Executive Director
APPROVED BY AGENCY: December 10, 1987
FILED WITH LRC: January 5, 1988 at 1 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on Tuesday, February 23, 1988, at 10 a.m. at the offices of the Kentucky Board of Medical Licensure, The Mall Office Center, 400 Sherburn Lane, Suite 222, Louisville, Kentucky 40207. Those

interested in attending or being heard at this hearing shall notify in writing not less than five days prior to February 23, 1988: Mr. C. William Schmidt, Executive Director, Kentucky Board of Medical Licensure, The Mall Office Center, 400 Sherburn Lane, Suite 222, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: C. William Schmidt
(1) Type and number of entities affected: All certified paramedics, graduate paramedics and paramedic trainees in the Commonwealth of Kentucky.
(a) Direct and indirect costs or savings to those affected: None
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A
(b) Reporting and paperwork requirements: N/A
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: N/A
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs: N/A
(b) Reporting and paperwork requirements: N/A
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternatives considered but Paramedic Advisory Committee and Board felt proposed change would foster better medical care rendered by paramedics to the citizens of Kentucky.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments:
TIERING: Was tiering applied? Yes.

GENERAL GOVERNMENT CABINET
Kentucky Real Estate Commission
(Proposed Amendment)

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

RELATES TO: KRS 324.395
PURSUANT TO: KRS 324.395
NECESSITY AND FUNCTION: To set forth procedures and standards for obtaining insurance independently.

Section 1. Insurance companies providing real estate errors and omissions insurance for real estate licensees must provide a signed certification to the insured licensee containing the language prescribed by the commission which will confirm that the obligations of the insurance company meets the minimum requirements set forth in this regulation. Licensees who choose to be insured by other than the group insurance policy obtained by the commission, shall file the certification with their license renewal application in accordance with KRS 324.395(6).

Section 2. The insurance for which the certification has been executed may not be terminated, cancelled, lapsed or nonrenewed without the insurance company having provided the commission with prior written notice.

Section 3. The minimum requirements for the coverage contained in the insurance policy for which the certification has been executed shall provide that:
(1) Coverage shall be that known as real estate agents errors and omissions insurance or real estate agents professional liability insurance.
(2) The limit of liability shall be no less than $100,000 for any one claim nor less than $1,000,000 annual aggregate limit of liability, including the cost of investigation and defense.
(3) The maximum deductibles, which may be separate deductibles, may not exceed $2,500 for judgment or settlement and $1,000 for the cost of investigation and defense.
(4) Coverage shall apply for any covered claim resulting from a licensed activity that occurred subsequent to April 1, 1987 unless such claim had been made against the licensee before the present insurance policy's inception or is insured by a previous insurance policy.

Section 4. Except as provided in Section 5 of this regulation, coverage may not exclude claims brought against the insureds arising out of an act or failure to act by the insured licensee when performing a professional service for which a license is required by the Commonwealth of Kentucky under KRS 324.010.

Section 5. Coverage may exclude claims brought against the insureds, regardless of whether the professional service involves an activity for which a license is required by the Commonwealth of Kentucky:
(1) Arising out of a dishonest, fraudulent, criminal or malicious act, error, or omission, if committed by, at the direction of, or with the knowledge of the insured;
(2) Arising as a result of the insolvency of the insured;
(3) Brought about or contributed to by any inability or failure to pay or collect premium, escrow or tax money;
(4) Brought about by any employee or former employee arising out of the contract of employment with the insured and alleging breach thereof;
(5) Arising out of any injury or damage which the insured either expected or intended;
(6) For bodily injury, sickness, disease or death of any person or physical injury to or destruction of or loss of use of tangible property;
(7) Arising out of libel, slander, defamation of character, false arrest or imprisonment, wrongful entry or eviction or other invasion of the right of private occupancy, or publications or utterances in violation of an individual's right of privacy, or malicious prosecution;
(8) Arising out of services performed by the insured which are subject to the Employee Retirement Income Security Act of 1974 as amended;
(9) Arising out of any violation of the Securities Act of 1933 as amended or the

Securities Exchange Act of 1934 as amended or any state blue sky or securities law or similar state or federal statutes;

(10) Arising out of the conversion, misappropriation, commingling, or defalcation of funds or other property;

(11) Brought against a real estate property manager for failure to effect or maintain adequate levels or types of insurance;

(12) Arising out of unlawful discrimination;

(13) Arising out of liability assumed by the insured under any indemnity, hold harmless or similar provisions or agreements, but this exclusion does not apply to liability the insured would have in the absence of such agreements;

(14) Arising out of the insured's business and brought by or on behalf of an investor, shareholder or partner in any corporation, limited or general partnership, real estate trust or venture in which the insured has, or had, a participating interest, directly or indirectly, in the profits or losses thereof, or in connection with the insured's activities as an underwriter, sponsor, partner, joint or coventurer or member in any real estate partnership, venture or syndicate;

(15) Arising out of, relating to or based upon the dispersal, discharge, escape, release or saturation of smoke, vapors, soot, fumes, acids, alkalies, toxic chemicals, liquids, gases or other material, irritant, contaminant or pollutant in or into the atmosphere, or on, onto, upon, in or into surface or subsurface, including soil, water or watercourses, objects and any tangible or intangible matter, whether sudden or not, by whomever or whatsoever made, including, but not limited to, any public, private or governmental person, concern, body, entity, agency, office or corporation; or

(16) That are excluded by the Nuclear Energy Liability Exclusion Endorsement (broad form) filed by the Insurance Services Office, Inc. with the Kentucky Department of Insurance and identified as form #IL 00 21 11 85.

(17) Arising from the sale or property management of property developed, constructed or owned by the insured, or by any firm or corporation in which the insured has a financial interest, or by any firm coming under the same financial control as the insured, except that this exclusion does not apply and coverage is extended to claims arising from the sale of real property, provided all three (3) of the following conditions are met:

(a) The property was acquired by the insured under a guaranteed sale listing contract; and

(b) The title to the property was only temporarily held by the insured during the transit period (not to exceed one (1) year) from acquisition to resale; and

(c) The property is listed for sale during the entire transit period; or

(18) Arising out of the interests, operations or activities of the insured as a mortgage banker or correspondent, escrow agent, constructon manager or property developer (an insured will not be considered engaging in the activities of an escrow agent merely because the insured holds earnest money deposits, rental deposits, or similar items).

Section 6. The insurance company and the licensee may agree that the insurance policy issued to the licensee may contain deductibles higher than those established in this regulation as the maximum deductibles and/or it may contain terms, conditions, limitations and exclusions other than those established by this regulation as the minimum required coverages, provided the insurance company, by having executed the certification, shall remain liable to pay on behalf of the insured licensee all amounts in excess of the prescribed maximum deductibles or all amounts from any other claims excluded or limited by provisions more restrictive than the required minimum coverages if the defendant licensee fails to promptly do so. In the event, however, that the insurance company is required by having executed the certification to make payments to claimants or in defense of a claim that would not have been required by the terms and conditions of the policy except for this provision, the insurance company shall not be precluded from using any legal remedy for securing reimbursement of such amounts from the insured licensee.

SUSAN G. STOPHER, Executive Director
APPROVED BY AGENCY: September 9, 1987
FILED WITH LRC: January 11, 1988 at 3 p.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on February 22, 1988 at 1 p.m. at the offices of the Kentucky Real Estate Commission, 222 South First Street, Suite 300, Louisville, Kentucky 40202. Persons interested in attending the hearing shall notify in writing at least five days prior to the hearing: Susan G. Stopher, Executive Director, Kentucky Real Estate Commission, 222 S. First Street, Suite 300, Louisville, Kentucky 40202.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Susan G. Stopher
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No other method, since this is mandated by statute.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: Will provide clarification of certificate process required by KRS 324.395.
TIERING: Was tiering applied? No. Not applicable.

GENERAL GOVERNMENT CABINET
Kentucky Board of Nusing
(Proposed Amendment)

201 KAR 20:095. Inactive nurse licensure status.

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

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

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

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

Section 4. An individual holding an active nurse license issued by another jurisdiction and who has held Kentucky inactive licensure status for less than five (5) years must complete an active status application, pay current application [renewal] fee for an active license, and show evidence of one (1) of the following before an active license will be issued:
(1) Active nursing practice [in another state] of at least 500 hours [one (1) year] within the preceding five (5) years in another jurisdiction;
(2) Completion of an [a board] approved refresher course in nursing within the previous two (2) years preceding the date of application for active Kentucky licensure status;
(3) Completion of continuing education requirements as specified in 201 KAR 20:230, Renewal of licenses, Sections 3 and 4 as appropriate.

Section 5. If an individual has held inactive licensure status in Kentucky for five (5) or more years, she shall complete an active status application, pay current application [renewal] fee for an active license, and show evidence of:
(1) Active nursing practice [in another state] of at least 500 hours [one (1) year] within the preceding five (5) years in another jurisdiction; or
(2) Completion of fifteen (15) contact hours of continuing education, for each year since the last year of active licensure, to a maximum of 150 contact hours, within the twenty-four (24) months preceding the date of application for active licensure status. Continuing education earned more than ten (10) years preceding the date of application shall not be counted toward meeting this requirement. [, in addition to the continuing education requirement as specified in 201 KAR 20:230, Renewal of licenses.]

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

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

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

SHARON M. WEISENBECK, Executive Director
APPROVED BY AGENCY: January 15, 1988
FILED WITH LRC: January 15, 1988 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on February 26, 1988 at 2 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by February 19, 1988: Sharon M. Weisenbeck, Executive Director, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state

and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: The regulation is being amended in three significant respects. First, the definition of "active practice" for the purpose of qualifying for exemption from additional continuing education requirements is redefined as 500 hours within the last 5 years. The new standard is felt to be adequate to preserve minimal competence and is more precise than existing language. Second, the maximum amount of continuing education which must be earned by a nurse who cannot meet the active practice requirement is limited to 150 hours, which approximates the duration of most refresher courses presently being offered. Third, the provision allowing the board to require inactive licensees to retake the examination prior to reactivation of licensure is being deleted. The existing provision, which has rarely been invoked, is difficult to administer in a nondiscretionary manner without unduly hampering the licensure efforts of many applicants. It is felt that these changes will facilitate activiation of nursing licenses at a time when experienced nurses are greatly needed, while adequately protecting patient safety.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Tiering is not applicable since the same standards apply to all categories of persons licensed by the board.

GENERAL GOVERNMENT CABINET
Kentucky Board of Nusing
(Proposed Amendment)

201 KAR 20:110. Licensure by endorsement.

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

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

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

Section 3. Graduates of Canadian Nursing Schools. (1) All graduates of Canadian nursing schools shall meet requirements in Sections 1 and 2 of this regulation.
(2) Applicants who took the Canadian nurses association test service examination shall have:
(a) Successfully completed an examination that meets the criteria of 201 KAR 20:070(3); and
(b) Achieved a standard score of 350 on the five (5) part examination given prior to August, 1980, or 400 on the comprehensive examination given after August, 1980.

Section 4. Nursing Practice and Continuing Education Requirements. (1) The applicant who has been actively licensed and engaged in nursing practice for at least 500 hours [one (1) year] during the preceding five (5) years shall

submit evidence [from employer(s)] to verify such active practice.

(2) The applicant who has not been actively licensed and engaged in nursing practice for at least 500 hours [one (1) year] during the preceding five (5) years shall [complete the continuing education requirements for relicensure for the current licensure period and in addition shall] complete fifteen (15) contact hours in continuing education, for each year since the last year in which the applicant can demonstrate at least 100 hours of active practice.

(3) No applicant shall be required to complete more than 150 contact hours in continuing education, provided that at least thirty (30) contact hours shall have been earned [, in nursing] within the twenty-four (24) months preceding the date of application for active Kentucky licensure status.

(4) Continuing education earned more than ten (10) years preceding the date of application shall not be counted toward meeting the requirements stated in subsection (2) and (3) of this section [prior to being licensed by the board].

SHARON M. WEISENBECK, Executive Director

APPROVED BY AGENCY: January 15, 1988

FILED WITH LRC: January 15, 1988 at 10 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on February 26, 1988 at 2 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by February 19, 1988: Sharon M. Weisenbeck, Executive Director, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck

(1) Type and number of entities affected:

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

1. First year: None

2. Continuing costs or savings: None

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: None

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The regulation is being amended in two significant respects. First, the definition of "active practice" for the purpose of qualifying for exemption from additional continuing education requirements is redefined as 500 hours within the last 5 years. The new standard is felt to be adequate to preserve minimal competence and is more precise than existing language. Second, the maximum amount of continuing education which must be earned by a nurse who cannot meet the active practice requirement is limited to 150 hours, which approximates the duration of most refresher courses presently being offered. It is felt that these changes will facilitate endorsement of nursing licenses at a time when experienced nurses are greatly needed, while adequately protecting patient safety.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Tiering is not applicable since the same standards apply to all categories of persons licensed by the board.

GENERAL GOVERNMENT CABINET
Kentucky Board of Nusing
(Proposed Amendment)

201 KAR 20:225. Reinstatement of license.

RELATES TO: KRS 314.071, 314.073

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

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

Section 1. Lapsed License. A lapsed license may occur for any of the following reasons:

(1) Failure to submit a completed and timely application [apply] for license renewal for any reason.

(2) Failure to meet the continuing education requirement as prescribed by law and regulations.

(3) Failure to submit adequate data to enable the board to complete processing an application.

(4) Failure to submit current application fee.

Section 2. Requirements for Licensure Reinstatement. (1) If a licensee fails to renew a[n active] license as prescribed by law and regulation, the license shall lapse on the last day of the licensure period.

(2) The board may issue a[n active] license by reinstatement if the applicant:

(a) Submits a completed application form;

(b) Submits the current application fee; and

(c) In the case of an applicant for reinstatement of licensure on active status, completes fifteen (15) contact hours of continuing education for each year since the date of lapse, to a maximum of 150 contact hours, provided that at least thirty (30) contact hours shall have been earned within the twenty-four (24) months preceding the date of application for reinstatement. Continuing education earned more than ten (10) years preceding the date of application for reinstatement shall not be counted toward meeting this requirement. [Meets the continuing education requirements for the current licensure period and completes additional contact hours dependent upon time period of lapsed license as follows:]

[1. One (1) year: no additional contact hours.]

[2. Two (2) years: five (5) additional contact hours.]

[3. Three (3) years: ten (10) additional contact hours.]
[4. Four (4) or more years: fifteen (15) additional contact hours or a board approved refresher course.]

[Section 3. Reinstatement Requirements for Individuals Holding an Active Nurse License Issued by Another Jurisdiction. (1)] (3) The applicant who has been actively licensed and engaged in nursing practice in another jurisdiction [state] for at least 500 hours [one (1) year] during the preceding five (5) years shall submit evidence [from employer(s)] to verify such active practice. The Kentucky license shall be reinstated without the applicant being required to obtain additional continuing education.
[(2) The applicant who has not been actively licensed and engaged in nursing practice in another state for at least one (1) year during the preceding five (5) years shall complete the continuing education requirements for relicensure for the current licensure period and in addition shall complete prior to being licensed by the board fifteen (15) contact hours of continuing education, for each year since the last year of active licensure, in nursing within the twenty-four (24) months preceding the date of application for active Kentucky licensure status.]

Section 3. [4.] For individuals who reinstate Kentucky nursing licensure during the last ten (10) months of a biennial contact hour earning period, contact hour earning which meets or exceeds the contact hour requirement for the upcoming licensure renewal may be accepted as evidence of earning for both current and upcoming licensure periods.

Section 4. [5.] The board may reinstate a license to either active or inactive status as requested by the individual reinstatement applicant, except as provided in Section 5 of this regulation.

Section 5. [6.] Reinstatement of a License Subject to Disciplinary Action. (1) If a license has been denied, suspended or revoked by the board in a disciplinary action, the individual may petition the board for reinstatement of licensure on active status after two (2) years, unless otherwise specified in a decision or agreed order entered by the board.
(2) The individual shall submit evidence in writing, verified by oath that:
(a) The requirements of a decision or agreed order have been met.
(b) The basis for the disciplinary action has been removed and that issuance of a license would no longer be a threat to public safety and health.
(3) In addition, the applicant shall comply with the requirements prescribed in Section 2 of this regulation for reinstatement of an active license.

Section 6. [7.] As a condition of reinstatement the board shall [may] require retaking of the licensure examination and achievement of a passing score by an [a nurse or] applicant for licensure who previously has successfully taken the examination but whose Kentucky license has been revoked by [subjected to] disciplinary action subsequent to December 31, 1987. [, or who has not held a current active license issued by another jurisdiction and practiced as a nurse for a period of time as required in this regulation for reinstatement of license.]

Section 7. [8.] A copy of an official name change document (court order, marriage certificate, divorce decree) shall be submitted by the applicant when making application, if applicable.

SHARON M. WEISENBECK, Executive Director
APPROVED BY AGENCY: January 15, 1988
FILED WITH LRC: January 15, 1988 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on February 26, 1988 at 2 p.m. in Room 420 of the Professional Towers Building, 4010 Dupont Circle, Louisville, Kentucky. Those interested in attending this hearing shall notify the following office in writing by February 19, 1988: Sharon M. Weisenbeck, Executive Director, Kentucky Board of Nursing, 4010 Dupont Circle, Suite 430, Louisville, Kentucky 40207.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sharon M. Weisenbeck
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: The regulation is being amended in three significant respects. First, the definition of "active practice" for the purpose of qualifying for exemption from additional continuing education requirements is redefined as 500 hours within the last 5 years. The new standard is felt to be adequate to preserve minimal competence and is more precise than existing language. Second, the maximum amount of continuing education which must be earned by a nurse who cannot meet the active practice requirement is limited to 150 hours, which approximates the duration of most refresher courses presently being offered. Third, the provision allowing the board to require applicants for reinstatement of licensure to retake the examination is being modified to apply only to those whose Kentucky license has been revoked by way of disciplinary action subsequent to December 31, 1987. The existing provision, which has rarely been invoked, is difficult to administer in a nondiscretionary manner without unduly hampering the licensure efforts of many applicants. It is felt that these changes will facilitate reinstatement of nursing licenses at a time when

experienced nurses are greatly needed, while adequately protecting patient safety.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Tiering is not applicable since the same standards apply to all categories of persons licensed by the board.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(Proposed Amendment)

401 KAR 50:010. Definitions and abbreviations.

RELATES TO: KRS 224.320, 224.330, 224.340
PURSUANT TO: KRS 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the defining of terms to be used in Title 401, Chapters 50 to 65.

Section 1. Definitions. All terms not defined herein or in subsequent regulations, shall have the meaning given them in KRS 224.005 or by commonly accepted usage. As used in the regulations of the Division for Air Quality unless the content clearly indicates otherwise, the following words shall have the following meaning:

(1) "Affected facility" means an apparatus, building, operation, road, or other entity or series of entities which emits or may emit any air contaminant into the outdoor atmosphere.

(2) "Air contaminant or air pollutant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acid, fumes, gases, odor, vapor, or any combination thereof.

(3) "Air pollution" means the presence in the outdoor atmosphere of one (1) or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property.

(4) "Air pollution control equipment" means any mechanism, device or contrivance used to control or prevent air pollution, which is not, aside from air pollution control laws and regulations, vital to production of the normal product of the source or to its normal operation.

(5) "Alteration" means:

(a) The installation or replacement of air pollution control equipment at a source;

(b) Any physical change in, or change in the method of operation of any affected facility which increases the potential to emit of any pollutant (to which a standard applies) emitted by such facility or which results in the emission of any air pollutant (to which a standard applies) not previously emitted.

(6) "Alternative method" means any method of sampling and analyzing for an air pollutant which is not a reference or equivalent method but which has been demonstrated to the cabinet's and the U.S. EPA's satisfaction to, in specific cases, produce results adequate for its determination of compliance.

(7) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

(8) "Ambient air quality standard" means a numerical expression of a specified concentration level for a particular air contaminant and the time averaging interval over which that concentration level is measured and is a goal to be achieved in a stated time through the application of appropriate preventive and/or control measures.

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

(10) "Commence" means that an owner or operator has undertaken a continuous program of construction, modification, or reconstruction of an affected facility, or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction, modification, or reconstruction of an affected facility.

(11) "Compliance schedule" means a schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with any limitation or standard.

(12) "Construction" means fabrication, erection, installation or modification of an air contaminant source.

(13) "Continuous monitoring system" means the total equipment, required under the applicable regulations used to sample, to condition (if applicable), to analyze and to provide a permanent record of emissions or process parameters.

(14) "Director" means Director of the Division for Air Quality of the Natural Resources and Environmental Protection Cabinet.

(15) "District" means an air pollution control district as provided for in KRS Chapter 77.

(16) "Emission standard" means that numerical limit which fixes the amount of an air contaminant or air contaminants that may be vented into the atmosphere (open air) from any affected facility or from air pollution control equipment installed in any affected facility.

(17) "Equivalent method" means any method of sampling and analyzing for an air pollutant which has been demonstrated to the cabinet's and the U.S. EPA's satisfaction to have a consistent and quantitatively known relationship to the reference method, under specified conditions.

(18) "Existing source" means any source which is not a new source.

(19) "Fixed capital cost" means the capital needed to provide all the depreciable components.

(20) "Fuel" means natural gas, petroleum, coal, wood, and any form of solid, liquid, or gaseous fuel derived from such materials for the purpose of creating useful heat.

(21) "Fugitive emissions," except where 401 KAR 51:017 and 401 KAR 51:052 are applicable, means the emissions of any air contaminant into the open air other than from a stack or air pollution control equipment exhaust.

(22) "Hydrocarbon" means any organic compound consisting predominantly of carbon and hydrogen.

(23) "Incineration" means the process of igniting and burning solid, semisolid, liquid, or gaseous combustible wastes.

(24) "Intermittent emissions" means emissions of particulate matter into the open air from a process which operates for less than any six (6) consecutive minutes.

(25) "Malfunction" means any failure of air pollution control equipment, or process equipment, or of a process to operate in a normal or usual manner.

(26) "Major source" means any source of which the potential emission rate is equal to or greater than 100 tons per year of any of the following pollutants: particulate matter, sulfur oxides, nitrogen oxides, volatile organic compounds or carbon monoxide.

(27) "Modification" means any physical change in, or change in the method of operation of an affected facility which increases the potential to emit of any air pollutant (to which a standard applies) emitted by such facility, or which results in the emission of any air pollutant (to which a standard applies) not previously emitted, except that:

(a) Routine maintenance, repair, and replacement of component parts shall not be considered physical changes;

(b) The following shall not be considered a change in the method of operation:

1. An increase in the production rate, if such increase does not exceed the operating design capacity of the affected facility, or the maximum operating capacity specified as a condition to a permit issued by the cabinet;

2. An increase in hours of operation;

3. Use of an alternative fuel or raw material if, prior to the date any standard becomes applicable to such facility, the affected facility is designed to accommodate such alternative use.

(28) "Monitoring device" means the total equipment, required in applicable regulations, used to measure and record (if applicable) process parameters.

(29) "New source" means any source, the construction, reconstruction, or modification of which commenced on or after the classification date as defined in the applicable regulation. A source, upon reconstruction, becomes a new source, irrespective of any change in emission rate.

(30) "Nitrogen oxides" means all oxides of nitrogen except nitrous oxide, as measured by test methods specified by the cabinet.

(31) "Opacity" means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

(32) "Owner or operator" means any person who owns, leases, operates, controls, or supervises an affected facility or a source to which an affected facility is a part.

(33) "Particulate matter" means:

(a) As used in 40 CFR 60, any material, except uncombined water, which exists in a finely divided form as a liquid or a solid as measured by the appropriate approved test method; or

(b) For all other purposes any airborne finely divided solid or liquid material with an aerodynamic diameter smaller than 100 micrometers.

(34) "Particulate matter emissions" means, except as used in 40 CFR 60, all finely divided solid or liquid material, other than uncombined water, emitted to the ambient air as measured by applicable reference methods, or an equivalent or alternative method specified in 40 CFR 51, or by a test method specified in the approved state implementation plan.

(35) [(34)] "Person or persons" means any individual, public or private corporation, political subdivision, government agency, municipality, industry, copartnership, association, firm, trust, estate, or other entity whatsoever.

(36) "PM_{10}" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers as measured by a reference method based on Appendix J to 40 CFR 50, filed by reference in 401 KAR 50:015, and designated in accordance with 40 CFR 53, or by an equivalent method designated in accordance with 40 CFR 53.

(37) "PM_{10} emissions" means finely divided solid or liquid material, with an aerodynamic diameter less than or equal to a nominal ten (10) micrometers emitted to the ambient air as measured by an applicable reference method, or an equivalent or alternative method, specified in 40 CFR 51, or by a test method specified in the approved state implementation plan.

(38) [(35)] "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

(39) [(36)] "Reconstruction" means the replacement of components of an existing affected facility to such an extent that the fixed capital cost of the new components exceeds fifty (50) percent of the fixed capital cost that would be required to construct a comparable entirely new affected facility, and it is technologically and economically feasible to meet the applicable new source standards. Individual sections of these regulations may include specific provisions which refine and delimit the concept of reconstruction set forth in this subsection. The cabinet's determination as to whether the proposed replacement constitutes reconstruction shall be based on:

(a) The fixed capital cost of the replacements in comparison to the fixed capital cost that would be required to construct a comparable entirely new facility;

(b) The estimated life of the affected facility after the replacements compared to the life of a comparable entirely new affected facility;

(c) The extent to which the components being replaced cause or contribute to the emissions from the affected facility; and

(d) Any economic or technical limitations on compliance with applicable standards of performance which are inherent in the proposed replacements.

(40) [(37)] "Reference method" means any method of sampling and analyzing for an air pollutant as prescribed by Appendices A through K [G] to 40 CFR 50, Appendices A and B to 40 CFR 60, and Appendix B to 40 CFR 61. This term may

be more narrowly defined within a specific regulation or chapter.

(41) [(38)] "Run" means the net period of time during which an emission sample is collected. Unless otherwise specified, a run may be either intermittent or continuous within the limits of good engineering practice.

(42) [(39)] "Secondary emissions" means emissions which occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions must be specific, well defined, quantifiable, and impact the same general area as does the stationary source modification which causes the secondary emissions. Secondary emissions may include, but are not limited to emissions from any off-site support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as the emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

(43) [(40)] "Shutdown" means the cessation of an operation for any purpose.

(44) [(41)] "Source" means one (1) or more affected facilities contained within a given contiguous property line. The property shall be considered contiguous if separated only by a public thoroughfare, stream, or other right of way.

(45) [(42)] "Stack or chimney" means any flue, conduit, or duct arranged to conduct emissions to the atmosphere.

(46) [(43)] "Standard" means an emission standard, a standard of performance, or an ambient air quality standard as promulgated under the regulations of the Division for Air Quality or the emission control requirements necessary to comply with the provisions of Title 401, Chapter 51, of the regulations of the Division for Air Quality.

(47) [(44)] "Standard conditions:"

(a) For source measurements means twenty (20) degrees Celsius (sixty-eight (68)) degrees Fahrenheit) and a pressure of 760 mm Hg (29.92 in. of Hg);

(b) For the purpose of air quality determinations means twenty-five (25) degrees Celsius and a reference pressure of 760 mm Hg.

(48) [(45)] "Start-up" means the setting in operation of an affected facility for any purpose.

(49) "State implementation plan" means the most recently prepared plan or revision thereof required by Section 110 of the Clean Air Act which has been approved by the U.S. EPA.

(50) "Total suspended particulate" means particulate matter as measured by the method described in Appendix B of 40 CFR 50, filed by reference in 401 KAR 50:015.

(51) [(46)] "Uncombined water" means water which can be separated from a compound by ordinary physical means and which is not bound to a compound by internal molecular forces.

(52) [(47)] "Urban county" means any county which is a part of an urbanized area with a population of greater than 200,000 based upon the 1970 census. If any portion of a county is a part of such an urbanized area, then the entire county shall be classified as urban with respect to the regulations of the Division for Air Quality.

(53) [(48)] "Urbanized area" means any area defined as such by the U.S. Department of Commerce, Bureau of Census.

(54) [(49)] "Volatile organic compound (VOC)" means, except as used in 401 KAR 51:017 or 401 KAR 51:052, any organic compound which participates in atmospheric photochemical reactions; or which is measured under the applicable regulation by a reference method, an equivalent method, an alternative method, or which is determined by procedures specified in the applicable regulation. Compounds which do not participate in atmospheric photochemical reactions or which are not considered to be organic compounds are: methane, ethane, methylene chloride, 1,1,1,-trichloroethane (methyl chloroform), trichlorofluoromethane (CFC-11), dichlorodifluoromethane (CFC-12), chlorodifluoromethane (CFC-22), trifluoromethane (FC-23), trichlorotrifluoroethane (CFC-113), dichlorotetrafluoroethane (CFC-114), chloropentafluoroethane (CFC-115), carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate.

Section 2. Abbreviations. The abbreviations used in the regulations of Title 401, Chapters 50 to 65, shall have the following meanings:

AOAC - Association of Official Analytical Chemists
ANSI - American National Standards Institute
ASTM - American Society for Testing and Materials
BOD - Biochemical oxidant demand
BTU - British Thermal Unit
°C - Degree Celsius (centigrade)
Cal - calorie
cfm - Cubic feet per minute
CFR - Code of Federal Regulations
CH_4 - methane
CO - Carbon monoxide
CO_2 - Carbon dioxide
COD - Chemical oxidant demand
dscf - dry cubic feet at standard conditions
dscm - dry cubic meter at standard conditions
°F - Degree Fahrenheit
ft - feet
g - gram(s)
gal - gallon(s)
gr - grain(s)
hr - hour(s)
HCl - Hydrochloric acid
Hg - mercury
HF - Hydrogen fluoride
H_2O - water
H_2S - Hydrogen sulfide
H_2SO_4 - Sulfuric acid
in - inch(es)
J - joule
KAR - Kentucky Administrative Regulations
kg - kilogram(s)
KRS - Kentucky Revised Statutes
l - liter(s)
lb - pound(s)
m - meter(s)
m^3 - cubic meter
min - minute(s)
mg - milligram(s)
MJ - megajoules
MM - million
mm - millimeter(s)
mo - month
Ng - nanograms
N_2 - Nitrogen

NO - Nitric oxide
NO_2 - Nitrogen dioxide
NO_x - Nitrogen oxides
oz - ounce
O_2 - oxygen
O_3 - ozone
ppb - parts per billion
ppm - parts per million
ppm (w/w) - parts per million (weight by weight)
ug - microgram
psia - pounds per square inch absolute
psig - pounds per square inch gage
S - at standard conditions
sec - second
SIP - State implementation plan
[TAPPI - Technical Association of the Pulp and Paper Industry]
SO_2 - Sulfur dioxide
sq - square
TAPPI - Technical Association of the Pulp and Paper Industry
TSP - Total suspended particulates
TSS - Total suspended solids
U.S. EPA - United States Environmental Protection Agency
UTM - Universal Transverse Mercator
VOC - Volatile organic compound
yd - yard.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at 3 p.m.
PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on February 26, 1988, at 10 a.m. (EST) in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. Roger B. McCann, Director, Division for Air Quality, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director
(1) Type and number of entities affected: This regulation provides the definitions and abbreviations by which all terms in the regulations of the Division for Air Quality are to be understood. It is being amended to add or amend definitions relating to particulate emissions as promulgated by the U.S. EPA in the Federal Register of July 1, 1987 (52 FR 24712). Specifically, the following terms and definitions are being added or amended: "particulate matter," "particulate matter emissions," "PM_{10}," "PM_{10} emissions," "total suspended particulates," and "reference method." Additionally, the definition of "state implementation plan" is being added, since this term is used in these amendments and in other regulations of the Division for Air Quality. Abbreviations for some of these terms and other terms which are used in the regulations of the Division for Air Quality have also been added in Section 2. All sources in Kentucky which emit particulate matter will now use these definitions, although any impact from these amendments will be due to changes in specific regulations which use these terms.
(a) Direct and indirect costs or savings to those affected: There will be no additional costs due to these amendments or the addition of these definitions. There could be savings as a result of the promulgation of other regulations which are also being amended relating to PM_{10}; however, such savings would be due to the impact of each individual regulation rather than the result of amending only these definitions.
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: None due to the amendments to this regulation. There will be some effects on the cabinet due to the promulgation of other regulations which are being amended relating to PM_{10}; but any impact is due to the changes in the individual regulations.
(a) Direct and indirect costs or savings:
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs: N/A
(b) Reporting and paperwork requirements: None due to the amendment to this regulation.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered since the U.S. EPA requires that the state implementation plan (SIP) for PM_{10} contain these definitions.
(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: In the Federal Register of July 1, 1987 (52 FR 24634), the U.S. EPA promulgated a revised national ambient air quality standard for particulate matter, and amended numerous other federal regulations relating to this new standard. The U.S. EPA also requires states to revise their state implementation plans (SIPs) to address how the new standard will be attained and maintained. Ambient air monitoring indicates that all areas in the Commonwealth are currently meeting the revised standard; therefore, the U.S. EPA has determined that the control requirements which protected the old standard are adequate to protect the new standard. Thus, the cabinet is only required to amend its SIP, including the regulations, to specify that the present SIP will be maintained, and thus the new standard will be protected. As a part of the SIP revision, the cabinet is amending this regulation and numerous other regulations which relate to the revised ambient air quality standard.
The revised standard promulgates a new indicator to measure the health and welfare related impacts of particulate matter. This new indicator is called PM_{10}, which is defined to be particulate matter with a diameter of less than or equal to ten micrometers. The U.S. EPA determined that ten micrometers is the largest sized particle which can be inhaled into the lungs, and thus which can cause damage to humans.
This regulation is being amended to add and amend definitions relating to PM_{10}. The

regulatory impact analyses for the other regulations which are being amended contain additional information about the particular changes relating to those regulations.

TIERING: Was tiering applied? No. Tiering is not applicable in these amendments since this regulation only provides the definitions and abbreviations for terms which are used in the other regulations for the Division for Air Quality.

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 relating to PM_{10} are the same as those promulgated by the U.S. EPA in the Federal Register of July 1, 1987 (52 FR 24634).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(Proposed Amendment)

401 KAR 50:015. Documents incorporated by reference.

RELATES TO: KRS 224.320, 224.330, 224.340
PURSUANT TO: KRS 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the incorporation by reference of documents referred to within these regulations.

Section 1. Code of Federal Regulations. (1) The following documents from the "Code of Federal Regulations" which are in effect as of October 1, 1987 [November 1, 1986], are incorporated herein by reference:

(a) 40 CFR 50:

1. Appendix A: Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method).

2. Appendix B: Reference Method for the Determination of Suspended Particulate Matter [Particulates] in the Atmosphere (High Volume Method).

3. Appendix C: Measurement Principle and Calibration Procedure for the [Continuous] Measurement of Carbon Monoxide in the Atmosphere (Nondispersive Infrared Photometry [Spectrometry]).

4. Appendix D: Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere.

5. Appendix E: Reference Method for the Determination of Hydrocarbons Corrected for Methane.

6. Appendix F: Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence).

7. Appendix G: Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air.

8. Appendix H: Interpretation of the National Ambient Air Quality Standards for Ozone.

9. Appendix J: Reference Method for the Determination of Particulate Matter as PM_{10} in the Atmosphere.

10. Appendix K: Interpretation of the National Ambient Air Quality Standards for Particulate Matter.

(b) 40 CFR 58: Appendix B: Quality Assurance Requirements for Prevention of Significant Deterioration (PSD) Air Monitoring.

(c) 40 CFR 60:

1. Appendix A: Reference Methods:

a. Method 1 - Sample and Velocity Traverses for Stationary Sources.

b. Method 2 - Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube).

c. Method 2A - Direct Measurement of Gas Volume through Pipes and Small Ducts.

d. Method 2B - Determination of Exhaust Gas Volume Flow Rate from Gasoline Vapor Incinerators.

e. Method 3 - Gas Analysis for Carbon Dioxide, Oxygen, Excess Air, and Dry Molecular Weight.

f. Method 3A - Determination of Oxygen and Carbon Dioxide Concentrations in Emissions from Stationary Sources (Instrumental Analyzer Procedure).

g. Method 4 - Determination of Moisture Content in Stack Gases.

h. Method 5 - Determination of Particulate Emissions from Stationary Sources.

i. Method 5A - Determination of Particulate Emissions from the Asphalt Processing and Asphalt Roofing Industry.

j. Method 5B - Determination of Nonsulfuric Acid Particulate Matter from Stationary Sources.

k. [j.] Method 5D - Determination of Particulate Matter Emissions from Positive Pressure Fabric Filters.

l. [k.] Method 5E - Determination of Particulate Emissions from the Wool Fiberglass Insulation Manufacturing Industry.

m. Method 5F - Determination of Nonsulfate Particulate Matter from Stationary Sources.

n. [l.] Method 6 - Determination of Sulfur Dioxide Emissions from Stationary Sources.

o. [m.] Method 6A - Determination of Sulfur Dioxide, Moisture, and Carbon Dioxide Emissions from Fossil Fuel Combustion Sources,

p. [n.] Method 6B - Determination of Sulfur Dioxide and Carbon Dioxide Daily Average Emissions from Fossil Fuel Combustion Sources.

q. [o.] Method 6C - Determination of Sulfur Dioxide Emissions from Stationary Sources (Instrumental Analyzer Procedure).

r. [p.] Method 7 - Determination of Nitrogen Oxide Emissions from Stationary Sources.

s. [q.] Method 7A - Determination of Nitrogen Oxide Emissions from Stationary Sources - Ion Chromatographic Method.

t. [r.] Method 7B - Determination of Nitrogen Oxide Emissions from Stationary Sources (Ultraviolet Spectrophotometry).

u. [s.] Method 7C - Determination of Nitrogen Oxide Emissions from Stationary Sources - Alkaline - Permanganate/Colorimetric Method.

v. [t.] Method 7D - Determination of Nitrogen Oxide Emissions from Stationary Sources - Alkaline - Permanganate/Ion Chromatographic

Method.

w. [u.] Method 7E - Determination of Nitrogen Oxides Emissions from Stationary Sources (Instrumental Analyzer Procedure).

x. [v.] Method 8 - Determination of Sulfuric Acid Mist and Sulfur Dioxide Emissions from Stationary Sources.

y. [w.] Method 9 - Visual Determination of the Opacity of Emissions from Stationary Sources.

z. [x.] Method 10 - Determination of Carbon Monoxide Emissions from Stationary Sources.

aa. Method 10A - Determination of Carbon Monoxide emissions in Certifying Continuous Emission Monitoring Systems at Petroleum Refiners.

bb. [y.] Method 11 - Determination of Hydrogen Sulfide Content of Fuel Gas Streams in Petroleum Refineries.

cc. [z.] Method 12 - Determination of Inorganic Lead Emissions from Stationary Sources.

dd. [aa.] Method 13A - Determination of Total Fluoride Emissions from Stationary Sources - SPADNS Zirconium Lake Method.

ee. [bb.] Method 13B - Determination of Total Fluoride Emissions from Stationary Sources - Specific Ion Electrode Method.

ff. [cc.] Method 14 - Determination of Fluoride Emissions from Potroom Roof Monitors for [of] Primary Aluminum Plants.

gg. [dd.] Method 15 - Determination of Hydrogen Sulfide, Carbonyl Sulfide, and Carbon Disulfide Emissions from Stationary Sources.

hh. Method 15A - Determination of Total Reduced Sulfur Emissions from Sulfur Recovery Plants in Petroleum Refineries.

ii. [ee.] Method 16 - Semicontinuous Determination of Sulfur Emissions from Stationary Sources.

jj. [ff.] Method 16A - Determination of Total Reduced Sulfur Emissions from Stationary Sources (Impinger Technique).

kk. Method 16B - Determination of Total Reduced Sulfur Emissions from Stationary Sources.

ll. [gg.] Method 17 - Determination of Particulate Emissions from Stationary Sources (In-stack Filtration Method).

mm. [hh.] Method 18 - Measurement of Gaseous Organic Compound Emissions by Gas Chromatography.

nn. [ii.] Method 19 - Determination of Sulfur Dioxide Removal Efficiency and Particulate, Sulfur Dioxide and Nitrogen Oxides Emission Rates from Electric Utility Steam Generators.

oo. [jj.] Method 20 - Determination of Nitrogen Oxides, Sulfur Dioxide, and Diluent Emissions from Stationary Gas Turbines.

pp. [kk.] Method 21 - Determination of Volatile Organic Compounds Leaks.

qq. [ll.] Method 22 - Visual Determination of Fugitive Emissions from Material Processing Sources.

rr. [mm.] Method 24 - Determination of Volatile Matter Content, Water Content, Density, Volume Solids, and Weight Solids of Surface Coatings.

ss. [nn.] Method 24A - Determination of Volatile Matter Content and Density of Printing Inks and Related Coatings.

tt. [oo.] Method 25 - Determination of Total Gaseous Nonmethane Organic Emissions as Carbon.

uu. [pp.] Method 25A - Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer.

vv. [qq.] Method 25B - Determination of Total Gaseous Organic Concentration Using a Nondispersive Infrared Analyzer.

ww. [rr.] Method 27 - Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test.

2. Appendix B: Performance Specifications:

a. Performance Specification 1 - Specifications and test procedures for opacity continuous emission monitoring systems in stationary sources.

b. Performance Specification 2 - Specifications and test procedures for sulfur dioxide and nitric oxides continuous emission monitoring systems in stationary sources.

c. Performance Specification 3 - Specifications and test procedures for oxygen and carbon dioxide continuous emission monitoring systems in stationary sources.

d. Performance Specification 4 - Specifications and test procedures for carbon monoxide continuous emission monitoring systems in stationary sources.

e. Performance Specification 5 - Specifications and test procedures for TRS continuous emission monitoring systems in stationary sources.

3. Appendix C: Determination of Emission Rate Change.

4. Appendix F: Quality Assurance Procedures: Procedure 1 - Quality Assurance Requirements for Gas Continuous Emission Monitoring Systems Used for Compliance Determination.

(d) 40 CFR 61.

1. Appendix B: Test Methods:

a. Method 101 - Determination of particulate and gaseous mercury emissions from chlor-alkali plants (air streams).

b. Method 101A - Determination of particulate and gaseous mercury emissions from sewage sludge incinerators.

c. Method 102 - Determination of particulate and gaseous mercury emissions from chlor-alkali plants (hydrogen streams).

d. Method 103 - Beryllium screening method.

e. Method 104 - Reference method for determination of beryllium emissions from stationary sources.

f. Method 105 - [Method for] Determination of mercury in wastewater treatment plant sewage sludges.

g. Method 106 - Determination of vinyl chloride from stationary sources.

h. Method 107 - Determination of vinyl chloride content of in-process wastewater samples, and vinyl chloride content of polyvinyl chloride resin, slurry, wet cake, and latex samples.

i. Method 107A - Determination of vinyl chloride content of solvents, resin-solvent solution, polyvinyl chloride resin, resin slurry, wet resin, and latex samples.

j. Method 108 - Determination of particulate and gaseous arsenic emissions.

k. Method 108A - Determination of arsenic content in ore samples from nonferrous smelters.

l. Method 111 - Determination of polonium - 210 emissions from stationary sources.

2. Appendix C: Quality Assurance Procedures:

a. Procedure 1 - Determination of adequate chromatographic peak resolution.

b. Procedure 2 - Procedure for field auditing GC analysis.

(2) Copies may be obtained from: Office of the Federal Register, National Archives and Records Service, 8th and Pennsylvania Avenue, NW, Washington, D.C. 20408; Phone (202) 523-5215.

Section 2. Association of Official Analytical Chemists. The following document from the Association of Official Analytical Chemists is incorporated herein by reference:

(1) Method 9 - Spectrophotometric Molybdovanadophosphate from "Official Method of Analysis" of the Association of Official Analytical Chemists, 11th Edition.

(2) Copies may be obtained from: Association of Official Analytical Chemists, Box 540, Benjamin Franklin Station, Washington, D.C. 20014; Phone (202) 245-1191.

Section 3. American Society for Testing and Materials. The following documents from the appropriate "Book of ASTM Standards" in which the standard appears from the American Society for Testing and Materials are incorporated herein by reference:

(1) ASTM Standards:

(a) A 99-66(71) Standard Specification for Ferromanganese.

(b) A 100-69(74) Standard Specification for Ferrosilicon.

(c) A 101-73 Standard Specification for Ferrochromium.

(d) A 482-66(71) Standard Specification for Ferrochrome-Silicon.

(e) A 483-64(74) Standard Specification for Silicomanganese.

(f) A 495-64(70) Standard Specification for Calcium-Silicon and Calcium-Manganese-Silicon.

(g) D 86-82 Standard Method for distillation of Petroleum Products.

(h) D 240-76 Standard Test Method for Heat of Combustion of Liquid Hydrocarbon Fuels by Bomb Calorimeter.

(i) D 322-67(77) Standard Test Method for Gasoline Diluent in Used Gasoline Engine Oils by Distillation.

(j) D 323-82 Test Method for Vapor Pressure of Petroleum Products (Reid Method).

(k) [(j)] D 388-84 [66(72)] Standard Specification for Classification of Coals by Rank.

(l) D 396-84 Standard Specifications for Fuel Oils.

(m) [(k)] D 737-75 Standard Test Method for Air Permeability of Textile Fabrics.

(n) [(l)] D 1072-80 Standard Method for Total Sulfur in Fuel Gases.

(o) [(m)] D 1137-53(75) Standard Method for Analysis of Natural Gases and Related Types of Gaseous Mixtures by the Mass Spectrometer.

(p) [(n)] D 1475-60(80) Standard Test Method for Density of Paint, Varnish, Lacquer, and Related Products.

(q) [(o)] D 1644-75 Standard Test Methods for Nonvolatile Content of Varnishes.

(r) [(p)] D 1826-64(75) Standard Test Method for Calorific Value of Gases in Natural Gas Range by Continuous Recording Calorimeter.

(s) [(q)] D 1945-64(73) Standard Method for Analysis of Natural Gas by Gas Chromatography.

(t) [(r)] D 1946-67(72) Standard Method for Analysis of Reformed Gas by Gas Chromatography.

(u) [(s)] D 2015-66(72) Standard Test Method for Gross Calorific Value of Solid Fuel by the Adiabatic Bomb Calorimeter.

(v) [(t)] D 2267-83 Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography.

(w) [(u)] D 2369-73 Standard Test Method for Volatile Content of Paints.

(x) [(v)] D 2382-83 Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High-Precision Method).

(y) [(w)] D 2504-83 Standard Test Method for Noncondensable Gases in C_3 and Lighter Hydrocarbon Products by Gas Chromatography.

(z) [(x)] D 2584-68(79) Standard Test Method for Ignition Loss of Cured Reinforced Resins.

(aa) [(y)] D 2880-78 Standard Specification for Gas Turbine Fuel Oils.

(bb) [(z)] D 2879-83 Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperatures of Liquids by Isoteniscope.

(cc) [(aa)] D 3031-81 Standard Test Method for Total Sulfur in Natural Gas by Hydrogenation.

(dd) [(bb)] D 3176-74 Standard Method for Ultimate Analysis of Coal and Coke.

(ee) [(cc)] D 3178-73 Standard Test Methods for Carbon and Hydrogen in the Analysis Sample of Coal and Coke.

(ff) [(dd)] D 3246-81 Standard Method for Sulfur in Petroleum Gas by Oxidative Microcoulometry.

(gg) D 3431-80 Test Method for Trace Nitrogen in Liquid Petroleum Hydrocarbons.

(hh) [(ee)] D 4084-82 Standard Method for Analysis of Hydrogen Sulfide in Gaseous Fuels (Lead Acetate Reaction Rate Method).

(ii) [(ff)] E 123-78 Standard Specification for Apparatus for Determination of Water by Distillation.

(jj) [(gg)] E 168-67(77) Standard Recommended Practices for General Techniques of Infrared Quantitative Analysis.

(kk) [(hh)] E 169-63(81) Standard Recommended Practices for General Techniques of Ultraviolet Quantitative Analysis.

(ll) [(ii)] E 260-73 Standard Recommended Practice for General Gas Chromatography Procedures.

(2) Copies may be obtained from: American Society for Testing Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103; Phone (215) 299-5400.

Section 4. Technical Association of the Pulp and Paper Industry. The following document from the Technical Association of the Pulp and Paper Industry (TAPPI) is incorporated herein by reference:

(1) T624 os-68 - Analysis of Soda and Sulfate - White and Green Liquors. This reference is also numbered ANSI P3.6-1970 (American National Standards Institute).

(2) Copies may be obtained from: TAPPI, 1 Dunwood Park, Atlanta, Georgia 30341.

Section 5. EPA. The following documents from the U. S. EPA are incorporated herein by reference:

(1)(a) Guideline on Air Quality Models (Revised), EPA-450/2-78-027R, OAQPS No. 1.2-080R, July, 1986.

(b) Workbook for Comparison of Air Quality Models, EPA-450/2-78-028a, OAQPS No. 1.2-097, May, 1978.

(c) Control of Volatile Organic Compound Leaks from Petroleum Refinery Equipment, Appendix B, EPA-450/2-78-036, OAQPS No. 1.2-111, June, 1978.

(d) Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems, EPA-450/2-78-051, OAQPS No. 1.2-119, December, 1978.

(e) Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals, EPA-450/2-77-026,

OAQPS No. 1.2-082, October, 1977.
(f) Guidelines for Use of Fluid Modeling to Determine Good Engineering Practice Stack Height, EPA 450/4-81-003, PB 82-145327, July, 1981.
(g) Guidelines for Fluid Modeling of Atmospheric Diffusion, EPA-600/8-81-009, PB 81-201410, April, 1981.
(2) Copies may be obtained from: U. S. EPA, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711 and the U.S. Department of Commerce, National Technical Information Service, Springfield, Virginia 22161.

Section 6. American Association of State Highway and Transportation Officials. The following document from the American Association of State Highway and Transportation Officials (AASHTO) is incorporated herein by reference:
(1) AASHTO T 59-78 Standard Method of Test for Testing Emulsified Asphalt.
(2) Copies may be obtained from: American Association of State Highway and Transportation Officials, 444 N. Capitol Avenue, Washington, D.C. 20001.

Section 7. Federal Test Method Standard. The following document from the Federal Test Standard is incorporated herein by reference:
(1) Federal Test Method Standard No. 141a, Method 4082.1, "Water in Paints and Varnishes (Karl Fischer Titration Method)."
(2) Single copies may be obtained from:
(a) General Services Administration Regional Offices; or
(b) Superintendent of Documents, U. S. Government Printing Office, Washington, D.C. 20402.

Section 8. Kentucky Division for Air Quality. The following documents from the Kentucky Division for Air Quality are incorporated herein by reference:
(1)(a) Kentucky Method 50: Kentucky Division for Air Quality Control Reference Method 50, "Determination of Total Particulate Emissions from Stationary Sources."
(b) Kentucky Method 90: Kentucky Division for Air Quality Control Reference Method 90, "Determination of Total Gaseous Organic Emissions from Stationary Sources."
(c) Kentucky Method 91: Kentucky Division for Air Quality Control Reference Method 91, "Alternate Test Method for the Determination of Total Gaseous Organic Emissions from Stationary Sources."
(d) Kentucky Method 95: Kentucky Division for Air Quality Control Reference Method 95, "Determination of Gasoline Vapor Emissions from Bulk Terminals."
(e) Kentucky Method 130: Kentucky Division for Air Quality Control Reference Method 130, "Determination of Gaseous Fluoride Emissions from Stationary Sources."
(f) Kentucky Method 150(F-1): Kentucky Division for Air Quality Control Reference Method 150(F-1), "Visual Determination of Intermittent Opacity Emissions from Stationary Sources."
(2) Copies may be obtained from: Division for Air Quality, Technical Services, Department for Environmental Protection, Frankfort Office Park, [Fort Boone Plaza,] 18 Reilly Road, Frankfort, Kentucky 40601.

Section 9. American National Standards Institute. The following document from the American National Standards Institute is incorporated herein by reference:
(1) Voluntary Product Standard PS 59-73 - Prefinished Hardboard Paneling. This reference is also numbered ANSI A135.5-1973 (American National Standards Institute).
(2) Copies may be obtained from: American National Standards Institute, 1430 Broadway, New York, New York 10018.

Section 10. American Public Health Association. The following document from the American Public Health Association, American Water Works Association and Water Pollution Control Federation is incorporated herein by reference:
(1) Standard Methods for the Examination of Water and Wastewater, 15th Edition, 1980:
(a) Method 209A. Total Residue Dried at 103-105C.
(b) Method 209C. Total Filtrable Residue Dried at 103-105C.
(2) Copies may be obtained from: American Public Health Association, 1015 Fifteenth Street, N.W., Washington, D.C. 20005.

Section 11. American Petroleum Institute. The following document from the American Petroleum Institute is incorporated herein by reference:
(1) API Publication 2517, Evaporation Loss from External Floating Roof Tanks, Second Edition, February 1980.
(2) Copies may be purchased from: American Petroleum Institute, 1220 L Street N.W., Washington, D.C. 20005.

Section 12. [11.] Availability. Copies of the material incorporated by reference in this regulation shall be available for public review at the following offices of the Division for Air Quality Control:
(1) Director's Office, Division for Air Quality Control, Frankfort Office Park, [Fort Boone Plaza,] 18 Reilly Road, Frankfort, Kentucky 40601, (502) 564-3382;
(2) Ashland Regional Office, 3700 13th Street, Ashland, Kentucky 41101, (606) 325-8569;
(3) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42101, (502) 843-5475 [842-8131];
(4) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky 41042, (606) 371-0598;
(5) Hazard Regional Office, 233 Birch Street, Hazard, Kentucky 41701, (606) 439-2391;
(6) Owensboro Regional Office, 311 West Second Street, Owensboro, Kentucky 42301, (502) 686-3304; and
(7) Paducah Regional Office, 1390 Irvin Cobb Drive, Paducah, Kentucky 42001, (502) 444-8295.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at 3 p.m.
PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on February 26, 1988, at 10 a.m. (EST) in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. Roger B. McCann, Director, Division for Air Quality, 18 Reilly

Road, Frankfort Office Park, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director

(1) Type and number of entities affected: This regulation incorporates by reference the methods required for demonstrating compliance with the regulations of the Division for Air Quality. This regulation is being amended to add reference methods, ASTM methods, and a document from the American Petroleum Institute which are used to demonstrate compliance with regulations that the division is proposing or will be proposing in the future. Some of the reference methods relate to the revised ambient air quality standard for particulate matter, PM_{10}. Sources of particulate matter which measure their PM_{10} emissions will use these reference methods. Some of the ASTM methods are being added while others are just being amended to incorporate the most recent version of the method. Simply incorporating these methods does not affect any sources or other entities. Any impact would occur in the individual regulation where the methods are required.

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

1. First year: N/A

2. Continuing costs or savings: N/A

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

(b) Reporting and paperwork requirements: None. Any requirements appear in the individual regulations.

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: N/A

1. First year: N/A

2. Continuing costs or savings: N/A

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

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives were considered since this regulation is merely incorporating the methods for determining compliance which are required in other regulations.

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

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

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

(6) Any additional information or comments: This regulation is being amended to add reference methods that are required in the federal regulations on new source performance standards (NSPS) and national emission standards for hazardous air pollutants (NESHAP) that the division has adopted, or will soon be adopting, by reference. Other reference methods specify the procedures that the cabinet and sources will use in order to demonstrate compliance with the revised ambient air quality standard for particulate matter, PM_{10}. Other minor wording changes in the titles are being made to maintain consistency with the titles of the federal reference methods, or to incorporate the most recent version of a testing method.

TIERING: Was tiering applied? No. Tiering was not applied because this regulation adopts by reference those methods for determining compliance which are required by other regulations. Tiering is not applicable in this regulation.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This regulation is being amended to adopt by reference the methods that are used to demonstrate compliance with the federal regulations which the division has already promulgated, or is adopting by reference. Other methods being adopted by reference are those federal testing methods which are used for measuring PM_{10} emissions. Therefore, the state's requirements are the same as the federal requirements.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(Proposed Amendment)

401 KAR 50:035. Permits.

RELATES TO: KRS 224.320, 224.330, 224.340

PURSUANT TO: KRS 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the issuance of permits.

Section 1. Prohibitions. (1) No person shall construct, reconstruct, alter, or modify a source unless a construction permit to do so has been issued by the cabinet.

(2) No person shall use, operate, or maintain an air contaminant source unless:

(a) A permit to so operate the air contaminant source has been issued by the cabinet and is currently in effect;

(b) The cabinet or the court has issued to the source a compliance order with a compliance schedule consistent with the Clean Air Act; or

(c) The source has demonstrated to the satisfaction of the cabinet that it is in compliance with the provisions of all applicable regulations including all provisions relating to public participation, a complete application for a permit to operate has been accepted by the cabinet and the cabinet has notified the applicant that the application is complete. Operation authorized by this paragraph shall expire thirty (30) days after the date of notification made to the source by the cabinet that an operating permit fee balance as specified by 401 KAR 50:036, Section 5(1) is due

or immediately upon notification to the source by the cabinet that the source operating permit is denied.

(3) No person shall use, operate, or maintain a source which has changed ownership after a shutdown of six (6) months or more unless:

(a) The provisions of 401 KAR 50:055, Section 3(1) are met;

(b) The source was issued an operating permit and was in compliance with all applicable regulations under the previous ownership; and

(c) The provisions of Section 5(2) of this regulation are met.

Section 2. Applications. (1) Applications for permits required under Section 1 of this regulation shall be made on forms prepared by the cabinet for such purpose and shall contain such information as the cabinet shall deem necessary to determine whether the permit should be issued.

(2) Applications for permits shall be signed by the corporate president or by another duly authorized agent of the corporation; or by an equivalently responsible officer in the case of organizations other than corporations; or, in other cases, by the source owner or operator; or, in the case of political subdivisions, by the highest executive official of such subdivision. Such signature shall constitute personal affirmation that the statements made in the application are true and complete.

(3) The information submitted in the application shall, when specifically requested by the cabinet, include an analysis of the characteristics, properties and volume of the air contaminants based upon source or stack samples of the air contaminants taken under normal operating conditions. Failure to supply information required or deemed necessary by the cabinet to enable it to act upon the permit application shall result in denial of the permit.

(4) An application for a permit may include one (1) or more affected facilities provided that all are contained within one (1) source. A person may apply for an amended permit to include new affected facilities provided that such new facilities are within the same source.

Section 3. Consideration of Applications. (1)(a) The cabinet shall deny an application for a permit if the cabinet determines that any provision of any applicable regulation is not met.

(b) The cabinet shall deny an application for a permit if the applicant willfully makes material misstatements in the application or amendments thereto.

(c) When required by the regulations of Title 401, Chapters 50 to 65, the cabinet shall base the determination of compliance with ambient air quality standards and prevention of significant air quality increments upon either:

1. Air quality models in accordance with 401 KAR 50:040; or

2. Ambient air quality monitoring in accordance with 401 KAR 53:010.

(d) In cases where no emission standards have been prescribed by regulation, the cabinet shall require the use of all available, practical and reasonable methods to prevent and control air pollution.

(2) Determinations and notifications.

(a) Operating permits.

1. Within thirty (30) days after receipt of an application to operate, the cabinet shall advise the owner or operator as to whether or not the application is complete, or if additional information is necessary in order to evaluate the application.

2. For sources which are subject to regulation in Title 401, Chapter 51, or modifications to any source which will cause an increase in the potential to emit of 100 tons per year in any one (1) year, the cabinet shall make its determination concerning the application including its approval, conditional approval, or denial of the operating permit application within sixty (60) days after receipt of a complete operating permit application. For all other sources, the time period for the cabinet's determination shall be within thirty (30) days of receipt of the complete application. The cabinet may extend each of the time periods specified in this paragraph if the cabinet determines that additional time is necessary. The cabinet shall notify the applicant, in writing, of its determination and shall set forth its reasons for any conditional approvals or denials.

(b) Construction permits. This paragraph shall apply to the proposed construction, modification, alteration or reconstruction of any source that is not subject to Section 4 of this regulation.

1. Within thirty (30) days after receipt of an application to construct, reconstruct, modify, or alter, or any addition to such application, the cabinet shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of subparagraph 2 of this paragraph shall be the date on which the cabinet makes a determination that the application is complete.

2. The cabinet shall make its determination concerning the application including its approval, conditional approval, or denial of the application within thirty (30) days after receipt of a complete application, unless the cabinet determines that an additional period of time is necessary to adequately review the application. The cabinet shall notify the applicant, in writing, of its determination and shall set forth its reasons for any conditional approvals or denials.

Section 4. Procedures for Public Participation. This section shall apply to the proposed major source construction, major modifications as defined in Title 401, Chapter 51, or modifications to any source which will cause an increase in the potential to emit of 100 tons per year or more of any one (1) pollutant.

(1) Within thirty (30) days after receipt of an application to construct, reconstruct, or modify or any addition to such application, the cabinet shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of subsections (2), (6) and (7) of this section shall be the date on which the cabinet makes a determination that the application is complete.

(2) Within thirty (30) days after the receipt of a complete application, the cabinet shall:

(a) Make a preliminary determination whether

the source should be approved, approved with conditions, or disapproved.

(b) Make available in at least one (1) location in each region in which the proposed source would be constructed, reconstructed, or modified, a copy of all materials submitted by the owner or operator, a copy of the cabinet's preliminary determination and a copy or summary of other materials, if any, considered by the cabinet in making the preliminary determination; and

(c) For sources subject to 401 KAR 51:017, notify the public, by prominent advertisement in newspapers of general circulation in each region in which the proposed source would be situated, of the application, the preliminary determination, the degree of increment consumption that is expected from the source or modification if applicable, and of the opportunity to comment in writing and of the opportunity to request a public hearing to receive written or oral comments. The cost of such advertisement shall be borne by the applicant.

(d) For all other sources subject to this section, notify the public, by prominent advertisement in newspapers of general circulation in each region in which the proposed source would be situated, of the application, the preliminary determination, and of the opportunity to comment in writing. The cost of such advertisement shall be borne by the applicant.

(3) A copy of the notice required pursuant to this section shall be sent to the following persons (any person otherwise entitled to receive notice under this subsection may waive his/her rights to receive notice):

(a) The applicant;

(b) Officials and agencies having cognizance over the locations where the source will be situated as follows: the Administrator of the U.S. EPA through the appropriate regional office; local air pollution control agencies; the chief executive of the city and county; any comprehensive regional land use planning agency; and any state, federal land manager or Indian governing body whose land may be affected by the emissions from the proposed source; and

(c) Persons on a mailing list compiled by including those who request in writing to be on the list, soliciting persons for "area lists" from participants in past permit proceedings in that area, and notifying the public of the opportunity to be put on the mailing list through periodic publication in the public press and in such publications as state-founded newsletters, environmental bulletins, or state law journals. The cabinet may update the mailing list from time to time by requesting written indication of continued interest from those listed. The cabinet may delete from the list the name of any person who fails to respond to such a request.

(4) All public notices issued under this regulation shall contain the following minimum information:

(a) Name and address of the cabinet and division processing the permit action for which notice is being given;

(b) Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit;

(c) A brief description of the business conducted at the facility or activity described in the permit application or the draft permit;

(d) Name, address and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit, statement of basis or fact sheet, and the application; and

(e) A brief description of the comment procedures required by subsections (5) and (8) of this section.

(f) In addition to the general public notice described in paragraphs (a) to (e) of this subsection, the public notice for a hearing under subsection (8) of this section shall be given at least thirty (30) days before the hearing and shall contain the following information: reference to the date of previous public notices relating to the permit; date, time, and place of the hearing; and a brief description of the nature and purpose of the hearing, including the applicable rules and procedures.

(5) Public comments submitted in writing within thirty (30) days after the date such information is made available shall be considered by the cabinet in its final decision on the application. No later than ten (10) days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The cabinet shall consider the applicant's response in making its final decision. All comments shall be made available for public inspection at the same location in the region at which the cabinet made available preconstruction information relating to the proposed source.

(6) The cabinet shall take final action on an application subject to this section regarding its approval, conditional approval, or denial of the application. The cabinet shall notify the applicant, in writing, of its approval, conditional approval, or denial of the application and shall set forth its reasons for any conditional approvals or denials. Such notification shall be made available for public inspection at the location in the region at which the cabinet made available preconstruction information relating to the proposed source or modification. The public shall be notified of the cabinet's final action on an application subject to this section by prominent advertisement in newspapers of general circulation in each region in which the proposed source or modification would be situated. The cost of such advertisement shall be borne by the applicant.

(a) For sources subject to 401 KAR 51:017 and for which a public hearing has been requested and held, the cabinet shall take final action within 150 days after receipt of a complete application.

(b) For all other sources subject to this section, the cabinet shall take final action within ninety (90) days after receipt of a complete application.

(7) The cabinet may extend each of the time periods specified in subsections (2) and (5) of this section by no more than thirty (30) days or such other period as agreed to by the applicant and the cabinet deems necessary. The time period specified in subsection (6) of this section shall then be extended by such period as extended for subsections (2) and (5) of this section and may be extended for such other period as agreed to by the applicant and the cabinet deems necessary. In accordance with

Federal Regulation 40 CFR 52.21(r), the cabinet shall in no case exceed one (1) year from the date of receipt of a complete application for taking final action on an application subject to 401 KAR 51:017.

(8)(a) For sources subject to 401 KAR 51:017, the cabinet shall hold a public hearing whenever it finds, on the basis of requests, a significant degree of public interest in a draft permit(s). The cabinet also may hold a public hearing at its discretion, whenever, for instance, such a hearing might clarify one (1) or more issues involved in the permit decision. Public notice of the hearing shall be given as specified in paragraphs (b) and (c) of this subsection.

(b) Whenever a public hearing is to be held, the cabinet shall designate a presiding officer for the hearing who shall be responsible for its scheduling and orderly conduct.

(c) Any person may submit oral or written statements and data concerning a draft permit. Reasonable limits may be set upon the time allowed for oral statements, and the submission of statements in writing may be required. The public comment period under subsection (5) of this section shall automatically be extended to the close of any public hearing under this subsection. The hearing officer may also extend the comment period by so stating at the hearing.

(d) A tape recording or written transcript of the hearing shall be made available to the public at a reasonable reproduction cost.

Section 5. Terms and Conditions. (1) Permits issued hereunder shall be subject to such terms and conditions set forth and embodied in the permit as the cabinet shall deem necessary to ensure compliance with its standards. Such terms and conditions may include maintenance and availability of records relating to operations which may cause or contribute to air pollution including periodic source or stack sampling of the affected facilities.

(2) In the case of a transfer of ownership or name change of a source, the new owner or owner respectively shall abide by any permit to operate issued by the cabinet to the previous owner or to the same owner under the previous source name. The new owner or owner shall notify the cabinet of the change in ownership and/or source name within ten (10) days following the change in ownership or source name and shall apply for a duplicate permit to operate in the event of a change in the name of the source.

(3) When supported by justification which the cabinet deems adequate, the cabinet may, upon request by a source owner or operator, extend the termination date of an operating permit by a period not to exceed 180 days for the purpose of allowing sufficient time for a source to correct such deficiencies in the application as have been identified by the cabinet and to allow completion of the application review by the cabinet.

Section 6. Exemptions. The provisions of Section 1 of this regulation shall not apply to the affected facilities or sources listed in this section. These exemptions shall not relieve any source from the requirements of any standard set forth in an applicable regulation or a permit issued by the cabinet. Affected facilities or sources of pollutants located in areas designated as nonattainment for such pollutants which were required to obtain permits pursuant to subsections (11) and (14) of this section prior to the effective date of this regulation shall maintain the permit and any applicable requirements when the area is redesignated in 401 KAR 51:010 or 40 CFR 81.318, unless a state implemetation plan which provides for other controls is approved by the U.S. EPA. The cabinet may require the owner or operator to demonstrate compliance with all applicable regulations.

(1) Except as provided elsewhere in this section, those affected facilities to which no regulation is applicable and which emit an air pollutant to which no ambient air quality standard applies.

(2) Incinerators with a charging rate of less than 500 pounds per hour except those subject to 401 KAR 51:017, 401 KAR 51:052, Title 401, Chapter 57, 401 KAR 63:020, 401 KAR 63:021, or 401 KAR 63:022.

(3) Except as provided in 401 KAR 59:019, internal combustion engines whether fixed or mobile, and vehicles used for transport of passenger or freight.

(4) Direct fired sources used for heating and ventilating.

(5) Open burning as set forth in 401 KAR 63:005.

(6) Indirect heat exchangers at a source with a total heat input capacity of less than fifty (50) million BTU per hour which use natural gas, liquid petroleum gas, or distillate fuel oil as a main fuel or combinations of these as main and standby fuels and which are not subject to the requirements of 401 KAR 51:017 or 401 KAR 51:052.

(7) Any indirect heat exchanger with a heat input capacity of less than fifty (50) million BTU per hour which uses natural gas or liquid petroleum gas as a main fuel or combinations of these as main and standby fuels and which is not subject to the requirements of 401 KAR 51:017 or 401 KAR 51:052.

(8) Publicly owned roads.

(9) Feed grain mills having a hammermill with a rated capacity of ten (10) tons per hour or less, provided that the source does not include a grain dryer.

(10) Sawmills which produce only rough cut or dimensional lumber from logs and which have a rated capacity of 5,000 [1,500] board feet per hour or less provided the source does not include an indirect heat exchanger or waste wood burner subject to regulation in Title 401, Chapter 59 or 61.

(11) Except as provided in this subsection, all sources whose uncontrolled emissions are less than twenty-five (25) tons per year and whose potential to emit is less than or equal to five (5) tons per year of each of the following pollutants: particulate matter, sulfur dioxide, volatile organic compounds, nitrogen oxides, and carbon monoxide. This exemption shall not apply to sources subject to regulation in Title 401, Chapter 57, 40 CFR 60, 401 KAR 63:020, 401 KAR 63:021, or 401 KAR 63:022; to sources of pollutants located in areas designated as nonattainment for such pollutants in 401 KAR 51:010; or to incinerators.

(12) Those sources which install air pollution control equipment where none was required. The owner or operator shall notify the cabinet in writing of such additions.

(13) Those sources which voluntarily modify or replace their air pollution control equipment to

provide an equivalent or more efficient control of air pollutants. However, the owner or operator of such sources shall submit to the cabinet a complete registration form for the cabinet's concurrence at least forty-five (45) days before installation of such control equipment.

(14) Those affected facilities which are a part of a construction project where the total increase in the potential to emit from all affected facilities in the construction project is less than or equal to two (2) tons per year of each of the following pollutants: particulate matter, sulfur dioxide, volatile organic compounds, nitrogen oxides, and carbon monoxide, provided that such increase does not subject the source to any other regulation. The owner or operator shall notify the cabinet in writing of such increases and construction projects thirty (30) days prior to commencing the construction project. This exemption shall not apply to affected facilities which are subject to regulation in Title 401, Chapter 57, 40 CFR 60, 401 KAR 63:020, or 401 KAR 63:022; to sources of pollutants located in areas designated as nonattainment for such pollutants in 401 KAR 51:010; or to incinerators.

(a) The owner or operator may not circumvent this regulation by separating what would normally be one (1) construction project into two (2) or more projects.

(b) If the owner or operator notifies the cabinet of or applies for a construction permit for another construction project before the first construction project becomes operational, then the two (2) construction projects shall be considered as one (1) construction project.

(c) If the owner or operator can demonstrate, through engineering analysis and internal documents, that two (2) or more construction projects were planned during separate time frames and involve separate independent facilities, the cabinet may allow the construction projects to be treated separately.

(15) Emitters of nonprocess fugitive emissions that are not part of a source that is otherwise subject to regulation.

Section 7. Source Obligation. (1) Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this regulation or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this regulation who commences construction after June 6, 1979 without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action as provided under KRS 224.994.

(2) Approval to construct shall become invalid if construction is not commenced within eighteen (18) months after receipt of such approval, if construction is discontinued for a period of six (6) months or more, or if construction is not completed within a reasonable time. The cabinet may extend the eighteen (18) month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen (18) months of the projected and approved commencement date.

(3) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the requirements of the cabinet and any other requirements under local, state, or federal law.

Section 8. Relocation of Minor Sources. The owner or operator of a minor source who is planning to relocate the source to a new site without any modification, may do so after applying for a duplicate operating permit, provided that the source has been issued and is operating under a current operating permit and is currently in compliance with all applicable regulations. The owner or operator shall submit an application for a duplicate operating permit on forms provided by the cabinet, including the duplicate operating permit fee, at least ten (10) days prior to the planned relocation. If the location at the new site would cause the source to be subject to any additional or different regulation than is currently applicable at the previous location, the source shall be considered to be a new source and shall be subject to Section 1 of this regulation.

APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at 3 p.m.
PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on February 26, 1988, at 10 a.m. (EST) in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least 5 days prior to the hearing, Mr. Roger B. McCann, Director, Division for Air Quality, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director

(1) Type and number of entities affected: This regulation provides for the issuance of permits and specifies under what conditions permits are issued to sources. It also identifies what sources are exempt from permitting requirements. This regulation is being amended in Section 6 to specify that those requirements that applied in nonattainment areas shall continue to apply once the area is redesignated, unless a state implemenation plan which is approved by the U.S. EPA allows for other requirements. Sources that would be affected would be those sources in nonattainment areas which were required to obtain permits. Such sources would be required to maintain their permits if the area is redesignated. New sources locating in unclassified or attainment areas which were previously nonattainment would be subject to the provisions which apply in attainment or unclassified areas.

The exemption from permitting requirements for small sawmills in Section 6(10) is also being amended to exempt specified sawmills which have a rated capacity of 5,000 board feet. The previous minimum value of 1,500 board feet was based on the previous exemption in Section 6(11) of two tons per year of any source emitting specified pollutants. That minimum value was recently amended to exempt sources whose uncontrolled emissions are less than twenty-five tons per year and whose potential to emit is less than or equal to five tons per year of specified pollutants. Therefore, the exemption in subsection (10) is being amended to have the same basis as the exemptions in subsection (11).

(a) Direct and indirect costs or savings to those affected: This amendment in Section 6 is not expected to incur any costs or savings since sources will maintain the permits which have already been issued to them, and will continue the application of any required control equipment or procedures. No new requirements are being imposed on those sources.

The amendment in Section 6(10) will result in a savings to the affected sources, since sawmills with a rated capacity of less than or equal to 5,000 board feet will no longer be required to obtain permits or submit permit fees. However, such sources would still be subject to any other applicable regulations or permit issued by the cabinet.

1. First year: N/A

2. Continuing costs or savings: N/A

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

(b) Reporting and paperwork requirements: None due to the promulgation of the amendment in Section 6. Sawmills now subject to the exemption in Section 6(10) will not be required to submit permit applications, or submit routine reports of their emissions to the cabinet. The cabinet may still request such information whenever it is deemed necessary.

(2) Effects on the promulgating administrative body: None; sources which were required to be permitted and which were required to be inspected as part of the division's program will maintain their permits and will continue to be inspected.

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

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

(b) Reporting and paperwork requirements: None due to these amendments. The division will continue to maintain records of all sources which are issued permits.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives were considered since this approach of maintaining the present SIP is recommended 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: 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: In the Federal Register of July 1, 1987 (52 FR 24634), the U.S. EPA promulgated a revised national ambient air quality standard for particulate matter, and amended numerous other federal regulations relating to this new standard. The U.S. EPA also requires states to revise their state implementation plans (SIPs) to address how the new standard will be attained and maintained. Ambient air monitoring indicates that all areas in the Commonwealth are currently meeting the revised standard; therefore, the U.S. EPA has determined that the control requirements which protected the old standard are adequate to protect the new standard. Thus, the cabinet is only required to amend its SIP, including the regulations, to specify that the present SIP will be maintained, and thus the new standard will be protected. As a part of the SIP revision, the cabinet is amending this regulation and numerous other regulations which relate to the revised ambient air quality standard.

The revised standard promulgates a new indicator to measure the health and welfare related impacts of particulate matter. This new indicator is called PM_{10} which is defined to be particulate matter with a diameter of less than or equal to ten micrometers. The U.S. EPA determined that ten micrometers is the largest sized particle which can be inhaled into the lungs, and thus which can cause damage to humans.

This regulation is being amended to ensure that sources which were required to obtain permits due to the source's location shall continue to maintain those permits, and any requirements of those permits.

TIERING: Was tiering applied? No, not in these amendments. Tiering was not used in these amendments, but tiering is used in this regulation since some sources are not required to obtain permits, depending on the type of source or its size.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The federal guidelines recommend that states that do not have any measured violations of the new PM_{10} standard maintain their present state implementation plans to ensure that the new PM_{10} standard is protected. These amendments ensure that the present SIP will be maintained.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(Proposed Amendment)

401 KAR 51:010. Attainment status designations.

RELATES TO: KRS 224.320, 224.330, 224.340 [Chapter 224]

PURSUANT TO: KRS 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement and control of air pollution. This regulation designates the status of all areas of the Commonwealth of Kentucky with regard to attainment of the ambient air quality standards.

Section 1. Attainment Status Designations. (1) The attainment status of areas of the Commonwealth of Kentucky with respect to the ambient air quality standards for [particulates,] sulfur dioxide, carbon monoxide, ozone and nitrogen oxides are as listed in

Appendices B [A] through E of this regulation. The attainment status of areas of the Commonwealth of Kentucky with respect to total suspended particulates is as listed in Appendix A of this regulation.

(2) Within sixty (60) days of revision by the U.S. Environmental Protection Agency of a national ambient air quality standard, the cabinet shall review applicable data and submit to the U.S. EPA a revision to the attainment - nonattainment list pursuant to Section 107(d)(1) of the Clean Air Act.

(3) Wherever the air quality status in Appendices A through E of this regulation has been described by the generally inclusive term "Rest of State," that portion of the state so identified shall be deemed to be designated on a county-by-county basis.

Section 2. Attainment Timetable. Primary and secondary ambient air quality standards shall be attained as expeditiously as practicable, however, primary ambient air quality standards shall be attained no later than December 31, 1982 in nonattainment areas with respect to the pollutants for which the area is nonattainment. The above date shall be extended to December 31, 1987 for ozone and carbon monoxide for those areas granted such an extension by the U. S. EPA.

APPENDIX A TO 401 KAR 51:010

ATTAINMENT STATUS DESIGNATIONS FOR TOTAL SUSPENDED PARTICULATES

Designated Areas	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Better Than Standards	Cannot Be Classified
Bell Co.	[X]	[X]	X	
Boyd Co.	[X]	[X]		X
That portion of Bullitt Co. In Shepherdsville	[X]	[X]	X	
That portion of Campbell Co. in Newport	[X]	[X]	X	
That portion of Daviess Co. in Owensboro bordered by the Ohio River on the north, by Frederica Street projected to the river on the west, by Fourth Street and U.S. 60 on the south and by the Beltline (KY 212) projected to the river on the east	[X]	[X]		X
That portion of Henderson Co. in Henderson	[X]	[X]		X
Jefferson Co.	[X]	[X]		X
That portion of Lawrence Co. in Louisa	[X]	[X]		X
McCracken Co.	[X]	[X]	X	
Marshall Co.		[X]	X	
That portion of Madison Co. in Richmond	[X]	[X]		X
Muhlenberg Co.	[X]	[X]	X	
That portion of Perry Co. in Hazard	[X]	[X]		X
That portion of Pike Co. in Pikeville	[X]	[X]		X
That portion of Whitley Co. in Corbin	[X]	[X]	X	
Rest of State			X	

APPENDIX B TO 401 KAR 51:010

ATTAINMENT STATUS DESIGNATIONS FOR SULFUR DIOXIDE

Designated Areas	Does Not Meet Primary Standards	Does Not Meet Secondary Standards	Better Than Standards
That portion of Boyd County south of the Northern UTM line 4251 Km	X	X	
[That portion of Daviess Co. in Owensboro			X]
[Greenup County			X]
[That portion of Henderson Co. in Henderson			X]
[Jefferson County		X	X]
[McCracken County			X]
Muhlenberg County	[X]	X	
[Webster County			[X]
Rest of State			X

APPENDIX C TO 401 KAR 51:010

ATTAINMENT STATUS DESIGNATIONS FOR CARBON MONOXIDE

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified Or Better Than Standards
Jefferson Co.	X	
Rest of State		X

APPENDIX D TO 401 KAR 51:010

ATTAINMENT STATUS DESIGNATIONS
FOR OZONE

Designated Area	Does Not Meet Primary Standards	Better Than Standards	Cannot Be Classified
Boone Co.	X		
Boyd Co.	X		
Bullitt Co.			X
Caldwell Co.			X
Calloway Co.			X
Campbell Co.	X		
Christian Co.			X
Fayette Co.		X	
Jefferson Co.	X		
Kenton Co.	X		
Trigg Co.			X
Rest of State		X	

APPENDIX E TO 401 KAR 51:010

ATTAINMENT STATUS DESIGNATIONS
FOR NITROGEN OXIDES

Designated Area	Does Not Meet Primary Standards	Cannot Be Classified or Better Than Standards
Statewide		X

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on February 26, 1988, at 10 a.m. (EST) in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. Roger B. McCann, Director, Division for Air Quality, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director

(1) Type and number of entities affected: This regulation designates the status of all areas of the Commonwealth with regard to attainment of the state and national ambient air quality standards. It is being amended in response to the U.S. EPA's promulgation of new national ambient air quality standards for particulate matter, PM_{10}, on July 1, 1987 (52 FR 24634). Specifically, all of the areas in Appendix A of this regulation which had been designated as nonattainment are being redesignated as attainment or unclassified with respect to total suspended particulates. The areas which are being redesignated as attainment for total suspended particulates are those areas for which the cabinet has previously submitted a redesignation request. The areas which are being redesignated to unclassified are those areas which could not be redesignated to attainment. There will be no designations for PM_{10}. The cabinet has requested that for those areas for which monitoring data exist which demonstrate that the area is attainment, the U.S. EPA redesignate those areas to attainment in the corresponding federal regulation, 40 CFR 81.318. The cabinet is in the process of requesting that the other areas be redesignated to unclassified.

Sources which could be affected would be existing sources of total suspended particulates; however, no change is expected to occur in these sources, since they will be required to maintain their controls in order to protect the new PM_{10} standard. The U.S. EPA has determined that the presently approved state implementation plan (SIP) for TSP is adequate to protect the PM_{10} standard, therefore, the state only needs to demonstrate that the present SIP will be maintained. The amendments to this and other regulations accomplish that demonstration. New sources locating in those areas which are no longer nonattainment will be subject to those controls which apply in attainment or unclassified areas.

This regulation is also being amended to redesignated specified areas to attainment for sulfur dioxide or remove the primary nonattainment designation for sulfur dioxide, since the U.S. EPA had previously approved the redesignation requests for these areas in 40 CFR 81.318. New sources which emit sulfur dioxide in these counties could receive a benefit in that they would be required to meet only the requirements for attainment areas.

(a) Direct and indirect costs or savings to those affected: There will be no costs or savings due to the redesignations of the areas as unclassified. There may be some savings associated with the redesignations of the areas to attainment for TSP or sulfur dioxide. If a new source locates in the area designated as attainment, then less stringent controls could be required. Existing sources would not be allowed to remove their controls since it was such controls that contributed to the area becoming attainment.

1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: The cabinet considered an alternative which would redesignate all areas in Appendix A as unclassified for total suspended particulates, as suggested by the U.S. EPA; however, the cabinet believes that such designations do not accurately reflect the actual air quality. The proposed designations show that the indicated areas did meet the ambient air quality standards for total suspended particulates prior to the time that the PM_{10} standard was promulgated, July 1, 1987.

(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: In the Federal Register of July 1, 1987 (52 FR 24634), the U.S. EPA promulgated revised national ambient air quality standards for particulate matter, and amended numerous other federal regulations relating to this new standard. The U.S. EPA also requires states to revise their state implementation plans (SIPs) to address how the new standard will be attained and maintained. Since ambient air monitoring indicates that all areas in the Commonwealth are currently meeting the revised standards, the U.S. EPA has determined that the present SIP is adequate to protect the new standard. Therefore, the cabinet is only required to amend its SIP, including the regulations, to specify that the present SIP will be maintained, and thus the new standard will be protected. As a part of the SIP revision, the cabinet is amending this regulation and numerous other regulations which relate to the revised ambient air quality standard.

The revised standard promulgates a new indicator to measure the health and welfare related impacts of particulate matter. This new indicator is called PM_{10} which is defined to be particulate matter with a diameter of less than or equal to ten micrometers.

This regulation is being amended to redesignate areas for total suspended particulates as attainment or unclassified, and to redesignate other areas for sulfur dioxide, as approved by the U.S. EPA. There will be no designations for the PM_{10} standard.

TIERING: Was tiering applied? No. Tiering is not applicable since this regulation only indicates if a specified area is designated as attainment, nonattainment, or unclassified for a particular pollutant.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The U.S. EPA recommended that all nonattainment areas for total suspended particulates be redesignated to unclassified. However, prior to the new PM_{10} standard being promulgated, the cabinet had requested that the U.S. EPA redesignate a number of areas as attainment, based on ambient air quality monitoring which demonstrated that these areas were meeting the standards which were in effect at that time. Therefore, the cabinet believes that those areas which did attain the TSP standards, and for which a redesignation request was submitted, should be redesignated as attainment. The cabinet is also requesting that the other areas be designated as unclassified for total suspended particulates.

Redesignation from nonattainment to either attainment or unclassified for TSP has identical effects on the applicability of other regulations and on the protection of the PM_{10} standards.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(Proposed Amendment)

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

RELATES TO: KRS 224.320, 224.330, 224.340
PURSUANT TO: KRS 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement and control of air pollution. This regulation provides for the prevention of significant deterioration of ambient air quality.

Section 1. Applicability. The provisions of this regulation are applicable to any major stationary source or any major modification which:

(1) Commenced construction after September 22, 1982;

(2) Emits any pollutant regulated by the Clean Air Act; and

(3) Is constructed in areas designated as attainment or unclassifiable for any pollutant as defined pursuant to Section 107(d)(1)(D) or (E) of the Clean Air Act. Area designations are contained in 40 CFR 81.318.

Section 2. Definitions. As used in this regulation terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Major stationary source" means:

(a) Any of the following stationary sources of air pollutants which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the Clean Air Act: fossil fuel-fired steam electric plants of more than 250 million BTU per hour heat input, coal cleaning plants (with thermal dryers), kraft pulp mills, portland cement plants, primary zinc smelters, iron and steel mill plants, primary aluminum ore reduction plants, primary copper smelters, municipal incinerators capable of charging more than 250 tons of refuse per day, hydrofluoric, sulfuric, and nitric acid plants, petroleum refineries, lime plants, phosphate rock processing plants, coke oven batteries, sulfur recovery plants, carbon black plants (furnace process), primary lead smelters, fuel conversion plants, sintering plants, secondary metal production plants, chemical process plants, fossil fuel boilers (or combination thereof) totaling more than 250 million BTU per hour heat input, petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels, taconite ore processing plants, glass fiber processing plants, and charcoal production plants;

(b) Notwithstanding the stationary source size specified in paragraph (a) of this subsection, any stationary source which emits, or has the potential to emit, 250 tons per year or more of any air pollutant subject to regulation under the Clean Air Act; and

(c) Any physical change that would occur at a stationary source not otherwise qualifying under this subsection as a major stationary source, if the changes would constitute a major stationary source by themselves.

(d) A major stationary source that is major

for volatile organic compounds shall be considered major for ozone.

(2) "Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Clean Air Act.

(a) Any net emissions increase that is significant for volatile organic compounds shall be significant for ozone.

(b) A physical change or change in the method of operation shall not include:

1. Routine maintenance, repair and replacement;

2. Use of alternative fuel or raw material by reason of an order or by reason of a natural gas curtailment plan in effect under a federal act;

3. Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

4. Use of an alternative fuel or raw material by a stationary source which:

a. The source was capable of accommodating before January 6, 1975, unless such change would be prohibited under any permit condition which was established after January 6, 1975; or

b. The source is approved to use under any permit issued under this regulation or under 40 CFR 52.21;

5. An increase in the hours of operation or in the production rate, unless such change would be prohibited after January 6, 1975 pursuant to 40 CFR 52.21, after June 6, 1979 pursuant to 401 KAR 51:015, after September 22, 1982 pursuant to this regulation; or under 401 KAR 50:035 and 401 KAR 51:016E; or

6. Any change in ownership at a stationary source.

(3) "Net emission increase" means the amount by which the sum of paragraphs (a) and (b) of this subsection exceeds zero:

(a) Any increase in actual emissions from a particular physical change or change in method of operation at a stationary source; and

(b) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(c) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date which is ten (10) years before construction on the particular change commences, but not before January 6, 1975, and the date that the increase from the particular change occurs.

(d) An increase or decrease in actual emissions is creditable only if the cabinet or the U.S. EPA has not relied on it in issuing a permit for the source under this regulation or 40 CFR 52.21, which permit is in effect when the increase in actual emissions from the particular change occurs.

(e) An increase or decrease in actual emissions of sulfur dioxide or particulate matter which occurs before the applicable baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

(f) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(g) A decrease in actual emissions is creditable only to the extent that:

1. The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

2. It is state and federally enforceable at and after the time that actual construction on the particular change begins; and

3. It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(h) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(4) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical or operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is state and federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

(5) "Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the Clean Air Act.

(6) "Building, structure, facility, or installation" means all of the pollutant emitting activities which belong to the same industrial grouping, are located on one (1) or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same two (2) digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 supplement.

(7) "Emission unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the Clean Air Act.

(8) "Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

(9) "Commence" as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(a) Begun, or caused to begin, a continuous program of actual onsite construction of the source, to be completed within a reasonable time; or

(b) Entered into agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(10) "Necessary preconstruction approvals or

permits" means those permits or approvals required under the regulations of Title 401, Chapters 50 to 63 and federal air quality control laws and regulations.

(11) "Begin actual construction" means, in general, initiation of physical onsite construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying underground pipework and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those onsite activities other than the preparatory activities which mark the initiation of the change.

(12) "Best available control technology" means an emissions limitation (including a visible emission standard) based on the maximum degree of reduction for each pollutant subject to regulation under the Clean Air Act which would be emitted from any proposed major stationary source or major modification which the cabinet, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for such source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of such pollutant. In no event shall application of best available control technology result in emissions of any pollutant which would exceed the emissions allowed by any applicable standard under Title 401, Chapters 57 and 59 or 40 CFR Parts 60 and 61. If the secretary determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof may be prescribed instead to satisfy the requirement for the application of best available control technology. Such standard shall, to the degree possible, set forth the emissions reduction achievable by implementation of such design, equipment, work practice or operation, and shall provide for compliance by means which achieve equivalent results.

(13) "Baseline concentration" means that ambient concentration level which exists in the baseline area at the time of the applicable baseline date. A baseline concentration is determined for each pollutant for which a baseline date is established and shall include:

(a) The actual emissions representative of sources in existence on the applicable baseline date, except as provided in paragraph (c) of this subsection; and

(b) The allowable emissions of major stationary sources which commenced construction before January 6, 1975, but were not in operation by the applicable baseline date.

(c) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increase(s):

1. Actual emissions from any major stationary source on which construction commenced after January 6, 1975; and

2. Actual emissions increases and decreases at any stationary source occurring after the baseline date.

(14) "Baseline date" means the earliest date after August 7, 1977, on which the first complete application is submitted by a major stationary source or major modification subject to the requirements of federal or state prevention of significant deterioration regulations. The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

(a) The area in which the proposed source or modification would construct is designated as attainment or unclassifiable pursuant to Section 107(d)(1)(D) or (E) of the Clean Air Act for the pollutant on the date of its complete application; and

(b) In the case of a major stationary source, the pollutant would be emitted in significant amounts, or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

(15) "Baseline area" means any area (and every part thereof) designated as attainment or unclassifiable pursuant to Section 107(d)(1)(D) or (E) of the Clean Air Act in which the major source or major modification establishing the baseline date would construct or would have an air quality impact equal to or greater than one (1) ug/m^3 (annual average) of the pollutant for which the baseline date is established. Area redesignations under Section 107(d)(1)(D)or (E) of the Clean Air Act cannot intersect or be smaller than the area of impact of any major stationary source or major modification which:

(a) Establishes a baseline date; or

(b) Is subject to this regulation and would be constructed in the Commonwealth of Kentucky.

(16) "Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to state and federally enforceable limits which restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

(a) The applicable standards as set forth in Title 401, Chapters 57 and 59, or 40 CFR 60 and 61;

(b) The applicable state and federally approved regulatory emissions limitation, including those with a future compliance date; or

(c) The emissions rate specified as a state and federally enforceable permit condition, including those with a future compliance date.

(17) "Federally enforceable" means all limitations and conditions which are enforceable by the U.S. EPA, including those requirements developed pursuant to 40 CFR 60 and 61, requirements within any applicable State Implementation Plan, and any permit requirement established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.18 or 40 CFR 51.24.

(18) "Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this regulation, secondary emissions shall be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or

major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as the emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

(19) "Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or nonair quality environmental impacts.

(20) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

(21)(a) "Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with paragraphs (b) to (d) of this subsection.

(b) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a two (2) year period which precedes the particular date and which is representative of normal source operation. The cabinet shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(c) The cabinet may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

(d) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the unit on that date.

(22) "Complete" means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application.

(23) "Significant" means:

(a) In reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the rates given in Appendix A of this regulation.

(b) In reference to a net emissions increase or the potential of a source to emit a pollutant subject to regulation under the Clean Air Act that is not listed in Appendix A to this regulation, any emissions rate.

(c) Notwithstanding paragraph (b) of this subsection and Appendix A to this regulation, "significant" means any emissions rate or any net emissions increase associated with a major stationary source or major modification, which would construct within ten (10) kilometers of a Class I area, and have an impact on such area equal to or greater than one (1) ug/m^3 (twenty-four (24) hour average).

(24) "Federal land manager" means, with respect to any lands in the United States, the secretary of the department with authority over such lands.

(25) "High terrain" means any area having an elevation 900 feet or more above the base of the stack of a source.

(26) "Low terrain" means any area other than high terrain.

(27) "Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Class I area. This determination shall be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairment, and how these factors correlate with the times of visitor use of the Class I area, and the frequency and timing of natural conditions that reduce visibility.

(28) "State Implementation Plan" means the most recently prepared plan or revision thereof required by Section 110 of the Clean Air Act which has been approved by the U.S. EPA.

(29) "Mandatory Class I federal area" means any area identified in 40 CFR 81, Subpart D, where the administrator of the U.S. EPA, in consultation with the Secretary of the United States Department of Interior, has determined visibility to be an important value.

(30) "Natural conditions" means those naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

(31) "Visibility impairment" means any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.

Section 3. Ambient Air Increments. In areas designated as Class I or II, increases in pollutant concentration over the baseline concentration shall be limited to the levels specified in Appendix B of this regulation. For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one (1) such period per year at any one (1) location.

Section 4. Ambient Air Ceilings. No concentration of a pollutant specified in Section 1 of this regulation shall exceed:

(1) The concentration permitted under the national secondary ambient air quality standard; or

(2) The concentration permitted under the national primary ambient air quality standard, whichever concentration is lower for the pollutant for a period of exposure.

Section 5. Area Classifications. (1) The following areas shall be Class I areas and may not be redesignated:

(a) International parks;

(b) National wilderness areas and national memorial parks which exceed 5,000 acres in size; and

(c) National parks which exceed 6,000 acres in size.

(2) Any other area, unless otherwise specified in the legislation creating such an area, is designated Class II but may be redesignated as provided in 40 CFR 51.24(g).

(3) The provisions of this regulation relating to visibility protection shall apply only to sources which may impact a mandatory Class I federal area.

Section 6. Exclusions from Increment Consumption. (1) The cabinet may, after notice and opportunity for at least one (1) public

hearing to be held in accordance with procedures established in 401 KAR 50:035, exclude the following concentrations in determining compliance with a maximum allowable increase:

(a) Concentrations attributable to the increase in emissions from stationary sources which have been converted from the use of petroleum products, natural gas, or both by reason of an order in effect under a federal statute or regulation over the emissions from such sources before the effective date of such an order;

(b) Concentrations attributable to the increase in emissions from sources which have converted from using natural gas by reason of a natural gas curtailment plan in effect pursuant to the federal statute over the emissions from such sources before the effective date of such plan;

(c) Concentrations of particulate matter attributable to the increase in emissions from construction or other temporary emission-related activities of new or modified sources; and

(d) Concentrations attributable to the temporary increase in emissions of sulfur dioxide or particulate matter from stationary sources which are affected by plan revisions approved by the Administrator of the U.S. EPA.

(2) No exclusion of such concentrations shall apply more than five (5) years after the effective date of the order to which subsection (1)(a) of this section refers or the plan to which subsection (1)(b) of this section refers, whichever is applicable. If both such order and plan are applicable, no such exclusion shall apply more than five (5) years after the later of such effective dates.

(3) No exclusion under this section shall occur after May 7, 1981, unless a State Implementation Plan revision meeting the requirements of 40 CFR 51.24 has been approved by the U.S. EPA.

(4) The plan revision referred to in subsection (3) of this section shall specify the following provisions:

(a) The time over which the temporary emission increase of sulfur dioxide or particulate matter would occur. Such time shall not exceed two (2) years in duration unless a longer time is approved by the U.S. EPA;

(b) That the time period for excluding certain contributions in accordance with paragraph (a) of this subsection is not renewable;

(c) That no emissions increase will occur from a stationary source which would:

1. Impact a Class I area or an area where an applicable increment is known to be violated; or

2. Cause or contribute to the violation of a national ambient air quality standard; and

(d) Limitations will be in effect at the end of the time period specified in accordance with paragraph (a) of this subsection which would ensure that the emissions levels from stationary sources affected by the plan revision would not exceed those levels occurring from such sources before the plan revision was approved.

Section 7. Stack Heights. (1) The degree of emission limitation required for control of any air pollutant under this regulation shall not be affected in any manner by:

(a) So much of the stack height of any source as exceeds good engineering practice; or

(b) Any other dispersion technique.

(2) Subsection (1) of this section shall not apply with respect to stack heights in existence before December 31, 1970, or to dispersion techniques implemented before then.

Section 8. Review of Major Stationary Sources and Major Modifications; Source Applicability and Exemptions. (1) No major stationary source or major modifications to which the requirements of Sections 9 to 17 of this regulation apply shall begin actual construction without a permit which states that the stationary source or modification would meet those requirements.

(2) The requirements of Sections 9 to 17 of this regulation shall apply to any major stationary source and any major modification with respect to each pollutant subject to regulations under the Clean Air Act that it would emit, except as otherwise provided in Section 1 of this regulation.

(3) The requirements of Sections 9 to 17 of this regulation shall apply only to any major stationary source or major modification that would be constructed in an area designated as attainment or unclassifiable pursuant to Section 107(d)(1)(D) or (E) of the Clean Air Act.

(4) The requirements of Sections 9 to 17 of this regulation shall not apply to a particular major stationary source or major modification if:

(a) The owner or operator:

1. Obtained a federal, state or local preconstruction approval effective before September 22, 1982;

2. Commenced construction before September 22, 1982; and

3. Did not discontinue construction for a period of eighteen (18) months or more; or

(b) The source or modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution, and the Governor of the Commonwealth of Kentucky requests that it be exempt from those requirements;

(c) The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

1. Coal cleaning plants (with thermal dryers);
2. Kraft pulp mills;
3. Portland cement plants;
4. Primary zinc smelters;
5. Iron and steel mills;
6. Primary aluminum ore reduction plants;
7. Primary copper smelters;
8. Municipal incinerators capable of charging more than 250 tons of refuse per day;
9. Hydrofluoric, sulfuric, or nitric acid plants;
10. Petroleum refineries;
11. Lime plants;
12. Phosphate rock processing plants;
13. Coke oven batteries;
14. Sulfur recovery plants;
15. Carbon black plants (furnace process);
16. Primary lead smelters;
17. Fuel conversion plants;
18. Sintering plants;
19. Secondary metal production plants;
20. Chemical process plants;
21. Fossil-fuel boilers (or combination thereof) totaling more than 250 million BTUs per hour heat input;
22. Petroleum storage and transfer units with

a total storage capacity exceeding 300,000 barrels;

23. Taconite ore processing plants;

24. Glass fiber processing plants;

25. Charcoal production plants;

26. Fossil fuel-fired steam electric plants of more than 250 million BTUs per hour heat input; or

27. Any other stationary source category which, as of August 7, 1980, is being regulated under Title 401, Chapters 57 and 59 or 40 CFR Parts 60 and 61; or

(d) The source is a portable stationary source which has previously received a permit under this regulation; and:

1. The owner or operator proposes to relocate the source and emissions of the source at the new location would be temporary;

2. The emissions from the source would not exceed its allowable emissions;

3. The emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and

4. Reasonable notice is given to the cabinet prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the cabinet not less than ten (10) days in advance of the proposed relocation unless a different time duration is previously approved by the cabinet.

(e) The source or modification was not subject to this regulation with respect to particulate matter, as in effect before July 31, 1987, and the owner or operator:

1. Obtained all final federal, state, and local preconstruction approvals or permits necessary under the applicable state implementation plan before July 31, 1987;

2. Commenced construction within eighteen (18) months after July 31, 1987; and

3. Did not discontinue construction for a period of eighteen (18) months or more and completed construction within a reasonable period of time.

(f) The source or modification was subject to this regulation with respect to particulate matter, as in effect before July 31, 1987, and the owner or operator submitted an application for a permit under this regulation before that date, and the cabinet subsequently determined that the application as submitted was complete with respect to the particulate matter requirements then in effect in this regulation. Instead, the requirements of Sections 9 to 17 of this regulation that were in effect before July 31, 1987, shall apply to such source or modification.

(5) The requirements of Sections 9 to 17 of this regulation shall not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, relative to that pollutant, the source or modification is located in an area designated as nonattainment pursuant to Section 107(d)(1)(A), (B), or (C) of the Clean Air Act.

(6) The requirements of Sections 10, 12 and 14 of this regulation shall not apply to a major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from the source, or the net emissions increase of that pollutant from the modifications:

(a) Would impact no Class I area and no area where an applicable increment is known to be violated; and

(b) Would be temporary.

(7) The requirements of Sections 10, 12 and 14 of this regulation as they relate to any maximum allowable increase for a Class II area shall not apply to a major modification at a stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each pollutant subject to regulations under the Clean Air Act from the modification after the application of best available control technology would be less than fifty (50) tons per year.

(8) The cabinet may exempt a stationary source or modification from the requirements of Section 12 of this regulation with respect to monitoring for a particular pollutant if:

(a) The emissions increase of the pollutant from the new source or the net emissions increase of the pollutant from the modification would cause, in any area, air quality impacts less than the amounts given in Appendix C to this regulation; or

(b) The concentrations of the pollutant in the area that the source or modification would affect are less than the concentrations listed in Appendix C to this regulation, or the pollutant is not listed in Appendix C to this regulation.

(9)(a) At the discretion of the cabinet, the requirements for air quality monitoring of PM_{10} in Section 12 of this regulation may not apply to a particular source or modification when the owner or operator of the source or modification submits an application for a permit under this section on or before June 1, 1988, and the cabinet subsequently determines that the application as submitted before that date was complete, except with respect to the requirements for monitoring particulate matter in Section 12 of this regulation.

(b) The requirements for air quality monitoring of PM_{10} in Section 12 of this regulation shall apply to a particular source or modification if the owner or operator of the source or modification submits an application for a permit under this section after June 1, 1988, and no later than December 1, 1988. The data shall have been gathered over at least the period from February 1, 1988, to the date the application becomes otherwise complete in accordance with the provisions set forth under Section 12 of this regulation, except that if the cabinet determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than four (4) months), the data that Section 12 of this regulation requires shall have been gathered over that shorter period.

Section 9. Control Technology Review. (1) A major stationary source or major modification shall meet each applicable emissions limitation under Title 401, Chapters 50 to 63 and each applicable emission standard and standard of performance pursuant to 40 CFR 60 and 61.

(2) A new major stationary source shall apply best available control technology for each pollutant subject to regulation under the Clean Air Act that it would have the potential to emit in significant amounts.

(3) A major modification shall apply best available control technology for each pollutant subject to regulation under Clean Air Act for which it would result in a significant net

emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

(4) For phased construction projects, the determination of best available control technology shall be reviewed and modified as appropriate at the latest reasonable time which occurs no later than eighteen (18) months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of best available control technology for the source.

Section 10. Source Impact Analysis. The owner or operator of the proposed source or modification shall demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:

(1) Any national ambient air quality standard in any air quality control region; or

(2) Any applicable maximum allowable increase over the baseline concentration in any area.

Section 11. Air Quality Models. (1) All estimates of ambient concentrations required under this regulation shall be based on the applicable air quality models, data bases, and other requirements specified in the "Guideline on Air Quality Models," filed by reference in 401 KAR 50:015.

(2) Where an air quality impact model specified in the "Guideline on Air Quality Models" is inappropriate, the model may be modified or another model substituted. Such a change will be subject to notice and opportunity for public comment under Section 17 of this regulation. Written approval of the U.S. EPA must be obtained for any modification or substitution. Methods like those outlined in the "Workbook for the Comparison of Air Quality Models," filed by reference in 401 KAR 50:015, should be used to determine the comparability of air quality models.

Section 12. Air Quality Analysis. (1) Preapplication analysis.

(a) Any application for a permit under this regulation shall contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

1. For the source, each pollutant that it would have the potential to emit in a significant amount as defined in Section 2(23) of this regulation;

2. For the modification, each pollutant for which it would result in a significant net emissions increase.

(b) With respect to any such pollutant for which no national ambient air quality standard exists, the analysis shall contain such air quality monitoring data as the cabinet determines are necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

(c) With respect to any such pollutant (other than nonmethane hydrocarbons) for which such a standard does exist, the analysis shall contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

(d) In general, the continuous air quality monitoring data that are required shall have been gathered over a period of at least one (1) year and shall represent at least the year preceding receipt of the application, except that, if the applicant demonstrates through historical data or dispersion models that the monitoring data gathered over a period shorter than one (1) year (but not to be less than four (4) months) will be obtained during a time period when maximum air quality levels can be expected, the data that are required shall have been gathered over at least that shorter period.

(e) The owner or operator of a proposed stationary source or modification of volatile organic compounds who satisfies all conditions of 40 CFR Part 51, Appendix S, section IV may provide postapproval monitoring data for ozone in lieu of providing preconstruction data as required under paragraphs (a) to (d) of this subsection.

(f) For any application that becomes complete, except as to the requirements of paragraphs (c) and (d) of this subsection pertaining to PM_{10}, after December 1, 1988, and no later than August 1, 1989, the data that paragraph (c) of this subsection requires shall have been gathered over at least the period from August 1, 1988, to the date the application becomes otherwise complete, except that if the cabinet determines that a complete and adequate analysis can be accomplished with monitoring data over a shorter period (not to be less than four (4) months), the data that pargraph (c) of this subsection requires shall have been gathered over that shorter period.

(g) With respect to any requirements for air quality monitoring of PM_{10} under Section 8(9)(a) and (b) of this regulation, the owner or operator of the source or modification shall use a monitoring method approved by the cabinet and shall estimate the ambient concentrations of PM_{10} using the data collected by such approved monitoring method in accordance with estimating procedures approved by the cabinet.

(2) Postconstruction monitoring. The owner or operator of a major stationary source or major modification shall, after construction of the stationary source or modification, conduct such ambient monitoring as the cabinet determines is necessary to determine the effect emissions from the stationary source or modification may have, or are having, on air quality in any area.

(3) Operations of monitoring stations. The owner or operator of a major stationary source or major modification shall meet the requirements of Appendix B to 40 CFR 58, filed by reference in 401 KAR 50:015, during the operation of monitoring stations for purposes of satisfying subsections (1) and (2) of this section.

Section 13. Source Information. The owner or operator of a proposed source or modification shall submit all information necessary to perform any analysis or make any determination required under this regulation.

(1) With respect to a major source or major modification to which Sections 9, 11, 13 and 15

of this regulation apply, such information shall include:

(a) A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

(b) A detailed schedule for construction of the source or modification;

(c) A detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates, and any other information necessary to determine that best available control technology would be applied.

(2) Upon request of the cabinet, the owner or operator shall also provide information on:

(a) The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate such impact; and

(b) The air quality impacts, and the nature and extent of any or all general commercial, residential, industrial, and other growth which has occurred since August 7, 1977, in the area the source or modification would affect.

Section 14. Additional Impact Analysis. (1) The owner or operator shall provide an analysis of the impairment to visibility, soils and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

(2) The owner or operator shall provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial and other growth associated with the source or modification.

(3) Visibility monitoring. The cabinet may require monitoring of visibility in any Class I area impacted by the proposed new stationary source or major modification using human observations, teleradiometers, photographic cameras, nephelometers, fine particulate monitors, or other appropriate methods as specified by the U.S. EPA. The method selected shall be determined on a case-by-case basis by the cabinet. Any visibility monitoring required by the cabinet in a Class I area will be approved by the federal land manager. Data obtained from any visibility monitoring shall be made available to the cabinet, U.S. EPA, and the federal land manager, upon request.

Section 15. Sources Impacting Class I Areas; Additional Requirements. (1) Notice to U.S. EPA and federal land managers. The cabinet shall provide written notice of any permit application for a proposed major stationary source or major modification the emissions from which may affect a Class I area to the U.S. EPA, the federal land manager, and the federal official charged with direct responsibility for management of any lands within any such area. The cabinet shall provide such notice promptly after receiving the application. Such notification shall include a copy of all information relevant to the permit application and shall be given within thirty (30) days of receipt and at least sixty (60) days prior to any public hearing on the application for a permit to construct. Such notification shall include an analysis of the proposed source's anticipated impacts on visibility in the Class I area. The cabinet shall also provide the federal land manager and such federal officials with a copy of the preliminary determination required under Section 17 of this regulation, and shall make available to them any materials used in making that determination, promptly after the cabinet makes it. Finally, the cabinet shall also notify all affected federal land managers within thirty (30) days of receipt of any advanced notification of any such permit application.

(2) Federal land manager. The federal land manager and the federal official charged with direct responsibility for management of such lands have an affirmative responsibility to protect the air quality related values (including visibility) of such lands and to consider, in consultation with the cabinet, whether a proposed source or modification will have an adverse impact on such values.

(3) Visibility analysis. The cabinet shall consider any analysis performed by the federal land manager, provided within thirty (30) days of the notification and analysis required by subsection (1) of this section, that shows that a proposed new major stationary source or major modification may have an adverse impact on visibility in any Class I area. Where the cabinet finds that such analysis does not demonstrate to the satisfaction of the cabinet that an adverse impact on visibility will result in the Class I area, the cabinet shall, in the public notice required in 401 KAR 50:035, Section 4, either explain that decision or give notice as to where the explanation can be explained.

(4) Denial; impact on air quality related values. The federal land manager of any such lands may demonstrate to the cabinet that the emissions from a proposed source or modification would have an adverse impact on the air quality related values (including visibility) of those lands, notwithstanding that the change in air quality resulting from emissions from such source or modification would not cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area as defined in Appendix B to this regulation. If the cabinet concurs with such demonstration then the cabinet shall not issue the permit.

(5) Class I variances. The owner or operator of a proposed source or modification may demonstrate to the federal land manager that the emissions from such source or modification would have no adverse impact on the air quality related values of any such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from such source or modification would cause or contribute to concentrations which would exceed the maximum allowable increases for a Class I area. If the federal land manager concurs with such demonstration and he so certifies, the cabinet may, provided that the applicable requirements of this regulation are otherwise met, issue the permit with such emission limitations as may be necessary to assure that emissions of sulfur dioxide and particulate matter would not exceed the maximum allowable increases over baseline concentration for such pollutants specified in Appendix D to this regulation.

(6) Sulfur dioxide variance by governor with

federal land manager's concurrence. The owner or operator of a proposed source or modification which cannot be approved under subsection (5) of this section may demonstrate to the Governor of the Commonwealth of Kentucky that the source cannot be constructed by reason of any maximum allowable increase in sulfur dioxide for a period of twenty-four (24) hours or less applicable to any Class I area and that a variance under this clause would not adversely affect the air quality related values of the area (including visibility). The governor, after consideration of the federal land manager's recommendation (if any) and subject to his concurrence, may, after notice and public hearing, grant a variance from such maximum allowable increase. If such variance is granted, the cabinet shall issue a permit to such source or modification pursuant to the requirements of subsection (8) of this section, provided that the applicable requirements of this regulation are otherwise met.

(7) Variance by the governor with the president's concurrence. In any case where the Governor of the Commonwealth of Kentucky recommends a variance in which the federal land manager does not concur, the recommendations of the governor and the federal land manager shall be transmitted to the President of the United States of America. If the variance is approved, the cabinet shall issue a permit pursuant to the requirements of subsection (8) of this section, provided that the applicable requirements of this regulation are otherwise met.

(8) Emission limitations for presidential or gubernatorial variance. In the case of a permit issued pursuant to subsections (6) or (7) of this section the source or modification shall comply with such emission limitations as may be necessary to assure that emissions of sulfur dioxide from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations which would exceed the maximum allowable increases over the baseline concentration as specified in Appendix E of this regulation and to assure that such emissions would not cause or contribute to concentrations which exceed the otherwise applicable maximum allowable increases for periods of exposure of twenty-four (24) hours or less for more than eighteen (18) days, not necessarily consecutive, during any annual period.

Section 16. Public Participation. The cabinet shall follow the applicable procedures of 401 KAR 50:035 in processing applications under this regulation.

Section 17. Source Obligation. (1) Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted pursuant to this regulation or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this regulation who begins actual construction after September 22, 1982 without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action.

(2) Approval to construct shall become invalid if construction is not commenced within eighteen (18) months after receipt of such approval, if construction is discontinued for a period of eighteen (18) months or more, or if construction is not completed within a reasonable time. The cabinet may extend the eighteen (18) month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within eighteen (18) months of the projected and approved commencement date.

(3) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of Title 401, Chapters 50 to 63 and any other requirements under local, state, or federal law.

(4) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of Sections 9 to 18 of this regulation shall apply to the source or modification as though construction had not yet commenced on the source or modification.

Section 18. Environmental Impact Statements. Whenever any proposed source or modification is subject to action by a federal agency which might necessitate preparation of an environmental impact statement pursuant to the National Environmental Policy Act (42 U.S.C. 4321), review by the cabinet conducted pursuant to this regulation shall be coordinated with the broad environmental reviews under that Act and under Section 309 of the Clean Air Act to the maximum extent feasible and reasonable.

Section 19. Innovative Control Technology. (1) An owner or operator of a proposed major stationary source or major modification may request the cabinet in writing to approve a system of innovative control technology.

(2) The cabinet shall, with the consent of the governor(s) of other affected state(s), determine that the source or modification may employ a system of innovative control technology if:

(a) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;

(b) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under Section 9(2) of this regulation by a date specified by the cabinet. Such date shall not be later than four (4) years from the time of start-up or seven (7) years from permit issuance.

(c) The source or modification would meet the requirements of Sections 9 and 10 of this regulation based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the cabinet;

(d) The source or modification would not before the date specified by the cabinet:

1. Cause or contribute to a violation of an applicable national ambient air quality standard;

2. Impact any Class I area; or

3. Impact any area where an applicable increment is known to be violated; and

(e) All other applicable requirements including those for public participation have been met.

(3) The cabinet shall withdraw any approval to employ a system of innovative control technology made under this regulation if:

(a) The proposed system fails by the specified date to achieve the required continuous emissions reduction rate;

(b) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or

(c) The cabinet decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

(4) If a source or modification fails to meet the required level of continuous emission reduction within the specified time period or the approval is withdrawn in accordance with subsection (3) of this section, the cabinet may allow the source or modification up to an additional three (3) years to meet the requirement for the application of best available control technology through use of a demonstrated system of control.

Section 20. Permit Condition Rescission. (1)(a) Any owner or operator holding a permit for a stationary source or modification which contains conditions pursuant to 401 KAR 51:015 or 401 KAR 51:016E may request that the cabinet rescind the applicable conditions.

(b) Any owner or operator of a stationary source or modification who holds a permit for the source or modification which was issued under this regulation as in effect on July 30, 1987, or any earlier version of this regulation, may request that the cabinet rescind the permit or a particular portion of the permit.

(2) The cabinet shall rescind a permit condition if so requested if the applicant can demonstrate to the satisfaction of the cabinet that this regulation would not apply to the source or modification or a portion thereof.

APPENDIX A TO 401 KAR 51:017
Significant Net Emissions Rates

POLLUTANT	EMISSIONS RATE
Carbon monoxide	100 tons per year (tpy)
Nitrogen oxides	40 tpy
Sulfur dioxide	40 tpy
Particulate matter	25 tpy of particulate matter emissions 15 tpy of PM_{10} emissions
Ozone	40 tpy of volatile organic compounds
Lead	0.6 tpy
Asbestos	0.007 tpy
Beryllium	0.0004 tpy
Mercury	0.1 tpy
Vinyl chloride	1 tpy
Fluorides	3 tpy
Sulfuric acid mist	7 tpy
Hydrogen sulfide (H_2S)	10 tpy
Total reduced sulfur (including H_2S)	10 tpy
Reduced sulfur compounds (including H_2S)	10 tpy

APPENDIX B TO 401 KAR 51:017
Ambient Air Increments

Pollutant	Maximum Allowable Increase (Micrograms per cubic meter)
Class I	
Particulate Matter:	
TSP, Annual geometric mean	5
TSP, 24-hour maximum	10
Sulfur Dioxide:	
Annual arithmetic mean	2
24-hour maximum	5
3-hour maximum	25
Class II	
Particulate Matter:	
TSP, Annual geometric mean	19
TSP, 24-hour maximum	37
Sulfur Dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
3-hour maximum	512

APPENDIX C TO 401 KAR 51:017
Significant Air Quality Impact

Pollutant	Air Quality Level	Averaging Time
Carbon monoxide	575 ug/m^3	8-hour average
Nitrogen dioxide	14 ug/m^3	annual average
[Total suspended] Particulate matter	10 ug/m^3 of TSP 10 ug/m^3 of PM_{10}	24-hour average 24-hour average
Sulfur dioxide	13 ug/m^3	24-hour average
Ozone	No de minimis air quality level is provided for ozone. However, any net increase of 100 tons per year or more of volatile organic compounds subject to this regulation would be required to perform an ambient impact analysis including the gathering of ambient air quality data.	
Lead	0.1 ug/m^3	3-month [24-hour] average
Mercury	0.25 ug/m^3	24-hour average
Beryllium	0.001 ug/m^3	24-hour average
Fluorides	0.25 ug/m^3	24-hour average
Vinyl chloride	15 ug/m^3	24-hour average
Hydrogen sulfide	0.2 [0.04] ug/m^3	1-hour average
Total reduced sulfur	10 ug/m^3	1-hour average
Reduced sulfur compounds	10 ug/m^3	1-hour average

APPENDIX D TO 401 KAR 51:017
Ambient Air Increments
for Class I Variances

	Maximum Allowable Increase (micrograms per cubic meter)
Particulate Matter:	
TSP, Annual geometric mean	19
TSP, 24-hour maximum	37
Sulfur Dioxide:	
Annual arithmetic mean	20
24-hour maximum	91
3-hour maximum	325

APPENDIX E TO 401 KAR 51:017
Ambient Air Increments for Presidential
or Gubernatorial SO_2 Variances

Maximum Allowable Increase
(Micrograms per cubic meter)

	Terrain areas	
Period of Exposure	Low	High
24-hour maximum	36	62
3-hour maximum	130	221

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at 3 p.m.
PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on February 26, 1988 at 10 a.m. (EST) in the auditorium in the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. Roger B. McCann, Director, Division for Air Quality, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director
(1) Type and number of entities affected: This regulation provides for the prevention of significant deterioration (PSD) of ambient air quality. It applies to major stationary sources and major modifications constructing in areas that are designated as attainment or unclassified for the specified pollutants. It is being amended to incorporate the amendments to the federal PSD regulation relating to PM_{10}, as promulgated by the U.S. EPA in the Federal Register of July 1, 1987 (52 FR 24634). These amendments would not affect any sources of particulate matter that were issued permits prior to July 31, 1987. Any new major stationary sources or major modifications of particulate matter locating in the Commonwealth after that date would be subject to this amended regulation.
(a) Direct and indirect costs or savings to those affected: None
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A
(b) Reporting and paperwork requirements: None due to the amendments to this regulation.
(2) Effects on the promulgating administrative body: None. The cabinet will continue to issue permits and to inspect sources that are subject to this regulation.
(a) Direct and indirect costs or savings: None
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs: N/A
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives were considered since these amendments are the same as those made by the U.S. EPA in its regulation.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments: In the Federal Register of July 1, 1987 (52 FR 24634), the U.S. EPA promulgated a revised national ambient air quality standard for particulate matter, and amended numerous other federal regulations relating to this new standard, including the federal regulation for the prevention of significant deterioration in 40 CFR 52. The amendments to this regulation are the same as the amendments to that and other federal regulations.
The U.S. EPA intends for this regulation to be applicable to all sources of particulate matter. Consequently, the cabinet is also amending 401 KAR 51:010 to specify that all areas will be designated as attainment or unclassified for total suspended particulates. There will be no attainment status designations for PM_{10}. The cabinet has requested to the U.S. EPA that those areas for which there is monitoring data available which supports the redesignation be redesignated to attainment status for total suspended particulates. The cabinet is in the process of requesting that the other areas be redesignated to unclassified for total suspended particulates.
The significant net emission rates in Appendix A of this regulation and the significant air quality impacts in Appendix C are being amended to include requirements for total suspended particulates (TSP) and PM_{10}. The ambient air increments in Appendix B are being amended to specify that the allowable increase (the "PSD increment") is measured as TSP, and not as PM_{10}, at this time. Other amendments include preconstruction monitoring reqirements for sources which submit permit applications prior to the effective date of these PM_{10} amendments, and the corrections to Appendix C, as promulgated by the U.S. EPA in this same Federal Register document.
TIERING: Was tiering applied? Yes. This regulation applies to major stationary sources or major modifications, which are defined to be sources or modifications which have a potential to emit of 100 or 250 tons per year or more of any pollutant regulated under the Clean Air Act, depending on the type of source.

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 the same as those promulgated by the U.S. EPA in its regulation for the prevention of significant deterioration, 40 CFR 52, or in the federal regulation for the requirements of state implementation plan, 40 CFR 51. Such amendments were promulgated in the federal register of July 1, 1987, at the same time as the amendments to the national ambient air quality standards (52 FR 24634).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(Proposed Amendment)

401 KAR 51:052. Review of new sources in or impacting upon nonattainment areas.

RELATES TO: KRS 224.320, 224.330, 224.340
PURSUANT TO: KRS 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement and control of air pollution. This regulation establishes requirements for the construction or modification of stationary sources within, or impacting upon, areas where the national ambient air quality standards have not been attained.

Section 1. Applicability. (1) The requirements of this regulation shall apply to new major sources or major modifications commenced after the classification date defined below and that will locate in or impact upon any area designated as nonattainment pursuant to Section 107(d)(1)(A), (B), or (C) of the Clean Air Act. Area designations are contained in 40 CFR 81.318.

(2) The provisions of this regulation relating to visibility protection shall also apply to major sources or major modifications in nonattainment areas which potentially have an impact on visibility in any mandatory Class I federal area.

Section 2. Definitions. As used in this regulation terms not defined herein shall have the meaning given them in 401 KAR 50:010 or for terms relating to the protection of visibility, in 401 KAR 51:017.

(1) "Major stationary source" means:

(a) Any stationary source which emits, or has the potential to emit, 100 tons per year or more of any pollutant subject to regulation under the Clean Air Act; or

(b) Any physical change that would occur at a stationary source not qualifying under paragraph (a) of this subsection as a major stationary source, if the change would constitute a major stationary source by itself.

(c) A major stationary source that is major for volatile organic compounds shall be considered major for ozone.

(2) "Major modification" means any physical change in or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant subject to regulation under the Clean Air Act.

(a) Any net emissions increase that is significant for volatile organic compounds shall be significant for ozone.

(b) A physical change or change in the method of operation shall not include:

1. Routine maintenance, repair and replacement;

2. Use of alternative fuel or raw material by reason of an order or by reason of a natural gas curtailment plan in effect under a federal act;

3. Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

4. Use of an alternative fuel or raw material by a stationary source which:

a. The source was capable of accommodating before December 21, 1976, unless such change would be prohibited under any permit condition which was established after December 21, 1976 pursuant to 40 CFR 52.21 or pursuant to 401 KAR 51:017 or under regulations established pursuant to 40 CFR 51.18; or

b. The source is approved to use under any permit issued under this regulation;

5. An increase in the hours of operation or in the production rate, unless such change is prohibited under a permit condition which was established after December 21, 1976 pursuant to 40 CFR 52.21 or pursuant to 401 KAR 51:017 or under regulations established pursuant to 40 CFR 51.18; or

6. Any change in ownership at a stationary source.

(3) "Net emission increase" means the amount by which the sum of paragraphs (a) and (b) of this subsection exceeds zero:

(a) Any increase in actual emissions from a particular physical change or change in method of operation at a stationary source; and

(b) Any other increases and decreases in actual emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

(c) An increase or decrease in actual emissions is contemporaneous with the increase from the particular change only if it occurs between the date which is ten (10) years before construction on the particular change commences, but not before December 21, 1976, and the date that the increase from the particular change occurs.

(d) An increase or decrease in actual emissions is creditable only if the cabinet has not relied on it in issuing a permit for the source under this regulation, which permit is in effect when the increase in actual emissions from the particular change occurs.

(e) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

(f) A decrease in actual emissions is creditable only to the extent that:

1. The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

2. It is state and federally enforceable at and after the time that actual construction on

the particular change begins;

3. The cabinet has not relied on it in issuing any permit or in demonstrating attainment or reasonable further progress; and

4. It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

(g) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any replacement unit that requires shakedown becomes operational only after a reasonable shakedown period, not to exceed 180 days.

(4) "Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical or operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation or the effect it would have on emissions is state and federally enforceable. Secondary emissions do not count in determining the potential to emit of a stationary source.

(5) "Stationary source" means any building, structure, facility, or installation which emits or may emit any air pollutant subject to regulation under the Clean Air Act.

(6) "Building, structure, facility, or installation" means all of the pollutant emitting activities which belong to the same industrial grouping, are located on one (1) or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control) except the activities of any vessel. Pollutant-emitting activities shall be considered as part of the same industrial grouping if they belong to the same major group (i.e., which have the same two (2) digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 supplement.

(7) "Emission unit" means any part of a stationary source which emits or would have the potential to emit any pollutant subject to regulation under the Clean Air Act.

(8) "Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) which would result in a change in actual emissions.

(9) "Commence" as applied to construction of a major stationary source or major modification means that the owner or operator has all necessary preconstruction approvals or permits and either has:

(a) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

(b) Entered into agreements or contractual obligations, which cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source to be completed within a reasonable time.

(10) "Necessary preconstruction approvals or permits" means those permits or approvals required under the regulations of Title 401, Chapters 50 and 63.

(11) "Allowable emissions" means the emissions rate calculated using the maximum rated capacity of the source (unless the source is subject to state and federally enforceable permit conditions which limit operating rate, of hours or operation, or both) and the most stringent of the following:

(a) The applicable new source performance standards set forth in Title 401, Chapters 57 and 59, or 40 CFR Parts 60 and 61;

(b) Any other state and federally approved regulatory emission limitations, including those with a future compliance date; or

(c) The emission rate specified as a state and federally enforceable permit condition, including those with a future compliance date.

(12) "Federally enforceable" means all limitations and conditions which are enforceable by the U.S. EPA, including those requirements developed pursuant to 40 CFR 60 and 61, requirements within any applicable State Implementation Plan, and any permit requirements established pursuant to 40 CFR 52.21 or under regulations approved pursuant to 40 CFR 51.18 or 40 CFR 51.24.

(13) "Secondary emissions" means emissions which would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. For the purpose of this regulation, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the stationary source or modification which causes the secondary emissions. Secondary emissions include emissions from any off-site support facility which would not otherwise be constructed or increase its emissions as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions which come directly from a mobile source, such as the emissions from the tailpipe of a motor vehicle, from a train, or from a vessel.

(14) "Actual emissions" means the actual rate of emissions of a pollutant from an emissions unit, as determined in accordance with paragraphs (a) to (c) of this subsection.

(a) In general, actual emissions as of a particular date shall equal the average rate, in tons per year, at which the emission unit actually emitted the pollutant during a two (2) year period which precedes the particular date and which is representative of normal source operation. The cabinet shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions shall be calculated using the emission unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

(b) The cabinet may presume that source specific allowable emissions for the emission unit are equivalent to the actual emissions of the emissions unit.

(c) For any emissions unit which has not begun normal operations on the particular date, actual emissions shall equal the potential to emit of the emission unit on that date.

(15) "Fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other

functionally equivalent opening.

(16) "Significant" means in reference to a net emissions increase or the potential of a source to emit any pollutant, a rate of emissions that would equal or exceed any rates given in Appendix A of this regulation.

(17) "Lowest achievable emission rate" means, for any source, the more stringent rate of emissions based on the following:

(a) The most stringent emissions limitation which is contained in any implementation plan of any state for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or

(b) The most stringent emissions limitation which is achieved in practice by such class or category of stationary source. This limitation, when applied to a major modification, means the lowest achievable emissions rate for the new or modified emission unit within the stationary source. In no event shall the application of this term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under any applicable new source standard under Title 401, Chapters 57 and 59, and 40 CFR Parts 60 and 61.

(18) "Classification date" means September 22, 1982.

(19) "Reasonable further progress" means annual incremental reductions in emissions of the applicable air pollutant which are sufficient, in the judgment of the cabinet and the U.S. EPA, to provide for attainment of the applicable ambient air quality standard by the date specified in 401 KAR 51:010, Section 2.

(20) "Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit which are of a permanent nature. Such activities include, but are not limited to, installation of building supports and foundations, laying of underground pipework, and construction of permanent storage structures. With respect to a change in method of operating, this term refers to those on-site activities other than preparatory activities which mark the initiation of the change.

(21) "Class I area" means the areas listed in paragraph (a) of this subsection. These areas may not be redesignated.

(a)1. International parks;

2. National wilderness areas and national memorial parks which exceed 5,000 acres in size; and

3. National parks which exceed 6,000 acres in size.

(b) Any other area, unless otherwise specified in the legislation creating such an area, is designated Class II but may be redesignated as provided in 40 CFR 51.24(g).

(22) "Adverse impact on visibility" means visibility impairment which interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Class I area. This determination shall be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairments, and how these factors correlate with the times of visitor use of the Class I area, and the frequency and timing of natural conditions that reduce visibility.

(23) "State Implementation Plan" means the most recently prepared plan or revision thereof required by Section 110 of the Clean Air Act which has been approved by the U.S. EPA.

(24) "Mandatory Class I federal area" means any area identified in 40 CFR 81, Subpart D, where the administrator of the U.S. EPA, in consultation with the Secretary of the United States Department of Interior, has determined visibility to be an important value.

(25) "Natural conditions" means those naturally occurring phenomena that reduce visibility as measured in terms of visual range, contrast, or coloration.

(26) "Visibility impairment" means any humanly perceptible change in visibility (visual range, contrast, coloration) from that which would have existed under natural conditions.

Section 3. Initial Screening Analyses and Determination of Applicable Requirements. (1) Review of all sources for emissions limitation compliance. The cabinet shall examine each proposed major new source and proposed major modification to determine if such source or modification will meet all applicable emission requirements in Title 401, Chapters 50 to 63. If the cabinet determines from the application and all other available information that the proposed source or modification will not meet the applicable emission requirements, the permit to construct shall be denied.

(2) Review of specified sources of air quality impact. In addition, the cabinet shall determine whether the major stationary source or major modification would be constructed in an area designated as nonattainment pursuant to Section 107(d)(1)(A), (B), or (C) of the Clean Air Act for a pollutant for which the stationary source or modification is major. If a designated nonattainment area is projected to be an attainment area as part of an approved control strategy by the new source start-up date, offsets shall not be required if the new source would not cause a new violation.

(3) Fugitive emission sources. Sections 5 and 10 of this regulation shall not apply to a source or modification that would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

(a) Coal cleaning plants (with thermal dryers);
(b) Kraft pulp mills;
(c) Portland cement plants;
(d) Primary zinc smelters;
(e) Iron and steel mills;
(f) Primary aluminum ore reduction plants;
(g) Primary copper smelters;
(h) Municipal incinerators capable of charging more than 250 tons of refuse per day;
(i) Hydrofluoric, sulfuric, or nitric acid plants;
(j) Petroleum refineries;
(k) Lime plants;
(l) Phosphate rock processing plants;
(m) Coke oven batteries;
(n) Sulfur recovery plants;
(o) Carbon black plants (furnace process);
(p) Primary lead smelters;
(q) Fuel conversion plants;
(r) Sintering plants;
(s) Secondary metal production plants;
(t) Chemical process plants;
(u) Fossil-fuel boilers (or combination

thereof) totaling more than 250 million BTUs per hour heat input;

(v) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

(w) Taconite ore processing plants;

(x) Glass fiber processing plants;

(y) Charcoal production plants;

(z) Fossil fuel-fired steam electric plants of more than 250 million BTUs per hour heat input; or

(aa) Any other stationary source category which, as of August 7, 1980, is being regulated under Title 401, Chapters 57 and 59, or 40 CFR Parts 60 and 61.

Section 4. Sources Locating in Designated Attainment or Unclassifiable Areas. (1) This section shall apply only to new major stationary sources or new major modifications which will locate in designated attainment or unclassifiable areas pursuant to Section 107(d)(1)(D) or (E) of the Clean Air Act if the source or modification would cause impacts which exceed the significance levels specified in Appendix B of this regulation at any locality that does not meet the national ambient air quality standards.

(2) Sources to which this section applies must meet the requirements in Section 5(1), (2) and (4) of this regulation. However, such sources may be exempt from Section 5(3) of this regulation.

(3) For sources of sulfur dioxide, particulate matter, and carbon monoxide, the determination of whether a new major source or major modification will cause or contribute to a violation of a national ambient air quality standard shall be made on a case-by-case basis using the source's allowable emissions in an approved atmospheric simulation model pursuant to 401 KAR 50:040.

(4) For sources of nitrogen oxides, the initial determination of whether a new major source or major modification would cause or contribute to a violation of the national ambient air quality standard for nitrogen dioxide shall be made using an approved atmospheric simulation model assuming all the nitric oxide emitted is oxidized to nitrogen dioxide by the time the plume reaches ground level. The initial concentration estimates may be adjusted if adequate data are available to account for the expected oxidation rate.

(5) For ozone, sources of volatile organic compounds (VOC) locating outside a designated ozone nonattainment area will be presumed to have no significant impact on the designated nonattainment area. If ambient monitoring indicates that the area of source location is in fact nonattainment, then the source may be permitted under the applicable provisions of this regulation until the area is designated nonattainment pursuant to Section 107(d)(1)(A), (B), or (C) of the Clean Air Act. Once the area of source location has been redesignated to nonattainment status in 40 CFR 81.318, the provisions of Section 5(3) and (4) of this regulation as they relate to emissions of VOC shall not apply, provided the area is not also an urban county as defined in 401 KAR 50:010.

(6) The determination as to whether a new major source or major modification would cause or contribute to a violation of a national ambient air quality standard shall be made as of the start-up date.

(7) Applications for major new sources and major modifications locating in attainment or unclassifiable areas the operation of which would cause a new violation of a national ambient air quality standard but would not contribute to an existing violation may be approved only if both the following conditions are met:

(a) The new source is required to meet an emission limitation, or a design, operational or equipment standard, or existing sources are controlled, such that the new source will not cause a violation of any national ambient air quality standard.

(b) The new emission limitations for the new source as well as any existing sources affected must be state and federally enforceable in accordance with the mechanisms set forth in Section 7 of this regulation.

Section 5. Conditions for Approval. The provisions of this section shall apply to new major stationary sources or major modifications which would be constructed in an area designated as nonattainment pursuant to Section 107(d)(1)(A), (B) or (C) of the Clean Air Act for a pollutant for which the stationary source or modification is major. Approval may be granted only if the following conditions are met:

(1) The new major source or major modification shall be required to meet an emission limitation which specifies the lowest achievable emission rate for such source.

(2) The applicant shall demonstrate that all existing major sources owned or operated by the applicant (or any entity controlling, controlled by, or under common control with the applicant) in the Commonwealth of Kentucky are in compliance with all applicable emission limitations and standards specified in Title 401, Chapters 50 to 63, and 40 CFR Parts 60 and 61 and the Clean Air Act, or are in compliance with an expeditious state and federally enforceable compliance schedule or a court decree establishing a compliance schedule.

(3) Emissions from existing sources in the affected area of the proposed new major source or modifications (whether or not under the same ownership) shall be reduced (offset) such that there will be reasonable progress toward attainment of the applicable national ambient air quality standard. Only those transactions in which the emissions being offset are from the same criteria pollutant category shall be accepted.

(4) The emission reductions shall be such as to provide a positive net air quality benefit in the affected area. Atmospheric simulation modeling is not necessary for volatile organic compounds and oxides of nitrogen. Except as provided in Section 4(5) of this regulation, compliance with subsection (3) of this section and Section 6(7) of this regulation will be adequate to meet this condition.

(5) For a major stationary source or major modification locating in an area designated nonattainment with respect to that pollutant for which the proposed source or modification is major, permits issued under this regulation shall specify that construction shall not commence until the U.S. EPA has approved the cabinet's plan relating to the requirements of Part D, Title I, of the Clean Air Act.

(6) In nonattainment areas which have been

granted an extension of the deadline to attain the primary national ambient air quality standard for ozone or carbon monoxide, pursuant to Section 172(a)(2) of the Clean Air Act, the proposed major stationary source or major modification shall include in the application for a construction permit, an analysis of the alternative sites, sizes, production processes, and environmental control techniques for such proposed source, which demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification.

Section 6. Baseline for Determining Credit for Emission Offsets. The baseline for determining credit for emission reductions or offsets will be the emission limitations in effect at the time the application to construct or modify a source is filed. For areas where the demonstration of attainment for the State Implementation Plan was based on actual emissions, the baseline for determining offset credit shall be actual emissions. Credit for emission offset purposes may be allowed for existing control that goes beyond that required by regulations. Offset calculations shall be made on a pound per hour basis when all facilities involved in the emission offset calculations are operating at their maximum expected or allowed production rate. Offsets may be calculated on a tons per year basis providing that baseline emissions for existing sources providing the offsets are calculated using the actual annual operating hours for the previous two (2) year period. Where the cabinet requires certain hardware controls in lieu of an emission limitation, baseline allowable emissions shall be based on actual operating conditions for the previous two (2) year period in conjunction with the required hardware controls.

(1) No applicable emission limitation. Where the requirements of the cabinet do not contain an emission limitation for a source or source category, the emission offset baseline involving such sources shall be actual emissions determined under actual operating conditions for the previous two (2) year period. Where the emission limitations required by the cabinet allow greater emissions than the uncontrolled emission rate of the source, emission offset credit will be allowed only for control below the uncontrolled emission rate.

(2) Combustion of fuels. The emissions for determining emission offset credit involving an existing fuel combustion source will be the allowable emissions under the emission limitation requirements of the cabinet for the type of fuel being burned at the time the new major source or major modification application is filed. If the existing source has switched to a different type of fuel at some earlier date, any resulting emission reduction (either actual or allowable) shall not be used for emission offset credit. If the existing source commits to switch to a cleaner fuel at some future date, emission offset credit based on the allowable emissions for the fuels involved is not acceptable unless the permit is conditioned to require the use of a specified alternative control measure which would achieve the same degree of emission reduction should the source switch back to a dirtier fuel at some later date.

(3) Operating hours and source shutdown. A source may be credited with emission reductions achieved by shutting down an existing source or permanently curtailing production or operating hours below baseline levels provided that the work force to be affected has been notified in writing of the proposed shutdown or curtailment. Source shutdowns and curtailments in production or operating hours occurring prior to the date the new source application is filed shall not be used for emission offset credit. However, where an applicant can establish that it shut down or curtailed production after August 7, 1977, or less than one (1) year prior to the date of permit application, whichever is earlier, and the proposed new source is a replacement for the shutdown or curtailment, credit for such shutdown or curtailment may be applied to offset emissions from the new source.

(4) Credit for hydrocarbon substitution. No emission offset credit may be allowed for replacing one (1) volatile organic compound with another of lesser photochemical reactivity, unless the replacement compound is methane, ethane, 1,1,1-trichloroethane or trichlorofluoroethane.

(5) Banking of emission offset credit. New sources obtaining permits by applying offsets after January 16, 1979 may bank offsets that exceed the requirements of reasonable progress toward attainment for future use. An owner or operator of an existing source that reduces its own emissions may bank any resulting reduction beyond those required by regulation for use under this regulation, even if the offsets are applied immediately to a new source permit. These banked emissions offsets may be used under the preconstruction review program required in the Clean Air Act as long as these banked emissions are identified and accounted for in the Commonwealth's control strategy.

(6) Offset credit for meeting NSPS or NESHAPS. Where a source is subject to an emission limitation established in a New Source Performance Standard (NSPS) or a National Emission Standard for Hazardous Air Pollutants (NESHAPS) in compliance with Title 401, Chapters 59 and 57 respectively, and a different emission limitation required by the cabinet, the more stringent limitation shall be used as the baseline for determining credit for emission offsets. The difference in emissions between NSPS or NESHAPS and other emission limitations may not be used as offset credit.

(7) Location of offsetting emissions. In the case of emission offsets involving nitrogen oxides, offsets may be obtained only within the same air quality control region, as defined in 401 KAR 50:020 in which the source is to be located. For sulfur dioxide, particulate matter and carbon monoxide, the cabinet shall require atmospheric simulation modeling to ensure that the emission offsets provide a positive net air quality benefit. In the case of emission offsets involving stack emissions of VOC, offsetting emissions may be obtained and used as follows:

(a) For a source in an urban county designated nonattainment for ozone in 401 KAR 51:010, VOC emission offsets shall only be available for use when created by sources located in counties within the same urban nonattainment area.

(b) For a source not subject to paragraph (a) of this subsection, VOC emission offsets shall be available for use when created by sources located within fifty (50) kilometers of the intended user.

Section 7. Administrative Procedures. The necessary emission offsets may be proposed either by the owner of the proposed source or the cabinet. The emission reduction committed to must be state and federally enforceable by the cabinet, and must be accomplished by the start-up date of the new source. If emission reductions are to be obtained in a state that neighbors the Commonwealth of Kentucky for a new source to be located in the Commonwealth, the emission reductions committed to must be state and federally enforceable by the neighboring state and/or local agencies and the U.S. EPA.

(1) Source initiated emission offsets. The owner and/or operator of a source may propose emission offsets which involve reductions from sources controlled by the owner (internal emission offsets) and/or reductions from other sources (external emission offsets). As long as the emission offsets obtained represent reasonable progress toward attainment, they shall be acceptable. An internal emission offset shall be made enforceable by inclusion as a condition of the new source permit. An external emission offset will not be accepted unless the affected source(s) is subject to a new emission limitation requirement of the cabinet to ensure that its emissions will be reduced by a specified amount in a specified time. The form of the new emission limitation may be a cabinet regulation, operating permit condition, or consent or enforcement order.

(2) Cabinet initiated emission offsets. The cabinet may commit to reducing emissions from existing sources (including mobile sources) to provide a net air quality benefit in the impact area of the proposed new source so as to accommodate the proposed new source. The commitment must be reflected in the emission limitation requirements of the cabinet for the new and existing sources as required by this section.

Section 8. Source Obligation. (1) Any owner or operator who constructs or operates an applicable source or modification not in accordance with the application submitted pursuant to this regulation or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this regulation who begins actual construction after September 22, 1982 without applying for and receiving approval hereunder, shall be subject to appropriate enforcement action.

(2) Approval to construct shall become invalid if construction is not commenced within eighteen (18) months after receipt of such approval, or if construction is discontinued for a period of eighteen (18) months or more, or if construction is not completed within a reasonable time. The cabinet may extend the eighteen (18) month period upon satisfactory showing that an extension is justified.

(3) Approval to construct shall not relieve any owner or operator of the responsibility to comply fully with applicable provisions of Title 401, Chapters 50 to 63 and any other requirements under local, state, or federal law.

(4) At such time that a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any state and federally enforceable limitation which was established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of this regulation shall apply to the source or modification as though construction had not yet commenced on the source or modification.

Section 9. Permit Condition Rescission. (1) Any owner or operator holding a permit for a stationary source or modification which was issued pursuant to 401 KAR 51:050 or 401 KAR 51:051E may request that the cabinet rescind the permit condition.

(2) The cabinet shall rescind a permit condition if so requested if the applicant can demonstrate to the satisfaction of the cabinet that this regulation does not apply to the source or modification or a portion thereof if construction would have commenced after September 22, 1982, and if the owner or operator demonstrates that such rescission would not interfere with reasonable further progress.

Section 10. Protection of Visibility. (1) New source review - applicability and exemptions.

(a) No stationary source or modification to which the requirements of this section apply shall begin actual construction without a permit which states that the stationary source or modification would meet those requirements.

(b) The requirements of this section shall apply to construction of any new major stationary source or major modification that would both be constructed in an area classified as nonattainment under Section 107(d)(1)(A), (B), or (C) of the Clean Air Act and potentially has an impact on visibility in any Class I area.

(c) The requirements of this section shall apply to any such major stationary source and any such major modification with respect to each pollutant subject to regulation under the Clean Air Act that it would emit, except as this section otherwise provides.

(d) The requirements of this section shall not apply to a particular major stationary source or major modification if:

1. The source or modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution, and the Governor of the Commonwealth of Kentucky requests that it be exempt from those requirements.

2. The source is a portable stationary source which has previously received a permit under this section; and:

a. The owner or operator proposes to relocate the source and emissions of the source at the new location would be temporary;

b. The emissions from the source would not exceed its allowable emissions;

c. The emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and

d. Reasonable notice is given to the cabinet prior to the relocation, identifying the proposed new location and the probable duration of operation at the new location. Such notice shall be given to the cabinet not less than ten (10) days in advance of the proposed relocation unless a different time duration is previously approved by the cabinet.

(e) The requirements of this section shall not apply to a major stationary source or major modification with respect to a particular pollutant, if the allowable emissions of that pollutant from the source, or the net emissions

increase of that pollutant from the modification:

1. Would impact no Class I area and no area where an applicable increment is known to be violated; and

2. Would be temporary.

(2) Visibility impact analyses. The owner or operator of a source shall provide an analysis of the impairment to visibility that would occur in a Class I area as a result of the source or modification and general commercial, residential, industrial and other growth associated with the source or modification.

(3) Federal land manager notification.

(a) The federal land manager and the federal official charged with direct responsibility for management of Class I areas have an affirmative responsibility to protect the air quality related values (including visibility) of such lands and to consider, in consultation with the cabinet, whether a proposed source or modification will have an adverse impact on such values.

(b) The cabinet shall provide written notification to all affected federal land managers of any permit application for any proposed new major stationary source or major modification that may affect visibility in any Class I area. The cabinet shall also provide such notification to the federal official charged with direct responsibility for management of any lands within any such area. Such notification shall include a copy of all information relevant to the permit application and shall be given within thirty (30) days of receipt and at least sixty (60) days prior to any public hearing on the application for a permit to construct. Such notification shall include an analysis of the proposed source's anticipated impacts on visibility in any Class I area. The cabinet shall also notify all affected federal land managers within thirty (30) days of receipt of any advance notification of any such permit application.

(c) The cabinet shall consider any analysis performed by the federal land manager provided within thirty (30) days of the notification and analysis required by paragraph (b) of this subsection, that such proposed new major stationary source or major modification may have an adverse impact on visibility in any Class I area. Where the cabinet finds that such an analysis does not demonstrate to the satisfaction of the cabinet that an adverse impact on visibility will result in the Class I area, the cabinet shall, in the public hearing notice required in 401 KAR 50:035, Section 4, either explain that decision or give notice as to where the explanation can be obtained.

(4) Public participation. The cabinet shall follow the applicable procedures of 401 KAR 50:035 in processing applications under this section. The cabinet shall follow the procedures at 40 CFR 52.21(r) as in effect on August 7, 1980, to the extent that the procedures of 401 KAR 50:035 do not apply.

(5) National visibility goal. The cabinet shall only issue permits to those sources whose emissions will be consistent with making reasonable progress toward the national goal of preventing any future, and remedying any existing, impairment of visibility in Class I areas which impairment results from manmade air pollution. In making the decision to issue a permit the cabinet may take into account the overriding factors of the cost of compliance, the time necessary for compliance, the energy and nonair quality environmental impacts of compliance, and the useful life of the source.

(6) Monitoring. The cabinet may require monitoring of visibility in any Class I area near the proposed new stationary source or major modification using human observations, teleradiometers, photographic cameras, nephelometers, fine particulate monitors, or other appropriate methods as specified by the U.S. EPA. The method selected shall be determined on a case-by-case basis by the cabinet. Any visibility monitoring required by the cabinet in a Class I area will be approved by the federal land manager. Data obtained from visibility monitoring shall be made available to the cabinet, the federal land manager, and the U.S. EPA, upon request.

APPENDIX A TO 401 KAR 51:052
Significant Pollutant and Emissions Rate

Carbon monoxide:	100 per year (tpy)
Nitrogen oxides:	40 tpy
Sulfur dioxide:	40 tpy
Particulate matter:	25 tpy of particulate matter emissions
Ozone:	40 tpy of volatile organic compounds
Lead:	0.6 tpy

APPENDIX B TO 401 KAR 51:052
Significant Levels of Air Quality Impact

Pollutant	Annual Average	Averaging Time 24-Hour	8-Hour	3-Hour	1-Hour
Sulfur Dioxide	1.0 ug/m^3	5 ug/m^3	--	25 ug/m^3	--
Total Suspended Particulates	1.0 ug/m^3	5 ug/m^3	--	--	--
Nitrogen Dioxide	1.0 ug/m^3	--	--	--	--
Carbon Monoxide	--	--	0.5mg/m^3	--	2mg/m^3

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at 3 p.m.
PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on February 26, 1988, at 10 a.m. (EST) in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. Roger B. McCann, Director, Division for Air Quality, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director
(1) Type and number of entities affected: This regulation applies to new major sources or major modifications that will locate in or impact upon any area designated as nonattainment pursuant to Section 107 of the Clean Air Act, or that will cause an area to exceed the national ambient air quality standards. It is being amended in response to the amendments to the federal regulations of July 1, 1987 (52 FR 24634), which promulgated a new indicator to measure the national ambient air quality standard for particulate matter, PM_{10}, and amended various other regulations to accommodate the new PM_{10} standard. Since no areas in the Commonwealth will be designated as nonattainment for PM_{10}, any affected source would only have to demonstrate that it would not cause a violation of the new PM_{10} standard.
The amendment to this regulation clarifies that the significant rate for particulate matter as specified in Appendix A is to be measured as 25 tons per year of particulate matter emissions. Such amendment will not adversely affect any sources in the Commonwealth.
(a) Direct and indirect costs or savings to those affected: None
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings:
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs: N/A
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered since this is the same amendments that the U.S. EPA made to its regulation in 40 CFR 51, Appendix S.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments: This regulation is being amended as a part of the state implementation plan for PM_{10}. Since all ambient air monitoring indicates that all areas in the Commonwealth are currently meeting the revised standard, the U.S. EPA has determined that the current SIP which was developed for TSP should be maintained in order to protect the new ambient standard for PM_{10}. Therefore, no changes are being made to this regulation except for the change in Appendix A for PM_{10}, which is the same as the federal amendment.
TIERING: Was tiering applied? Yes. This regulation only applies to major sources or major modifications which are defined to be sources or modifications which emit or have the potential to emit 100 tons per year or more of any pollutant subject to regulation under the Clean Air Act.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This amendment is the same as the U.S. EPA's amendment to its regulation, 40 CFR 51, Appendix S.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(Proposed Amendment)

401 KAR 53:005. General provisions.

RELATES TO: KRS [Chapter] 224.320, 224.330, 244.340
PURSUANT TO: KRS 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation is to provide for the establishment of general provisions, definitions and time schedules as they pertain to this chapter.

Section 1. Purpose and Intention. (1) The purpose of the primary ambient air quality standards is to define levels of air quality which the cabinet judges are necessary, with an adequate margin of safety, to protect the public health. Secondary ambient air quality standards define levels of air quality which the cabinet judges necessary to protect the public welfare from any known or anticipated adverse effects of a pollutant.
(2) In the establishment of these standards, it is the intention of the cabinet to prohibit further significant and avoidable deterioration of air quality in areas where air quality presently exists which is numerically equal to or less than the standards expressed herein.
(3) Except as provided in 401 KAR 51:010, no person shall violate, or interfere with the attainment or maintenance of, ambient air quality standards as specified in 401 KAR 53:010.

Section 2. Applicability. (1) The primary and secondary ambient air quality standards stated in 401 KAR 53:010 shall apply at any single point location.

(2) The secondary standard for odor shall be applicable only when the cabinet receives a complaint with respect to odors from a source.

Section 3. Definitions. As used in this chapter, all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Ambient air" means that portion of the atmosphere, external to buildings, to which the general public has access.

(2) "Reference method" means a method of sampling and analyzing for an air pollutant as specified by Appendices A through K [G] of 40 CFR 50, filed by reference in 401 KAR 50:015.

(3) "Equivalent method" means any method of sampling and analyzing of an air pollutant which can be demonstrated to the cabinet's and the U. S. EPA's satisfaction to have a consistent relationship to the reference method.

(4) "Ambient air quality standard" means a numerical expression of a specified concentration level for a particular air contaminant and the time averaging interval over which that concentration level is measured and is a goal to be achieved in a stated time through the application of appropriate preventive and/or control measures.

(5) "Annual mean" means an average determined on the basis of any consecutive twelve (12) month interval.

(6) "Three (3) hour average" means an average determined on the basis of any consecutive three (3) hour interval.

(7) "Eight (8) hour average" means an average determined on the basis of any consecutive eight (8) hour interval.

(8) "Twelve (12) hour average" means an average determined on the basis of any consecutive twelve (12) hour interval.

(9) "One (1) week average" means an average determined on the basis of any consecutive seven (7) day interval.

(10) "One (1) month average" means an average determined on the basis of any consecutive thirty (30) day interval.

(11) "Maximum" means an ambient air quality standard which shall not be exceeded more than once per year providing that the averages exceeding the standard do not contain any common hourly data points.

(12) "Odor" means the property of an air contaminant that can be detected by the sense of smell.

(13) "Standard condition" means a reference temperature of twenty-five (25) degrees Celsius and a reference pressure of 760 millimeters of mercury.

(14) "Year" means any consecutive twelve (12) month period.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on February 26, 1988, at 10 a.m. (EST) in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. Roger B. McCann, Director, Division for Air Quality, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director

(1) Type and number of entities affected: This regulation provides for the establishment of general provisions, definitions, and time schedules as they pertain to Title 401, Chapter 53. In the Federal Register of July 1, 1987 (52 FR 24663), the U.S. EPA promulgated two reference methods which relate to the measurement of PM_{10} emissions. The cabinet is extending the definition of reference method to include all of the methods in 40 CFR 50 in the definition of "reference method." Appendix H was promulgated February 8, 1979 and relates to the interpretation of the ambient air quality standards for ozone. 40 CFR 50, Appendix I was reserved. In the future, should any source which emits particulate matter be required to monitor the ambient air, then it could be required to use the reference methods outlined in the two appendices which relate to PM_{10} emissions. Simply incorporating these appendices into this definition does not affect any sources or other entitites in Kentucky. Any impact from this amendment will be due to changes in the specific regulations where the methods are required.

(a) Direct and indirect costs or savings to those affected: There will be no additional costs due to this amendment. There could be savings as a result of the promulgation of other regulations which are also being amended relating to PM_{10}; however, such savings would be due to the impact of each individual regulation rather than the result of amending only this definition.

1. First year: N/A

2. Continuing costs or savings: N/A

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None due to the amendment to this regulation. There will be some effects on the cabinet due to the promulgation of other regulations which are being amended relating to PM_{10}; but any impact is due to the changes in the individual regulations.

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

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

(b) Reporting and paperwork requirements: None due to the amendment to this regulation.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered since the U.S. EPA requires that the state implementation plan (SIP) for PM_{10} contain these reference methods.

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

(a) Necessity of proposed regulation if in conflict: 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: In

the Federal Register of July 1, 1987 (52 FR 24634), the U.S. EPA promulgated a revised national ambient air quality standard for particulate matter and amended other federal regulations relating to this new standard. The U.S. EPA also requires states to revise their state implementation plans (SIPs) to address how the new standard will be attained and maintained. Ambient air monitoring indicates that all areas in the Commonwealth are currently meeting the revised standard; therefore, the cabinet is only required to amend its SIP, including the regulations, to show how the revised standard will be maintained. As a part of the SIP revision, the cabinet is amending this regulation and numerous other regulations which relate to the revised ambient air quality standard.

The revised standard promulgates a new indicator to measure health and welfare related impacts of particulate matter. This new indicator is called PM_{10} which is defined to be particulate matter with a diameter of less than or equal to ten micrometers. The U.S. EPA determined that ten micrometers is the largest sized particle which can be inhaled into the lungs, and which can thus cause damage to humans.

This regulation is being amended to add reference methods relating to PM_{10} and to include all of the appendices to 40 CFR 50. The regulatory impact analyses for the other regulations which are being amended contain more information about the particular changes relating to those regulations.

TIERING: Was tiering applied? No. Tiering is not applicable in these amendments since they only add reference methods which relate to the measurement of pollutants.

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 relating to PM_{10} is the same as the one promulgated by the U.S. EPA in the Federal Register of July 1, 1987 (52 FR 24634).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(Proposed Amendment)

401 KAR 53:010. Ambient air quality standards.

RELATES TO: KRS [Chapter] 224.320, 224.330, 224.340

PURSUANT TO: KRS 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation is to fix ambient air quality standards necessary for the protection of the public health, the general welfare, and the property and people in this Commonwealth.

Section 1. Ambient Air Quality Standards. The primary and secondary ambient air quality standards for sulfur oxides, particulate matter, carbon monoxide, ozone, nitrogen dioxide, lead, hydrogen sulfide, gaseous fluorides, total fluorides, and odors are specified in Appendix A of this regulation. Measurements will be by methods specified in Section 2 of this regulation.

Section 2. Methods of Measurement. For those air contaminants for which there are state ambient air quality standards that are the same as the national ambient air quality standards, measurements shall be made according to reference methods, or their equivalent methods. For other air contaminants for which there are state ambient air quality standards, measurements shall be made according to methods as prescribed by the cabinet. The frequency of measurements for all air contaminants shall be prescribed by the cabinet.

Section 3. Within sixty (60) days of promulgation or revision of any ambient air quality standard by the U.S. EPA, the cabinet shall initiate proceedings to promulgate or review this regulation in conformance with the federal ambient air quality standards.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on February 26, 1988, at 10 a.m. (EST) in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. Roger B. McCann, Director, Division for Air Quality, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director

(1) Type and number of entities affected: This regulation fixes the ambient air quality standards necessary for the protection of the public health, the general welfare, and the property and people in the Commonwealth of Kentucky. It is being amended to add the new primary and secondary PM_{10} standards; to delete the old particulate standards for TSP; and to clarify that the ambient air quality standards for particulate matter are measured as PM_{10}, as promulgated by the U.S. EPA in the Federal Register of July 1, 1987 (52 FR 24663). All sources in Kentucky which emit particulate matter will now be subject to the new primary and secondary PM_{10} standards specified in Appendix A to this regulation.

(a) Direct and indirect costs or savings to those affected: There will be no additional costs due to this amendment. There could be savings as a result of the promulgation of other regulations which are also being amended relating to PM_{10}; however, such savings would be due to the impact of each individual regulation rather than the result of amending

only these standards.
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings:
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs: N/A
(b) Reporting and paperwork requirements: None due to the amendment to this regulation.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered since the U.S. EPA requires that the state implementation plan (SIP) for PM_{10} contain the revised primary and secondary ambient air quality 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: 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: In the Federal Register of July 1, 1987 (52 FR 24634), the U.S. EPA promulgated a revised national ambient air quality standard for particulate matter, and amended other federal regulations relating to this new standard. The U.S. EPA also requires states to revise their state implementation plans (SIPs) to address how the new standard will be attained and maintained. Ambient air monitoring indicates that all areas in the Commonwealth are currently meeting the revised standard; therefore, the cabinet is only required to amend its SIP, including the regulations, to show how the revised standard will be maintained. As a part of the SIP revision, the cabinet is amending this regulation and numerous other regulations which relate to the revised ambient air quality standard.

The revised standard promulgates a new indicator to measure health and welfare related impacts of particulate matter. This new indicator is called PM_{10} which is defined to be particulate matter with a diameter of less than or equal to ten micrometers. The U.S. EPA determined that ten micrometers is the largest sized particle which can be inhaled into the lungs, and thus which can cause damage to humans.

This regulation is being amended to specify the new ambient air quality standards for particulate matter relating to PM_{10}. The regulatory impact analyses for the other regulations which are being amended contain additional information about the particular changes relating to those regulations.

TIERING: Was tiering applied? No. Tiering is not applicable in these amendments.

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 relating to PM_{10} are the same as those promulgated by the U.S. EPA in the Federal Register of July 1, 1987 (52 FR 24634).
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

(See Appendix A on following page)

APPENDIX A TO 401 KAR 53:010
AMBIENT AIR QUALITY STANDARDS

The following air contaminant concentrations shall apply at any single point location:

CONTAMINANT	PRIMARY STANDARD	SECONDARY STANDARD
Sulfur Oxides (Sulfur Dioxide) - µg/m³		
Annual Arithmetic Mean, not to exceed	80 (0.03 ppm)	--
Maximum Twenty-Four-Hour Average	365 (0.14 ppm)①[†]	--
Maximum Three-Hour Average	--	1300 (0.50 ppm)①[†]
Particulate Matter, measured as PM_{10} - µg/m³		
Annual Arithmetic [~~Geometric~~] Mean, not to exceed	50 ②[~~75~~]	50 ②[~~60‡~~]
Maximum Twenty-Four-Hour Average	150 ③[~~260†~~]	150 ③[~~150†~~]
Carbon Monoxide - mg/m³		
Maximum Eight-Hour Average	10 (9 ppm)①[†]	Same as primary
Maximum One-Hour Average	40 (35 ppm)①[†]	Same as primary
Ozone - µg/m³		
Maximum Average	235 (0.12 ppm)④[⊕]	Same as primary
Nitrogen Dioxide - µg/m³		
Annual Arithmetic Mean, not to exceed	100 (0.05 ppm)	Same as primary
Lead - µg/m³		
Maximum Arithmetic Mean averaged over a calendar quarter	1.5	Same as primary
Hydrogen Sulfide - µg/m³		
Maximum One-Hour Average	--	14 (0.01 ppm)①[†]
Gaseous Fluorides - (expressed as HF) - µg/m³		
Annual Arithmetic Mean, not to exceed	400 (0.5 ppm)	--
Maximum One-Month Average	--	0.82 (1.00 ppb)①[†]
Maximum One-Week Average	--	1.64 (2.00 ppb)①[†]
Maximum Twenty-Four-Hour Average	800 (1.0 ppm)①[†]	2.86 (3.50 ppb)①[†]
Maximum Twelve-Hour Average	--	3.68 (4.50 ppb)①[†]
Total Fluorides - ppm		
Dry weight basis (as fluoride ion) in and on forage for consumption by grazing ruminants		
The following concentrations are not to be exceeded:		
Average concentration of monthly samples over growing season (not to exceed 6 consecutive months)	--	40 ppm (w/w)
Two-Month Average	--	60 ppm (w/w)
One-Month Average	--	80 ppm (w/w)
Odors		At any time when 1 volume unit of ambient air is mixed with 7 volume units of odorless air, the mixture must have no detectable odor.

Footnotes:

①[†] This average is not to be exceeded more than once per year.

② The standard is attained when the expected annual arithmetic mean concentration, as determined in accordance with Appendix K to 40 CFR 50, is less than or equal to fifty (50) µg/m³.

③ The standard is attained when the expected number of days per calendar year with a twenty-four (24) hour average concentration above 150 µg/m³, as determined in accordance with Appendix K of 40 CFR 50, is equal to or less than one (1).

[‡ ~~This secondary annual standard is to be used as a guide in assessing implementation plans to achieve the twenty-four (24) hour standard.~~]

④[⊕] The standard is attained when the expected number of days per calendar year with maximum hourly average concentrations above 0.12 ppm (235 µg/m³) is equal to or less than one (1), as determined by Appendix H of 40 CFR 50.

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(Proposed Amendment)

401 KAR 55:005. Significant harm criteria.

RELATES TO: KRS [Chapter] 224.320, 224.330, 224.340

PURSUANT TO: KRS 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation defines those levels of pollutant concentration which must be prevented in order to avoid significant harm to the health of persons.

Section 1. Purpose. Notwithstanding any other provision of the regulations of the Division for Air Quality, this chapter is designed to prevent ambient pollutant concentrations at any location from reaching the following levels which could cause significant harm to the health of persons.

(1) Sulfur dioxide: 2,620 micrograms per cubic meter (1.0 ppm), twenty-four (24) hour average.

(2) Particulate: matter, measured as PM_{10}: 600 [1,000] micrograms per cubic meter, twenty-four (24) hour average.

[(3) Sulfur dioxide and particulate combined: product of sulfur dioxide micrograms per cubic meter (twenty-four (24) hour average) and the particulate micrograms per cubic meter (twenty-four (24) hour average) equal to 490,000.]

(3) [(4)] Carbon monoxide: 57.5 milligrams per cubic meter (fifty (50) ppm), eight (8) hour average. 86.3 milligrams per cubic meter (seventy-five (75) ppm), four (4) hour average. 144 milligrams per cubic meter (125 ppm), one (1) hour average.

(4) [(5)] Ozone: 1,200 micrograms per cubic meter (0.6 ppm), one (1) hour average.

(5) [(6)] Nitrogen dioxide: 3,750 micrograms per cubic meter (two (2.0) ppm), one (1) hour average. 938 micrograms per cubic meter (five-tenths (0.5) ppm), twenty-four (24) hour average.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on February 26, 1988, at 10 a.m. (EST) in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. Roger B. McCann, Director, Division for Air Quality, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director

(1) Type and number of entities affected: This regulation defines those levels of pollutant concentration which must be prevented in order to avoid significant harm to the health of persons. It is being amended to revise the significant harm criteria of particulate matter from 1000 ug/m^3 (measured as TSP) to 600 ug/m^3 (measured as PM_{10}) and to delete the combined significant harm criteria for sulfur dioxide and particulate matter, as promulgated by the U.S. EPA in the Federal Register of July 1, 1987 (52 FR 24667). All sources in Kentucky which emit particulate matter will now be subject to the new significant harm criteria relating to PM_{10}.

(a) Direct and indirect costs or savings to those affected: There will be no additional costs due to this amendment since these ambient air concentrations have never been reached.

1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None due to the amendment to this regulation.

(a) Direct and indirect costs or savings:

1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs: N/A

(b) Reporting and paperwork requirements: None due to the amendment to this regulation.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered since the U.S. EPA requires that the state implementation plan (SIP) for PM_{10} contain this revised significant harm 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: 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: In the Federal Register of July 1, 1987 (52 FR 24634), the U.S. EPA promulgated a revised national ambient air quality standard for particulate matter, and amended other federal regulations relating to this new standard. The U.S. EPA also requires states to revise their state implementation plans (SIPs) to address how the new standard will be attained and maintained. Ambient air monitoring indicates that all areas in the Commonwealth are currently meeting the revised standard; therefore, the cabinet is only required to amend its SIP, including the regulations, to show how the revised standard will be maintained. As a part of the SIP revision, the cabinet is amending this regulation and numerous other regulations which relate to the revised ambient air quality standard.

TIERING: Was tiering applied? No. Tiering is not applicable in these amendments.

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 relating to PM_{10} are the same as those promulgated by the U.S. EPA in the Federal Register of July 1, 1987 (52 FR 24634).

2. Does the proposed regulation impose

stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(Proposed Amendment)

401 KAR 55:010. Episode criteria.

RELATES TO: KRS [Chapter] 224.320, 224.330, 224.340

PURSUANT TO: KRS 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation defines those levels of pollutant concentrations which justify the proclamation of an air pollution alert, air pollution warning, and air pollution emergency.

Section 1. General. Conditions justifying the proclamation of an air pollution alert, air pollution warning, or air pollution emergency shall be deemed to exist whenever the cabinet determines that the accumulation of air contaminants in any place is attaining or has attained levels which could, if such levels are sustained or exceeded, present a threat to the health of the public. In making this determination, the cabinet shall be guided by the criteria specified in the following sections.

Section 2. Air Pollution Forecast. An internal watch by the cabinet shall be activated by a national weather service advisory that an atmospheric stagnation advisory or special dispersion statement is in effect.

Section 3. Alert. An alert level is that concentration of pollutants at which first stage control actions are to begin. An alert will be declared when any one (1) of the alert levels specified in Appendix A of this regulation is reached at any monitoring site and meteorological conditions are such that the pollutant concentrations can be expected to remain at these levels for twelve (12) or more hours or increase, or in the case of ozone the situation is likely to recur within the next twenty-four (24) hours, unless control actions are taken.

Section 4. Warning. A warning level indicates that air quality is continuing to degrade and that additional control actions are necessary. A warning will be declared when any one (1) of the warning levels specified by Appendix A of this regulation is reached at any monitoring site and meteorological conditions are such that pollutant concentrations can be expected to remain at these levels for twelve (12) or more hours or increase, or in the case of ozone the situation is likely to reoccur within the next twenty-four (24) hours, unless control actions are taken.

Section 5. Emergency. An emergency level indicates that air quality is continuing to degrade to a level that should never be reached and that the most stringent control actions are necessary. An emergency will be declared when any one (1) of the emergency levels specified in Appendix A of this regulation is reached at any monitoring site and meteorological conditions are such that this condition can be expected to continue for twelve (12) or more hours or increase, or in the case of ozone, the situation is likely to reoccur within the next twenty-four (24) hours, unless control actions are taken.

Section 6. Termination. Any status declared by the application of these criteria will remain in effect until the criteria for that level are no longer met. At such time the next lower appropriate status will be assumed.

Section 7. An episode status based on the deterioration of air quality alone may be declared. An air stagnation advisory or special dispersion statement need not be in effect.

Section 8. An appropriate episode status shall be declared when any monitoring site records ambient air quality levels as designated in the episode criteria herein. The criteria shall be applied to individual monitoring sites and not to area wide air quality.

(See Appendix A on following page)

APPENDIX A TO 401 KAR 55:010
EPISODE CRITERIA

POLLUTANT	EPISODE STATUS ALERT	WARNING	EMERGENCY
Sulfur Dioxide 24-Hour Average	800 ug/m^3(0.3ppm)	1,600 ug/m^3(0.6ppm)	2,100 ug/m^3(0.8ppm)
Particulates, measured as PM_{10} 24-Hour Average	350 [375] ug/m^3	420 [625] ug/m^3	500 [875] ug/m^3
[Sulfur Dioxide & Particulate Combined SO_2 ug/m^3 24-Hour Average x Particulate ug/m^3 24-Hour Average	65,000	261,000	393,000]
Carbon Monoxide 8-Hour Average	15ppm	30ppm	40ppm
Ozone 1-Hour Average	0.2ppm	0.4ppm	0.5ppm
Nitrogen Dioxide 1-Hour Average	1,130 ug/m^3(0.6ppm)	2,260 ug/m^3(1.2ppm)	3,000 ug/m^3(1.6ppm)
24-Hour Average	282 ug/m^3(0.15ppm)	565 ug/m^3(0.3ppm)	750 ug/m^3(0.4ppm)

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at 3 p.m.
PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on February 26, 1988, at 10 a.m. (EST) in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. Roger B. McCann, Director, Division for Air Quality, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director
(1) Type and number of entities affected: This regulation defines those levels of pollutant concentrations, or episode criteria, which justify the proclamation of an air pollution alert, air pollution warning, and air pollution emergency. It is being amended to revise the episode criteria of particulate matter (measured as PM_{10}) as follows: alert status is changed from 375 ug/m^3 to 350 ug/m^3; warning status is changed from 625 ug/m^3 to 420 ug/m^3; emergency status is changed from 875 ug/m^3 to 500 ug/m^3; and the combined episode criteria for sulfur dioxide and particulate matter is deleted, as promulgated by the U.S. EPA in the Federal Register of July 1, 1987 (52 FR 24688). All sources in Kentucky which emit particulate matter will now be required to take appropriate action when the revised episode criteria specified in Appendix A to this regulation are reached.
(a) Direct and indirect costs or savings to those affected: There are no expected additional costs or savings due to this amendment since the revised episode levels have never been reached. Therefore, no sources will be impacted by these amendments.
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: None due to the amendments to this regulation.
(a) Direct and indirect costs or savings:
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs: N/A
(b) Reporting and paperwork requirements: None due to the amendment to this regulation.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered since the U.S. EPA requires that the state implementation plan (SIP) for PM_{10} contain the revised episode 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: 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: In the Federal Register of July 1, 1987 (52 FR 24634), the U.S. EPA promulgated a revised national ambient air quality standard for particulate matter, and amended other federal regulations relating to this new standard. The U.S. EPA also requires states to revise their state implementation plans (SIPs) to address how the new standard will be attained and maintained. Ambient air monitoring indicates that all areas in the Commonwealth are currently meeting the revised standard; therefore, the cabinet is only required to amend its SIP, including the regulations, to show how the revised standard will be maintained. As a part

of the SIP revision, the cabinet is amending this regulation and numerous other regulations which relate to the revised ambient air quality standard.

TIERING: Was tiering applied? No. Tiering is not applicable to these amendments.

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 relating to PM_{10} are the same as those promulgated by the U.S. EPA in the Federal Register of July 1, 1987 (52 FR 24634).

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(Proposed Amendment)

401 KAR 59:010. New process operations.

RELATES TO: KRS 224.320, 224.330, 224.340
PURSUANT TO: KRS 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from new process operations which are not subject to another particulate standard within this chapter.

Section 1. Applicability. (1) The provisions of this regulation shall apply to each affected facility or source, associated with a process operation, which is not subject to another emission standard with respect to particulates in this chapter, commenced on or after the classification date defined below.

(2) The provisions of this regulation which apply to affected facilities or sources located in nonattainment areas shall continue to apply to those affected facilities or sources if the area is redesignated to attainment or unclassified status in 401 KAR 51:010 or 40 CFR 81.318, unless a state implementation plan which provides for other controls is approved by the U.S. EPA.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Process operation" means any method, form, action, operation, or treatment of manufacturing or processing, and shall include any storage or handling of materials or products, before, during, or after manufacturing or processing.

(2) "Process weight" means the total weight of all materials introduced into any affected facility which may cause any emission of particulate matter, but does not include liquid and gaseous fuels charged, combustion air, or uncombined water.

(3) "Process weight rate" means a rate established as follows:

(a) For continuous or long-run steady state operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof.

(b) For cyclical or batch unit operations, or unit processes, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period.

(c) Where the nature of any process operation or the design of any equipment is such as to permit more than one (1) interpretation of this definition, the interpretation which results in the minimum value for allowable emission shall apply.

(4) "Affected facility" as related to process operations means the last operation preceding the emission of air contaminants which results:

(a) In the separation of the air contaminant from the process materials; or

(b) In the conversion of the process materials into air contaminants, but does not include an air pollution abatement operation.

(5) "Classification date" means July 2, 1975.

(6) "Continuous emission" means a visible emission of particulate matter which persists for more than three (3) minutes, the opacity of which is measured in accordance with Reference Method 9, filed by reference in 401 KAR 50:015.

(7) "Intermittent emission" means a visible emission of particulate matter which persists for three (3) minutes or less, the opacity of which is measured in accordance with Kentucky Method 150(F-1), filed by reference in 401 KAR 50:015.

Section 3. Standard for Particulate Matter. (1) Opacity standard.

(a) No person shall cause, suffer, allow, or permit any continuous emission into the open air from a control device or stack associated with any affected facility which is equal to or greater than twenty (20) percent opacity.

(b) No person shall cause, suffer, allow or permit any continuous or intermittent fugitive emission into the open air from any affected facility or source located in any area designated nonattainment for <u>total suspended particulates</u> [particulate matter] under 401 KAR 51:010 which is equal to or greater than twenty (20) percent opacity, or which remains visible beyond the lot line of the property on which the emission originates.

(c) For sources commenced on or after the classification date of this regulation, but before <u>September 4, 1986</u> [the effective date of this regulation], variation with the standards specified in paragraph (b) of this subsection, when supported by adequate technical information, will be considered by the cabinet on a case-by-case basis to allow for technological or economic circumstances which are unique to a source, provided that such a variance has been approved by the U.S. EPA.

(2) Mass emission standard. For emissions from a control device or stack no person shall cause, suffer, allow or permit the emission into the open air of particulate matter from any affected facility which is in excess of the quantity specified in Appendix A to this regulation.

Section 4. Test Methods and Procedures. Except as provided in 401 KAR 50:045, performance tests used to demonstrate compliance with Section 3 of this regulation shall be conducted according to the following methods. Kentucky Methods 50 and 150(F-1) and other methods are filed by reference in 401 KAR 50:015.

(1) For sources located in or having significant impact upon areas designated nonattainment for total suspended particulates under 401 KAR 51:010, Kentucky Method 50 for the emission rates of particulate matter and the associated moisture content. In all other areas Reference Method 5 shall be used.

(2) Reference Method 1 for sample and velocity traverses.

(3) Reference Method 2 for velocity and volumetric flow rate.

(4) Reference Method 3 for gas analysis.

(5) Reference Method 9 for opacity of continuous emissions.

(6) Kentucky Method 150(F-1) for opacity of intermittent emissions.

(7) For Kentucky Method 50 or Reference Method 5, Reference Method 1 shall be used to select the sampling site and the number of traverse sampling points. The sampling time for each run shall be at least sixty (60) minutes and the minimum sample volume shall be 0.85 dscm (thirty (30) dscf) except that smaller sampling time or volumes, when necessitated by process variables or other factors, may be approved by the cabinet.

APPENDIX A TO 401 KAR 59:010
ALLOWABLE RATE OF PARTICULATE EMISSION
BASED ON PROCESS WEIGHT RATE

Process Weight Rate		Maximum Allowable Emission Rate
Lb/Hr.	Ton/Hr.	Lb/Hr.
1,000 or less	0.50 or less	2.34
1,500	0.75	3.00
2,000	1.00	3.59
2,500	1.25	4.12
3,000	1.50	4.62
3,500	1.75	5.08
4,000	2.00	5.52
5,000	2.50	6.34
6,000	3.00	7.09
7,000	3.50	7.81
8,000	4.00	8.48
9,000	4.50	9.12
10,000	5.00	9.74
12,000	6.00	10.90
16,000	8.00	13.03
18,000	9.00	14.02
20,000	10.00	14.97
30,000	15.00	19.24
40,000	20.00	23.00
50,000	25.00	26.41
60,000	30.00	29.57
70,000	35.00	30.57
80,000	40.00	31.23
90,000	45.00	31.83
100,000	50.00	32.37
120,000	60.00	33.33
140,000	70.00	34.16
160,000	80.00	34.90
200,000	100.00	36.17
1,000,000	500.00	46.79
2,000,000	1,000.00	52.28
6,000,000	3,000.00	62.32

Interpolation of the data for process weight rates up to 60,000 lb/hr. shall be accomplished by use of the equation

$$E = 3.59P^{0.62}$$

and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb/hr. shall be accomplished by the use of the equation

$$E = 17.31P^{0.16}$$

where E = rate of emission in lb/hr and P = process weight rate in tons/hr.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at 3 p.m.
PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on February 26, 1988, at 10 a.m. (EST) in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. Roger B. McCann, Director, Division for Air Quality, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director

(1) Type and number of entities affected: This regulation provides for the control of emissons from new process operations which are not subject to another particulate emission standard within Title 401, Chapter 59 of the Kentucky Administrative Regulations. It is being amended to clarify that the fugitive emission standards of Section 3(1)(b) shall apply to sources located in an area designated as nonattainment for total suspended particulate (TSP), rather than for particulate matter. The attainment status designations in 401 KAR 51:010, Appendix A are for TSP. This regulation is also being amended to change the classification date in Section 3(1)(c) to insert the date that the most recent amendment became effective: September 4, 1986.

This amendment is being made along with other regulatory amendments in response to the new ambient air quality standards for particulate matter (measured as PM_{10}) promulgated by the U.S. EPA in the Federal Register of July 1, 1987 (52 FR 24663).

All sources of particulate matter located in the areas which are presently designated nonattainment for TSP are already subject to the requirements of this regulation. Since no new requirements are being added, no entities will be required to add controls or change their method of operation; therefore, there will be no impact on these entities. New sources locating in areas that were previously nonattainment will be subject to the requirements which apply in attainment or unclassified areas.

(a) Direct and indirect costs or savings to those affected: There will be no additional costs or savings due to this amendment, since it is maintaining the intent of this regulation.

1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None due to this amendment, since it is

maintaining the intent of this regulation.
(a) Direct and indirect costs or savings:
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs: N/A
(b) Reporting and paperwork requirements: None due to the amendment to this regulation.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered since this amendment is a clarification of the applicability 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: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments: The U.S. EPA is requiring that states revise their state implementation plans (SIPs) to address how the new national ambient air quality standard for particulate matter (measured as PM_{10}) will be attained and maintained. The U.S. EPA has determined that the control requirements previously used to protect the TSP standard are adequate to protect the new national ambient air quality standard for particulate matter (measured as PM_{10}) and therefore should be retained. The modifications to this regulation are being proposed to ensure the continuing applicabiity of those control requirements. A demonstration of our ability to protect the PM_{10} standard is necessary for the U.S. EPA to approve Kentucky's SIP for PM_{10}.
TIERING: Was tiering applied? No. Tiering is not applicable in these amendments; however, the regulation is tiered since different requirements apply, depending on the source's location.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This amendment is in response to the new PM_{10} national ambient air standard promulgated by the U.S. EPA in the Federal Register of July 1, 1987 (52 FR 24634). The U.S. EPA requires the Commonwealth to demonstrate in its SIP that the new PM_{10} standard will be protected. The presently approved SIP demonstrates that the PM_{10} standard will be maintained. Therefore, the division is amending this and other regulations to clarify that those control requirements which are currently in place will continue to apply.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(Proposed Amendment)

401 KAR 59:050. New storage vessels for petroleum liquids.

RELATES TO: KRS [Chapter] 224.320, 224.330, 224.340
PURSUANT TO: KRS 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from new storage vessels for petroleum liquids.

Section 1. Applicability. (1) The provisions of this regulation shall apply to each affected facility with a storage capacity less than or equal to 151,400 liters (40,000 gallons) commenced on or after the classification date defined in Section 2(12) of this regulation, and prior to July 24, 1984, and to each affected facility with a storage capacity less than 40,000 liters (10,567 gallons) commenced on or after July 24, 1984, which is located:
(a) In an urban county designated nonattainment for ozone under 401 KAR 51:010; or
(b) In any other county and is a part of a major source of volatile organic compounds.
(2) The provisions of this regulation shall apply to each affected facility with a storage capacity greater than 151,400 liters (40,000 gallons) commenced on or after the classification date defined in Section 2(12) of this regulation and prior to July 24, 1984.
(3) The provisions of Sections 3(3) and (4), 4(3) and 6 of this regulation shall apply only to each affected facility with a storage capacity greater than 151,400 liters (40,000 gallons) commenced on or after May 19, 1978 and prior to July 24, 1984.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010.
(1) "Affected facility" means a storage vessel for petroleum liquids which has a storage capacity of greater than 2,195 liters (580 gallons).
(2) "Storage vessel" means each tank, reservoir, or container used for the storage of petroleum liquids, but does not include:
(a) Pressure vessels which are designed to operate in excess of 204.9 kPa (fifteen (15) pounds per square inch gauge) without emissions to the atmosphere except under emergency conditions;
(b) Subsurface caverns or porous rock reservoirs; or
(c) Underground tanks if the total volume of petroleum liquids added to and taken from a tank annually does not exceed twice the volume of the tank.
(3) "Petroleum liquids" means petroleum, condensate, and any finished or intermediate products manufactured in a petroleum refinery but does not mean Number 2 through Number 6 fuel oils, gas turbine fuel oil Numbers 2-GT through 4-GT, or diesel fuel oils Numbers 2-D and 4-D as specified by the cabinet.

(4) "Petroleum refinery" means each facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through distillation of petroleum or through redistillation, cracking, or reforming of unfinished petroleum derivatives.

(5) "Petroleum" means the crude oil removed from the earth and the oils derived from tar sands, shale, and coal.

(6) "Condensate" means hydrocarbon liquid separated from natural gas which condenses due to changes in the temperature and/or pressure and remains liquid at standard conditions.

(7) "True vapor pressure" means the equilibrium partial pressure exerted by a petroleum liquid as determined in accordance with methods specified by the cabinet.

(8) "Floating roof" means a storage vessel cover consisting of a double deck, pontoon single deck, internal floating cover, or covered floating roof, which rests upon and is supported by the petroleum liquid being contained and is equipped with a closure seal or seals to close the space between the roof edge and tank wall.

(9) "Vapor recovery system" means a vapor gathering system capable of collecting all hydrocarbon vapors and gases discharged from the storage vessel and a vapor disposal system capable of processing such hydrocarbon vapors and gases so as to prevent their emission to the atmosphere.

(10) "Reid vapor pressure" is the absolute vapor pressure of volatile crude oil and volatile petroleum liquids, except liquefied petroleum gases, as determined by methods specified by the cabinet.

(11) "Submerged fill pipe" means any fill pipe the discharge of which is entirely submerged when the liquid level is six (6) inches above the bottom of the tank; or when applied to a tank which is loaded from the side, shall mean every fill pipe the discharge opening of which is entirely submerged when the liquid level is two (2) times the fill pipe diameter above the bottom of the tank.

(12) "Classification date" means April 9, 1972.

[(13) "Volatile organic compounds (VOC)" means chemical compounds of carbon (excluding methane, ethane, carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, and ammonium carbonate) which have a vapor pressure greater than one-tenth (0.1) mm Hg at conditions of twenty (20) degrees Celsius and 760 mm Hg.]

(13) [(14)] "Custody transfer" means the transfer of produced petroleum and/or condensate, after processing and/or treating in the producing operations, from storage tanks or automatic transfer facilities to pipelines or any other forms of transportation.

(14) [(15)] "External floating roof" means a storage vessel cover in an open top tank consisting of a double deck or pontoon single deck which rests upon and is supported by the petroleum liquid being contained and is equipped with closure seals to close the space between the roof edge and tank shell.

(15) [(16)] "Internal floating roof" means a cover or roof in a fixed roof tank which rests upon or is floated upon the petroleum liquid being contained, and is equipped with closure seals to close the space between the roof edge and tank shell.

(16) [(17)] "Liquid-mounted seal" means a foam or liquid-filled primary seal mounted in contact with the liquid between the tank wall and the floating roof continuously around the circumference of the tank.

(17) [(18)] "Vapor-mounted seal" means a foam-filled primary seal mounted continuously around the circumference of the tank so there is an annular vapor space underneath the seal. The annular vapor space is bounded by the bottom of the primary seal, the tank wall, the liquid surface, and the floating roof.

(18) [(19)] "Metallic shoe seal" includes but is not limited to a metal sheet held vertically against the tank wall by springs or weighted levers and is connected by braces to the floating roof. A flexible coated fabric (envelope) spans the annular space between the metal sheet and the floating roof.

(19) [(20)] "kPa" means kilopascal.

Section 3. Standard for Volatile Organic Compounds. (1) The owner or operator of any storage vessel commenced on or after April 9, 1972 and prior to May 19, 1978 to which this regulation applies shall store petroleum liquids as follows:

(a) If the storage vessel has a storage capacity greater than 151,400 liters (40,000 gallons) and if the true vapor pressure of the petroleum liquid, as stored, is equal to or greater than seventy-eight (78) mm Hg (one and five-tenths (1.5) psia) but not greater than 574 mm Hg (eleven and one-tenth (11.1) psia) the storage vessel shall be equipped with a floating roof, a vapor recovery system, or their equivalents. If the vessel is equipped with an external floating roof the vessel shall be retrofitted and operated according to the provisions of 401 KAR 61:050, Sections 3(4), 4(3), 6(2) and 7 if the vessel is located:

1. In an urban county designated nonattainment for ozone under 401 KAR 51:010; or

2. In any other county which is designated nonattainment or unclassified for ozone under 401 KAR 51:010 and is a part of a major source of volatile organic compounds.

3. The provisions of 401 KAR 61:050, Sections 3(4) and 4(3) shall not apply to vessels located in the following counties: Garrard, Graves, Hopkins, Laurel, Montgomery, Nelson, Pulaski, Scott, Taylor, Trigg, and Union prior to designation of such counties nonattainment for ozone under 401 KAR 51:010.

(b) If the storage vessel has a storage capacity greater than 151,400 liters (40,000 gallons) and if the true vapor pressure of the petroleum liquid as stored is greater than 574 mm Hg (eleven and one-tenth (11.1) psia), the storage vessel shall be equipped with a vapor recovery system or its equivalent.

(2) The owner or operator of each storage vessel commenced on or after April 9, 1972 to which this regulation applies shall store petroleum liquids as follows: If the storage vessel has a storage capacity greater than 2,195 liters (580 gallons), and if the true vapor pressure of the petroleum liquid, as stored, is equal to or greater than ten and three-tenths (10.3) kPa (one and five-tenths (1.5) psia), as a minimum it shall be equipped with a permanent submerged fill pipe.

(3) The owner or operator of each storage vessel commenced on or after May 19, 1978, and prior to July 24, 1984, with storage capacity greater than 151,400 liters (40,000 gallons) which contains a petroleum liquid which, as

stored, has a true vapor pressure equal to or greater than ten and three-tenths (10.3) kPa (one and five-tenths (1.5) psia) but not greater than seventy-six and six-tenths (76.6) kPa (eleven and one-tenth (11.1) psia) shall equip the storage vessel with one (1) of the following:

(a) An external floating roof, consisting of a pontoon-type or double-deck-type cover that rests on the surface of the liquid contents and is equipped with a closure device between the tank wall and the roof edge. Except as provided in subparagraph 3 of this paragraph, the closure device is to consist of two (2) seals, one (1) above the other. The lower seal is referred to as the primary seal and the upper seal is referred to as the secondary seal. Each seal is to meet the following requirements:

1. The primary seal is to be either a metallic shoe seal, a liquid-mounted seal, or a vapor-mounted seal.

2. The secondary seal is to be installed above the primary seal so that it completely covers the space between the roof edge and the tank wall except as provided in Section 4(3)(c) of this regulation.

3. The owner or operator is exempted from the requirements for secondary seals and the secondary seal gap criteria when performing gap measurements or inspections of the primary seal.

(b) A fixed roof with an internal floating type cover equipped with a continuous closure device between the tank wall and the cover edge.

(c) A vapor recovery system which collects all VOC vapors and gases discharged from the storage vessel, and a vapor return or disposal system which is designed to process such VOC vapors and gases so as to reduce their emission to the atmosphere by at least ninety-five (95) percent by weight.

(d) A system equivalent to those described in paragraphs (a) to (c) of this subsection as determined by the cabinet.

(4) The owner or operator of each storage vessel commenced on or after May 19, 1978, and prior to July 24, 1984, with a storage capacity greater than 151,400 liters (40,000 gallons) which contains a petroleum liquid which, as stored, has a true vapor pressure greater than seventy-six and six-tenths (76.6) kPa (eleven and one-tenth (11.1) psia), shall equip the storage vessel with a vapor recovery system which collects all VOC vapors and gases discharged from the storage vessel, and a vapor return or disposal system which is designed to process such VOC vapors and gases so as to reduce their emission to the atmosphere by at least ninety-five (95) percent by weight.

Section 4. Operating Requirements. (1) There shall be no visible holes, tears, or other opening in the seal, any seal fabric, shoe, or seal envelope.

(2) All openings, except stub drains, automatic bleeder vents, rim space vents, and leg sleeves, shall be equipped with covers, lids, or seals such that:

(a) The cover, lid, or seal is in the closed position at all times (i.e., no visible gap) except when in actual use or as described in subsection (3)(f) of this section;

(b) Automatic bleeder vents are closed at all times except when the roof is floated off or landed on the roof leg supports; and

(c) Rim vents, if provided, are set to open when the roof is being floated off the roof leg supports or at the manufacturer's recommended setting.

(3) External and internal floating roof tanks commenced on or after May 19, 1978, and prior to July 24, 1984, shall meet the additional requirements:

(a) The roof is to be floating on the liquid at all times (i.e., off the roof leg supports) except during initial fill and when the tank is completely emptied and subsequently refilled. The process of emptying and refilling when the roof is resting on the leg supports shall be continuous and shall be accomplished in the minimum time necessary.

(b) For each primary seal associated with an external floating roof tank the accumulated area of gaps between the tank wall and the metallic shoe seal or the liquid-mounted seal shall not exceed 212 sq cm/m (ten and zero-tenths (10.0) sq in/ft) of tank diameter and the width of any portion of any gap shall not exceed 3.81 cm (one and five-tenths (1.5) in).

(c) For each primary and each secondary seal associated with an external floating roof tank the accumulated area of gaps between the tank wall and the vapor-mounted primary seal or between the tank wall and the secondary seal used in combination with a metallic shoe or liquid-mounted primary seal shall not exceed twenty-one and two-tenths (21.2) sq cm/m (one and zero-tenths (1.0) sq in/ft) of tank diameter and the width of any portion of any gap shall not exceed 1.27 cm (one-half (1/2) in). There shall be no gaps between the tank wall and the secondary seal used in combination with a vapor-mounted primary seal.

(d) One (1) end of the metallic shoe associated with an external floating roof tank shall extend into the stored liquid and the other end shall extend a minimum vertical distance of sixty-one (61) cm (twenty-four (24) in) above the stored liquid surface.

(e) Each opening in the roof except for automatic bleeder vents and rim space vents is to provide a projection below the liquid surface.

(f) Each emergency roof drain associated with an external floating roof tank is to be provided with a slotted membrane fabric cover that covers at least ninety (90) percent of the area of the opening.

Section 5. Monitoring of Operations. (1) The owner or operator of any storage vessel with a capacity of greater than 151,400 liters (40,000 gallons) to which this regulation applies shall maintain a record of the petroleum liquid stored, the period of storage, and the maximum true vapor pressure of that liquid during the respective storage period.

(2) Available data on the typical Reid vapor pressure and the maximum expected storage temperatures of the stored product may be used to determine the maximum true vapor pressure as specified by the cabinet, unless the cabinet specifically requests that the liquid be sampled, the actual storage temperature determined, and the Reid vapor pressure determined from the sample(s).

(3) The true vapor pressure of each type of crude oil with a Reid vapor pressure less than thirteen and eight-tenths (13.8) kPa (two and zero-tenths (2.0) psia) or whose physical properties preclude determination by the recommended method is to be determined from available data and recorded if the estimated

true vapor pressure is greater than six and nine-tenths (6.9) kPa (one and zero-tenths (1.0) psia).

(4) The following are exempt from the requirements of this section:

(a) Each owner or operator of each storage vessel storing a petroleum liquid with a Reid vapor pressure of less than six and nine-tenths (6.9) kPa (one and zero-tenths (1.0) psia) provided the maximum true vapor pressure does not exceed six and nine-tenths (6.9) kPa (one and zero-tenths (1.0) psia).

(b) Each owner or operator of each storage vessel equipped with a vapor recovery and return or disposal system in accordance with the requirements of Section 3(1)(a) and (b), (3)(c) and (4) of this regulation.

Section 6. Testing and Procedures. Compliance with the requirements prescribed in Sections 3(3) and (4), and 4(3) of this regulation shall be determined as follows or in accordance with an equivalent procedure as approved by the cabinet. The owner or operator of each storage vessel to which this section applies which has an external floating roof shall meet the following requirements:

(1) Determine the gap areas and maximum gap widths between the primary seal and tank wall, and between the secondary seal and the tank wall according to the following frequency [and furnish the cabinet with a written report of the results within sixty (60) days of performance of gap measurements]:

(a) For primary seals, gap measurements shall be performed within sixty (60) days of the initial fill with petroleum liquid and at least once every five (5) years thereafter. All primary seal inspections or gap measurements which require the removal or dislodging of the secondary seal shall be accomplished in the minimum time necessary and the secondary seal shall be replaced immediately.

(b) For secondary seals, gap measurements shall be performed within sixty (60) days of the initial fill with petroleum liquid and at least once every year thereafter.

(c) If any storage vessel is out of service for a period of one (1) year or more, subsequent refilling with petroleum liquid shall be considered initial fill for the purposes of paragraphs (a) and (b) of this subsection.

(d) Keep records of each gap measurement at the plant for a period of at last two (2) years following the date of measurement. Each record shall identify the vessel on which the measurement was performed and shall contain the date of the seal gap measurement, the raw data obtained in the measurement process required by subsection (2) of this section, and the calculation required by subsection (3) of this section.

(e) If either the seal gap calculated in accord with subsection (3) of this section or the measured maximum sealed gap exceeds the limitations specified by Section 4 of this regulation, a report shall be furnished to the secretary within sixty (60) days of the date of measurements. The report shall identify the vessel and list each reason why the vessel did not meet the specifications of Section 4 of this regulation. The report shall also describe the actions necessary to bring the storage vessel into compliance with the specifications of Section 4 of this regulation.

(2) Determine gap widths in the primary and secondary seals individually by the following procedures:

(a) Measure seal gaps, if any, at one (1) or more floating roof levels when the roof is floating off the roof leg supports.

(b) Measure seal gaps around the entire circumference of the tank in each place where a one-eighth (1/8) inch diameter uniform probe passes freely (without forcing or binding against seal) between the seal and tank wall and measure the circumferential distance of each such location.

(c) The total surface area of each gap described in paragraph (b) of this subsection shall be determined by using probes of various widths to accurately measure the actual distance from the tank wall to the seal and multiplying each such width by its respective circumferential distance.

(3) Add the gap surface area of each gap location for the primary seal and the secondary seal individually. Divide the sum for each seal by the nominal diameter of the tank and compare each ratio to the appropriate ratio in the standard in Section 4(3)(b) and (c) of this regulation.

(4) Provide the cabinet thirty (30) days prior notice of the gap measurement to afford the cabinet the opportunity to have an observer present.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on February 26, 1988, at 10 a.m. (EST) in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. Roger B. McCann, Director, Division for Air Quality, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director

(1) Type and number of entities affected: This regulation applies to storage vessels for petroleum liquids. Portions of this regulation are identical to the federal NSPS for storage vessels for petroleum liquids as contained in 40 CFR 60, Subparts K and Ka. This regulation is being amended to maintain consistency with the federal regulations as amended in the Federal Register of April 8, 1987 (52 FR 11429), and to remove any overlapping due to the newly proposed regulation 401 KAR 59:052 which adopts by reference the newly promulgated federal regulation 40 CFR 60, Subpart Kb (April 8, 1987, 52 FR 11429).

The amendments change the applicability to specific sources which commenced after May 18, 1978, or April 9, 1972 but before July 24, 1984. Those specified sources commenced after July 23, 1984, will now be subject to 401 KAR 59:052, New volatile organic liquid storage vessels. The recordkeeping and reporting requirements were also changed to be consistent with the new federal amendments which now require reports to the secretary to be made only when measured gap specifications are exceeded, rather than within

sixty days of every performance gap measurement. The records of gap measurements will now be kept by the owner or operator at the plant for at least two years.

Sources affected are those petroleum liquid storage vessels which commenced construction after May 18, 1978, or April 9, 1972, but before July 24, 1984. There are storage vessels which are subject to these amendments, however since these amendments represent a relaxation of the reporting requirements, this will not adversely affect those storage vessels.

The definition of volatile organic compounds (VOC) was deleted so that the definition of VOC in 401 KAR 50:010, Definitions and abbreviations, will apply. The definition in 401 KAR 50:010 is compatible with the federal definition in 40 CFR 60.

(a) Direct and indirect costs or savings to those affected: There may be some savings due to the change in the reporting requirement since sources will no longer be required to report every performance gap measurement, only those which exceed the standard. However, the sources will be required to maintain their records for at least two years.

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: The reporting and recordkeeping provisions of this regulation are being amended to be consistent with the provisions of the federal regulations 40 CFR 60, Subpart Ka and Kb and the proposed state's regulation 401 KAR 59:052, which require that reports be made only when the measured gaps exceed the specified limitations, rather than after every performance gap measurement. These reports shall be submitted to the secretary within 30 days of the date of the report. Otherwise, records of gap measurements are kept by the owner or operator.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

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: The cabinet will continue to maintain records of all of its sources. There may be some relaxation on the number of records maintained due to the fact that the storage vessels will only be submitting reports after performance gap measurements that exceed the standard rather than every performance gap measurement.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered since the amendments to this regulation contain the same provisions as the amendments to the federal regulation. Kentucky is amending this regulation so that the U.S. EPA will continue to allow the Commonwealth to have the delegated authority to enforce the provisions of the federal regulation, and so that sources will be able to continue to work with the state to obtain the necessary permits rather than the federal government.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: This regulation is being amended so that there will be no conflict, overlapping, or duplication. The applicability of this regulation is being amended so that this regulation will not overlap the new federal regulation 40 CFR 60, Subpart Kb and the corresponding newly proposed 401 KAR 59:052.

(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: Portions of this regulation are identical to the federal regulations for storage vessels for petroleum liquids, as contained in 40 CFR 60, Subparts K and Ka. The U.S. EPA had granted to Kentucky the delegation of authority to enforce the provisions of the federal regulations based on this regulation, as in effect on March 1, 1984. On April 8, 1987, the U.S. EPA amended 40 CFR 60, Subparts K and Ka, and promulgated a new regulation for storage vessels of volatile organic liquids. The cabinet is amending this regulation in the same manner as the federal regulations so that the delegation of authority which had been granted will continue.

TIERING: Was tiering applied? No. Tiering is not applicable in these amendments. However, tiering is used in the regulation since different standards apply for different sized storage vessels, and different standards apply depending on the source's location.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This regulation is being amended to include the amendments made to the federal regulations on April 8, 1987, so that this portion of the state's regulation will continue to be identical to the federal regulations, 40 CFR 60, Subpart K and Ka. Therefore, these amendments have the same requirements as the federal amendments.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. These proposed amendments are identical to the amendments to the federal regulation.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(Proposed Amendment)

401 KAR 61:020. Existing process operations.

RELATES TO: KRS 224.320, 224.330, 224.340

PURSUANT TO: KRS 224.033

NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from existing process

operations which are not subject to another particulate emission standard within this chapter.

Section 1. Applicability. (1) The provisions of this regulation shall apply to each affected facility or source, associated with a process operation, which is not subject to another emission standard with respect to particulates in this chapter, commenced before the classification date defined below.

(2) The provisions of this regulation which apply to affected facilities or sources located in nonattainment areas shall continue to apply to those affected facilities or sources if the area is redesignated to attainment or unclassified status in 401 KAR 51:010 or 40 CFR 81.318, unless a state implementation plan which provides for other controls is approved by the U.S. EPA.

Section 2. Definitions. As used in this regulation, all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Process operation" means any method, form, action, operation or treatment of manufacturing or processing, and shall include any storage or handling of materials or products, before, during, or after manufacturing or processing.

(2) "Process weight" means the total weight of all materials introduced into any affected facility which may cause any emission of particulate matter, but does not include liquid and gaseous fuels charged, combustion air, or uncombined water.

(3) "Classification date" means July 2, 1975.

(4) "Process weight rate" means a rate established as follows:

(a) For continuous or long-run steady state operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof;

(b) For cyclical or batch unit operations, or unit processes, the total process weight for a period that covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such a period; and

(c) Where the nature of any process operation or the design of any equipment is such as to permit more than one (1) interpretation of this definition, the interpretation which results in the minimum value for allowable emission shall apply.

(5) "Affected facility" as related to process operations means the last operation preceding the emission of air contaminants which results:

(a) In the separation of the air contaminant from the process materials; or

(b) In the conversion of the process materials into air contaminants, but does not include an air pollution abatement operation.

(6) "Continuous emission" means a visible emission of particulate matter which persists for more than three (3) minutes, the opacity of which is measured in accordance with Reference Method 9, filed by reference in 401 KAR 50:015.

(7) "Intermittent emission" means a visible emission of particulate matter which persists for three (3) minutes or less, the opacity of which is measured in accordance with Kentucky Method 150(F-1), filed by reference in 401 KAR 50:015.

Section 3. Standard for Particulate Matter. (1) Opacity standard.

(a) No person shall cause, suffer, allow or permit any continuous emission into the open air from a control device or stack associated with any affected facility which is equal to or greater than forty (40) percent opacity.

(b) No person shall cause, suffer, allow or permit any continuous or intermittent fugitive emission into the open air from any affected facility or source located in any area designated nonattainment for <u>total suspended particulates</u> [particulate matter] under 401 KAR 51:010 which is equal to or greater than twenty (20) percent opacity, or which remains visible beyond the lot line of the property on which the emission originates.

(c) Variation with the standards specified in paragraph (b) of this subsection, when supported by adequate technical information, will be considered by the cabinet on a case-by-case basis to allow for technological or economic circumstances which are unique to a source, provided that such a variance has been approved by the U.S. EPA.

(2) Mass emission standard.

(a) For emissions from a control device or stack, no person shall cause, suffer, allow or permit the emission into the open air of particulate matter from any affected facility which is in excess of the quantity specified in Appendix A of this regulation.

(b) An affected facility may elect to substitute the following standards in lieu of the value given in Appendix A:

1. A maximum exit particulate emission concentration of 0.02 grains per standard cubic foot;

2. Air pollution control equipment of at least ninety-seven (97) percent actual efficiency; and

3. Addition of dilution air shall not constitute compliance.

Section 4. Test Methods and Procedures. Except as provided in 401 KAR 50:045, performance tests used to demonstrate compliance with Section 3 of this regulation shall be conducted according to the following methods (Kentucky Methods 50 and 150(F-1) and other methods are filed by reference in 401 KAR 50:015):

(1) Kentucky Method 50 for sources located in or having a significant impact upon nonattainment areas for total suspended particulates as designated in 401 KAR 51:010, and Reference Method 5 for sources located in all other areas, for the emission rates of particulate matter and the associated moisture content.

(2) Reference Method 1 for sample and velocity traverses.

(3) Reference Method 2 for velocity and volumetric flow rate.

(4) Reference Method 3 for gas analysis.

(5) Reference Method 9 for opacity of continuous emissions.

(6) Kentucky Method 150(F-1) for opacity of intermittent emissions..

(7) For Kentucky Method 50 and Reference Method 5, Reference Method 1 shall be used to select the sampling site and the number of traverse sampling points. The sampling time for each run shall be at least sixty (60) minutes and the minimum sample volume shall be 0.85 dscm (thirty (30) dscf) except that smaller sampling time or volumes, when necessitated by process

variables or other factors, may be approved by the cabinet.

APPENDIX A TO 401 KAR 61:020
ALLOWABLE RATE OF PARTICULATE EMISSION
BASED ON PROCESS WEIGHT RATE

Process Weight Rate		Maximum Allowable Emission Rate
Lb/Hr.	Ton/Hr.	Lb/Hr.
1,000 or less	0.50 or less	2.58
1,500	0.75	3.38
2,000	1.00	4.10
2,500	1.25	4.76
3,000	1.50	5.38
3,500	1.75	5.96
4,000	2.00	6.52
5,000	2.50	7.58
6,000	3.00	8.56
7,000	3.50	9.49
8,000	4.00	10.4
9,000	4.50	11.2
10,000	5.00	12.0
12,000	6.00	13.6
16,000	8.00	16.5
18,000	9.00	17.9
20,000	10.00	19.2
30,000	15.00	25.2
40,000	20.00	30.5
50,000	25.00	35.4
60,000	30.00	40.0
70,000	35.00	41.3
80,000	40.00	42.5
90,000	45.00	43.6
100,000	50.00	44.6
120,000	60.00	46.3
140,000	70.00	47.8
160,000	80.00	49.1
200,000	100.00	51.3
1,000,000	500.00	69.0
2,000,000	1,000.00	77.6
6,000,000	3,000.00	92.7

Interpolation of the data for process weight rates up to 60,000 lb/hr. shall be accomplished by use of the equation

$$E = 4.10P^{0.67}$$

and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb/hr. shall be accomplished by the use of the equation

$$E = 55.0P^{0.11-40}$$

where E = rate of emission in lb/hr and P = process weight rate in tons/hr.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at 3 p.m.
PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on February 29, 1988, at 10 a.m. (EST) in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. Roger B. McCann, Director, Division for Air Quality, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director
(1) Type and number of entities affected: This regulation provides for the control of emissons from existing process operations which are not subject to another particulate emission standard within Title 401, Chapter 61 of the Kentucky Administrative Regulations. It is being amended to clarify that the fugitive emission standards of Section 3(1)(b) shall apply to sources located in an area designated as nonattainment for total suspended particulate (TSP), rather than for particulate matter. The attainment status designations in 401 KAR 51:010, Appendix A are for TSP.

This amendment is being made along with other regulatory amendments in response to the new ambient air quality standards for particulate matter (measured as PM_{10}) promulgated by the U.S. EPA in the Federal Register of July 1, 1987 (52 FR 24663).

All existing sources of particulate matter located in the areas which are presently designated nonattainment for TSP are already subject to the requirements of this regulation. Since no new requirements are being added, no entities will be required to add controls or change their method of operation; therefore, there will be no impact on these entities.

(a) Direct and indirect costs or savings to those affected: There will be no additional costs or savings due to this amendment, since it is maintaining the intent of this regulation.
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: None due to this amendment, since it is maintaining the intent of this regulation.
(a) Direct and indirect costs or savings:
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs: N/A
(b) Reporting and paperwork requirements: None due to the amendment to this regulation.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered since this amendment is a clarification of the applicability 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: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments: The U.S. EPA is requiring that states revise their state implementation plans (SIPs) to address how the new national ambient air quality standard for particulate matter (measured as PM_{10}) will be attained and maintained. The U.S. EPA has determined that the control requirements previously used to protect the TSP standard are adequate to protect the new national ambient air quality standard for particulate matter (measured as PM_{10}) and

therefore should be retained. The modifications to this regulation are being proposed to ensure the continuing applicability of those control requirements. A demonstration of our ability to protect the PM_{10} standard is necessary for the U.S. EPA to approve Kentucky's SIP for PM_{10}.

TIERING: Was tiering applied? No. Tiering is not applicable in these amendments; however, the regulation is tiered since different requirements comply, depending on the source's location.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This amendment is in response to the new PM_{10} national ambient air standard promulgated by the U.S. EPA in the Federal Register of July 1, 1987 (52 FR 24634). The U.S. EPA requires the Commonwealth to demonstrate in its SIP that the new PM_{10} standard will be protected. The presently approved SIP demonstrates that the PM_{10} standard will be maintained. Therefore, the division is amending this and other regulations to clarify that those control requirements which are currently in place will continue to apply.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(Proposed Amendment)

401 KAR 61:170. Existing blast furnace casthouses.

RELATES TO: KRS Chapter 224
PURSUANT TO: KRS 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from existing blast furnace casthouses [which are located in, or impact upon, an area designated nonattainment for particulate matter under 401 KAR 51:010].

Section 1. Applicability. The provisions of this regulation shall apply to blast furnace casthouses commenced before the classification date defined below.

Section 2. Definitions. As used in this regulation all terms not defined herein shall have the meaning given them in 401 KAR 50:010.

(1) "Blast furnace casthouses" means the building or buildings which houses the following operations:

(a) Casting of hot metal from a blast furnace from an opening at the bottom of the furnace through a runner into a torpedo car; and

(b) Casting of the slag from a blast furnace from an opening at the bottom of the furnace through runner(s) into a slag ladle or slag pit.

(2) "Blast furnace" means a furnace producing pig iron by introducing iron-bearing materials, coke, and flux materials into a vessel and introducing heated combustion air to form a reducing gas which is passed counter current to the descending raw materials.

(3) "Classification date" means April 1, 1984 [the effective date of this regulation].

(4) "Control device" means the air pollution control equipment used to remove particulate matter generated in the blast furnace casthouses from the effluent gas stream.

Section 3. Standard for Particulate Matter. No owner or operator of a blast furnace casthouse subject to the provisions of this regulation shall cause to be discharged into the atmosphere from the blast furnace casthouse any gases which:

(1) Exhibit an average opacity in excess of twenty (20) percent.

(2) If such gases exit from a gas cleaner, no owner or operator subject to the provisions of this regulation shall cause to be discharged into the atmosphere any gases which:

(a) Contain particulate matter in excess of 0.010 gr/dscf as tested during the casting of hot metal and slag; or

(b) Exhibit an average opacity in excess of twenty (20) percent.

Section 4. Test Methods and Procedures. Reference methods in Appendix A of 40 CFR 60, except as provided in 401 KAR 50:045, and as supplemented by the procedures in subsection (6) of this section, shall be used to determine compliance with the standards prescribed under Section 3 of this regulation as follows:

(1) Reference Method 5 for the concentration of particulate matter and associated moisture content;

(2) Reference Method 1 for sample and velocity traverses;

(3) Reference Method 2 for velocity and volumetric flow rate;

(4) Reference Method 3 for gas analysis; and

(5) Reference Method 9 for the determination of opacity.

(6) For the purpose of determining compliance with Section 3(1) of this regulation, the following procedures shall be used to supplement Method 9:

(a) A series of consecutive observations taken at fifteen (15) second intervals shall be made during the entire period of time that hot metal and slag are being cast. Compliance shall be based on a comparison of the standard in Section 3(1) of this regulation with the highest average opacity occurring over any six (6) consecutive minutes during the period of observation. If emissions are being emitted from the roof monitor and other discharge points from the building, the reader shall read and record whichever plume is most opaque at the time of each reading.

(b)1. In making observations of roof monitor emissions, the reader shall be positioned within a sector seventy (70) degrees either side of a line perpendicular to the long axis of the roof monitor. Within this sector the reader shall be positioned with the sun behind him and generally perpendicular to the axis of the plume that is being observed. On overcast days or if the plume is in a shadow, the reader need not follow the requirement about positioning his back to the

sun.

2. In making observations of emissions from other openings in the building, the reader shall be positioned within a sector seventy (70) degrees either side of a line perpendicular to the side of the building nearest which the emissions occur and with a clear view of the emissions. Within this sector the reader shall be positioned with the sun behind him and generally perpendicular to the axis of the plume that is being observed. On overcast days, the reader need not follow the requirement about positioning his back to the sun.

Section 5. Compliance Timetable. The owner or operator of a blast furnace casthouse subject to the provisions of this regulation shall demonstrate compliance with Section 3 of this regulation on or before December 31, 1982.

Section 6. Alternate Emission Limitations. The owner or operator of an affected facility subject to this regulation may propose an alternate plan pursuant to the requirements of 401 KAR 51:055 to meet the emissions limitations required by this regulation.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on February 26, 1988, at 10 a.m. (EST) in the Auditorium of the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Mr. Roger B. McCann, Director, Division for Air Quality, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann, Director

(1) Type and number of entities affected: This regulation provides for the control of emissons from existing blast furnace casthouses. It is being amended to delete a reference in the necessity and function which is specific to sources located in an area designated as nonattainment for particulate matter. The original intent of this regulation as stated in the applicability section, was that it apply to all existing blast furnace casthouses. There is, however, only one source to which this regulation applies, and it is located in an area which is currently designated as nonattainment. The presently approved state implementation plan requires that the provisions of this regulation remain in effect even after any redesignation of the area. Therefore, the division is removing the reference to nonattainment in the necessity and function to avoid any ambiguity. This amendment is being made along with other regulatory revisions in response to the new ambient air quality standard for particulate matter (measured as PM_{10}) promulgated by the U.S. EPA in the Federal Register of July 1, 1987 (52 FR 24663).

The classification date in Section 2(3) is also being changed to insert the date that the most recent amendments became effective: April 1, 1984.

Armco Steel Corporation (I.D. No. 103-0340-0005) is currently the only source in the Commonwealth of Kentucky subject to the provisions of this regulation; however, since no new requirements are being added, that entity will not be required to add controls or change its method of operation.

(a) Direct and indirect costs or savings to those affected: There will be no additional costs or savings due to this amendment.

1. First year: N/A

2. Continuing costs or savings: N/A

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: None due to this amendment, since it is maintaining the intent of this regulation.

(a) Direct and indirect costs or savings:

1. First year: N/A

2. Continuing costs or savings: N/A

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

(b) Reporting and paperwork requirements: None due to the amendment to this regulation.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered since this amendment is a clarification of the applicability 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: N/A

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

(6) Any additional information or comments: The U.S. EPA is requiring that states revise their state implementation plans (SIPs) to address how the new national ambient air quality standard for particulate matter (measured as PM_{10}) will be attained and maintained. The U.S. EPA has determined that the control requirements previously used to protect the TSP standard are adequate to protect the new national ambient air quality standard for particulate matter (measured as PM_{10}) and therefore should be retained. The modifications to this regulation are being proposed to ensure the continuing applicability of those control requirements. A demonstration of our ability to protect the PM_{10} standard is necessary for the U.S. EPA to approve Kentucky's SIP for PM_{10}.

TIERING: Was tiering applied? No. Tiering is not applicable since these amendments only restate the intent of this regulation.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This amendment is in response to the new PM_{10} national ambient air standard promulgated by the U.S. EPA in the Federal Register of July 1, 1987 (52 FR 24634). The U.S. EPA requires the Commonwealth to demonstrate in its SIP that the new PM_{10} standard will be protected. The presently approved SIP demonstrates that the PM_{10} standard will be maintained. Therefore, the division is amending this and other regulations to clarify that those control requirements which

are currently in place will continue to apply.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

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 January 15, 1988 [December 15, 1987] and hereinafter should be referred to as Kentucky State Reformatory Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

KSR 01-00-09	Public Information and News Media Relations
KSR 01-00-10	Entry Authorization for All Cameras and Tape Recorders Brought into the Institution
KSR 01-00-14	Extraordinary Occurrence Report
KSR 01-00-15	Cooperation and Coordination with Oldham County Court
KSR 01-00-19	Personal Service Contract Personnel
KSR 01-00-20	Consent Decree Notification to Inmates
KSR 02-00-01	Inmate Canteen
KSR 02-00-03	Screening Disbursements from Inmate Personal Accounts
KSR 02-00-11	Inmate Personal Accounts
KSR 02-00-12	Institutional Funds and Issuance of Checks
KSR 03-00-01	Shift Assignment/Reassignment
KSR 03-00-02	Employee Dress and Personal Appearance
KSR 03-00-05	Intra-Agency Promotional Opportunity Announcements
KSR 03-00-06	Employee Time and Attendance
KSR 03-00-07	Travel Expense Reimbursement
KSR 03-00-08	Employee Tuition Assistance Reimbursement
KSR 03-00-10	Workers' Compensation
KSR 03-00-14	Prohibited Employee Conduct, Disciplinary Actions, and Appeal Process
KSR 03-00-15	Affirmative Action Program
KSR 03-00-16	Confidentiality of Personnel Records
KSR 03-00-19	Establishment of Personnel Records and Employee Right to Challenge Information Contained Therein
KSR 03-00-20	Personnel Selection, Retention and Promotion
KSR 03-00-21	Equal Employment Opportunities for Institutional Job Assignments and Job Classification Promotions
KSR 03-00-24	Inclement Weather and Employee Work Attendance
KSR 03-00-25	Medical Examination Requirements for New Employees
KSR 04-00-02	Staff Training and Development
KSR 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
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 (Amended 1/15/88)
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
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

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: January 15, 1988
FILED WITH LRC: January 15, 1988 at noon.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for Feburary 22, 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: 550 employees of the Kentucky State Reformatory, 1385 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1.
3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:040. Kentucky State Penitentiary.

RELATES TO: KRS Chapters 196, 197, 439
PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640
NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper

administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 15, 1988 [November 13, 1987] and hereinafter should be referred to as Kentucky State Penitentiary Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

KSP 000000-06	Administrative Regulations
KSP 010000-04	Public Information and Media Communication
KSP 020000-01	General Guidelines for KSP Employees
KSP 020000-02	Service Regulations, Attendance, Hours of Work, Accumulation and Use of Leave
KSP 020000-03	Work Planning and Performance Review (WPPR)
KSP 020000-04	Employee Disciplinary Procedure
KSP 020000-05	Proper Dress for Uniformed and NonUniformed Personnel
KSP 020000-06	Employee Grievance Procedure
KSP 020000-07	Personnel Registers and Advertisements
KSP 020000-09	Maintenance, Confidentiality, and Informational Challenge of Material Contained in Personnel Files
KSP 020000-10	Overtime Policy
KSP 020000-15	Legal Assistance
KSP 020000-20	Equal Employment Opportunity Complaints
KSP 020000-23	Recruitment and Employment of Ex-Offenders
KSP 020000-24	Educational Assistance Program
KSP 020000-29	Promotional Opportunity Announcement Program
KSP 030000-01	Inventory Records and Control
KSP 030000-04	Requisition and Purchase of Supplies and Equipment
KSP 030000-05	Inmate Personal Funds
KSP 030000-06	Inmate Commissary Program
KSP 040000-01	Management Information System
KSP 040000-02	Inmate Records
KSP 040000-08	Inmate Equal Opportunity Policy
KSP 050000-14	Searches and Preservation of Evidence
KSP 060000-01	Special Security Unit
KSP 060000-02	Operational Procedures for Disciplinary Segregation, Administrative Segregation, Administrative Control and Behavioral Control Units
KSP 060000-04	Protective Custody Unit (Amended 1/15/88)
KSP 060000-11	Criteria for Disciplinary Segregation and Incentive Time Reduction Program
KSP 070000-01	Hospital Services
KSP 070000-02	Sick Call
KSP 070000-03	Health Evaluations
KSP 070000-04	Consultations
KSP 070000-05	Emergency Medical Procedure
KSP 070000-13	Pharmacy Procedures
KSP 070000-14	Medical Records
KSP 070000-16	Psychiatric and Psychological Services
KSP 070000-17	Dental Services for Special Management Units
KSP 070000-19	Optometric Services
KSP 070000-20	Menu Preparation and Planning
KSP 070000-24	Food Service, General Sanitation, Safety, and Protection Standards and Requirements
KSP 070000-25	Food Service Inspections
KSP 070000-30	Therapeutic Diets
KSP 090000-01	Inmate Work Programs [(Amended 11/13/87)]
KSP 090000-03	Correctional Industries
KSP 100000-02	Visiting Program [(Amended 11/13/87)]
KSP 100000-03	Disposition of Unauthorized Property
KSP 100000-04	Inmate Grooming and Dress Code
KSP 100000-05	Procedures for Providing Clothing, Linens and Other Personal Items
KSP 100000-06	Inmate Mail and Packages
KSP 100000-07	Inmate Telephone Access
KSP 100000-08	Behavioral Counseling Record
KSP 100000-09	Due Process/Disciplinary Procedures (Amended 1/15/88)
KSP 100000-11	Authorized and Unauthorized Inmate Property
KSP 100000-14	Property Room: Clothing Storage and Inventory
KSP 100000-15	Uniform Cell Standards for Fire Safety, Sanitation and Security
KSP 100000-18	Inmate Grievance Committee Hearings
KSP 100000-20	Legal Services Program
KSP 100000-21	Photocopies for NonIndigent Inmates with Special Court Deadlines
KSP 110000-03	Governor's Meritorious Good Time Award Committee
KSP 110000-04	Preparole Progress Report
KSP 110000-06	General Guidelines of the Classification Committee
KSP 110000-07	Statutory Good Time Restoration
KSP 110000-08	Award of Meritorious Good Time
KSP 110000-10	Special Needs Inmates
KSP 110000-11	Classification Committee - Transfer Requests
KSP 110000-12	Classification Committee - Inmate Work Assignments
KSP 110000-13	Classification Document
KSP 110000-14	Vocational School Placement
KSP 110000-15	Transfers to Kentucky Correctional Psychiatric Center (KCPC)
KSP 110000-16	Consideration of Further Treatment Requirements for Inmates Prior to Release
KSP 110000-19	Custody/Security Guidelines
KSP 120000-04	Academic Education
KSP 120000-07	Community Center Program
KSP 120000-08	Inmate Furloughs
KSP 120000-11	Religious Services - Staffing
KSP 120000-18	Religious Services - Religious Programming
KSP 120000-20	Marriage of Inmates
KSP 120000-24	Muslim Services
KSP 120000-31	Extended Furloughs
KSP 120000-32	Discharge of Inmates by Shock Probation
KSP 130000-10	Execution Plan

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: January 15, 1988
FILED WITH LRC: January 15, 1988 at noon
PUBLIC HEARING SCHEDULED: A public hearing on

this regulation has been scheduled for Feburary 22, 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: 309 employees of the Kentucky State Penitentiary, 797 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1.
3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:060. Northpoint Training Center.

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 15, 1988 [November 13, 1987] and hereinafter should be referred to as Northpoint Training Center Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

NTC 01-03-01	Organization and Assignment of Responsibilities
NTC 01-05-01	Extraordinary Occurrence Reports
NTC 01-10-01	Legal Assistance for Staff
NTC 01-11-01	Political Activities of Merit Employees
NTC 01-15-01	Establishment of the Warden as Chief Executive Officer
NTC 01-17-01	Relationships with Public, Media and Other Agencies
NTC 02-02-02	Warden's Participation in the Agency Budgeting Process
NTC 02-03-01	Fiscal Management: Audits
NTC 02-04-01	Internal Control and Monitoring of Accounting Procedures
NTC 02-08-01	Inmate Canteen (Amended 1/15/88)
NTC 02-10-01	Insurance Coverage
NTC 02-12-01	Inmate Personal Accounts
NTC 03-01-01	Employee Dress and Personal Appearance [(Amended 11/13/87)]
NTC 03-02-01	Prohibited Employee Conduct
NTC 03-03-01	Staff Members Suspected of Being Under the Influence of Intoxicants
NTC 03-04-01	Shift Assignments and Transfers
NTC 03-06-01	Worker's Compensation
NTC 03-08-01	Procedures for New Employees Reporting for Employment
NTC 03-09-01	Maintenance, Confidentiality and Challenge of Information Contained in Employee Personnel File
NTC 03-10-01	Employment of Ex-Offenders
NTC 03-11-01	Submission of Northpoint Training Center Staff Recommendation/ Changes
NTC 03-11-02	Employee Suggestion System
NTC 03-13-01	Travel Reimbursement for Official Business and Professional Meetings
NTC 03-14-01	Procedures for Selection, Retention, Promotion, and Lateral Transfer of Merit System Employees
NTC 03-14-02	Procedures for Promotional Opportunities
NTC 03-15-01	Time and Attendance; Accumulation and Use of Accrued Time
NTC 03-15-02	Procedures for Control of Excessive Leave Use
NTC 03-15-03	Inclement Weather and Emergency Conditions
NTC 03-16-01	Affirmative Action and EEO
NTC 03-17-01	Employee Grievance Procedure
NTC 03-18-01	Educational Assistance Program
NTC 03-18-02	Educational Achievement Award
NTC 03-19-01	Holding of Second Jobs by Employees
NTC 03-20-01	Assistance and Counseling Services for Employees and their Families
NTC 03-21-01	Procedures for Employee Evaluation System
NTC 04-01-01	Training and Staff Development
NTC 04-04-01	Firearms and Chemical Agents Training
NTC 06-01-01	Offender Records
NTC 06-01-02	Records - Release of Information
NTC 06-01-03	Taking Offender Record Folders onto the Yard
[NTC 06-03-01	Public Advocacy Access to Psychological and Psychiatric Reports (Added 11/13/87)]
NTC 08-05-01	The Fire and Safety Officer
NTC 08-05-02	Fire Procedures [(Amended 11/13/87)]
NTC 08-05-03	Fire Prevention

NTC 08-05-04	Storage of Flammables and Dangerous Chemicals and Their Use
NTC 08-07-01	Safety Standards
NTC 10-01-01	Special Management Inmates (SMU)
NTC 10-02-01	Security Guidelines for Special Management Inmates
NTC 10-03-01	Protective Custody
NTC 11-03-01	Food Services: General Guidelines
NTC 11-04-01	Food Service: Meals
NTC 11-04-02	Menu, Nutrition and Special Diets
NTC 11-05-02	Health Standards/Regulations for Food Service Employees
NTC 11-06-01	Inspections and Sanitation
NTC 11-07-01	Purchasing, Storage and Farm Products
NTC 12-01-01	Institutional Inspections
NTC 12-02-01	Personal Hygiene for Inmates; Clothing and Linens
NTC 12-02-02	Issuance of Personal Hygiene Products
NTC 13-01-01	Emergency Medical Care Plan
NTC 13-01-02	Emergency and Specialized Health Services
NTC 13-02-01	Administration and Authority for Health Services
NTC 13-03-01	Sick Call and Pill Call
NTC 13-04-01	Utilization of Pharmaceutical Products
NTC 13-05-01	Dental Services
NTC 13-06-01	Licensure and Training Standards
NTC 13-07-01	Provisions for Health Care Delivery
NTC 13-08-01	Medical and Dental Records
NTC 13-09-01	Special Diets
NTC 13-11-01	Inmate Health Screening and Evaluation
NTC 13-12-01	Special Health Care Programs
NTC 13-17-01	Inmates Assigned to Health Services
NTC 13-19-01	Mental Health Care Program
NTC 13-19-03	Suicide Prevention and Intervention Program
NTC 13-20-01	Infectious Disease
NTC 13-21-01	Vision Care/Optometry Services
NTC 13-22-01	Informed Consent
NTC 13-23-01	Special Needs Inmates
NTC 14-01-01	Legal Services Program
NTC 14-02-01	Inmate Grievance Procedure
NTC 14-03-01	Inmate Rights and Responsibilities
NTC 14-03-02	Board of Claims
NTC 14-04-01	Inmate Search Policy
NTC 15-01-01	Restoration of Forfeited Good Time
NTC 15-02-01	Due Process/Disciplinary Procedures [(Amended 11/13/87)]
NTC 15-02-02	Extra Duty Assignments
NTC 15-02-03	Hearing Officer
NTC 15-03-01	Rules for Inmates Assigned to Outside Detail
NTC 15-03-02	Rules and Regulations for General Population Dormitories
NTC 15-04-01	Inmate Identification
NTC 16-01-01	Mail Regulations (Amended 1/15/88)
NTC 16-02-01	Visiting
NTC 16-02-03	Honor Dorm Visiting
NTC 16-03-01	Inmate Furloughs
NTC 16-05-01	Telephone Use and Control
NTC 17-01-01	Personal Property Control [(Amended 11/13/87)]
NTC 17-01-02	Authorized Inmate Personal Property [(Amended 11/13/87)]
NTC 17-01-03	Unauthorized Inmate Property
NTC 17-01-04	Disposition of Unauthorized Property
NTC 17-03-01	Assessment/Orientation
NTC 18-01-01	Preparole Progress Report [(Amended 11/13/87)]
NTC 18-02-01	Classification
NTC 18-02-02	Classification - 48 Hour Notification
NTC 18-03-01	Special Notice Form [(Amended 11/13/87)]
NTC 18-05-01	Transfers of Inmates
NTC 18-05-02	Transfer of Inmates to Kentucky Correctional Psychiatric Center
NTC 19-01-01	Inmate Work Program (Amended 1/15/88)
NTC 19-01-03	Temporary Leave from Job Assignment
NTC 19-02-01	Correctional Industries
NTC 19-02-02	Guidelines for Correctional Industries
NTC 20-01-01	Academic School Program (Amended 1/15/88)
NTC 21-01-01	Library Services (Amended 1/15/88)
NTC 22-03-01	Conducting Inmate Organizational Meetings and Programs
NTC 23-01-01	Religious Services
NTC 23-03-01	Marriage of Inmates
NTC 24-04-01	Honor Status
NTC 24-05-01	Unit Management
NTC 25-01-01	Release Preparation Program
NTC 25-01-02	Temporary Release/Community Center Release
NTC 25-01-03	Graduated Release
NTC 25-02-01	Funeral Trips and Bedside Visits
NTC 25-03-01	Inmate Release Procedure
NTC 26-01-01	Citizen Involvement and Volunteer Services Program

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: January 15, 1988
FILED WITH LRC: January 15, 1988 at noon.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for Feburary 22, 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: 245 employees of the Northpoint Training Center, 724 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 January 15, 1988 [December 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.

KCIW 01-06-01	Legal Assistance for Corrections Staff
KCIW 01-08-01	News Media Access
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
KCIW 10-01-01	Special Management Unit General Operation and Regulations
KCIW 10-01-02	Special Management Unit Programs, Placement and Review
KCIW 10-01-04	Special Security Inmates (Added 1/15/88)
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)]
KCIW 12-02-03	Donated Items
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
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
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
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
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
KCIW 20-01-05	Vocational Programs: Approved, Assessed and Contain Guidelines for Vocational Records
KCIW 20-01-06	Vocational Education: Staffing Patterns/Requirements
KCIW 20-01-07	Vocational Counselor
KCIW 20-01-08	Vocational Education: Community Resources and the Integration with Academic Progress
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

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: January 15, 1988
FILED WITH LRC: January 15, 1988 at noon.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for Feburary 22, 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: 96 employees of the Kentucky Correctional Institution for Women, 180 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 6:130. Western Kentucky Farm Center.

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 15, 1988 [November 13, 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 (Amended 1/15/88) [(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 (Amended 1/15/88) [(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 (Deleted 1/15/88)]
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 1/15/88) [(Amended 11/13/87)]
WKFC 06-00-01	Offender Records and Information Access [(Amended 11/13/87)]
WKFC 06-00-02	Court Orders, Orders of Appearance, Warrants, Detainers, Etc. [(Amended 11/13/87)]
WKFC 09-00-01	Drug Abuse Testing (Added 1/15/88)
WKFC 10-02-01	Special Management Inmate(s) [(Amended 11/13/87)]
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 1/15/88) [(Amended 11/13/87)]
WKFC 13-01-01	Use of Pharmaceutical Products [(Added 11/13/87)]
WKFC 13-02-01	Health Care Services (Amended 1/15/88) [(Amended 11/13/87)]
WKFC 14-00-01	Inmate Rights and Responsibilities [(Amended 11/13/87)]
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)]
WKFC 16-03-01	Inmate Access to Telephones
WKFC 16-04-01	Inmate Packages [(Amended 11/13/87)]
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 (Amended 1/15/88)
WKFC 22-00-02	Inmate Clubs & Organizations
WKFC 23-00-01	Religious Services (Amended 1/15/88) [(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)]

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: January 15, 1988
FILED WITH LRC: January 15, 1988 at noon.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for Feburary 22, 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: 79 employees of the Western Kentucky Farm Center, 315 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1.
3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

TRANSPORTATION CABINET
Department of Highways
(Proposed Amendment)

603 KAR 2:015. Prequalification for construction; certificate of eligibility; and contract claims dispute.

RELATES TO: KRS 45A.245, 176.130 to 176.220, Chapter 177
PURSUANT TO: KRS 13A.100, 61.878, 174.080, 176.140
NECESSITY AND FUNCTION: KRS 176.140 authorizes the Department of Highways to determine the eligibility of bidders for construction contracts with the department. This regulation is adopted to provide a method by which such determination may be made. Further the KRS 13A.100 requirement that any administrative body promulgate administrative regulations pertaining

to its hearing procedure is followed in setting forth the hearing procedures for a contract claims dispute.

Section 1. Definitions. (1) "Commissioner" shall mean the Commissioner of Highways.
(2) "Cabinet" shall mean Transportation Cabinet.
(3) "Department" shall mean Department of Highways.
(4) "Division" shall mean the Division of Construction.
(5) "Concurrence" shall mean agreement with the entire report and recommendation of the hearing examiner.
(6) "Dissent" shall mean disagreement with a part or portions of the report and recommendation of the hearing examiner.
(7) "Contract" shall mean a competitively bid contract between the contractor and the department pursuant to KRS Chapters 45A and 177.
(8) "Contractor" shall mean the person, corporation, partnership or joint venture which enters into a contract.

Section 2. Certificate of Eligibility. (1) All contractors bidding on construction and maintenance projects and accepting subcontracts on construction and maintenance projects of the Transportation Cabinet, Department of Highways, shall be prequalified and possess a certificate of eligibility issued by the department to bid on construction projects. The certificate shall state the maximum eligibility amount and types of work for which the contractor is qualified. The department reserves the right to waive this requirement on projects not specifically involving the construction or maintenance of public roads in connection with the letting of contracts where such requirement is not mandated by KRS 176.130. Such waiver shall be contained in the notice to contractors and the bid proposal for such projects.
(2) The Commissioner of Highways shall appoint a construction prequalification committee composed of department employees to review each application and make a recommendation to the Commissioner of Highways concerning the eligibility of contractors to bid on department construction contracts.

Section 3. Application for Certificate of Eligibility. A contractor desiring to procure a certificate shall submit, on application and financial statement forms provided by the department, information relating to the following:
(1) Ability to perform the types of work for which eligibility is requested.
(2) Construction experience resumes of the principal officers and key personnel of the contractor.
(3) Description of plant and equipment.
(4) Balance sheet and financial statement prepared as of the close of the last fiscal year or to reflect the current financial status of a newly established contractor.
(a) The financial statement of applicants desiring eligibility in excess of $1,000,000 must be audited and attested by an independent public accountant or certified public accountant who holds a valid registration card from the Kentucky State Board of Accountancy or a registration card in the state in which the principal office of the contractor is located. The audit shall be made in accordance with the generally accepted auditing standards adopted by the membership of the American Institute of Certified Public Accountants. Standard audit forms and procedures shall conform with the institute's recommendations for the audit program of contractors. The accountant shall also comply with the specific instructions relative to the presentation of supporting detail requested by the department to determine the amount of net current assets available.
(b) The financial statement of applicants desiring eligibility of $1,000,000 or less shall be signed by the person preparing the statement and by a principal officer of the contractor.
(5) Other information deemed necessary by the department to indicate the applicant's capacity and ability to complete highway construction projects.

Section 4. In order to comply with KRS 61.878(1)(b) and KRS 176.210 the department shall not make available to the public the application information required in Section 3(3) and (4) of this administrative regulation.

Section 5. [4.] Method of Computing Maximum Eligibility Amount. (1) The allowable net current assets as determined from the financial statement plus the cash surrender value, less loans, of life insurance on which the applicant is the beneficiary (exclude all policies with other beneficiaries) shall be multiplied by a factor of twelve (12) to establish the net current assets factor. The book value of owned equipment shall be multiplied by a factor of six (6) to establish the equipment factor. The equipment factor shall be added to the net current assets factor to determine the maximum capacity factor of the contractor.
(2) The contractor's percentage rating shall be established by the department by evaluating the contractor's organization and experience, plant and equipment and performance in accordance with the following maximum percentages:
(a) Organization and experience - twenty (20) percent;
(b) Plant and equipment - thirty (30) percent;
(c) Performance - fifty (50) percent.
(3) The maximum eligibility amount, which is the maximum amount of uncompleted prime contract work permitted at any one time, shall be determined by multiplying the contractor's percentage rating and the maximum capacity factor. A contractor's current eligibility amount shall be the net difference between the contractor's maximum eligibility amount as shown on the certificate of eligibility issued by the department and the total value of uncompleted prime contract work charged to the contractor regardless of its location and with whom it may be contracted.

Section 6. [5.] Issuance of Certificate of Eligibility. (1) The department shall review each application for a certificate of eligibility and make a determination of eligibility within thirty (30) days after receipt of the application unless such application is deferred as provided in Section 6(3) of this regulation. Upon receiving a separate written request from a contractor not prequalified with the department indicating its intent to bid on a specific federal-aid project

which has been advertised within the thirty (30) day period, the department shall review the application and make a determination of eligibility within fifteen (15) calendar days.

(2) All certificates of eligibility shall terminate not later than 120 days after the end of the applicant's fiscal year unless suspended or revoked. Ninety (90) days of this period is to permit the applicant to file a new application in accordance with Section 3 of this regulation, thirty (30) days is for the department's review of the application and, if approved, the issuance of the new certificate of eligibility.

(3) The certificate of eligibility in effect as of the bid opening date shall constitute the basis for determining the eligibility of a bidder.

Section 7. [6.] Reconsideration of Decisions of Construction Prequalification Committee. (1) An applicant may request reconsideration of an application when denied or when the maximum eligibility amount and/or the types of work set forth in its certificate of eligibility by notifying the department in writing within ten (10) days after receipt of its certificate of eligibility. A request for reconsideration shall clearly state the basis of the request and be supported by information and evidence which indicates the certificate of eligibility should be amended. The department shall review the request and notify the applicant of its determination within thirty (30) days after receipt of the request for reconsideration.

(2) An applicant denied a certificate of eligibility may submit a new application when factors constituting the basis for the issuance of a certificate of eligibility warrant reconsideration. The department shall consider the new application and notify the applicant of the action taken within thirty (30) days after receipt of the application.

(3) An application which is deferred by the department shall remain in the possession of the department until such time that the reason for deferral is resolved to the satisfaction of the department. The department shall then take action on the deferred application to issue or deny a certificate of eligibility. The applicant submitting an application, which is deferred, will be notified of the deferral within ten (10) days after action is taken by the department to defer the application.

(4) An interim application may be submitted when there has been a substantial increase in the net current assets of the applicant. Such interim application shall contain a financial statement certified in the same manner as statements prepared as of the close of the fiscal year. The department shall review the interim application and notify the applicant of its determination within thirty (30) days after receipt of the application.

(5) A certificate holder, upon receipt of a request from the department, shall submit an interim financial statement and/or current information relating to the applicant's organization, equipment and work status. The information requested must be submitted within thirty (30) days after receipt of the request. Failure to provide the information requested shall constitute a basis for the suspension or revocation of a certificate of eligibility.

Section 8. [7.] Revocation of Certificate of Eligibility or Reduction of Maximum Eligibility Amount. Upon receipt of information or evidence that a holder of a certificate of eligibility has failed to perform satisfactorily or adhere to the laws, regulations and specifications applicable to a contract or subcontract, the department may suspend and revoke the certificate of eligibility or reduce the maximum eligibility amount. A notice to the certificate holder, setting forth the grounds on which the action is proposed, shall be sent by certified mail. The proposed action shall become final unless the certificate holder submits a written request for a hearing within ten (10) days after receipt of the notice. Within ten (10) days after receipt of a request for hearing, the department shall set a date for an informal hearing at which time the certificate holder may submit any pertinent information and evidence. The department shall advise the certificate holder of its determination within ten (10) days after the informal hearing.

Section 9. [8.] Exhaustion of Engineering Structure Administrative Process. (1) When the contractor has a contract claim or requests relief from the department prior to requesting a hearing, the administrative process within the engineering structure of the department shall be exhausted by the contractor through submission of the claim or request for relief to the following:

(a) First, to the resident engineer in charge of the project out of which the contract claim arose. The contractor shall submit his claim or request to the resident engineer not later than thirty (30) days after issuance of final payment to the contractor under the terms of the contract in question;

(b) Second, to the chief construction engineer in the district; and

(c) Third, to the division through its director. The decision of the division shall be in writing and shall be mailed to the contractor.

(2) The contractor may request a hearing on his contract claim or request for relief within thirty (30) days of the date of the decision of the division.

Section 10. [9.] Hearing Procedure for Contract Claims. (1) All requests for hearing relating to contract claims or request for relief shall be in writing and mailed to the Commissioner, Department of Highways, State Office Building, Frankfort, Kentucky 40622.

(2) Upon receipt of a request for a hearing, the commissioner shall assign the matter to a hearing examiner. The hearing examiner shall not be a full-time employee of the cabinet.

(3) The hearing examiner shall schedule a date for the hearing as schedules of the parties who attend the hearing permit.

(4) The following people shall attend the hearing:

(a) The state highway engineer or his designee;

(b) The general counsel for the cabinet or his designee;

(c) The contractor or his spokesperson; and

(d) The departmental construction engineers.

(5) The hearing shall be recorded and the technical rules of evidence shall not apply.

Section 11. [10.] Hearing Examiner's Report. (1) The hearing examiner may consult with

department engineers not affiliated with the division for technical assistance and consultation in the preparation of his report.

(2) Following the hearing, the hearing examiner shall prepare and submit his report with a recommendation to the commissioner through the state highway engineer and the general counsel. The state highway engineer and the general counsel may concur, not concur or dissent in the report of the hearing examiner.

(a) If the report and recommendation is concurred in by both the state highway engineer and the general counsel, the report and recommendation shall be transmitted to the commissioner for approval.

(b) If either the state highway engineer or the general counsel or both fail to concur in the report and recommendation, the report and recommendation shall be transmitted to the commissioner with any accompanying dissent or comment by the state highway engineer or the general counsel indicating reasons for disagreement.

(3) The commissioner, after receiving the report and recommendation of the hearing examiner and any accompanying dissent or comment, may accept the report and recommendation in its entirety, or reject or modify any or all of the findings and recommendations of the hearing examiner.

(4) The contractor shall be notified in writing of the commissioner's decision.

(5) If the commissioner approves relief in whole or in part, the granting of relief shall be conditioned on the contractor's written agreement to accept the relief offered as full satisfaction and accord of all present or future administrative or legal remedies arising from the contract. Granting of the approved relief shall further be conditioned on the contractor's written agreement to dismiss with prejudice by agreed order or unilateral withdrawal any pending legal action against the department concerning the contract.

(6) If the contractor should accept the relief approved by the commissioner and execute the required agreements described above, the commissioner shall sign an official order granting the relief.

C. LESLIE DAWSON, Secretary
APPROVED BY AGENCY: January 6, 1988
FILED WITH LRC: January 8, 1988 at 1 p.m.
PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this administrative regulation on February 22, 1988 at 10 a.m., local prevailing time in the Fourth Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by February 17, 1988 so notify: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, Tenth Floor, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen
(1) Type and number of entities affected: All contractors wishing to do highway construction work in Kentucky.
(a) Direct and indirect costs or savings to those affected: Amendment has no fiscal impact.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Amendment has no impact.
(2) Effects on the promulgating administrative body: Clearly establishes what information from prequalification application is not subject to the Open Records Law.
(a) Direct and indirect costs or savings: No fiscal impact relating to amendment.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Rejected the do-nothing alternative since the question has arisen several times.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments:
TIERING: Was tiering applied? Yes

TRANSPORTATION CABINET
Department of Highways
(Proposed Amendment)

603 KAR 5:120. Access control of highways.

RELATES TO: KRS 175.450, 176.050, 177.106, 177.230, 177.240, 177.410, 177.440
PURSUANT TO: KRS 174.080, 176.050, 177.230, 177.240, 177.410
NECESSITY AND FUNCTION: The need exists to define, design, construct, and maintain highways whereby the access (ingress and egress) is controlled. This regulation sets forth procedures to designate and/or modify the type of control to be utilized.

Section 1. Definitions. [In this regulation where sections deal with "requirements," the words "shall," "should," and "may" are used to describe the degree of implementation of the requirements. To clarify the meanings intended, the following definitions apply:]
[(1) Shall - a mandatory condition. Where certain requirements are described with the "shall" stipulation, it is mandatory.]
[(2) Should - an advisory condition. Where the word "should" is used, it is considered to be advisable usage, recommended but not mandatory.]
[(3) May - a permissive condition. The requirement is optional.]
[(4)] (1) "Urban" as used herein means [-] areas of residential, commercial or industrial developments of sufficient concentration that they constitute or are characteristic of a city which necessitates, for safety reasons, reduced highway speed limits to forty-five (45) MPH or less, excluding speed limits on interstate systems.
(2) [(5)] "Rural" as used herein means [-] all areas other than urban.

(3) [(6)] "Department's plans" as used herein means the Department of Highways' current plans which are based upon plans made at the time of contract letting together with any subsequent changes in access control made in conformance with applicable laws and regulations.

(4) [(7)] "Access control" as used herein shall mean the condition where the privilege to access a highway by abutting owners, occupants or other persons is controlled by public authority. Types of control of access are as follows: [be one (1) of two (2) types; namely, "by permit" or "limited."]

(a) "Access by permit" refers to all highways designated as access by permit on the department's plans.

(b) ["Limited access" refers to all highways designated as such on the department's plans and shall be of the following two (2) types:

1. A] "Fully controlled access" refers to all highways which give[s] preference to through traffic and which shall have access only at selected public roads or streets and which shall have no highway at grade crossings or intersections. The termini for control of access shall be as shown on the department's plans.

[2. A] (c) "Partially controlled access" refers to all highways which give[s] preference to through traffic. However, access to selected public roads and streets may be provided and there may be some highway at grade intersections and private driveway connections as shown on the department's plans. The termini for control of access shall be as shown on the department's plans.

(5) "Railroad access" as used herein means an approved access point to a highway which is used for railroad maintenance purposes only and which is specifically shown on the department's plans.

Section 2. Title Block. One (1) of the three (3) [appropriate] boxes [with applicable notes inserted,] shown below shall be placed on the title sheet and summary sheet of the plans for all state and federal-aid projects. Applicable notes may be inserted in the box.

THIS PROJECT IS A FULLY CONTROLLED ACCESS HIGHWAY

THE CONTROL OF ACCESS ON THIS PROJECT SHALL BE BY PERMIT

THIS PROJECT IS A PARTIALLY CONTROLLED ACCESS HIGHWAY. ACCESS SHALL BE ALLOWED ONLY WHERE SPECIFICALLY SHOWN ON PLANS

Section 3. Access: Additions and Alterations. (1) On all highways where access control is by permit, the department has [shall] established [such] criteria for modifying existing access [and/]or allowing additional access points that [will] considers the safety and the interest of the highway users. Permits may be issued by the department for additional access provided they are in conformance with the [established] department criteria in 603 KAR 5:150.

(2) On all highways where access is "fully controlled," additional accesses shall be granted only by constructing new interchanges, with grade separations where applicable. [, and] Design of these new interchanges shall be in conformance with the department's current design standards.

(3) On all highways where access is "partially controlled," the department may permit relocation or shifting of existing access points, addition of new access points, elimination of existing access points, or modification of access points [control] under the following circumstances:

(a) An access point may be relocated, eliminated or shifted by [mutual consent of the property owner and] the department. The access shall remain on the same side of the highway, cannot go beyond another existing entrance and shall meet minimum spacing within the department's current design standards and shall be an improvement based on standard engineering practices and safety criteria.

(b) Additional access points may be permitted under the following circumstances after a permit request is processed as hereinafter set forth in Section 4 of this regulation in accordance with the procedures set forth in Section 5 of this regulation:

1. The original design and/or subsequent revisions represent overly restrictive control in light of current state design criteria for access points on partially controlled access highways; and

2. The centerline of the requested access shall not be closer than 1,200 feet to the centerline of the nearest existing point of access in rural areas; or the centerline of the requested access shall not be closer than 600 feet to the centerline of the nearest existing point of access in urban areas; and

3. The property to be affected is not served by a frontage road or other public way.

(4) When a previous decision specifying access control is no longer necessary, as determined by the department, the department may change the access control designation to the extent justified in accordance with procedures outlined in Section 5 of this regulation.

(5) In the event that the railroad tracks which justify railroad access to a highway are no longer usable or the property on which the tracks lie has been sold for nonrail purposes, railroad access shall no longer be allowed at that point. In such instances the department shall not be required to alter its plans. If the property owner wishes to apply for access, he may do so in accordance with the provisions of this administrative regulation and 603 KAR 5:150.

Section 4. Processing Requests for Changes in Access [Control] by Permit Applicants. (1) Any firm, individual or governmental agency which owns property adjacent to a state-maintained highway may apply for a permit from the Department of Highways for access to that highway. Application shall be made on forms prescribed and furnished by the department. The forms are available at any highway district office.

(2) All permit applications [requests] involving access shall be filed with the department's district office for the county in which the requested access point is located.

(3) [(2)] Permit applications [requests]

affecting highways where access control is by permit may be approved or disapproved at the district level or submitted to higher authority in accordance with procedures determined by the department. Permit applications affecting highways where access is fully or partially controlled may be disapproved at the district level, or submitted to the State Highway Engineer with or without a recommendation for approval. If the district office disapproves an application for permit, the applicant shall be notified in writing of the reasons for disapproval.

(4) [(3) Permit requests recommended by the district for approval for new access on highways where access control is either full or partial shall be forwarded to the State Highway Engineer.] The State Highway Engineer shall review the application for a permit for access to a fully or partially controlled highway [request] and obtain the recommendations of the Directors of the Divisions of Maintenance, Traffic, Construction, Right-of-way and Design of the department in addition to the Federal Highway Administration and Turnpike Engineer Consultant when applicable. The State Highway Engineer shall submit his recommendation, together with the various recommendations received by him, to the Commissioner of Highways.

(5) [(4)] When the State Highway Engineer recommends approval of a permit request where access control is full or partial, except where the permit would relocate, eliminate or shift an access point as set forth in Section 3(3)(a) of this administrative regulation in which case the recommendation of the State Highway Engineer is final, the Commissioner of Highways shall in accordance with 600 KAR 1:030 provide an opportunity [arrange] for a public hearing to be conducted. After reviewing the results of the hearing, the Commissioner of Highways shall make the final decision and advise the State Highway Engineer to implement the decision. The department shall then notify the applicant [requesting party] of the final decision on the application. [request and,]

(6) When approval is given, the department may require the applicant [requesting party] to furnish [any] additional documents, plans, studies[, compensation] and other requisites [as] determined by the department to be a condition of the permit prior to issuing a permit for the construction of the additional access. Also, prior to issuance of the permit, the owner of the property shall compensate the Department of Highways for any increase in value to the affected property attributable to the new access based on before and after value appraisals by the Department of Highways. The property owner shall also reimburse the department for administrative expenses such as expenses incurred in processing the permit, reviews, hearing and appraisals. The cost of construction and maintenance of the new access shall be borne by the property owner(s).

Section 5. Procedures for Changing the Type of Access Control on an Existing Highway Facility. (1) All requests for changing the type of access control on an existing roadway shall be forwarded to the State Highway Engineer.

(2) Access restrictions may be reduced to a level capable of meeting traffic control needs when no significant detriment to highway safety will occur under the following circumstances:

(a) The existing roadway has been replaced by a parallel route which takes traffic away from the existing roadway and the function of the highway has been officially reduced; for example [namely], arterial to collector; or

(b) An analysis of the original traffic projections are made and it is determined that the entire corridor has been constructed and potential land use developments have been accomplished.

(3) More restrictive control of access may be established when necessary to meet highway safety requirements and traffic control needs.

(4) The State Highway Engineer shall review the request and obtain the recommendations of the Directors of the Divisions of Maintenance, Traffic, Construction, Right-of-Way and Design of the department in addition to the Federal Highway Administration and Turnpike Engineer Consultant when applicable. The State Highway Engineer shall submit his recommendation, together with the various recommendations received by him, to the Commissioner of Highways who in accordance with 600 KAR 1:030 shall provide an opportunity [will arrange] for a public hearing to be conducted. After reviewing the results of the hearing, the Commissioner of Highways shall make the final decision and advise the State Highway Engineer to implement the decision.

(5) The department shall modify the plans and deeds when applicable.

[(6) In situations where access control is changed, the department shall modify the plans indicating the type of new access control. When access control is reduced, compensation shall be made to the department to comply with Title 23, Code of Federal Regulations, Section 713.307.]

(6) [(7)] In situations where more restrictive access control is imposed, the department shall provide reasonable access or shall compensate the property owner(s) for loss of reasonable access.

(7) [(8)] The Commissioner of Highways may make any exceptions to the procedures set forth in this section as are deemed necessary in order to comply with all applicable federal laws and regulations.

Section 6. Revised Deed. Every deed of conveyance of property acquired by the department for purposes of right-of-way for any state or federal project shall, in addition to the official order number, show the designation of the type of access highway involved as defined in Section 1 of this regulation. If new access is allowed, the deed of conveyance shall be modified by filing a deed of correction at the expense of the property owner who applied for the permit if deemed necessary by the department.

Section 7. Record Availability. The department shall maintain records for public inspection at its office in Frankfort, Kentucky, of all completed state and federal projects, together with the designation of the type of access to be allowed on the project as defined in Section 1 of this regulation.

Section 8. Request for Reconsideration. Any firm, individual or governmental agency who has had an application for permit disapproved at the district office may file a request for reconsideration of the decision by the State

Highway Engineer. The request shall be submitted to the highway district office. The request shall include a copy of the disapproved application, the letter of disapproval from the district office and a listing of the reasons why the applicant believes the district office's decision should be reconsidered. The district office shall then forward the request to the central office. The State Highway Engineer shall issued the department's final approval or disapproval.

C. LESLIE DAWSON, Secretary
APPROVED BY AGENCY: January 6, 1988
FILED WITH LRC: January 8, 1988 at 1 p.m.
PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this administrative regulation on February 22, 1988 at 9:30 a.m., local prevailing time in the Fourth Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by February 17, 1988 so notify: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, Tenth Floor, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen
(1) Type and number of entities affected: All highway users in the Commonwealth.
(a) Direct and indirect costs or savings to those affected: None as a result of changes to this regualtion.
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: Application forms for permit must be completed before access control by permit is allowed.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Sets forth the permit approval process within the cabinet and requires review of permit application.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Could have omitted reconsideration and/or not proceeded with cleanup. Rejected because the public has a right to know what steps can be taken when a permit has been rejected at the district level. Cleanup of regulation was needed.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: 603 KAR 5:150 overlaps somewhat but no conflict.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments:
TIERING: Was tiering applied? Yes

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

702 KAR 7:090. Requirements for coaches and other personnel staffing interscholastic athletic programs.

RELATES TO: KRS 156.070, 161.010, 161.044, 161.180
PURSUANT TO: KRS 156.070
NECESSITY AND FUNCTION: KRS 156.070 gives the State Board of Education the management and control of all programs, including interscholastic athletics, operated in the common schools, and further requires that the rules, regulations, and bylaws of any organization or agency designated by the state board to manage interscholastic athletics be approved by the state board; and KRS 161.010, 161.044, and 161.180 authorizes the employment of paraprofessionals in the public schools. This regulation sets forth requirements for coaches and other personnel staffing interscholastic athletic programs.

Section 1. Head coaches and assistant coaches of interscholastic athletic teams and sponsors of cheerleading squads representing the common schools shall be certified teachers and members of their regular school faculties. They shall be duly employed by their respective boards of education, and their entire salaries shall be paid by such board. They shall be employed a minimum of three (3) regular periods for teaching classes, including physical education; for supervision of study halls; [and/]or for exercising responsibilities in other activity assignments within the school schedule.

Section 2. (1) In the event a local board of education is unable to staff assistant coaching, or assistant cheerleader sponsor, positions under the provision of Section 1 of this regulation, the superintendent of the local school district may request the local board of education [Superintendent of Public Instruction] to approve the qualifications of persons holding a provisional or standard teaching certificate or having completed a minimum of sixty-four (64) semester hours of college credit as nonteaching paraprofessional assistants [coaches] under the following provisions:
(a) The local board of education shall declare that no qualified and certified member of the regular school faculty has applied for the position, pursuant to Section 1 of this regulation;
(b) The position shall be filled by the best qualified person available, giving preference to the factors of academic preparation and teacher certification, prior teaching experiences or related educational work, and personal attributes compatible with the demands of the position [coaching profession];
(c) The applicant shall have at least sixty-four (64) semester hours of credit from an accredited college or university, as documented by an official transcript;
(d) The applicant shall provide documentation of successful completion of a first aid course, including CPR, as approved by a college or university, the American Red Cross, or the American Heart Association, and such shall be

timely and appropriately updated as required by the approving agency;

[(e) The local board of education must submit an application, including a job description and a current college transcript to the Department of Education on an annual basis;]

(e) [(f)] Nonteaching paraprofessional assistants [coaches] shall be employed and act under the direct supervision of a head coach or head cheerleader sponsor and under the authority of the principal and shall be evaluated annually; and

(f) [(g)] The entire salary for the position shall be paid by the local board of education.

(2) Nonteaching paraprofessional assistants shall have the full and same authority and responsibility, consistent with applicable law, as fully certified, teaching assistants hired under the provisions of Section 1 of this regulation, but such assistants may not:

(a) Act as head coaches or sponsors, except in emergencies where the head coach or sponsor is unavailable, of junior varsity, freshman, elementary or middle school, or any other nonvarsity, athletic team or cheerleading squad; or

(b) Act as the school faculty member or administrator required to accompany students on school-sponsored or school-endorsed trips pursuant to KRS 161.185. [As long as a noncertified paraprofessional is acting within the scope and authority set forth in 704 KAR 15:080 and KRS 161.010 and 161.044, he or she may be employed by a local board of education to carry out assigned responsibilities upon approval by the Superintendent of Public Instruction of a job description limited to the following duties:]

[(a) Assists the coaches in daily and long-range athletic activities;]

[(b) Assists the coaches in planning the program;]

[(c) Conducts learning experiences, under the direction of the coaches, with small groups of student athletes;]

[(d) Assists the coaches in guiding participants toward a harmonious team spirit;]

[(e) Alerts the head coach to the special need of individual athletes;]

[(f) Provides escort, assistance, and supervision to athletes during periods of team travel;]

[(g) Recommends to the head coach the purchase of equipment, supplies, and uniforms as appropriate for the health, safety, and welfare of student athletes;]

[(h) Performs other noncoaching duties assigned by the principal, athletic director, or head coach.]

Section 3. No person failing to meet the provisions of Section 1 or 2 of this regulation shall be employed or allowed to participate in any supervisory capacity with interscholastic athletic teams or cheerleading squads.

Section 4. [3.] The requirements of this regulation shall be made a part of the rules, regulations, and bylaws of any organization or agency designated by the state board to manage interscholastic athletics, and shall be made to apply by said organization or agency to all its member schools.

DR. JOHN BROCK, Superintendent
APPROVED BY AGENCY: January 13, 1988
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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Wendell Cave
(1) Type and number of entities affected: Sixty local school districts annually.
(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. Proposed revisions reduces paperwork.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: Minimal reduction.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Paperwork eliminated.
(3) Assessment of anticipated effect on state and local revenues: Minimal
(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative was not meeting the need for which the regulation was promulgated.
(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.

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

704 KAR 15:080. Paraprofessional employees and volunteer personnel.

RELATES TO: KRS 161.010, 161.030, 161.044
PURSUANT TO: KRS 156.070, 161.044
NECESSITY AND FUNCTION: KRS 161.010 defines a paraprofessional, KRS 161.030 vests the certification of all teachers and other school personnel with the State Board of Education, and KRS 161.044 directs the State Board to establish a plan for the qualification and utilization of

adult paraprofessional employees and adult volunteer personnel in the schools. This regulation prescribes the guidelines by which local school districts may utilize and supervise adult paraprofessional employees and adult volunteer personnel.

Section 1. Local boards of education may utilize adult volunteer and adult paraprofessional employees in accordance with KRS 161.044 and 161.010(4) and (5), and subject to the following provisions:

(1) All instructional teachers' aides working in kindergarten classes and all instructional teachers' aides initially hired by the local board of education after July 1, 1986, except those with teacher certification, shall be subject to the following requirements:

(a) A high school diploma or a high school equivalency certificate.

(b) A passing score on an achievement test. Beginning with the 1986-87 school year, the Adult Basic Learning Examination (ABLE) shall be utilized to measure achievement in the areas of reading and mathematics. Passing scores on the appropriate subtests of the ABLE shall be those scores which are equivalent to the scores obtained by the norming groups at the 22nd percentile.

(c) Successful completion of an in-service training program. The program shall consist of a minimum of twelve (12) hours of formal, documented instruction to include training in the areas of the role of the paraprofessional, educational terminology, school practices and policies, interpersonal relationships, learning atmosphere and tutorial instruction. Local school districts shall utilize the in-service program designated by the State Board of Education or an alternative program approved by the Department of Education which meets the requirements of this subsection.

(d) An annual evaluation by the appropriate school administrator with input from the supervising teacher or teachers. Local districts shall adopt a policy which sets forth the evaluation process for teachers' aides and the use to be made of such evaluations in future employment decisions.

(2) All full time noninstructional teachers' aides shall achieve a passing score on an achievement test. The test shall be the same test which is administered to instructional teachers' aides and the passing scores shall be identical to those established for instructional teachers' aides.

(3) Local boards of education shall give preference to an applicant for the position of teacher's aide or paraprofessional who has a regular or emergency teacher certification.

(4) For each paraprofessional employee the local school district shall prepare and maintain an up-to-date job description which outlines the duties that the individual is authorized to perform.

(5) The professional administrative and teaching staff, as well as the paraprofessional employees, shall have copies of the job descriptions of the paraprofessional personnel under their direction and shall limit the work assignment of the paraprofessional personnel to the duties outlined in the job descriptions.

(6) Paraprofessional employees and volunteer personnel may be assigned within the limitations of their competency to assist with classroom and any otherwise authorized community-based instruction, as appropriately directed and supervised by the professional administrative and teaching staff. Such assistance shall not include the continuing day-to-day responsibility for teaching a particular academic subject or group of pupils in the role ordinarily ascribed to a teacher in the regular, special education, and vocational education program areas, and paraprofessional employees and volunteer personnel involved in regular and remedial classroom instruction shall be personally supervised on a continuing day-to-day basis by the supervising teacher.

Section 2. In the event a local board of education is unable to fully staff an athletic program with qualified personnel under 702 KAR 7:090 Section[s] 1 [and 2,] the local district [superintendent] may <u>staff said program in accordance with 702 KAR 7:090, Sections 2 and 3</u> [request annual approval from the Superintendent of Public Instruction for an alternative staffing arrangement for noncertified paraprofessionals performing routine, assignments, pursuant to 702 KAR 7:090, Section 2(2). Appropriate justification shall be submitted in writing on forms provided by the head of the Office of Instruction].

DR. JOHN BROCK, Superintendent
APPROVED BY AGENCY: January 13, 1988
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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Gary Bale
(1) Type and number of entities affected: 180 local school districts.
(a) Direct and indirect costs or savings to those affected: DNA
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 change.
(2) Effects on the promulgating administrative body: No change.
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: To clarify language.
(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.

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

704 KAR 20:330. Endorsement for individual intellectual assessment.

RELATES TO: KRS 161.020, 161.025, 161.030
PURSUANT TO: KRS 156.070, 161.030
NECESSITY AND FUNCTION: KRS 161.020, 161.025, and 161.030 require that teachers and other professional school personnel hold certificates of legal qualifications for their respective positions to be issued upon completion of programs of preparation prescribed by the Kentucky Council on Teacher Education and Certification and approved by the State Board of Education. This regulation provides for a program of preparation-certification leading to a certificate endorsement for administering individual intellectual assessments.

Section 1. An endorsement for individual intellectual assessment shall be issued in accordance with the pertinent Kentucky statutes and State Board of Education regulations to an applicant who holds certification as a guidance counselor and who has completed the approved program of preparation for the endorsement at a teacher education institution approved under the standards and procedures included in the Kentucky Standards for the Preparation-Certification of Professional School Personnel as adopted by 704 KAR 20:005.

Section 2. The endorsement for individual intellectual assessment shall be issued for a duration period of five (5) years and may be renewed upon completion of three (3) years of experience with administering, scoring, and interpreting individual intellectual assessments as part of the job function. If any portion of renewal experience is not completed, the certificate may be renewed upon completion of six (6) semester hours of credit selected from the areas set forth in Section 3 of this regulation.

Section 3. An endorsement for individual intellectual assessment shall be issued to an applicant who holds certification as a guidance counselor and who has completed twelve (12) semester hours of graduate credit including:
(1) Three (3) semester hours of graduate credit in basic testing and measurement concepts.
(2) Six (6) semester hours of graduate credit which relate directly to individual intellectual assessment.
(3) Three (3) semester hours of graduate credit in a supervised practicum for administering, scoring, and interpreting individual intellectual assessments.

Section 4. Guidance counselors who have qualified to administer individual intellectual assessments in accordance with the provisions of 704 KAR 7:020 shall no longer qualify after September 1, 1989, except upon receiving the certificate endorsement for individual intellectual assessment. Guidance counselors holding such approval and who complete the following curriculum requirements by September 1, 1989, may qualify on a minimum of nine (9) semester hours of graduate credit including:
(1) Three (3) semester hours of graduate credit in basic testing and measurement concepts.
(2) Six (6) semester hours of graduate credit which relate directly to individual intellectual assessment.

Section 5. The endorsement for individual intellectual assessment shall be valid for administering individual assessments at all grade levels in the schools of the Commonwealth of Kentucky.

DR. JOHN BROCK, Superintendent
APPROVED BY AGENCY: January 13, 1988
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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Akeel Zaheer
(1) Type and number of entities affected: All individuals holding guidance counseling certification and qualifying for the endorsement in individual intellectual assessment.
(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: Alteration in issuance of endorsement.
(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: Will reduce the need to employ additional personnel for each grade range.
(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. Requirements for and issuance of certification need to be uniformily applied.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No federal mandate relating to certification of school personnel.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No federal mandate relating to certification of school personnel.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: No federal mandate relating to certification of school personnel.

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

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

RELATES TO: KRS 163.030
PURSUANT TO: KRS 156.070, 163.030
NECESSITY AND FUNCTION: KRS 163.030 vests the State Board of Education with authority to carry out the purposes of the state's vocational education program and adopted federal acts relative thereto. The purpose of this regulation is to establish minimum entrance requirements for students entering vocational programs, to establish a base for determining if students may receive advanced placement, to assist in developing remedial plans for students who need help in meeting minimum admission requirements, and to determine if a student needs additional assessment.

Section 1. The following minimum requirements shall apply to those schools offering training to students who have graduated or left high school and are enrolled in an occupational preparation program of 500 hours or more in length that does not lead to an associate degree:
(1) Students enrolling in a vocational school postsecondary program must be sixteen (16) years of age or older;
(2) Students enrolling must have successfully completed requirements for a high school diploma or its equivalent. Students who do not possess a high school diploma or its equivalent may be admitted with special status provided the student agrees to pursue the high school equivalency certificate;
(3) Students enrolling must complete an application form and provide a transcript of previous school work completed, including scale scores on the Comprehensive Test of Basic Skills (CTBS) if taken in the last three (3) years or the Kentucky Essential Skills Test (KEST);
(4) Students enrolling who do not have a transcript and/or CTBS scale scores or KEST scale scores must take the Test of Adult Basic Education (TABE). Students not having acceptable CTBS or KEST scale scores for program admission may take the TABE;
(5) Students may be admitted to the school upon completion of application, required records, and test results and may pursue instruction in a basic academic skills program, career exploration, core elective courses, and modified/special programs for handicapped; and
(6) The Kentucky Department of Education does not discriminate on the basis of race, color, national origin, marital status, age, sex, or handicap.

Section 2. Students who have been admitted to the school must meet admission standards for the occupational program. The following minimum requirements shall apply to all students:
(1) Scale scores from California Test of Basic Skills (CTBS), Form U, Kentucky Essential Skills Test (KEST) or Test of Adult Basic Education (TABE), Level D, will be used in program placement and in developing a plan for students who need help in remedial work to meet minimum program admission requirements.
(2) Students must have the following scale scores for admission to a vocational program not otherwise mentioned:

	KEST/ CTBS	TABE (Forms 3 & 4)	TABE (Forms 5 & 6)
Reading	725	489 [479]	739 [735]
Math	717	524 [504]	764 [756]

Students who score below said minimum will be referred to a remediation program prior to admission to the occupational program. Students achieving the minimum basic skills in the remediation program will be admitted to the occupational program when a work station is available. Students pursuing the diploma will be required to continue to improve their reading and math scores after program enrollment until the highest reading and math scores indicated in subsection (3) of this section are met.
(3) Students who have the following scale scores must be enrolled in math and reading programs to improve their skills. Enrollment may be concurrent with or prior to enrollment in the program.

	KEST/ CTBS	TABE (Forms 3 & 4)	TABE (Forms 5 & 6)
Reading	725 to 770	489 to 574 [479]	739 to 770 [735]
Math	717 to 732	524 to 582 [504 to 581]	764 to 785 [756 to 784]

(4) Students enrolling in Air Craft Mechanics, Biomedical Technician, Electronics, Instrumentation, Medical Laboratory Technician, Practical Nursing, Radiologic Technology, Respiratory Therapy, Surgical Technology, Civil Highway Technology, Advanced Technology Center Program and Drafting must have the following scale scores to be admitted to the program:

	KEST/ CTBS	TABE (Forms 3 & 4)	TABE (Forms 5 & 6)
Reading	770	574	770
Math	732	582 [581]	785 [784]

(5) Students enrolling in Biomedical Equipment Technician, Medical Assistant, Mine Maintenance, Practical Nurse, Radiologic Technology, Respiratory Therapy, and Surgical Technology must be seventeen (17) years of age or older.
(6) Students enrolling in Heavy Equipment Operator, Heavy Equipment Maintenance, and Mine Equipment Operator must be eighteen (18) years of age or older.
(7) Students enrolling in Mine Equipment Operator must complete forty-eight (48) hour Mine Safety Training Program before entering the simulated mine.
(8) Students enrolling in Heavy Equipment Operator and Heavy Equipment Maintenance must have a valid driver's license.

Section 3. The following minimum requirements shall apply to those students requesting to transfer credit and be admitted with advanced standing from other vocational schools or other institutions accredited by an educational agency recognized by the Kentucky Department of Education:
(1) The student must supply the name and address of all previous institutions that provided vocational training;
(2) The student must provide a record of competencies achieved, length of training, date of enrollment, and date of termination from each institution. The receiving school may validate competencies through testing and interviewing and/or school admission requirements; and
(3) The student must provide all records and reports which are required by the state boards and/or licensing agencies in a given vocational program.

Section 4. This regulation shall be implemented in all state vocational-technical schools and health facilities, except correctional institutions.

DR. JOHN BROCK, Superintendent
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REGULATORY IMPACT ANALYSIS

Agency Contact Person: Dr. Ann S. Bardwell
(1) Type and number of entities affected: 79 SVTS/AVEC's operated by the State Department of Education which offer programs for adult students.
(a) Direct and indirect costs or savings to those affected: N/A
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No additional requirements.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: N/A
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No additional requirements.
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: These regulations as proposed appear to be consistant with other operating policies.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Yes

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

811 KAR 1:125. Pari-mutuel rules.

RELATES TO: KRS 230.630(1), (3), 230.640, 230.690, 230.710
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 and regulate pari-mutuel wagering at race meetings.

Section 1. Equipment. (1) The commission considers it desirable for licensees to use vending machines for the sale of pari-mutuel tickets. All licensees will be required to employ the use of totalizator equipment or its equivalent of a type approved by the commission.
(2) The controls necessary to operate the odds board in the infield, relative to the way the horses finish, (if the finish is being contested, if there is a photo, dead heat, time or race) are to be located in the judge's stand and controlled only by the presiding judge, or one associate judge designated to do so.

Section 2. Definitions for Pari-mutuel Rules. (1) For the purpose of pari-mutuel betting, every heat or dash shall be a separate and distinct race.
(2) Where the term "race" is used throughout the following rules, it shall not be considered to apply as if the term "heat" had been used. Wagering shall be prohibited on more than ten (10) races, heats excluded, during the course of a single racing program, provided that the commission may extend the number of races authorized.

Section 3. Tax. Each day's tax imposed by KRS Chapter 138 shall be remitted to the Kentucky Department of Revenue by the licensee by check or bank draft within twenty-four (24) hours after the close of the racing program. Such

remittance shall be accompanied by a tax return executed by the licensee on a form furnished by the Kentucky Department of Revenue. A copy of said form will be filed daily with the commission.

Section 4. Sale of Pari-mutuel Tickets. (1) Only one (1) method of selling pari-mutuel tickets shall be used for the sale of tickets on individual races during any racing day.

(2) Unless prior commission approval has been obtained no pari-mutuel tickets shall be sold except through regular ticket windows properly designated by signs showing type of tickets sold at that particular window.

(3) Without prior commission approval no pari-mutuel tickets shall be sold on any race prior to the day of the race.

(4) Book making or betting other than pari-mutuel betting is strictly prohibited.

(5) No minor shall be allowed to bet and no mutuel employee shall sell or pay a wager to a minor.

(6) All wagering shall stop as soon as the word "go" shall be given by record or by voice of the starter. Vending machines for the sale of pari-mutuel tickets shall be electrically locked by the presiding judge from the judge's stand.

(7) When the sale of pari-mutuel tickets has closed, it shall remain closed until after the race has finished and has been declared official, unless an objection imposes a delay in which case the sale of pari-mutuel tickets for the next succeeding race may be begun without waiting for the race to be declared official.

(8) Without approval of the commission, no pari-mutuel ticket shall be sold for less than two (2) dollars. Without approval of the commission, no pari-mutuel ticket combining win and place, win and show, or place and show, shall be sold for less than four (4) dollars. Without approval of the commission, no pari-mutuel ticket combining win, place, and show shall be sold for less than six (6) dollars. Without approval of the commission, no pari-mutuel tickets for perfecta, double perfecta, quinella or double quinella combinations shall be sold for less than two (2) dollars.

(9) The method of selling pari-mutuel tickets shall be approved by the commission.

(10) The manager of the pari-mutuel department shall be properly and timely advised by the presiding judge, prior to the beginning of wagering on each race, of the horses that will compete in the race.

(11) At meetings of more than ten (10) days, if less than six (6) interests qualify to start in a race, the manager of the pari-mutuel department, with the consent of the representative of the commission, shall be permitted to prohibit show wagering on that race.

(12) At meetings of more than ten (10) days, if less than five (5) interests qualify horses to start in a race, the said manager, with the consent of the representative of the Kentucky Harness Racing Commission shall be permitted to prohibit both place and show wagering on that race.

(13) At meetings of more than ten (10) days, if less than three (3) interests qualify horses to start in a race, the said manager, with the consent of the representative of the commission shall be permitted to prohibit wagering on that race.

(14) At meetings of more than ten (10) days, the said manager, with the consent of the representative of the commission, may prohibit wagering on any particular horse or entry in any race. Such consent shall be sought by the manager of the pari-mutuel department from the representative of the commission. Such exclusions, if consented to by the representative of the commission, shall be clearly indicated on the program or score card or announced and horses excluded shall be numbered so as to in no way infer that they are coupled in "the field." Horses once excluded from the the betting shall remain excluded during the day or race in which they are scheduled to start.

(15) When more horses representing separate interests are started in a race than the number of post positions on the infield tote board, all horses in excess of a number of interests one (1) less than the total number of post positions on the infield tote board shall be grouped in the betting as the "field."

(16) A refund at cost value shall be made to all holders of a purchased ticket bearing the number of a horse in any race which has been scratched or withdrawn before said horse has become a starter in the race under the rules, unless such horse is part of an entry, and one (1) or more of said entry starts.

Section 5. Payments. (1) Payments due on all wagers shall be made in conformity with well established practice of the pari-mutuel system. The practice is to work in dollars and not in the number of tickets. Money wagered on winning tickets is returned in full plus the profits. In all cases of a winning mutuel pool each licensee must redistribute not less than one (1) dollar and ten (10) cents on each one (1) dollar wagered. In the event of a minus pool the minimum payoff on each one (1) dollar wagered shall be one (1) dollar and five (5) cents.

(2) At the end of each race, the judges shall advise the manager of the pari-mutuel department by the use of the tote equipment or by telephone of the official placement of the horses, and no payoffs shall be made until the receipt of such notice.

(3) If a horse wins and there is no money wagered on him to win, the win pool shall be apportioned among the holders or the place tickets on that horse, if any, otherwise among holders of the show tickets.

(4) If no money has been wagered to place on a horse which is placed first or second in a race, the place pool for that race shall be apportioned among the holders of the place tickets on the other horse which was placed first or second.

(5) If no money has been wagered to show on a horse which has placed first, second or third in a race, the show pool in that race shall be apportioned among the holders of show tickets on the other horses which are placed first, second or third in that race.

(6) In the event that only two (2) horses finish in any one (1) race, the show pool shall be figured the same as the place pool and monies apportioned to the holders of show tickets on the two (2) finishing horses. In the event only one (1) horse finishes in any one (1) race all three (3) pools shall be figured separately as straight pools and all the monies shall be awarded to the ticket holders of the finishing

horse. In the event no horse finishes the race, then the entire pool shall be refunded to all ticket holders.

(7) If two (2) horses finish in a dead heat for first place, the money in the win mutuel pool is divided between the two (2) dead-heaters according to their proportionate shares in the pool.

(8) If two (2) horses finish in a dead heat for second place, the division is made as follows: There shall be allotted to the pool of the winner of the race one-half (1/2) of the place pool and the two (2) dead-heaters one-half (1/2) each of the remaining half of the place pool.

(9) If two (2) horses coupled in the betting as an "entry" or "the field" finish first and second, first and third, or second and third, two-thirds (2/3) of the net show pool shall be allotted to the pool of the entry and the balance one-third (1/3) to the other horse.

(10) In the event that one (1) horse of the entry or the field finishes first or second and the other part of the entry or field finishes in a dead heat for third with another horse, the division of the net show pool shall be as follows: one-half (1/2) of the net show pool shall be allotted to the pool of the entry, one-third (1/3) to the nonentry horse not involved in the dead heat, and one-sixth (1/6) to the nonentry horse finishing in the dead heat.

(11) If the entry or field horses should finish first, second and third, the entire money in each pool goes to the entry or field tickets, no other tickets participating.

(12) No mutilated pari-mutuel ticket that is not easily identifiable as being a valid ticket shall be accepted for payment.

(13) No claims for lost pari-mutuel tickets shall be considered.

(14) In the event an error is made in calculation resulting in a price being too high, the association shall lose such amount between the proper price and the one paid. If the error in calculation results in a price being too low, such amount between proper price and price paid shall be added to the net pool of the same position in the following race on the same day or if it is the last race of the day then it shall be added to the net pool of the same position in the same race on the following day. If such an error occurs causing underpayment on the last race of the entire racing meeting, the underpayment shall be paid to the Kentucky Revenue Cabinet.

Section 6. Daily Doubles. (1) Positively no exchange of daily double tickets after purchaser thereof has left the sales window.

(2) The daily double is not a parlay, and has no connection with or relation to the "tote" betting. All tickets on the daily double will be calculated in an entirely separate pool. Without prior commission approval, only one (1) daily double will be permitted during any single program.

(3) All tickets will be to win (straight) only. Entries and the field run as one (1) horse in the daily double. If two (2) or more horses in a race are coupled on the same totalizator ticket, there shall be no refunds, unless all of the horses so coupled are excused before off time.

(4) Selections are to be made of one (1) horse for each of two (2) races in the daily double by "tote" program numbers.

(5) If no ticket is sold combining the two (2) winners of the daily double, the pool shall then be apportioned equally between those having tickets including the winner in the first race of the daily double and those having tickets including the winner in the second race of the daily double in the same manner in which a place pool is calculated and distributed.

(6) If no ticket is sold on the winner of the first race of the daily double on any combination, the entire pool is apportioned to the holders of tickets on the winner of the second race of the daily double. Likewise, if no ticket is sold on the winner of the second race of the daily double or any combination, the entire pool is apportioned to the holders of tickets on the winner of the first race of the daily double.

(7) If a dead heat to win should result in either the first or second race of the daily double, the total pool is calculated as a place pool. In case of a dead heat for the winner of the first race of the daily double, the posting of payoff prices will be made after winner of second race of the daily double is official.

(8) Should no ticket be sold containing the numbers of either winner on any combination, the pool shall be allotted to those having tickets on horses finishing next to the winners.

(9) In the event any horse or horses in the first half of the daily double should be excused by the judges after the horses shall have left the paddock for the post, or after the betting on the daily double has been closed, or should any horse or horses in the first half of the daily double be prevented from racing because of failure of the arm or arms of the starting gate to open, the money wagered on any horse or horses so excused or prevented from racing shall be deducted from the daily double pool and refunded to the purchaser or purchasers of tickets on the horse or horses so excused or prevented from racing.

(10) If a horse is scratched from the second half of the daily double before it becomes a starter in the second half, but after the first half of the daily double has been run, all daily double tickets combining the scratched horse in the second race of the daily double with the actual winner of the first race of the daily double shall be paid a price equivalent to that fraction of the net pool derived by dividing the net pool by the total purchase price of all tickets combining the winner of the first race of the daily double with all horses in the second race of the daily double. The total payoff on all tickets combining the winner of the first race of the daily double with the scratched horse in the second race of the daily double as determined by the method set forth in this rule shall be deducted from the net daily double pool.

(11) The possible payoff prices shall be posted or announced to the public before the start of the last race of the daily double, and as soon as possible after the horses in the race of the last half of the daily double have entered upon the track on the way to the post.

(12) If for any reason the second race of the daily double is cancelled or declared "no race" by the judges 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.

(13) If a daily double is scheduled to be held, subsections (1) to (12) of this section shall be printed in conspicuous places in the grandstand area and an abbreviated version shall be printed on the day's racing program, and notice printed on said program as follows: "Retain Your Tickets Until The Result Of the Daily Double Has Been Posted."

Section 7. Perfecta Wagering. (1) The "perfecta" (also known as exacta or correcta) 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.

(2) The perfecta is not a "parlay" and has no connection with or relation to the win, place or show betting and will be calculated as an entirely separate pool.

(3) If no ticket is sold on the winning combination of a perfecta 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.

(4) If no ticket is sold that would require distribution of a perfecta pool to winner as above defined, the association shall make a complete and full refund of perfecta pool.

(5) In case of a dead heat between two (2) horses for first place the net perfecta pool shall be calculated and distributed as a place pool to holders of tickets of the winning combination(s). In case of a dead heat between two (2) horses for second place, the perfecta 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.

(6) 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 perfecta pool shall be calculated and distributed as a place pool to holders of tickets representing any interest in the net pool.

(7) In the event two (2) or three (3) horses coupled in an entry or the mutuel field finish first and second or first, second and third, the winning combination shall be the coupled horses and the horse placed immediately behind such entry or field.

Section 8. Quinella Wagering. (1) The "quinella" is a form of a pari-mutuel wagering consisting of selecting the first two (2) horses to finish, irrespective of their place of finish.

(2) The quinella is not a "parlay" and has no connection with or relations to the win, place or show betting and will be calculated as an entirely separate pool.

(3) In case of a dead heat between two (2) horses for first place, the combination shall be the winner of the quinella pool. In case of a dead heat between two (2) horses for second place, the quinella 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.

(4) In the event of a dead heat for second place, if no ticket is sold on one (1) of the 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 net pool shall be calculated and distributed as a place pool to holders of tickets combining either of the place horses; however, if any tickets combine both horses in the dead heat for place, the net pool shall be calculated and distributed as a win pool to holders of such tickets.

(5) If no ticket is sold on the winning combination of a quinella pool, the net pool shall then be apportioned equally between those having tickets including the horse finishing first and those having tickets including the horse finishing second in the same manner in which a place pool is calculated and distributed.

(6) If no ticket is sold that would require distribution of a quinella pool to a winner as above defined, the association shall make a complete and full refund of the quinella pool.

(7) If a perfecta and/or quinella is scheduled to be held, each association shall print an abbreviated version of this rule on the day's racing program.

(8) In the event two (2) or three (3) horses coupled in an entry or the mutuel field finish first and second or first, second and third, the winning combination shall be the coupled horses and the horse placed immediately behind such entry or field.

Section 9. Double Perfecta Wagering. (1) the double perfecta is a form of pari-mutuel wagering in which the bettor selects the two (2) horses that will finish first and second in each of two (2) consecutive races in the exact order as officially posted.

(2) Double perfecta tickets shall be sold only at double perfecta windows and only from automatic double issue machines.

(3) Each bettor purchasing double perfecta tickets shall designate his two (2) selections as the first two (2) horses to finish in that order in the first of two (2) consecutive races.

(4) After the official declaration of the first two (2) horses to finish in the first race of the double perfecta, each bettor holding a ticket combining the first two (2) horses in the exact order of finish must, prior to the running of the second double perfecta race exchange ticket at the double perfecta window and at such time shall select the two (2) horses to finish in the second race of the double perfecta in the exact order as officially posted. No further money shall be required of the holder of the ticket in order to make the exchange.

(5) No double perfecta exchange ticket upon the second race shall be issued except upon the surrender of the double perfecta ticket from the first race as described in these rules. The double perfecta pool obtained from the sales of double perfecta tickets upon the first race shall be held, subject to these rules, and divided among the winning tickets of the double perfecta exchange tickets, subject to those rules to the contrary. Double perfecta windows shall be open for the purpose of making the

exchange as described only after the first race has been declared official.

(6) If a winning double perfecta ticket from the first race is not presented for exchange within the time provided the bettor forfeits all rights to any distribution or refund except in the event the second half of the double perfecta is cancelled or declared "no race."

(7) If a horse is scratched in the first race of the double perfecta races, all double perfecta tickets on the scratched horse will be refunded.

(8) If a horse is scratched in the second race of the double perfecta, after the first race of the double perfecta has been declared official, all exchange tickets combining the scratched horse shall become consolation tickets and shall be paid a price per dollar denomination calculated as follows: the net double perfecta pool (gross pool less commission) shall be divided by the total purchase price of all tickets combining the winners of the first race of the double perfecta. The quotient thus obtained shall be the price to be paid to holders of exchange tickets combining the scratched horse in the second race of the double perfecta. The entire consolation pool (number of eligible tickets times the consolation price) shall be deducted from the net double perfecta pool.

(9) If no double perfecta ticket is sold as a winning combination in the first race of the double perfecta, the double perfecta pool shall be divided among those having tickets including the horse finishing first and those having tickets including the horse finishing second and such distributions shall be calculated and made as a place pool. In such an instance the double perfecta race shall end and the pool be closed for the day.

(10) If no double perfecta exchange ticket is sold on the winning combination the net pool shall then be apportioned equally between those having tickets including the horse finishing first and those having tickets including the horse finishing second in the same manner in which a place pool is calculated and distributed.

(11) If a double perfecta exchange ticket combines only one (1) of the two (2) winners and no double perfecta exchange ticket combines the other winner, the entire pool shall be distributed as a straight pool to the holders of those tickets.

(12) If no exchange ticket includes either the first or second horse of the second half of the double perfecta the entire net pool shall be distributed as a straight pool to all holders of exchange tickets.

(13) In the event of a dead heat for place in the first race of the double perfecta races, all double perfecta tickets combining the first horse and either of the place horses shall be eligible for exchange for double perfecta exchange tickets.

(14) In the event of a dead heat for place in the second race of the double perfecta, the double perfecta pool shall be divided, calculated and distributed as a place pool to the holders of double perfecta exchange tickets combining the first horse and either of the place horses. In the event of the dead heat to place and there are no tickets sold on one (1) combination, then the other combination having the winning horses shall be declared the winner. If no exchange tickets combining the winning horse with either of the place horses in the dead heat, the double perfecta pool shall be calculated and distributed as a win pool to holders of tickets representing any interest in the net pool.

(15) If for any reason the second of the double perfecta races is cancelled or declared "no race," the pool shall be calculated as a straight pool and shall be distributed among the holders of the tickets combining the first two (2) horses of the first race of the double perfecta otherwise eligible for double perfecta exchange tickets and also distributed to holders of the double perfecta exchange tickets.

(16) If there is a dead heat for the winning horse in either of the two (2) consecutive races for the double perfecta, such calculation of distribution of the double perfecta pool shall be made in the manner in which any ordinary perfecta pool would be made should there be a dead heat for the win despite the number of horses involved in the dead heat.

(17) The purchase of double perfecta tickets other than through pari-mutuel machines and the sale of double perfecta tickets from one (1) individual to another shall be deemed illegal and is prohibited.

Section 10. Big "Q" Rules. (1) Each operator wishing to conduct Big "Q" wagering must first petition the commission for permission to do so.

(2) Each operator shall either print in the daily program or prominently post at all areas where Big Q wagering is conducted the complete rules for Big Q wagering as set forth in the following sections:

(a) The Big Q consists of selecting the quinella (the first two (2) horses to finish) of each of two (2) consecutive races. Pari-mutuel wagering tickets are to be sold upon the first race of the two (2) races only. The division of the pool shall be calculated as in a straight pool, subject to provisions of these rules to the contrary.

(b) No entries or field horses shall be allowed to start in any race comprising the Big Q.

(c) Tickets shall be sold only at Big Q windows and only from automatic double issuing machines.

(d) Each bettor purchasing tickets shall designate his two (2) selections as the first two (2) horses to finish in the first race of the two (2) races.

(e) After the official declaration of the first two (2) horses to finish the first of the Big Q races, each bettor holding a ticket combining the said two (2) horses to finish must, prior to the running of the second race, exchange such winning ticket for a Big Q exchange ticket at the Big Q windows and at such time the said holder shall select the first two (2) horses to finish in the second race of the Big Q. No further money shall be required of the holder of the ticket in order to make the exchange.

(f) No Big Q exchange ticket upon the second race shall be issued except upon the surrender of the Big Q ticket from the first race as described in these sections. The Big Q pool obtained from the sales of the Big Q tickets upon the first race shall be held subject to these sections, and divided among the winning tickets of the Big Q exchange tickets, subject to these sections to the contrary. Big Q windows

shall be open for the purpose of making the exchange as described only after the first race has been declared official and such windows shall close at post time at the start of the second race of the Big Q races.

(g) If a winning Big Q ticket from the first race is not presented for exchange within the time provided, the bettor forfeits all rights to any distribution or refund except in the event the second half of the Big Q is cancelled or declared "no race" or if no exchange ticket includes either the first or second horse of the second half of the Big Q.

(h) If a horse is scratched in the first race, all Big Q tickets on the scratched horse will be refunded. If a horse is scratched in the second race, the holders of tickets on the scratched horse will be entitled to exchange their tickets for another selection. In the event of a late scratch, after the exchange windows have been closed, all exchange tickets combining the scratched horse shall become consolation tickets and shall be paid a price per dollar denomination calculated as follows: The net Big Q pool (gross pool less commission) shall be divided by the total purchase price of all tickets combining the winnings of the first race of the Big Q. The quotient thus obtained shall be the price to be paid to holders of exchange tickets combining the scratched horse in the second race of the Big Q. The entire consolation pool (number of eligible tickets times the consolation price) plus the breakage shall be deducted from the net Big Q pool.

(i) If no ticket is sold as a winning combination in the first race of the Big Q, the Big Q pool shall be divided among those having tickets including the horse finishing first or second and such distributions shall be calculated and made as a place pool. In such an instance, the Big Q race shall end and the pool be closed for the day.

(j) If no Big Q exchange ticket is sold on the winning combination, the net pool shall be apportioned equally between those having tickets including the horse finishing second in the same manner in which a place pool is calculated and distributed.

(k) If a Big Q exchange ticket combines only one (1) of the winners and no Big Q exchange ticket combines the other winner, the entire pool shall be distributed as a straight pool to the holders of those tickets.

(l) If no exchange ticket includes either the first or second horse of the second half of the Big Q, the entire net pool will be distributed as a straight pool to all holders of exchange tickets and winning combinations of the first half that have not been exchanged.

(m) In the event of a dead heat for place in the first race of the Big Q races all Big Q tickets combining the first horse and either of the place horses shall be eligible for exchange for Big Q exchange tickets.

(n) In the event of a dead heat for place in the second race of the Big Q races the pool will be divided, calculated and distributed as a place pool to the holders of Big Q exchange tickets combining the first horse and either of the place horses. In the event of the dead heat to place and there are no tickets sold on one (1) combination, then the other combination having winning horses shall be declared the winner.

(o) If no exchange tickets combine the winning horse with either of the place horses in the dead heat, the Big Q pool shall be calculated and distributed as a place pool to holders of tickets combining either of the place horses, however if any exchange tickets combine both horses in the dead heat for place, the Big Q pool shall be calculated and distributed as a place pool to holders of such tickets.

(p) If for any reason the first race of the Big Q races is cancelled or declared "no race" full and complete refund shall be made from the Big Q pool.

(q) If for any reason, the second of the Big Q races is cancelled or declared "no race" the pool shall be calculated as a straight pool and shall be distributed among the holders of tickets combining the first two (2) horses of the first race of the Big Q otherwise eligible for Big Q exchange tickets and also distributed to holders of the Big Q exchange tickets.

(r) If there is a dead heat for the winning horses in either of the two (2) consecutive races for the Big Q such calculation of distribution of the Big Q pool shall be made in the manner in which any ordinary quinella pool would be made should there be a dead heat for the win despite the number of horses involved in the dead heat.

(s) In the event that an incorrect exchange ticket is issued during the second half of the Big Q pool, such incorrect exchange ticket must be turned in to the state auditor prior to the running of the second half. Said tickets shall be deducted from both exchange and individual combination totals. The ticket shall be voided and filed with the performance worksheets and a report including the seller's name and license number, shall be made to the commission of the complete incident.

Section 11. Trifecta Wagering. (1) 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.

(2) 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.

(3) Trifecta tickets shall be sold in not less than one (1) dollar denominations.

(4) 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.

(5) 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.

(6) 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.

(7) In the event of a scratch in the trifecta no exchanges will be made. All tickets which include the scratched horse are eliminated from

further participation in the trifecta pool and will be refunded.

(8) No entries or field horses shall be allowed in any race that the trifecta is being sold.

(9) Trifecta tickets shall be sold only by the licensee through pari-mutuel machines programmed to print all selections on one (1) ticket. Resale of such tickets from one (1) individual to another is prohibited and shall be grounds for ejection.

(10) Each association shall print in heavy type in a conspicuous place in its printed program all the provisions of this section and post printed copies of this section about the track in such places as it may deem advisable.

(11) For the purpose of trifecta wagering the trifecta race shall be drawn to consist of nine (9) starters except where the tote board has only eight (8) numbers then the trifecta race shall be drawn to consist of eight (8) starters.

(12) Nothing in this section shall preclude the sale of combination trifecta tickets in the amount of six (6) dollars.

Section 12. Twin Trifecta. The twin trifecta is a form of pari-mutuel wagering. It is not a parlay and has no connection with or relation to any other pari-mutuel pools made and conducted by an association nor is the twin trifecta connected with or related to any win, place and show pools shown on the totalisator board, nor is it governed by any division rules pertaining to the distribution of any other pari-mutuel pools.

(1) In the twin trifecta, the bettor selects the three (3) horses that will finish first, second and third in each of the two (2) designated twin trifecta races in the exact order as officially posted.

(2) Twin trifecta tickets shall be sold and exchanged only from the association's ticket-issuing machines.

(3) Twin trifecta wagers shall be made only in denominations of three (3) dollars.

(4) Each bettor purchasing twin-trifecta tickets shall designate three (3) selections as the first three (3) horses to finish in that order in the first race of the designated two (2) twin-trifecta races.

(5) After the wagering closes for the first half of the twin trifecta, the commissions will be deducted from the pool in accordance with the laws of the state of Kentucky. The remaining pool will then be divided into two (2) separate pools of equal amounts.

(6) The money in the first part of the divided pool will be distributed to the holders of the twin trifecta tickets selecting the first three (3) horses, in order, on the first designated twin trifecta race, in accordance with the established pari-mutuel practice. The term "first part of divided pool" shall mean one-half (1/2) of the net distributable pool of the total money wagered in the twin trifecta on the current program only and, specifically excluded therefrom shall be any carry-over of any special cumulative second race twin trifecta pool from any previous program.

(7) The second part of the divided pool will be placed in a separate pool to be distributed to holders of "second half" twin trifecta tickets selecting the first three (3) horses, in order, on the second designated twin trifecta race, in accordance with the established pari-mutuel practice.

(8) In the first half of the twin trifecta only, if there is a failure to select, in exact order, the first three (3) horses, payoffs and exchanges shall be made on twin trifecta tickets selecting in the following order of priority:

(a) The first two (2) horses in exact order, if no such ticket is outstanding, then;

(b) The first horse, and any such ticket within the applicable above order of priority shall be deemed a winning ticket entitling the holder thereof to an exchange ticket, in addition to the usual payoff for first half winners;

(c) Failure to select winner to win, regardless of the selection of the exact order of the second and/or third horse shall cause a refund to all twin trifecta tickets.

(9) After the official declaration of the first three (3) horses to finish in the first race of the twin trifecta, each bettor holding a winning ticket must, prior to the running of the second twin trifecta race, exchange such winning ticket for both the monetary value established by the association's mutuel department and a twin trifecta "exchange" ticket and at such time shall select the three (3) horses to finish in the second race of the twin trifecta in exact order as officially posted. No further money shall be required of the holders of the winning ticket in order to make the exchange. Each association conducting the twin trifecta shall designate all windows to be used as "exchange" windows except when the first half payoff is $900 or more in winnings (if such winnings are at least 300 times the amount of the single wager). In this case, valid exchange tickets will be exchanged only at all windows designated IRS windows.

(10) No twin trifecta exchange ticket upon the second race of the twin trifecta shall be issued except upon surrender of the winning twin trifecta ticket from the first race of the twin trifecta as described in this regulation. Windows for the purpose of cashing and exchanging twin trifecta tickets shall be open only after the first race of the twin trifecta has been declared official and windows shall close when wagering closes for the race designated as the second half of the twin trifecta. Not more than one (1) race shall elapse between the race designated the first half of the twin trifecta and the race designated as the second half of the twin trifecta.

(11) If a winning twin trifecta ticket from the first race is not presented for cashing and exchange with the time provided, the bettor may still collect the monetary value attached to the ticket but forfeits all rights to any distribution of the second race twin trifecta pool and the carry-over jackpot.

(12) If a horse is scratched from the first race of the twin trifecta, all twin trifecta tickets on the scratched horse will be refunded. If a horse is scratched from the second race of the twin trifecta, public address announcements will be made and reasonable time will be given for exchange of tickets on the scratched horse.

(13) In the event of a dead heat in either the first or second half of the twin trifecta, all twin trifecta tickets selecting the correct order of finish counting a horse in a dead heat as finishing in any position dead heated shall be winning tickets. In the case of the dead heat

occurring in the first half, the payoff shall be calculated as a win pool. In the case of the dead heat occurring in the second half, contrary to the usual pari-mutuel practice, the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

(14) In the event there is no twin trifecta ticket issued accurately selecting the officially declared first three (3) finishers of the second race, pool, as divided earlier, shall be held for the next consecutive program and combined with that program's second race twin trifecta pool. This sum shall be termed the "carry-over jackpot." Distribution of the special cumulative second race twin trifecta pool shall be made only upon the accurate selection, in exact order, of the first three (3) officially declared finishers of the second twin trifecta race except on the closing program of the meeting (see subsection (16) of this section).

(15) If for any reason the second half of the twin trifecta is not declared "official," the winning ticket holders who have cashed their tickets on the first half and have received an exchange ticket will be entitled to the remaining amount of the current program's divided pool.

(16) On the closing program of the meeting, the current carry-over jackpot, if any, plus the second half pool for that program will be combined and distributed in the following manner:

(a) The total twin trifecta pool shall be distributed to the holders of twin trifecta exchange tickets showing the first three (3) horses to finish, in exact order.

(b) If there are no twin trifecta exchange tickets showing the first three (3) horses, in the exact order, the payoff will be made on twin trifecta exchange tickets selecting the first two (2) horses in exact order. If no such ticket is outstanding, then:

(c) The first horse, and any such ticket within the applicable above order of priority shall be deemed a winning ticket entitling the holder to the total twin trifecta pool.

(d) If there are no valid exchange ticket holders, the total twin trifecta pool will be distributed to the holders of first half tickets selecting the first two (2) horses in the exact order.

(e) If there are no first half twin trifecta tickets showing the first two (2) horses, the total twin trifecta pool shall be distributed to the holders of first half tickets selecting the horse of the first half of the twin trifecta.

(f) If no such ticket is sold that would require the distribution of the net pools as described above, the association shall equally distribute the total twin trifecta pool to all first half ticket holders.

(17) Sales of twin trifecta tickets other than from the association's ticket-issuing machines or from one (1) individual to another shall be deemed illegal. Exchange tickets shall be nontransferable. Persons involved in the unauthorized transfer of exchange tickets shall be ejected.

Section 13. [12.] Types of Wagering Allowed. The following types of wagering shall be permitted at all tracks given racing dates by the commission:

(1) Normal win, place and show betting on each race.

(2) A daily double on the first and second races.

(3) Any other methods of betting approved in advance by the commission.

CARL B. LARSEN, Executive Director
AMANDA S. LOGAN, Deputy Secretary
APPROVED BY AGENCY: December 18, 1987
FILED WITH LRC: January 14, 1988 at 2 p.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on February 24, 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, Executive Director
(1) Type and number of entities affected: Horsemen.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None additional.
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None additional.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Regulation affects all horsemen.

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

811 KAR 1:225. Substance abuse by commission employees and licensees.

RELATES TO: KRS 230.630, 230.640
PURSUANT TO: KRS Chapter 13A, 230.640(2)
NECESSITY AND FUNCTION: To regulate the eligibility of officials and licensees to participate in harness racing. The function of the regulation is to provide for the testing of officials and licensees for alcohol and drugs.

Section 1. (1) While acting within the scope of his or her license while on the premises of an association licensed by the Kentucky Harness Racing Commission, no licensee of this commission nor employee of any racing association licensed by this commission shall have present within his/her body while on the grounds of said licensed association any amount of alcohol which would constitute legal impairment or intoxication.

(2) A breathalyzer reading of .05 percent blood alcohol content or more shall constitute legal impairment or intoxication.

(3) Every extended pari-mutuel track shall be equipped with a breathalyzer device for the detection of alcohol.

(4) The deputy commissioner or his assistant may in his discretion direct all drivers, judges, starters and marshals licensed by this commission to submit to a blanket breathalyzer test. In the event such a blanket test is ordered by the deputy commissioner or his assistant, it must be administered across the board to all members of the class of licensees who are on the premises of the association. All licensees in the affected class of licensees must, when so ordered, submit to the breathalyzer examination. In the event a licensee refuses to take the breathalyzer examination, the licensee shall not be permitted to continue his/her duties for the remainder of the day. In the event a licensee takes the test as directed and the results thereof show a reading of .05 percent alcohol content or more, said licensee shall likewise not be permitted to continue his/her duties for that day.

(5) A harness racing judge or a designated harness racing commission representative may, with reasonable suspicion, random selection, or blanket testing, [cause] direct any licensee of this commission or employee of an association licensed by this commission to submit to a breathalyzer test for the detection of alcohol. In the event a licensee or employee refuses to take the breathalyzer examination, the licensee or employee shall not be permitted to continue his/her duties for the remainder of the day. In the event said licensee or employee takes the test as directed and the results thereof show a reading of .05 percent alcohol or more, said licensee or employee shall not be permitted to continue his/her duties for that day.

(6) Any licensee or employee who is suspended for one (1) day by the deputy commissioner, or his assistant or by a judge or harness racing commission representative, either for failure to take a breathalyzer examination or because the breathalyzer examination has a reading of .05 percent alcohol content or more, shall, after a hearing before the judges or commission, be subject to fine or suspension, or both, by the judges or commission for alcohol intoxication. A refusal by a licensee or employee to submit to the breathalyzer test may be introduced as evidence against any licensee or employee involved at this hearing. In the event the harness racing judges render such a decision, the ruling is appealable to the commission, as is the case in any other fine suspension imposed by the judges.

[(7) For the second violation of subsection (1) of this section, the licensee or employee shall be suspended from racing until such time as his/her condition has been professionally evaluated. If said professional evaluation shows that the licensee's or employee's condition is nonaddictive and the commission concurs with this evaluation, then the commission shall permit said licensee or employee to participate in racing so long as the participation would not be detrimental to the best interest of racing, provided that he/she can produce a negative test result and agrees to further testing in the discretion of the judges or designated Harness Racing Commission representative, so as to ensure his/her unimpairment. If said professional evaluation reveals that the licensee's or employee's condition is addictive, and this commission concurs with this evaluation and further determines that participation by the licensee or employee would be detrimental to the best interests of racing, then this commission shall suspend the licensee or employee from harness racing until such time as he/she can produce a negative test result and introduce documentary proof that he/she has successfully completed a certified alcohol rehabilitation program approved by the Harness Racing Commission. Said licensee or employee must agree to further testing in the discretion of the judges or Harness Racing Commission representative, to ensure his/her unimpairment.]

[(8) For the third violation of subsection (1) of this section, the licensee or employee involved shall have his/her license revoked. The licensee or employee shall be allowed to enroll in a certified alcohol rehabilitation program approved by the Kentucky Harness Racing Commission and shall apply for reinstatement only after completion of the rehabilitation program. The reinstatement of the licensee or employee and conditions of reinstatement are within the discretion of the Harness Racing Commission.]

Section 2. (1) While acting within the scope of his or her license while on the premises of an association licensed by the Kentucky Harness Racing Commission, no licensee of this commission or employee of any racing association licensed by this commission shall have present within his/her body while on the grounds of said licensed association any controlled substance as listed in KRS Chapter 218A, or in Schedules I-V of Title 21 U.S. Code §812. No licensee of this commission or employee of any racing association licensed by this commission shall have present within his/her body while on the grounds of said licensed association any prescription legend drugs, unless said prescription legend drug was obtained directly from or pursuant to a valid prescription of a duly licensed physician who is acting in the course of his/her professional practice.

(2) The deputy commissioner, a designated Harness Racing Commission representative, or the presiding judge may direct any person or persons licensed by this commission, based upon reasonable suspicion, random selection, or blanket testing, to deliver a specimen of urine in the presence of said harness racing official for the purpose of testing for the presence of controlled substances or drugs.

(3) The test results shall be filed with the Harness Racing Commission as soon as practicable, and the presiding judge apprised of the result.

(4) In the event a licensee refuses to deliver a specimen of urine or in the event the result of the test is positive for the presence of a

controlled substance or an unauthorized legend drug as delineated in subsection (1) of this section, the licensee shall be automatically suspended for one (1) year. A second refusal or positive test will result in a lifetime suspension.

(5) The quantity of urine collected shall be sufficient to enable the sample to be split.

[Section 2. (1) No licensee of this commission or employee of any racing association licensed by this commission shall have present within his/her body while on the grounds of said licensed association any controlled substance as listed in KRS Chapter 218A, or in Schedules I-V of Title 21 U.S. Code 812. No licensee of this commission or employee of any racing association licensed by this commission shall have present within his/her body while on the grounds of said licensed association any prescription legend drugs, unless said prescription legend drug was obtained directly from or pursuant to a valid prescription of a duly licensed physician who is acting in the course of his/her professional practice.]

[(2) A harness racing judge or a designated Harness Racing Commission representative may, upon reasonable cause, direct any licensee or employee of an association licensed by this commission to deliver a specimen of urine in the presence of the said harness racing judge or commission representative or subject himself/herself to the taking of a sample of blood or other body fluid by the track physician or other duly licensed physician appointed by the Harness Racing Commission for the detection of controlled substances or drugs. In the event a licensee or employee shall refuse to deliver a specimen of urine in the presence of the harness racing judge or commission representative or subject himself/herself to the taking of a sample of blood or other body fluid by the track physician or other duly licensed physician appointed by the Harness Racing Commission, the licensee or employee shall not be permitted to continue his/her duties for the remainder of the day. In the event said licensee or employee of an association licensed by this commission shall take the urine or blood test as directed by the judge or Harness Racing Commission representative, the licensee or employee shall be suspended from his/her duties for that day. The test results shall be filed with harness racing judges at the racing association involved.]

[(3) In the event a licensee or employee is suspended by a judge or harness racing commission representative for a day, said licensee or employee shall, after a hearing before the judges or commission, be subject to a fine or suspension, or both, by the judges or commission, for the presence of the illegal drug in his/her body. A refusal by a licensee or employee to deliver a specimen of urine in the presence of the harness racing judge or commission representative or subject himself/herself to the taking of a sample of blood or other body fluid by the track physician or other duly licensed physician appointed by the Harness Racing Commission may be introduced as evidence against the licensee or employee involved. In the event said decision is rendered by the harness racing judges, it is appealable to the commission as is the case with any other fine or suspension imposed by the judges.]

[(4) In the event the commission determines that there has been violation of subsection 2 of this section, the commission shall suspend said licensee or employee until such time as he/she shall provide a professional evaluation to this commission. In the event said professional evaluation states that the licensee's or employee's condition is nonaddictive, and this commission concurs with this conclusion and further determines that the licensee's or employee's participation in racing is not detrimental to the best interests of harness racing, then said commission shall permit said licensee or employee to participate in harness racing, provided he/she can produce a negative test result and agrees to further testing in the discretion of the judges or designated Harness Racing Commission representative to ensure his/her unimpairment. In the event said professional evaluation indicates that the licensee's or employee's condition is addictive, and this commission after having considered same concurs with the evaluation and further determines that the licensee's or employee's continued participation in racing is detrimental to the best interests of racing, then this commission shall suspend said licensee or employee from participation in harness racing until such time as he/she can produce a negative test result and show documentary proof that he/she has successfully completed a certified drug rehabilitation program approved by the Harness Racing Commission. Said licensee or employee must agree to further testing at the discretion of the judges or Harness Racing Commission representative to ensure his/her unimpairment.]

[(5) For the second violation of subsection (1) of this section, the licensee or employee involved shall have his/her license revoked. The licensee or employee shall be allowed to enroll in a certified drug rehabilitation program approved by the Kentucky Harness Racing Commission, and shall apply for reinstatement only after completion of the rehabilitation program. The reinstatement of the licensee or employee and conditions of reinstatement are within the discretion of the Harness Racing Commission.]

[(6) In the event a sample of blood or other body fluids is taken, the quantity shall be sufficient to enable the sample to be split.]

Section 3. The expense of the testing conducted to enforce this regulation shall be borne either by the licensed racing association, or, the individual licensee or employee involved. In the event the tests produce a negative result, the expense shall be paid by the licensed racing association involved. In the event the testing produces a positive result showing the presence of .05 percent alcohol content, or the presence of any controlled substance or legend drug, then the expense shall be borne by the licensee or employee involved.

CARL B. LARSEN, Executive Director
AMANDA S. LOGAN, Deputy Secretary
APPROVED BY AGENCY: December 18, 1987
FILED WITH LRC: January 14, 1988 at 2 p.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on February 24, 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, Executive Director
(1) Type and number of entities affected: Horsemen.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None additional.
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None additional.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Regulation affects all horsemen.

PUBLIC PROTECTION AND REGULATION CABINET
Harness Racing Commission
Quarter Horse, Appaloosa, and Arabian
(Proposed Amendment)

811 KAR 2:035. Associations.

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 outlines the requirements for racing associations.

Section 1. Maintenance of Grounds, Facilities and Uniform Track. Each association shall at all times maintain its grounds and facilities so as to be neat and clean, painted and in good repair, with special consideration for the comfort and safety of patrons, employees, and other persons whose business requires their attendance; with special consideration for the health and safety of horses there stabled, exercising, or entered to race; and shall have available adequate and proper implements to maintain uniform track, weather conditions permitting.

Section 2. Result Boards, Totalizators Required. Each association shall provide and maintain mechanically operated totalizators and electronic boards showing odds, results, and other race information located in plain view of patrons.

Section 3. Starting Gate. Each association shall provide and maintain a working starting gate on every day horses are permitted to exercise on its racing strip. Each association shall have in attendance one or more men qualified to keep said starting gates in good working order whenever said gates are in use, and each association shall provide for periodic inspections of said gates.

Section 4. Stabling. Each association shall be responsible for providing and maintaining fire-resistant barns and stalls in good repair, and in a clean and sanitary condition; each barn and each stall shall be numbered in consecutive order for ready ascertainment of location and identification and adequate drainage therefor shall be maintained. The racing secretary shall submit to the stewards prior to the opening of each race meeting a list of locations of approved off-track stabling facilities from which horses may be permitted to race; such locations shall be considered for purposes of these rules "association grounds."

Section 5. Stands for Officials. Each association shall provide and maintain stands commanding an uninterrupted view of the entire racing strip for racing officials, such stands and location thereof to be approved by the commission. Patrol judge stands shall be constructed so the floor thereof shall be at least six (6) feet higher than the track rail.

Section 6. Permanent markers must be located at each standard Arabian, quarter horse and appaloosa distance as applicable. Distance pole markers and permanent markers must be located where they can be seen clearly from the judge's stand. Each post shall be identified by color: such as, 220 yds., white; 250 yds., blue; 300 yds., yellow; 330 yds., green; 350 yds., red; 400 yds., black; 440 yds., orange; 550 yds., blue and white stripe; 660 yds., yellow and white stripes; 770 yds., green and white stripes; and 870 yds., red and white stripes. In addition, for appaloosa races, markers shall be located at six (6) and six and one-half (6 1/2) furlongs to be painted yellow and white and orange and white, respectively.

Section 7. Lighting. Each association shall provide and maintain flood lights so as to insure adequate illumination in the stable area and parking area. Adequacy of track lighting for night racing shall be determined by the commission.

Section 8. Facilities for Stable Employees. Each association shall provide and maintain in good repair adequate living quarters and conveniently located sanitary facilities such as showers, toilets, and wash basins, for stable employees. No person shall be permitted to sleep in any stall.

Section 9. Facilities for Jockeys. Each association shall provide and maintain adequate

facilities for jockeys scheduled to ride each day, such facilities to include accommodations for rest and recreation of jockeys on racing days, showers, toilets, wash basins, mirrors, arrangements for safekeeping of apparel and personal effects, snack bar, and other accommodations as requested by the clerk of scales.

Section 10. Facilities for Commission. Each association shall provide adequate office space for the commission on association grounds and shall make available to the commission, and mark accordingly, a season box of six (6) to eight (8) seats and appropriate parking places for use of the commission throughout each racing day. Each association shall honor for access to preferred parking facilities and all other areas on association grounds any ring, lapel button, or automobile emblem issued at any time by the commission, or by the National Association of State Racing Commissioners.

Section 11. Sanitary Facilities for Patrons. Each association shall on every racing day, provide adequate and sanitary toilets and wash rooms, and furnish free drinking water for patrons and persons having business at the association.

Section 12. Manure Removal. Each association shall provide and maintain adequate manure pits of such size and construction to handle refuse from stalls. The contents of said manure pits shall be removed from the stable area as promptly as is possible.

Section 13. Photo Finish Cameras. Each association shall provide and maintain at the finish line two (2) electronic photo finish cameras with mirror image for photographing the finish of races and recording the time of each horse in hundredths of a second; one (1) electronic camera to be held in reserve. The photo finish photographer shall promptly furnish to the stewards and placing judges prints of all finishes as may be requested and in such number as may be required for public posting. The association shall maintain a one (1) year file of all such photo finishes.

Section 14. Patrol Films or Video Tapes. Each association shall at all times during a race meeting provide and maintain personnel and equipment necessary to produce adequate motion pictures or video tapes and record with same each race from start to finish.

(1) Projection or viewing equipment shall be adequate to permit simultaneous showing of head-on and side-angle views of the running of each race.

(2) Such films and video tapes shall be retained and secured by the association for not less than one (1) year and shall be available at all times to the commission and stewards. Each visual record of a race involving any question, dispute, or controversy shall be filed with the commission upon order of the stewards.

(3) Such films, or video tapes, shall be made available for viewing at the track by licensees who owned, trained, or rode a horse in the race requested to be viewed, and to members of the press.

Section 15. (1) Horse ambulances. Each association shall provide and maintain at least one (1) horse-ambulance during times horses are permitted to exercise or race. Said ambulance shall be equipped, with a screen for use when an animal must be destroyed in view of the public and also a winch to lift dead or injured animals onto the ambulance. It shall be manned, ready for immediate duty and shall be located at an entrance to the racing strip.

(2) Ambulance. At all extended pari-mutuel meetings the licensee shall provide an ambulance equipped consistent with that required by the state of Kentucky to transport a sick, injured or for any other reason, person to a hospital or medical facility. Said ambulance shall be maintained by two (2) or more persons certified by the state to transport individuals to a hospital or medical facility over a public thoroughfare. The ambulance shall be stationed at an entrance to the racing surface allowing for visual contact with the race in progress and shall make a prompt response in the event that one (1) or more jockeys or horses are involved in an accident or there is any other need for emergency transportation. This ambulance shall be stationed no less than one (1) hour before post time of the first race and until the last race is completed. If the ambulance must leave its station for any reason, there shall be a replacement before the next event is contested. Such ambulance shall be stationed at all programmed races, time trials and qualifying races under the rules and regulations of the Kentucky Harness Racing Commission.

Section 16. First Aid Room. Each association shall equip and maintain adequate first aid facilities with not less than two (2) beds and attendance of a competent [physician and] registered nurse during race hours.

Section 17. Track Kitchen. Each association shall provide adequate eating facilities within the stable area, maintained in a clean and sanitary manner at all times horses are stabled on association grounds.

Section 18. Communication System. Each association shall install and maintain in good working service communication systems between the stewards stand and patrol judges, pari-mutuel department, starting gate, public address announcer, and clerk of the scales.

Section 19. Fire Prevention. Each association shall be responsible for maintaining an adequate program for fire prevention and fire suppression. Each association within fifteen (15) days before commencement of a race meeting shall be inspected by the state or local fire marshal whose certification that the association plant and stable area meet fire safety requirements is necessary for the commission to approve commencement of the race meeting. Each association shall maintain a firefighting unit of trained personnel equipped with high expansion foam fire extinguishers and other equipment as may be recommended by the local fire inspection authority. Each association shall prohibit:

(1) Smoking in stalls, under shed rows, and in feed rooms;

(2) Open fires, oil or gas lamps in stable area; and

(3) Locking of stalls occupied by horses.

Section 20. Telephone Restricted. (1) No association shall permit communication by any electrical, mechanical, manual, or visual method from wagering area of any information pertaining to any race conducted by the association until at least thirty (30) minutes after the last race of the day is declared official; excepting from the effect of this rule such information as may be transmitted by duly accredited members of the news media for the benefit of the public at large.

(2) All telephones and telegraph wires in wagering areas shall be closed from fifteen (15) minutes before post time of the first race and remain closed until thirty (30) minutes after the finish of the last race is declared official and no calls or wires shall be allowed to be made or received while such telephone and telegraph wires are closed.

(3) Excepted from the effect of this rule shall be the transmission of information pertaining to racing by duly accredited members of the news media, and the ordinary conduct of business as may be transmitted by members of the commission and its staff or association officials.

(4) No association employee shall furnish, other than to authorized persons, any information with respect to entries, scratches, jockey changes, or track conditions for any race.

Section 21. Association Police. Each association shall provide and maintain competent police and watchman services, night and day, in and about association grounds, and shall furnish daily to the commission a report on any disturbances, drunkenness, or disorderly conduct committed by any person on association grounds.

Section 22. Security. Each association shall cause to be excluded from association grounds all persons designated by order of the commission or stewards to be excluded. Each association shall take such measures as to maintain security of horses on association grounds so as to protect from injury due to frightening of or tampering with said horses. Each association shall exclude from the paddock area, race strip, and winner's entrance all persons who have no immediate connection with the horses entered except members of the commission, racing officials, and duly accredited members of the news media.

Section 23. Vendors and Suppliers. Each association shall supervise the practice and procedures of all vendors of food, horse feed, medication, and tack, who have entry to the stable area. No association by virtue of this rule shall attempt to control or monopolize proper selling to owners, trainers or stable employees, nor shall an association grant a concession to any vendor of feed, racing supplies, or racing services. Any vendor of horse feeds or medications shall file with the commission veterinarian a list of products which he proposes to sell, including any new preparation or medication. No association shall permit the sale of any alcoholic beverage, beer excepted, within the stable area.

Section 24. Ejection or Exclusion from Association Grounds. (1) Associations may eject or exclude any persons, licensed or unlicensed, from association grounds or a part thereof solely of its own volition and without any reason or excuse given therefor, provided, however, such ejection or exclusion is not founded on race, creed, color, or national origin.

(2) Associations shall eject or exclude from association grounds all persons believed to be engaged in a bookmaking activity or solicitation of bets or touting, and a report thereof shall be submitted promptly to the commission, to the stewards, and to the local police.

(3) Associations shall eject or exclude from the stable area on association grounds all persons except those whose presence in the stable area is authorized as:

(a) Persons licensed to conduct an activity, the conduct of which requires the presence of such licensee in the stable area;

(b) Duly accredited members of the news media;

(c) Guests of a licensed owner or licensed trainer physically in the company of such owner or trainer;

(d) Persons physically in the company of and under the control and supervision of a racing official, or association security guard, or association public relations department representative.

(4) Reports of all ejections or exclusions from association grounds for any reason shall be made immediately to the commission and the stewards, such reports stating the name of all persons and circumstances involved.

Section 25. Ownership of Associations. Each association shall file with the commission a revised list of persons whose identity is required by 811 KAR 2:040, immediately upon transfer of any beneficial interest or control in the association as from time to time may occur.

Section 26. Plan of Association Grounds. Each association shall file with the commission existing maps and plans of association grounds, showing all structures, piping, fire hydrants, fixed equipment, and racing strip, noting elevation as filled, drained, and gapped, and composition of track base and cushion. Each association shall file revised maps or plans of association grounds upon any material change as may occur from time to time.

Section 27. Attendance Report. (1) Each association shall file with the commission daily attendance reports showing a turnstile count of all persons admitted to association grounds where pari-mutuel wagering is conducted; such attendance report shall indicate the daily number of paid admissions and free admissions.

(2) On request from the commission, each association shall file with the commission a current badge list showing the names of all persons issued tax exempt admission credentials.

(3) Tax exempt admission credentials shall not be transferable and associations shall exclude or eject from association grounds any person attempting to use such tax exempt admissions credentials not issued to him by the association.

Section 28. Financial Report. In addition to filing with the commission copies of reports required by KRS 138.530 to be filed with the Department of Revenue on pari-mutuel, each association shall furnish to the commission within sixty (60) days after the close of its

fiscal year three (3) copies of its balance sheet and of its operating statement for such fiscal year with comparison to prior year, the same to be duly sworn to by the treasurer of the association and certified by a licensed certified public accountant. Such financial report shall be in such form as may be prescribed from time to time by the commission.

Section 29. Horseman's Bookkeeper. (1) Each association shall maintain a separate bank account, to be known as the "horsemen's account," with at all time sufficient funds in such account to pay all money owing to horsemen in regard to purses, stakes, rewards, claims, and deposits. This account shall at all times be subject to audit by the commission, and the horsemen's bookkeeper in charge of such account shall be bonded in an amount approved by the commission.

(2) The association shall deposit the total purse money for each day's racing prior to post time of the first race and shall exhibit proof thereof to the stewards. All portions of purse money shall be made available to earners thereof within forty-eight (48) hours (Sundays excluded) after the result of the race in which such money was earned has been declared official; except, however, when the stewards shall order money withheld until final adjudication of a dispute determining which persons are entitled to such money in dispute, or post race tests are not complete.

(3) All monies received by the association for stakes nominations and subscriptions shall be deposited daily in a separate escrow account to be known as the "stakes account" and the association shall exhibit proof thereof to the stewards. This account shall be subject to audit by the commission, and the bookkeeper in charge of said account shall be bonded in an amount approved by the commission.

(4) No portion of purse money other than jockey fees shall be deducted by the association for itself or for another, unless so requested in writing by the person to whom such purse monies are payable, or his duly authorized representative. Irrespective of whether requested, the horsemen's bookkeeper shall mail to each owner a duplicate of each record of a deposit, withdrawal or transfer of funds affecting such owner's racing account at the close of each race meeting.

Section 30. Outriders. Each association shall employ at least two (2) outriders to escort starters to the post and to assist in the returning of all horses to the unsaddling area. No outrider shall lead any horse that has not demonstrated unruliness, but shall assist in the control of any horse which might cause injury to a jockey or others. Each association shall wear traditional apparel. Outriders shall be required to be present on the racing strip, mounted, and ready to assist in the control of any unruly horse or to recapture any loose horse, at all times horses are permitted on the racing strip for exercising or racing.

Section 31. Association Veterinarian. (1) Each association shall employ a graduate veterinarian, licensed in Kentucky, experienced in equine medicine and practice, who shall be responsible for inspecting and reporting all horses entered for racing soundness; maintaining and posting in the racing secretary's office a veterinary list of horses ineligible to race because of sickness or unsoundness; control of communicable equine diseases; insect control; sanitary conditions in the stable area, and observe and report all cruel or inhumane treatment of horses to the stewards.

(2) The association veterinarian shall be attendant on the stewards and the racing secretary at scratch time each day, and shall examine such horses as such racing officials may request, and shall make reports to such racing officials as promptly as possible.

(3) The association veterinarian shall be responsible for inspecting every horse entered on the day of the race for which such horse is entered. Such inspection shall be for physical fitness, general conditions, and for any noticeable unsoundness or peculiarities that may affect the racing condition of the horse or be considered for scratching a horse on a muddy or sloppy track. Such prerace examinations shall be recorded on a health record for every starter at the race meeting.

(4) The association veterinarian shall be present in the paddock for saddling, shall accompany each field to the starting post, and observe all horses after the finish of each race. If, in the opinion of the association veterinarian, a horse suffers an injury while in the paddock, during the post parade, or at the starting gate, which injury shall render such horse unfit to race, he shall recommend to the stewards that the horse be excused and placed on the veterinary list. All horses requested to be scratched for physical reasons after scratch time shall be inspected by the association veterinarian who shall report the condition of such horse to the stewards.

(5) No association veterinarian during his employment by an association shall be permitted to engage in private veterinary practice involving Arabians, quarter horses or appaloosa; nor be employed by or receive any compensation directly or indirectly from any licensed owner or trainer; nor sell or buy, for himself or another, any Arabian, quarter horse or appaloosa; nor place any wager in any manner on any race run at the association; nor sell any drug supplies; nor sell horse insurance; nor be licensed to participate in racing in any other capacity.

Section 32. Horse Identifier. Each association shall employ one (1) or more persons to be charged with the responsibility of proper identification of all horses entered to be raced. A horse identifier may accompany the association veterinarian on the prerace examination of all starters. Every starter shall be examined in the paddock by a horse identifier for sex, age, color, markings, and lip tattoo, for comparison with its registration certificate; photographs may be used as an aid in identification. If a horse identifier has any doubt as to the identity of a horse entered to be raced, the horse identifier shall so notify the paddock judge and the stewards.

Section 33. Valets. Each association shall employ a sufficient number of persons licensed as valets to attend each individual rider on a day's racing program. Such valets shall be under the immediate supervision and control of the clerk of scales. No rider shall employ a valet

or be attended by any person other than the valet assigned to him by the clerk of scales. No valet shall be assigned to the same rider for more than two (2) consecutive racing days. Valets shall be responsible for the care and cleaning of his assigned riders apparel and equipment; shall insure his rider has the proper equipment and colors for each race; shall present the proper equipment and attend the saddling of his rider's mount; and shall attend the weighing out of his rider. No valet or other jockey room attendant may place a wager for himself or another, directly or indirectly, on races run while he is serving as a valet. Each association shall provide uniform attire for valets who shall wear same at all times while performing their duties within public view.

Section 34. Minimum Purse and Stakes Values. No association shall program or run any race the purse for which is less than $500 in cash without special permission of the commission. No association shall program or run any stakes race the added value of which is less than $1,000 in cash added by the association to stakes fees paid by owners. Such minimum cash amounts paid by the association shall be exclusive of nomination, eligibility, entrance, and starting fees, and exclusive of other cash awards, premiums, prizes, or objects of value.

Section 35. Maximum Number of Races. No association shall program or run more than nine (9) races on any single racing day without special permission of the commission.

CARL B. LARSEN, Executive Director
AMANDA S. LOGAN, Deputy Secretary
APPROVED BY AGENCY: December 18, 1987
FILED WITH LRC: January 14, 1988 at 2 p.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on February 24, 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, Executive Director
(1) Type and number of entities affected: Horsemen.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None additional.
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None additional.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Regulation affects all horsemen.

PUBLIC PROTECTION & REGULATION CABINET
Kentucky Harness Racing Commission
Quarter Horse, Appaloosa, and Arabian
(Proposed Amendment)

811 KAR 2:040. Owners.

RELATES TO: KRS 230.610 to 230.770
PURSUANT TO: KRS Chapter 13A
NECESSITY AND FUNCTION: To regulate conditions under which Arabian, quarter horse and appaloosa racing shall be conducted in Kentucky. The function of this regulation is to outline the requirements for owners.

Section 1. License Required. No horse may be entered or raced in this state unless the owner or each of the part owners has been granted a current owner's license; except that, the commission may, through its licensing committee as provided by 811 KAR 2:020, cause a temporary license to be issued which will be valid for entering and racing pending administrative processing and final action by the commission on such owner's license application, but in no event shall such temporary license be considered valid later than two (2) weeks after such license application was submitted.

Section 2. Requirements for Owner's License. (1) In addition to rules applicable to licensees under 811 KAR 2:020, a holder of an owner's license:
(a) Must be an individual person, eighteen (18) years or older; provided, however, the commission may grant an owner's license to a person less than eighteen (18) years of age who is a son or daughter of a licensed owner in this state, if the parent thereof holding an owner's license in this state files with the license application of such minor an agreement whereby such parent assumes responsibility for meeting all financial, contractual, or other obligations relating to racing of such applicant son or daughter.
(b) Must carry workmen's compensation insurance covering employees in connection with racing as required by Kentucky law.
(c) Must own or have under lease a horse eligible to race, and be prepared to prove same upon call of the stewards.
(d) Must not engage in an activity directly or indirectly involving the racing performance of horses on association grounds owned by others.
(2) The commission may deny, suspend, or revoke an owner's license for the spouse, or any member of the immediate family or household, of a person ineligible to be licensed as an owner,

unless, there is a showing on the part of the applicant or licensed owner, and the commission so finds, that his participation in racing as an owner will in no way circumvent the intent of the rule by permitting a person, under the control or direction of a person ineligible for an owner's license, to serve in essence as a substitute for such eligible person.

(3) A licensed owner or trainer may personally serve as a farrier or jockey for horses he owns or are registered as in his care, provided he has received from the stewards a certificate of said licensee's fitness as a competent farrier or jockey.

Section 3. Ownership Disclosure. (1) Licensed owners and licensed trainers shall be held jointly responsible for making a full disclosure of the entire ownership of each horse in their care.

(2) Such disclosure shall identify in writing all individual persons who directly, or indirectly, through a lien, or a lease, or partnership, or corporate stockholding, or syndication, or other joint venture, hold any present or reversionary right, title, or interest in and to such horse, and those individual persons who by virtue of any form of interest might exercise control over such horse or can benefit from the racing of such horse; the degree and type of such ownership held by each individual person shall be designated.

(3) Such disclosure shall be made when registering each horse with the racing secretary upon arrival on association grounds, or at time of entry, whichever event occurs first, and shall be revised immediately upon any subsequent change in such ownership.

(4) Such disclosure together with all written agreements, and affidavits setting out oral agreements, pertaining to the ownership of or rights in and to a horse, shall be attached to the registration certificate for such horse and filed with the racing secretary, who shall be responsible for the care and security of such papers while such horses thereunto pertaining are located on association grounds.

(5) Such disclosure is made for the benefit of the public and all documents pertaining to the ownership or lease of a horse filed with the racing secretary shall be available for public inspection.

(6) The stewards shall review the ownership of each horse entered to race and insure each registration certificate is properly endorsed by the transferor to the present owner. The stewards may determine the validity for racing purposes of all leases, transfers, and agreements pertaining to ownership of a horse; and may call for adequate evidence of ownership at any time. The stewards may declare ineligible to race any horse, the ownership or control of which, is in question.

Section 4. Joint Ownership. (1) No more than four (4) individual persons may be licensed as owners of a single horse.

(2) In the event more than four (4) individual persons own interests in a single horse, through a partnership, or corporation, or syndication, or other joint venture, then such individual persons may designate in writing a member of the partnership, corporation, syndicate, or joint venture to represent the entire ownership of and be responsible for such horse.

(3) Such agreement, or lease, shall accompany the application for an owner's license. Each person designated as representing the entire ownership of a horse must be licensed.

(4) The commission may deny, suspend, or revoke the license of any owner whose ownership of a horse is qualified or limited in part by rights or interest in or to such horse being held or controlled by any other individual person or persons who would be ineligible to be licensed as an owner under 811 KAR 2:020.

Section 5. Program Listing of Owners. Names of all individual persons licensed as owners of each horse shall be listed in the daily program; if space limitations preclude listing of first names, then at least two (2) initials shall precede surnames. Stable names, or corporate names, registered in other racing jurisdictions may be shown parenthetically if space limitations permit. Lessees licensed as owners shall be designated on the program as lessee of each leased horse.

Section 6. Leases. Horses may be raced under lease provided the lease agreement is annexed to the horse's registration certificate and is approved by the stewards. Validity of a lease for the purposes of racing a horse in this state may be suspended temporarily or voided by the stewards at any time. No lease may be approved by the stewards for racing purposes unless:

(1) Lessee is licensed as an owner.

(2) Each of the signatures of the lessors and lessees on the lease agreement is subscribed and sworn to before a notary public.

(3) Term of the lease is no less than one (1) year, unless sooner terminated by claim or retirement of subject horses.

(4) Conditions of the lease specify, as to parties to the lease, whether the subject horse can be entered in a race to be claimed. If agreeable to lessor that the subject horse may be entered to be claimed, conditions of the lease must specify the minimum price for which the subject horse can be entered, the name of the payee of claiming price.

(5) Conditions of the lease specify that upon claim of subject horse the lease shall terminate and all rights in and to such horse shall pass to claimant as a bona fide purchaser.

(6) After reviewing the full ownership of such leased horses, and the interests of all persons involved in such lease, and the term and conditions of such lease, the stewards in their discretion find that such lease:

(a) Completely divests lessors or sublessors of further control or direction of the racing performance of such horse while under lease; and

(b) The resultant program-listing of lessee would not mislead the betting public by reason of the absence in the program-listing of the name of a person or persons possessing a beneficial interest in such leased horse.

Section 7. Racing Colors. (1) <u>If track colors are not provided,</u> owners shall be responsible for designing and providing individual racing colors, consisting of jackets and caps of distinctive color and pattern to be worn by jockeys during a race, such racing colors to be registered with the commission.

(2) Racing colors must be registered annually, application therefor to accompany application for an owner's license.

(3) Registration of racing colors shall be at the discretion of the commission. Disputes as to rights to particular racing colors shall be determined by the commission. The commission may refuse to accept for registration racing colors which:

(a) Are not readily distinguishable by color and pattern from racing colors currently registered in this state or with the Jockey Club;

(b) Include advertising, promotional, or cartoon symbols or words, or which, in the opinion of the commission, are not in keeping with the traditions of the turf.

(4) No horse may be raced in racing colors other than those registered in the name of the horse's owner without special permission of the stewards. If an owner races two (2) or more horses in the same race, jackets shall be identical while caps shall be varied in color or design. Any deviation from registered colors granted by the stewards shall be immediately posted on the public notice board.

(5) Owners and trainers shall be jointly responsible for the condition of racing colors, insuring that they are neat, clean, and in good repair, and that an adequate number of sets of racing colors are placed in the care of the clerk of scales.

(6) The clerk of scales, and the valet serving a jockey, shall be jointly responsible for having the correct jacket and cap on each rider when leaving the jockey room for the paddock.

Section 8. Employees Licensed. No owner or trainer may employ or contract with an unlicensed person to perform an activity on association grounds for which a license is required. An owner shall immediately notify the racing secretary upon change of trainer during a race meeting.

Section 9. Authorized Agent. A licensed owner may, as a principal, authorize any person, as an agent, to act in such owner's behalf in all matters pertaining to racing in this state and ownership of horses on association grounds, provided by 811 KAR 2:020. A licensed owner, as a principal, shall be jointly liable and responsible with his licensed authorized agent for all acts and omissions of such authorized agent serving in such owner's behalf in a racing matter, until written notification from such owner revoking such agency is received by the commission.

Section 10. Suspension. In the event the license of an owner is suspended or revoked, all horses owned wholly or in part by such owner shall not be permitted to race during such suspension unless such horses are transferred to a licensed owner, and such transfer is approved by the stewards as completely divesting of such suspended former owner of control of or benefit from the subsequent racing of such horses.

Section 11. Partnerships. (1) Partnerships must be registered with the commission. Partnership papers shall set forth the following:

(a) The name and address of every person having an interest in the horse or horses involved.

(b) The relative proportion of such interests.

(c) To whom the winnings are payable.

(d) In whose name the horse or horses shall run.

(e) With whom the power of entry and declaration rests.

(f) The terms of any contingency, lease, or any other arrangement.

(g) The names of the horse or horses involved.

(2) Any partner transacting business on behalf of a partnership must own an interest therein at least equal to that owned by any other partner.

(3) All partnership registrations must be signed by all of the partners or by their authorized agent.

(4) Any alteration in a recorded partnership must be reported in writing to the commission and signed by all the partners, or their authorized agent.

(5) All the parties in a partnership and each of them shall be jointly and severally liable for all stakes, fees, and other obligations.

CARL B. LARSEN, Executive Director
AMANDA S. LOGAN, Deputy Secretary

APPROVED BY AGENCY: December 18, 1987

FILED WITH LRC: January 14, 1988 at 2 p.m.

PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on February 24, 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, Executive Director

(1) Type and number of entities affected: Horsemen.

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None additional.

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None additional.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Regulation affects all horsemen.

PUBLIC PROTECTION & REGULATION CABINET
Kentucky Harness Racing Commission
Quarter Horse, Appaloosa, and Arabian
(Proposed Amendment)

811 KAR 2:045. Trainers.

RELATES TO: KRS 230.610 to 230.770
PURSUANT TO: KRS Chapter 13A
NECESSITY AND FUNCTION: To regulate conditions under which Arabian, quarter horse and appaloosa racing shall be conducted in Kentucky. The function of this regulation is to outline the requirements for trainers.

Section 1. License Required. No horse may be raced in this state unless the trainer thereof has been granted a current trainer's license.

Section 2. Requirements for Trainer's License. (1) In addition to rules applicable to licensees under 811 KAR 2:020, a holder of a trainer's license:

(a) Must be an individual person eighteen (18) years or older. No trainer may be licensed to train under an assumed or stable name.

(b) Must be qualified by experience or competence to care for and train race horses as determined by a standard examination prescribed and given at any time by the stewards.

(c) Must have in his charge a horse eligible to race.

(d) Must not engage in an activity directly or indirectly involving the racing performance of horses on association grounds other than those registered as being in his charge.

(2) A licensed trainer cannot also be currently licensed to participate in racing in this state as a jockey, apprentice jockey, jockey's agent, veterinarian, assistant veterinarian, dental technician, farrier, apprentice farrier, or as an association racing department employee, except as provided by 811 KAR 2:020.

(3) The commission may deny, suspend, or revoke a trainer's license for the spouse, or any member of the immediate family or household, or a licensee ineligible to hold a trainer's license under subsection (1)(d) of this section, unless there is a showing on the part of the applicant or licensed trainer, and the commission so finds, that his participation in racing as a trainer will in no way circumvent the intent of this rule by permitting a person under the control or direction of a licensee ineligible to hold a trainer's license to serve in essence as a substitute for such ineligible person.

Section 3. Duties and Responsibilities. A licensed trainer shall bear primary responsibility for the proper care, health, training condition, safety, and protection against administration of prohibited drugs or medication of horses in his charge. A licensed trainer:

(1) Shall register with the racing secretary all persons in his employ and insure same are duly licensed within twenty-four (24) hours after such employees arrive on association grounds, or are employed. Upon discharge of an employee, a trainer must promptly notify the racing secretary and commission license administrator.

(2) Shall carry workmen's compensation insurance covering his employees in connection with racing as required by Kentucky law.

(3) Shall register with the racing secretary all horses in his charge in accordance with 811 KAR 2:020. No licensed trainer may take or keep in his charge a horse owned wholly or in part, or controlled by, a person unlicensed as an owner. No licensed trainer shall assume responsibility for a horse not under his active care and supervision, except as provided in subsection (6) of this section.

(4) Shall bear primary responsibility for horses he enters as to eligibility; weight allowance claimed; physical fitness to perform creditably at the distance entered; absence of prohibited drugs or medications; proper shoes, bandages, and equipment; and timely arrival in the saddling paddock. A licensed trainer shall be jointly responsible with the licensed owner for horses he enters as to stakes payments and jockey fees due.

(5) Shall furnish the name of the jockey engaged to ride each horse entered, if possible at the time of entry, but in no event later than scratch time. If no jockey has been named to ride a horse entered to race by scratch time, then the stewards shall select the best rider available to ride such horse.

(6) Shall personally attend his horses in the paddock and supervise the saddling thereof, unless excused by the stewards. If a licensed trainer is to be absent <u>for more than six (6) days</u> from association grounds where his horses are stabled, he must provide a substitute, his licensed assistant trainer or another licensed trainer, to attend the saddling of horses already entered and to assume complete responsibility for horses to be entered; such substitute must be approved by the stewards and shall sign in the presence of the stewards a form furnished by the commission accepting complete responsibility for horses such substitute enters.

(7) <u>Shall</u> [May] attend the taking and testing of a saliva, urine, or blood sample from a horse in his charge by the commission veterinarian and commission chemist, or <u>shall</u> [may] delegate one (1) of his licensed employees to do so.

(8) Shall maintain the stable area assigned to him in a clean, neat and sanitary condition at all times, and insure that fire prevention rules are strictly observed in his stable area.

(9) Shall promptly report to the association veterinarian any sickness or death of any horse in his charge.

Section 4. Restrictions on Ownership. No licensed trainer shall have any interest, by ownership or lease in the racing or breeding qualities, in a horse of which he is not the trainer at any race meeting at which such trainer is in charge of a racing stable.

Section 5. Horses Suspended. All horses in the charge of a trainer whose license has been revoked or suspended shall not be permitted to race during the period of such trainer's suspension. Upon application by the owners of such suspended horses, the stewards may approve the transfer of such horses to the care of another licensed trainer, and upon such approved transfer, such horses may be entered to race.

Section 6. Assistant Trainer. A licensed owner or licensed trainer may employ an assistant

trainer. Such assistant trainer must be licensed before acting in such capacity on behalf of his employer. Qualifications for obtaining an assistant trainer's license shall be prescribed by the stewards. A licensed assistant trainer shall assume the same duties and responsibilities as imposed on the holder of a trainer's license. The licensed trainer shall be jointly responsible with his assistant trainer for all acts and omissions of such assistant trainer involving a racing matter.

CARL B. LARSEN, Executive Director
AMANDA S. LOGAN, Deputy Secretary
APPROVED BY AGENCY: December 18, 1987
FILED WITH LRC: January 14, 1988 at 2 p.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on February 24, 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, Executive Director
(1) Type and number of entities affected: Horsemen.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None additional.
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None additional.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Regulation affects all horsemen.

PUBLIC PROTECTION & REGULATION CABINET
Kentucky Harness Racing Commission
Quarter Horse, Appaloosa, and Arabian
(Proposed Amendment)

811 KAR 2:050. Jockeys.

RELATES TO: KRS 230.610 to 230.770
PURSUANT TO: KRS 13A.010
NECESSITY AND FUNCTION: To regulate conditions under which Arabian, quarter horse and appaloosa racing shall be conducted in Kentucky. The function of this regulation is to outline the requirements for jockeys.

Section 1. Probationary Mounts. Any person desiring to participate in this state as a rider and who never previously has ridden in a race may be permitted to ride in two (2) races before applying for a license as a jockey; provided, however:
(1) Such person is a licensee with at least one (1) year of service with a racing stable;
(2) A licensed trainer certifies in writing to the stewards that such person has demonstrated sufficient horsemanship to be permitted such probationary mounts;
(3) The starter has schooled such person breaking from the starting gate with other horses and approves such person as capable of starting a horse properly from the starting gate in a race;
(4) The stewards in their sole discretion are satisfied such person intends to become a licensed jockey, possesses the physical ability and has demonstrated sufficient horsemanship to ride in a race without jeopardizing the safety of horses or other riders in such race. No such person shall be permitted to ride in any such probationary race without prior approval of the stewards.

Section 2. Qualifications for License. In addition to rules applicable to licensees under 811 KAR 2:020, a holder of a license as a jockey or apprentice jockey:
(1) Must be an individual person <u>eighteen (18)</u> [sixteen (16)] years of age or older and licensed under his legal name which shall be listed in the daily race program;
(2) Must have served at least one (1) year with a racing stable;
(3) Must have ridden in at least two (2) races;
(4) Must, when required by the stewards, provide a medical affidavit certifying such person is physically and mentally capable of performing the activities and duties of a licensed jockey.

Section 3. Amateur or Provisional Jockey. An amateur wishing to ride in races on even terms with professional riders, but without accepting fees or gratuities therefor, must be approved by the stewards as to competency of horsemanship, must be granted a jockey's license, and such amateur status must be duly noted on the daily race program. A licensed owner or licensed trainer, upon approval by the stewards, may be issued a provisional jockey's license to ride his own horse or horse registered in his care as trainer.

Section 4. Rider Contracts. All contracts between an employer owner or trainer and employee rider are subject to the rules of

racing. All riding contracts for terms longer than thirty (30) days, as well as any amendments thereto, or cancellation, or transfer thereof, must be in writing with signature of parties thereto notarized, must be approved by the stewards and filed with the commission. The stewards may approve a riding contract and permit parties thereto to participate in racing in this state if the stewards find that:

(1) The contract employer is a licensed owner or licensed trainer who owns or trains at least three (3) horses eligible to race at the time of execution of such contract;

(2) The contract employer possesses such character, ability, facilities, and financial responsibility as may be conducive to developing a competent race rider;

(3) Such contracts for apprentice jockeys provide for fair remuneration, adequate medical care, and an option equally available to both employer and apprentice jockey to cancel such contract after two (2) years from date of execution.

Section 5. Restrictions as to Contract Riders. No rider may:

(1) Ride any horse not owned or trained by his contract employer in a race against a horse owned or trained by his contract employer;

(2) Ride or agree to ride any horse in a race without consent of his contract employer;

(3) Share any money earned from riding with his contract employer;

(4) Accept any present, money, or reward of any kind in connection with his riding of any race except through his contract employer.

Section 6. Calls and Engagements. Any rider not so prohibited by prior contract may agree to give first or second call on his race-riding services to any licensed owner or trainer. Such agreements, if for terms of more than thirty (30) days, must be in writing, approved by the stewards, and filed with the commission. Any rider employed by a racing stable on a regular salaried basis may not ride against the stable which so employs him. No owner or trainer shall employ or engage a rider to prevent him from riding another horse.

Section 7. Jockey Fee. (1) The fee to a jockey in all races shall be, in the absence of special agreement, as follows:

(a) Purse, $500 to $800: Winning mount ten (10) percent of purse; Second mount $23; Third mount $22; Losing mount $20;

(b) Purse, $900 to $1,400: Winning mount, ten (10) percent of purse; Second mount $30; Third mount $25; Losing mount $20;

(c) Purse, $1,500 to $1,900; Winning mount, 10 percent of purse; Second mount $35; Third mount $30; Losing mount $25;

(d) Purse $2,000 to $3,400: Winning mount, 10 percent of purse; Second mount $45; Third mount $35; Losing mount $30;

(e) Purse, $3,500 to $4,900: Winning mount, 10 percent of purse; Second mount $50; Third mount $40; Losing mount $30;

(f) Purse, $5,000 and up: Winning mount, 10 percent of purse; Second mount $55; Third mount $45; Losing mount $35.

(2) A jockey fee shall be considered earned by a rider when he is weighed out by the clerk of scales except:

(a) When rider does not weigh out and ride in a race for which he has been engaged because an owner or trainer engaged more than one (1) rider for the same race; in such case, the owner or trainer shall pay an appropriate fee to each rider engaged for such race.

(b) When such rider capable of riding elects to take himself off the mount without, in the opinion of the stewards, proper cause therefor.

(c) When such rider is replaced by the stewards with a substitute rider for a reason other than a physical injury suffered by such rider during the time between weighing out and start of the race.

Section 8. Duty to Fulfill Engagements. Every ride shall fulfill his duly schedule riding engagements, unless excused by the stewards. No rider shall be forced to ride a horse he believes to be unsound, nor over a racing strip he believes to be unsafe, but if the stewards find a rider's refusal to fulfill a riding engagement is based on a personal belief unwarranted by the facts and circumstances, such rider may be subject to disciplinary action.

Section 9. Presence in Jockey Room. (1) Each rider who has been engaged to ride in a race shall be physically present in the jockey room no later than one (1) hour prior to post time for the first race on the day he is scheduled to ride, unless excused by the stewards, or the clerk of scales; and upon arrival shall report to the clerk of scales his engagements. In the event a rider should fail for any reason to arrive in the jockey room prior to one (1) hour before post time of a race in which he is scheduled to ride, the clerk of scales shall so advise the stewards who thereupon may name a substitute rider and shall cause announcement to be made of any such rider substitution prior to opening of wagering on such race.

(2) Each rider reporting to the jockey room shall remain in the jockey room until he has fulfilled all his riding engagements for the day, except to ride in a race, or except to view the running of a race from a location approved by the stewards. Such rider shall have no contact or communication with any person outside the jockey room other than an owner or trainer for whom he is riding, or a racing official, or a representative of the regular news media, until such rider has fulfilled all his riding engagements for the day.

(3) The association shall be responsible for such security of jockey room as to exclude all persons except riders scheduled to ride on the day's program, valets, authorized attendants, racing officials, duly accredited members of the news media, and persons having special permission of the stewards to enter the jockey room.

(4) Any rider intending to discontinue riding at a race meeting prior to its conclusion shall so notify the stewards after fulfilling his final riding engagement of the day he intends to depart.

Section 10. Weighing Out. (1) Each rider engaged to ride in a race shall report to the clerk of scales for weighing out not more than one (1) hour and not less than fifteen (15) minutes before post time for each race in which he is engaged to ride, and at the time of weighing out shall declare overweight, if any.

(2) No rider shall pass the scale with more

than one (1) pound overweight, without consent of the owner or trainer of the horse he is engaged to ride; in no event shall a rider pass the scale with more than five (5) pounds overweight.

(3) No horse shall be disqualified because of overweight carried.

(4) Whip, blinkers, number cloth, bridle, and rider's safety helmet shall not be included in a rider's weight.

Section 11. Wagering. No rider shall place a wager, or cause a wager to be placed on his behalf, or accept any ticket or winnings from a wager on any race except on his own mount, and except through the owner or trainer of the horse he is riding. Such owner or trainer placing wagers for his rider shall maintain a precise and complete record of all such wagers, and such record shall be available for examination by the stewards at all times.

Section 12. Attire. Upon leaving the jockey room to ride in any race, each rider shall be neat and clean in appearance and wear the traditional jockey costume with all jacket buttons and catches fastened. Each jockey shall wear the cap and jacket racing colors registered in the name of the owner of the horse he is to ride, stock tie, white or light breeches, top boots, safety helmet approved by the commission, and a number on his right shoulder corresponding to his mount's number as shown on the saddle cloth and daily race program. The clerk of scales and attending valet shall be held jointly responsible with a rider for his neat and clean appearance and proper attire.

Section 13. Viewing Films or Tapes of Races. Every rider shall be responsible for checking the film list posted by the stewards in the jockey room the day after riding in a race, the posting of same to be considered as notice to all riders whose names are listed thereon to present themselves at the time designated by the stewards to view the patrol films or video tapes of races. Any rider may be accompanied by a representative of the jockey organization of which he is a member in viewing such films, or with the stewards' permission, be represented at such viewing by his designated representative.

CARL B. LARSEN, Executive Director
AMANDA S. LOGAN, Deputy Secretary
APPROVED BY AGENCY: December 18, 1987
FILED WITH LRC: January 14, 1988 at 2 p.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on February 24, 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, Executive Director

(1) Type and number of entities affected: Horsemen.

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

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):

(b) Reporting and paperwork requirements: None additional.

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None additional.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.

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

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

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. Regulation affects all horsemen.

PUBLIC PROTECTION & REGULATION CABINET
Kentucky Harness Racing Commission
Quarter Horse, Appaloosa, and Arabian
(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 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, trifecta, twin trifecta, 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) Twin Trifecta. The twin trifecta is a form of pari-mutuel wagering. It is not a parlay and has no connection with or relation to any other pari-mutuel pools made and conducted by an association nor is the twin trifecta connected with or related to any win, place and show pools shown on the totalisator board, nor is it governed by any division rules pertaining to the distribution of any other pari-mutuel pools.

(a) In the twin trifecta, the bettor selects the three (3) horses that will finish first, second and third in each of the two (2)

designated twin trifecta races in the exact order as officially posted.

(b) Twin trifecta tickets shall be sold and exchanged only from the association's ticket-issuing machines.

(c) Twin trifecta wagers shall be made only in denominations of three (3) dollars.

(d) Each bettor purchasing twin-trifecta tickets shall designate three (3) selections as the first three (3) horses to finish in that order in the first race of the designated two (2) twin-trifecta races.

(e) After the wagering closes for the first half of the twin trifecta, the commissions will be deducted from the pool in accordance with the laws of the state of Kentucky. The remaining pool will then be divided into two (2) separate pools of equal amounts.

(f) The money in the first part of the divided pool will be distributed to the holders of the twin trifecta tickets selecting the first three (3) horses, in order, on the first designated twin trifecta race, in accordance with the established pari-mutuel practice. The term "first part of divided pool" shall mean one-half (1/2) of the net distributable pool of the total money wagered in the twin trifecta on the current program only and, specifically excluded therefrom shall be any carry-over of any special cumulative second race twin trifecta pool from any previous program.

(g) The second part of the divided pool will be placed in a separate pool to be distributed to holders of "second half" twin trifecta tickets selecting the first three (3) horses, in order, on the second designated twin trifecta race, in accordance with the established pari-mutuel practice.

(h) In the first half of the twin trifecta only, if there is a failure to select, in exact order, the first three (3) horses, payoffs and exchanges shall be made on twin trifecta tickets selecting in the following order of priority:

1. The first two (2) horses in exact order, if no such ticket is outstanding, then;

2. The first horse, and any such ticket within the applicable above order of priority shall be deemed a winning ticket entitling the holder thereof to an exchange ticket, in addition to the usual payoff for first half winners;

3. Failure to select winner to win, regardless of the selection of the exact order of the second and/or third horse shall cause a refund to all twin trifecta tickets.

(i) After the official declaration of the first three (3) horses to finish in the first race of the twin trifecta, each bettor holding a winning ticket must, prior to the running of the second twin trifecta race, exchange such winning ticket for both the monetary value established by the association's mutuel department and a twin trifecta "exchange" ticket and at such time shall select the three (3) horses to finish in the second race of the twin trifecta in exact order as officially posted. No further money shall be required of the holders of the winning ticket in order to make the exchange. Each association conducting the twin trifecta shall designate all windows to be used as "exchange" windows except when the first half payoff is $900 or more in winnings (if such winnings are at least 300 times the amount of the single wager). In this case, valid exchange tickets will be exchanged only at all windows designated IRS windows.

(j) No twin trifecta exchange ticket upon the second race of the twin trifecta shall be issued except upon surrender of the winning twin trifecta ticket from the first race of the twin trifecta as described in this regulation. Windows for the purpose of cashing and exchanging twin trifecta tickets shall be open only after the first race of the twin trifecta has been declared official and windows shall close when wagering closes for the race designated as the second half of the twin trifecta. Not more than one (1) race shall elapse between the race designated the first half of the twin trifecta and the race designated as the second half of the twin trifecta.

(k) If a winning twin trifecta ticket from the first race is not presented for cashing and exchange with the time provided, the bettor may still collect the monetary value attached to the ticket but forfeits all rights to any distribution of the second race twin trifecta pool and the carry-over jackpot.

(l) If a horse is scratched from the first race of the twin trifecta, all twin trifecta tickets on the scratched horse will be refunded. If a horse is scratched from the second race of the twin trifecta, public address announcements will be made and reasonable time will be given for exchange of tickets on the scratched horse.

(m) In the event of a dead heat in either the first or second half of the twin trifecta, all twin trifecta tickets selecting the correct order of finish counting a horse in a dead heat as finishing in any position dead heated shall be winning tickets. In the case of the dead heat occurring in the first half, the payoff shall be calculated as a win pool. In the case of the dead heat occurring in the second half, contrary to the usual pari-mutuel practice, the aggregate number of winning tickets shall be divided into the net pool and be paid the same payoff price.

(n) In the event there is no twin trifecta ticket issued accurately selecting the officially declared first three (3) finishers of the second race, pool, as divided earlier, shall be held for the next consecutive program and combined with that program's second race twin trifecta pool. This sum shall be termed the "carry-over jackpot." Distribution of the special cumulative second race twin trifecta pool shall be made only upon the accurate selection, in exact order, of the first three (3) officially declared finishers of the second twin trifecta race except on the closing program of the meeting (see paragraph (p) of this subsection).

(o) If for any reason the second half of the twin trifecta is not declared "official," the winning ticket holders who have cashed their tickets on the first half and have received an exchange ticket will be entitled to the remaining amount of the current program's divided pool.

(p) On the closing program of the meeting, the current carry-over jackpot, if any, plus the second half pool for that program will be combined and distributed in the following manner:

1. The total twin trifecta pool shall be distributed to the holders of twin trifecta exchange tickets showing the first three (3) horses to finish, in exact order.

2. If there are no twin trifecta exchange tickets showing the first three (3) horses, in the exact order, the payoff will be made on twin

trifecta exchange tickets selecting the first two (2) horses in exact order. If no such ticket is outstanding, then:

3. The first horse, and any such ticket within the applicable above order of priority shall be deemed a winning ticket entitling the holder to the total twin trifecta pool.

4. If there are no valid exchange ticket holders, the total twin trifecta pool will be distributed to the holders of first half tickets selecting the first two (2) horses in the exact order.

5. If there are no first half twin trifecta tickets showing the first two (2) horses, the total twin trifecta pool shall be distributed to the holders of first half tickets selecting the horse of the first half of the twin trifecta.

6. If no such ticket is sold that would require the distribution of the net pools as described above, the association shall equally distribute the total twin trifecta pool to all first half ticket holders.

(q) Sales of twin trifecta tickets other than from the association's ticket-issuing machines or from one (1) individual to another shall be deemed illegal. Exchange tickets shall be nontransferable. Persons involved in the unauthorized transfer of exchange tickets shall be ejected.

(9) [(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.

(10) [(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.

(11) [(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
AMANDA S. LOGAN, Deputy Secretary
APPROVED BY AGENCY: December 18, 1987
FILED WITH LRC: January 14, 1988 at 2 p.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on February 24, 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, Executive Director
(1) Type and number of entities affected: Horsemen.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None additional.
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None additional.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Regulation affects all horsemen.

PUBLIC PROTECTION & REGULATION CABINET
Kentucky Harness Racing Commission
Quarter Horse, Appaloosa, and Arabian
(Proposed Amendment)

811 KAR 2:070. Entries, subscriptions and declarations.

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 requirements for entry, subscription and declaration of horses in order to race.

Section 1. Entering Required. No horse shall be qualified to start in any race unless such horse has been and continues to be duly entered therein. Entries or subscriptions for any horse, or the transfer of same, may be refused or cancelled by the association without notice or reason given therefor.

Section 2. Procedure for Making Entries. (1) All entries, subscriptions, declarations, and scratches shall be lodged with the racing secretary and shall not be considered as having been made until received by the racing secretary who shall maintain a record of time of receipt of same.
(2) Every entry must be in the name of such horse's licensed owner, as completely disclosed and registered with the racing secretary under these rules, and made by the owner, or trainer, or a person deputized by such owner or trainer, and signed by the person responsible for the entry.
(3) Every entry must be in writing, or by telegraph promptly confirmed in writing; except that an entry may be made by telephone to the racing secretary, but must be confirmed promptly in writing should the stewards, the racing secretary, or an assistant to the racing secretary so request.
(4) Every entry shall clearly designate the horse so entered. When entered for the first time during a meeting, every horse shall be designated by name, age, color, sex, sire, dam, and broodmare sire, as reflected by such horse's registration certification.
(a) No horse may race unless correctly identified to the satisfaction of the stewards as being a horse duly entered.
(b) In establishing identity of a horse, responsibility shall be borne by any person attempting to identify such horse as well as the owner of such horse, all such persons being subject to appropriate disciplinary action for incorrect identification.
(5) No alteration may be made in any entry after the closing of entries, but an error may be corrected.
(6) No horse may be entered in two (2) races to be run on the same day.
(7) First time starters and horses without a past performance record at a pari-mutuel race track must complete two (2) official timed workouts, one (1) from the gate, and be approved to start by the stewards and starter before entering any race. Horses entered to race around a turn must have officially started in a race around a turn or will be required to have an official work around the turn where they are racing and must be approved by the stewards.

Section 3. Stabling Requirement. No entry shall be accepted for any horse not stabled on association grounds where such race is to be run, unless its stabling elsewhere has been approved by the racing secretary as provided by 811 KAR 2:035.

Section 4. Limitation as to Spouses. An entry in any race may not be accepted for a horse owned wholly or in part by, or trained by, a person whose husband or wife is under license suspension at time of such entry; except that if the license of a jockey has been suspended for a routine riding offense, then the stewards may waive this rule as to the duly licensed husband or wife of such suspended jockey.

Section 5. Mutuel Entries. (1) All horses entered in the same race and trained by the same trainer shall be joined as a mutuel entry and single betting interest except that in order to make up to eight (8) separate betting interests, the horses may be allowed to run as separate betting interests where a trainer enters more than one (1) horse, each having bona fide separate owners, at the discretion of the stewards. All horses entered in the same race and owned wholly, or in part by the same owner or spouse thereof, shall be joined as a mutuel entry and single betting interest.
(2) No more than two (2) horses having common ties through ownership or training as to be

joined as a mutuel entry may be entered in a purse race. When making such double entry, a preference for one (1) of the horses must be made.

(3) In no case may two (2) horses having common ties through ownership start in a race to the exclusion of a single interest. In races in which the number of starters if limited to ten (10) or less, no two (2) horses having common ties through training may start to the exclusion of a single entry.

Section 6. Subscriptions. (1) Nominations to or entry of a horse in a stakes race is a subscription. Any subscriber to a stakes race may transfer or declare such subscription prior to closing.

(2) Joint subscriptions and entries may be made by any one of joint owners of a horse, and each such owner shall be jointly and severally liable for all payments due thereon.

(3) Death of a horse, or a mistake in its entry when such horse is eligible, does not release the subscriber or transferee from liability for all stakes fees due thereon. No fees paid in connection with a subscription to a stakes race that is run shall be refunded, "except as otherwise stated in the conditions of a stake race."

(4) Death of a nominator or original subscriber to a stakes race shall not render void any subscription, entry, or right of entry thereunder. All rights, privileges, and obligations shall attach to the successor owner, including the legal representatives of the decedent.

(5) When a horse is sold privately, or sold at public auction, or claimed, stakes engagements for such horse shall be transferred automatically with such horse to its new owner; except that, if such horse is transferred to a person whose license is suspended or otherwise unqualified to race or enter such horse, then such subscriptions shall be void as of the date of such transfer.

(6) All stakes fees paid toward a stakes race shall be allocated to the winner thereof unless otherwise provided by the condition for such stakes race. In the event a stakes race is not run for any reason, all such subscription fees paid shall be refunded.

Section 7. Closings. (1) Entries for purse races and subscriptions to stakes races shall close at the time designated by the association in previously published conditions for such races. If a race is not split, no entry, subscription, or declaration shall be accepted after such closing time; except that in event of an emergency, or if a purse race fails to fill them the racing secretary may, with the approval of the steward, extend such closing time.

(2) If the hour of closing is not specified for stakes races, then subscriptions and declarations therefor may be accepted until midnight of the day of closing; provided, they are received in time for compliance with every other condition of such race.

(3) Entries which have closed shall be compiled without delay by the racing secretary along with declarations, be posted.

Section 8. Number of Starters in a Race. (1) The maximum number of starters in any race shall be limited to the number of starting positions afforded by the association starting gate approved by the commission as can be positioned across the width of the track at the starting point for such race; and such maximum number of starters further shall be limited by the number of horses which, in the opinion of the stewards, considering the safety of the horses and riders, and the distance from the start to the first turn, can be afforded a fair and equal start.

(2) Any claiming race in the printed condition book for which eight (8) or more horses representing different betting interests are entered must be run. All other purse races in the printed condition book for which six (6) or more horses representing different betting interests are entered must be run.

(3) If any purse race in the printed condition book fails to fill with the minimum number of entries required by subsection (2) of this section to be run, then the association may cancel or declare off such race. The names of all horses entered therein shall be publicly posted in the office of the racing secretary not later than 1:00 p.m. the same day.

Section 9. Split or Divided Races. (1) In the event a race is cancelled or declared off, the association may split any race programmed for the same day and which may previously have been closed. Races printed in the condition book shall have preference over substitute and extra races.

(2) When a purse race is split, forming two (2) or more separate races, the racing secretary shall give notice thereof not less than fifteen (15) minutes before such races are closed so as to grant time for the making of additional entries to such split races.

(3) Division of entries upon the splitting of any race shall be made in accordance with the conditions under which entries and subscriptions therefor were made, and in the absence of specific prohibition by such conditions:

(a) Horses originally joined as a mutuel entry may be placed in different divisions of a split race unless the person making such multiple entry, at the time of such entry, indicates such coupling of horses is not to be uncoupled when such race is split.

(b) Division of entries in any split stakes race may be made according to age, or sex, or both.

(c) Entries for any split race not divided by any method provided above by this rule, shall be divided by lot so as to provide a number of betting interests as near equal as possible for each division of such split race.

Section 10. Post Positions. Post positions for all races shall be determined by lot, drawn in the presence of those making the entries for such race. Post positions in split races also shall be redetermined by lot in the presence of those making the entries for such split race. The racing secretary shall assign pari-mutuel numbers for each starter to conform with the post position drawn, except when a race includes two (2) or more horses joined as a single betting interest.

Section 11. Also Eligible List. (1) If the number of entries for a purse race exceed the number of horses permitted to start in such race as provided by Section 8 of this regulation, then the names of as many as eight (8) horses

entered but not drawn into such race as starters shall be posted on the entry sheet as "also eligible" to start.

(2) After any horses have been excused from a purse race at scratch time, the starting and post position of the also-eligible list shall be determined by the best preference date. Horses having equal preference dates shall be drawn by lot.

(3) Any owner or trainer of any horse on the also-eligible list who does not wish to start such horse in such race shall so notify the racing secretary prior to scratch time for such race and such horse shall forfeit any preference to which it may have been entitled.

(4) Where entries are closed two (2) racing days prior to the running of a race, any horse on an also-eligible list, and which also has been drawn into a race as a starter for the succeeding day, shall not be given an opportunity to be drawn into the earlier race for which he had been listed as also-eligible.

Section 12. Preferred List; Stars. (1) The racing secretary shall maintain a list of horses which were entered but denied an opportunity to race because eliminated from a race programmed in the printed condition book either by overfilling or failure to fill. Horses so eliminated shall be awarded a preference "star" for each such elimination, and as to drawing in from the also-eligible list to subsequent races of similar distance and similar conditions, such horses shall be given preference over horses with fewer number or no preference stars.

(2) No preference shall be given a horse otherwise entitled thereto for a race if such horse also is entered for a race on the succeeding day.

(3) No preference shall be given a horse otherwise entitled thereto for a race unless preference is claimed at the time of entry by indicating same on the entry with the word "preferred."

Section 13. Arrears. No horse may be entered or raced if the owner thereof is in arrears as to any stakes fees due by such owner; except with the approval of the racing secretary.

Section 14. Declaration. Withdrawal of a horse from a race before closing thereof by the owner or trainer or person deputized by either, such being known as a "declaration," shall be made in the same manner as to form, time, and procedure as provided for the making of entries. Declarations and scratches are irrevocable. No declaration fee shall be required by any licensed association.

Section 15. Scratches. Withdrawal of a horse from a race after closing thereof by the owner or trainer or person deputized by either, such being known as a "scratch," shall be permitted only under the following conditions:

(1) A horse may be scratched from a stakes race for any reason at any time up until fifteen (15) minutes prior to post time for the racing preceding such stakes race by the filing in writing of such intention with the racing secretary. Upon receiving a scratch from a stakes race, the racing secretary shall promptly notify the stewards and pari-mutuel manager, and shall cause public announcement of same to be made.

(2) No horse may be scratched from a purse race without approval of the stewards and unless such intention to scratch has been filed in writing with the racing secretary or his assistant at or before the time conspicuously posted as "scratch time." Scratch of one (1) horse coupled in a mutuel entry in a purse race must be made at or before the posted scratch time, unless permission is granted by the stewards to allow both horses to remain in the race until a later appointed scratch time therefor.

(3) In purse races, horses that are physically disabled or sick shall be permitted to be scratched first. Should horses representing more than ten (10) betting interests in either of the two (2) daily double races, or horses representing more than eight (8) betting interests in any other purse race, remain in after horses with physical excuses have been scratched, then owners or trainers may be permitted at scratch time to scratch horses without physical excuses down to such respective minimum number for such races, this privilege to be determined by lot if an excessive number of owners or trainers wish to scratch their horses.

(4) Entry of any horse which has been scratched, or excused from starting by the stewards, because of a physical disability or sickness shall not be accepted until the expiration of three (3) calendar days after such horse was scratched or excused.

CARL B. LARSEN, Executive Director
AMANDA S. LOGAN, Deputy Secretary
APPROVED BY AGENCY: December 18, 1987
FILED WITH LRC: January 14, 1988 at 2 p.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on February 24, 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, Executive Director

(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

PUBLIC PROTECTION & REGULATION CABINET
Kentucky Harness Racing Commission
Quarter Horse, Appaloosa, and Arabian
(Proposed Amendment)

811 KAR 2:080. Claiming races.

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 establish the requirements for claiming horses.

Section 1. Claiming Races. (1) In claiming races any horse is subject to claim for its entered price by any licensed owner, in good standing, or by the holder of a certificate of eligibility to claim. The procedure for obtaining a certificate of eligibility to claim shall be as follows:
(a) Applicant shall, prior to entering a claim, submit an application for owners original license, to be accompanied by a financial statement: the name of a licensed trainer or person eligible to be licensed as a trainer, who will assume care and responsibility for the horses claimed; and requisite fee for owners license.
(b) This certificate will be valid for the remainder of the calendar year.
(2) A claim may be made by an authorized agent, but an agent may claim only for the account of those for whom he is licensed as agent, and the name of the authorized agent, as well as the name of the owner for whom the claim is being made, shall appear on the claim slip.
(3) No person shall claim his own horse, or cause his own horse to be claimed, directly or indirectly, for his own account. No claimed horse shall remain in the same stable or under the care or management of the owner or trainer from whom claimed.
(4) No person shall claim more than one (1) horse from any one (1) race. No authorized agent, although representing several owners, shall submit more than one (1) claim for any race. When a stable consists of horses owned by more than one (1) person, trained by the same trainer, not more than one (1) claim may be entered on behalf of such stable in any one (1) race. An owner who races in a partnership may not claim except in the interest of the partnership, unless he has also started a horse in his own individual interest.
(5) A claimed horse [shall not run for thirty (30) days] after being claimed in a race <u>may start for any claiming price</u> [in which the determining eligibility price is less than twenty-five (25) percent more than the price for which the horse was claimed. The day claimed shall not count but the following calendar day shall be the first day, and the horse shall be entitled to enter whenever necessary so that it may start on the 31st calendar day following the claim]. This provision shall not apply to starter handicaps, in which the weight to be carried is assigned by the handicapper.
(6) No horse claimed in a claiming race shall be sold or transferred, wholly or in part, to anyone within thirty (30) days after the day it was claimed, except in another claiming race. No horse shall race elsewhere <u>for thirty (30) days or</u> until after the close of the meeting at which it was claimed.
(7) Each claim shall be made in writing on a form and in an envelope supplied by the association. Both form and envelope must be filled out completely.
(8) Claims must be deposited in the claim box at least fifteen (15) minutes before post time of the race from which the claim is being made. No money or its equivalent shall be put in the claim box. For a claim to be valid the claimant must have at the time of filing the claim a credit balance in his account with the horseman's bookkeeper of not less than the amount of the claim, plus the Kentucky sales tax.
(9) The stewards, or their designated representative, shall open the claim envelopes for each race as soon as the horses leave the paddock en route to the post. They shall thereafter check with the horseman's bookkeeper to ascertain whether the proper credit balance has been established with the association, and whether the claimant has established claiming privileges.
(10) If more than one (1) valid claim is filed for the same horse, title to the horse shall be determined by lot under the supervision of the stewards or their designated representative.
(11) Any horse that has been claimed shall, after the race has been run, be taken to the paddock for delivery to the claimant, who must present written authorization for the claim from the racing secretary. No person shall refuse to deliver to the person legally entitled thereto a horse claimed out of a claiming race, and furthermore the horse in question shall be disqualified from further racing until delivery is made.
(12) Claims are irrevocable. Title to a claimed horse shall be vested in the successful claimant from the time the said horse is a starter, and said claimant shall then become the owner of the horse whether it be alive or dead, sound or unsound, or injured during the race, or after it. A claimed horse shall run in the interest of and for the account of the owner from whom claimed.
(13) No person shall offer, or enter into, an agreement to claim or not to claim, or attempt to prevent another person from claiming any horse in a claiming race. No person shall attempt by intimidation to prevent anyone from running a horse in any claiming race. No owner or trainer shall make an agreement with another owner or trainer for the protection of each other's horses in a claiming race.
(14) Claims which are not made in keeping with the rules shall be void. The stewards may at any time in their discretion require any person filing a claim to make affidavit in writing that he is claiming in accordance with the rules. The stewards shall be the judges of the validity of the claim, and if they feel that a "starter" was nominated for the purpose of making its owner

eligible to claim, they made invalidate the claim.

(15) Any person holding a lien of any kind against a horse entered in a claiming race must record the same with the racing secretary and/or horseman's bookkeeper at least thirty (30) minutes before post time for that race. If none is so recorded, it shall be assumed that none exists.

(16) The engagements of a claimed horse pass automatically with the horse to the claimant.

(17) Notwithstanding any designation of sex or age appearing on the racing program or in any racing publication, the claimant of a horse shall be solely responsible for determining the age or sex of the horse claimed.

CARL B. LARSEN, Executive Director
AMANDA S. LOGAN, Deputy Secretary
APPROVED BY AGENCY: December 18, 1987
FILED WITH LRC: January 14, 1988 at 2 p.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on February 24, 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, Executive Director

(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

PUBLIC PROTECTION & REGULATION CABINET
Kentucky Harness Racing Commission
Quarter Horse, Appaloosa, and Arabian
(Proposed Amendment)

811 KAR 2:085. Running of the race.

RELATES TO: KRS 230.610 to 230.770
PURSUANT TO: KRS Chapter 13A
NECESSITY AND FUNCTION: To regulate conditions under which Arabian, quarter horse and appaloosa racing shall be conducted in Kentucky. The function of this regulation outlines the requirements relating to the running of a race.

Section 1. Post Time. Post time for the first race on each racing day shall be approved by the commission. Post time for subsequent races on the same program shall be fixed by the pari-mutuels manager. At tracks where night racing is conducted, no race shall be started after 11:55 p.m.

Section 2. Horses in Paddock Not to be Touched. No person shall touch a horse while in the paddock except its licensed owner, its licensed trainer, authorized stable personnel, the paddock judge, the horse identifier, its assigned valet, a steward, a farrier, an outrider, or jockey.

Section 3. Trainer Responsibility. The trainer shall be responsible for arrival in the paddock, at the time prescribed by the paddock judge, of each horse entered by the trainer and shall supervise the saddling of such horse. If a trainer is to be absent from a track where his horses are participating in races, he must provide his own assistant trainer or licensed trainer to substitute for him during his absence.

Section 4. Withdrawal of a Horse. Every horse whose starting is obligatory is expected to run the course; except, however, that the stewards may order the withdrawal of a horse at any time up to the actual start of a race.

Section 5. Walkover. If at the time for saddling, only one (1) horse or horses owned by only one (1) stable shall be weighed out, such horse or horses of single ownership shall be ridden past the stewards' stand, go to the post and then move over the course before determination of the winner.

Section 6. Parade to the Post; Time. All horses shall parade and carry their declared weight from the paddock to the starting post, such parade to pass the stewards' stand. After passing the stewards' stand once, horses may break formation and canter, warm up, or go as they please to the post. The parade to the post shall not exceed twelve (12) minutes from the time the field enters upon the track, except in cases of unavoidable delay. If a jockey is thrown on the way to the post, such jockey must remount at the point at which thrown. In the event the jockey is so injured as to require a substitute jockey to be named for the horse by the stewards, the horse shall be returned to the paddock where the horse shall be mounted by a substitute jockey.

Section 7. Lead Pony. When, by permission of the paddock judge, a horse is led to the post by

a pony, such horse may be excused from parading with the other horses, but must en route to the post, pass the stewards' stand. Lead ponies may be excluded from the saddling enclosure or walking ring, at the discretion of the stewards and paddock judge.

Section 8. Control of Horses and Jockeys by Starter. The horses and jockeys shall be under the control of the starter from the moment they enter the track until the race is started. If an accident happens to any jockey or his equipment, the started may grant a delay to permit the substitution of a jockey or repair of equipment. During such delay the starter may permit any jockey to dismount. Should a horse break through the gate or unseat its jockey after any of the field is loaded in the starting gate, and such horse is not immediately taken in hand by the outrider and brought back for reloading, the starter shall unload the horses in the gate and reload such horses in their proper order when the runaway horse is brought back to position for reloading. All causes of delay shall be reported by the starter to the stewards. No person other than the jockey or starter or assistant starter shall be permitted to strike a horse or attempt, by shouting or other fashion, to assist such horse in getting a start.

Section 9. Starting Gate to be Used. A starting gate approved by the commission shall be used in starting all races on the flat except in cases permitted by the stewards. When a race is started without a starting gate, there shall be no start until, and no recall after, the assistant starter has dropped the flag in answer to the starter.

Section 10. Horses Left at Post. (1) If a door at the front of the starting gate should fail to open timely when the starter dispatches the field, or if a horse inadvertently has not been loaded in his scheduled position in the starting gate when the field is dispatched, thereby causing such horse to be left at the post, the starter immediately shall report such circumstance to the stewards who shall immediately post the "inquiry" sign on the infield results board and advise the public to hold all mutuel tickets. After consulting with the starter and viewing the patrol films or video tapes, the stewards then shall determine whether such horse was precluded from obtaining a fair start.

(2) If the stewards find such horse was precluded from obtaining a fair start, the stewards shall rule such a horse a nonstarter and shall order money wagered on such horse deducted from the pari-mutuel pool and refunded to holders of pari-mutuel tickets thereon; provided, however, if such horse ruled a nonstarter is part of a mutuel entry and another horse in such entry is not left at the post, there shall be no pari-mutuel refund.

(3) Stakes fees for such ruled nonstarter shall be refunded to the owner.

[(4) The starter may, in his discretion, place an unruly or fractious horse on the outside of the starting gate and one (1) length behind the starting line. If such horse so stationed outside the starting gate by the starter dwells or refuses to break with the field, and thereby is left at the post, there shall be no refund of pari-mutuel wagers thereon nor refund of stakes fees paid therefor.]

Section 11. Leaving Course; Losing Jockey. If a horse leaves the course during the running of a race, such horse must turn back and run the course from the point at which it left the course, or such horse shall be ruled unplaced. Any horse which starts in a race, but does not cross the finish line, or is not ridden across the finish line by the jockey with whom it starts the race, shall be declared unplaced. Any portion of a purse that would normally accrue to such horse shall revert to the association.

Section 12. Fouls. A leading horse when clear is entitled to any part of the track. Except in a straight-away racing, every horse must maintain position as nearly as possible in the lane in which it starts. If a leading horse, or any other horse in a race, swerves or is ridden to either side so as to interfere with or intimidate or impede any other horse or jockey, or to cause same, it is a foul; if a jockey strikes another horse or jockey, it is a foul. If in the opinion of the stewards, a foul alters the finish of a race, any offending horses may be disqualified by the stewards.

Section 13. Stewards to Determine Foul Riding. Every jockey shall be responsible for making his best effort to control and guide his mount in such a way as not to cause a foul. The stewards shall take cognizance of riding which results in a foul, irrespective of whether an objection is lodged, and if in the opinion of the stewards, a foul is committed as a result of a jockey not making his best effort to control and guide his mount to avoid a foul, whether intentionally or through carelessness or incompetence, such jockey may be penalized at the discretion of the stewards.

Section 14. Horses to be Ridden Out. Every horse in every race must be ridden so as to win or finish as near as possible to first and demonstrate the best and fastest performance of which it is capable at the time; no horse shall be eased up without adequate cause even if it has no apparent chance to earn a portion of the purse money. A jockey who unnecessarily causes a horse to shorten stride may be penalized at the discretion of the stewards. Stewards shall take cognizance of marked reversal of form of all horses and shall conduct inquiries of the licensed owner, licensed trainer, and all other persons connected with such horse suspected of unformful racing; and if the stewards find that such horse was deliberately restrained or impeded in any way by any means so as not to win or finish as near as possible to first, any person found to have contributed to such circumstance may be penalized at the discretion of the stewards.

Section 15. Use of Whips, Other Means of Altering Performance. Whips are to be used uniformly and the stewards shall take cognizance of unusual use or nonuse of a whip by a jockey. No appliance, electrical or mechanical, other than the ordinary whip, shall be used to affect the speed of a horse in a race or workout. No sponge or other object may be used to interfere with the respiratory system of a horse. Use or nonuse of ordinary racing equipment shall be consistent and any change thereof must be

approved by the stewards.

Section 16. Official Order of Finish as to Pari-mutuel Payoff. In the event of foul riding, or other cause for disqualification of any horses in a race, is brought to the attention of the stewards by the time the last jockey in a race has been weighted in, the stewards shall rule on the extent of disqualification, if any, and shall determine the placing of the horses in the official order of finish for purposes of pari-mutuel payoff. After the stewards have caused the "official" sign to be flashed on the infield result board, the order of finish so declared official shall be final, and no right of appeal thereof shall exist, insofar as the pari-mutuel payoff is concerned. Any subsequent change in the order of the finish or award of purse money after the result of a race has been so declared official by the stewards shall in no way affect the pari-mutuel payoff.

CARL B. LARSEN, Executive Director
AMANDA S. LOGAN, Deputy Secretary
APPROVED BY AGENCY: December 18, 1987
FILED WITH LRC: January 14, 1988 at 2 p.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on February 24, 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, Executive Director
(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

PUBLIC PROTECTION & REGULATION CABINET
Kentucky Harness Racing Commission
Quarter Horse, Appaloosa, and Arabian
(Proposed Amendment)

811 KAR 2:096. Medication of horses.

RELATES TO: KRS 230.610 to 230.770
PURSUANT TO: KRS Chapter 13A
NECESSITY AND FUNCTION: To regulate conditions under which quarter horse, appaloosa and Arabian racing shall be conducted in Kentucky. The function of this regulation relates to the use of medication on the horses and requirements and controls thereof.

Section 1. Use of Medication. Full use of modern therapeutic measures and medication calculated to improve or protect the health of a horse may be administered to a horse in training, under the direction of a licensed veterinarian. In the interest of protecting the racing public, health of the horse, safety of the participants in a race, nurturing formful racing, and improvement of the breed of quarter horse, appaloosa, and Arabian.
(1) No horse while participating in a race shall carry in its body any medication, or drug, or substance, or metabolic derivative thereof, which is a narcotic, or which could serve as a local anesthetic, or tranquilizer, of which could stimulate or depress the circulatory, respiratory, or central nervous system of a horse, thereby effecting its speed.
(2) Also prohibited are any drugs which might mask or screen the presence of the aforementioned prohibited drugs, or prevent or delay testing procedures.
(3) Proof of detection by the commission chemist of a medication, or drug, or substance, or metabolic derivative thereof, prohibited by subsection (1) of this section, in a saliva, urine, or blood specimen duly taken under the supervision of the commission veterinarian from a horse promptly after running a race, shall be prima facie evidence that such horse was administered and carried such prohibited medication, drug, or substance, in its body while running in such race in violation of this rule.

Section 2. When Administration Prohibited. No person other than a licensed veterinarian shall administer or cause to be administered, or participate, or attempt to participate, in any way in the administration to a horse registered for racing of any medication, drug, or substance on the day of a race for which such horse is entered and prior to such race.

Section 3. Responsibility for Prohibited Administration. (1) Any person found to have administered a medication, drug, or substance which caused or could have caused a violation of Section 1 or 2 of this regulation, or caused, or participated, or attempted to participate in any way in such administration, shall be subject to disciplinary action.
(2) The licensed trainer of a horse found to have been administered a medication, drug, or substance in violation of Section 1 or 2 of this regulation shall bear the burden of proof showing freedom from negligence in the exercise of a high degree of care in safeguarding such horse from tampering; and, failing to prove such

freedom from negligence (or reliance on the professional ability of a licensed veterinarian) shall be subject to disciplinary action.

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

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

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

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

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

(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 work out for the stewards 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 work out for the stewards 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 millileter 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 stewards. A second violation shall result in a fine against the owner, not to exceed $5,000.

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

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

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

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

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

(4) All containers previously used for

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

(5) Samples taken from a horse by the commission veterinarian or his assistant shall be placed in a container and sealed together with a double identification tag. One (1) portion of such tag bearing a printed identification number shall remain with the sealed container; the other portion of such tag bearing the same printed identification number shall be detached in the presence of the witness as provided by subsection (3) of this section, the commission veterinarian shall thereon identify the horse from which such specimen was taken, as well as the race and day, verified by such witness, and such detached portions of identification tags shall be placed in a sealed envelope by the commission veterinarian for delivery only to the stewards. The commission veterinarian shall take every precaution to ensure that the commission chemist and no member of the laboratory staff shall know the identity of the horse from which a specimen was taken prior to the completion of all testing thereon.

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

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

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

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

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

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

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

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

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

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

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

CARL B. LARSEN, Executive Director
AMANDA S. LOGAN, Deputy Secretary
APPROVED BY AGENCY: December 18, 1987
FILED WITH LRC: January 14, 1988 at 2 p.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on February 24, 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, Executive Director

(1) Type and number of entities affected: Horsemen.

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None

additional.
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None additional.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Regulation affects all horsemen.

CABINET FOR HUMAN RESOURCES
Department for Mental Health and Mental Retardation Services
(Proposed Amendment)

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

RELATES TO: KRS Chapter 210
PURSUANT TO: KRS 210.010
NECESSITY AND FUNCTION: KRS 210.010 directs the Secretary of the Cabinet for Human Resources to prescribe regulations for the institutions under the control of the cabinet. The function of this regulation is to adopt policies and procedures for such institutions.

Section 1. Oakwood Policy Manual. The policies set forth in the November 15, 1987, edition of the "Oakwood Policy Manual" consisting of three (3) volumes relating to the operation of Oakwood ICF-MR Facility are hereby adopted by reference.

Section 2. Hazelwood Policy Manual. The policies and procedures set forth in the November 15, 1987, edition of the "Hazelwood Policy Manual" consisting of two (2) volumes relating to the operation of Hazelwood ICF-MR Facility are hereby adopted by reference.

Section 3. Central State Hospital ICF-MR Policy Manual. The policies and procedures set forth in the November 15, 1987, edition of the "Central State Hospital ICF-MR Policy Manual" consisting of two (2) volumes relating to the operation of Central State Hospital ICF-MR Facility are hereby adopted by reference.

Section 4. Eastern State Hospital Policy Manual. The policies and procedures set forth in the November 15, 1987, edition of the "Eastern State Hospital Policy Manual" consisting of twenty-one (21) volumes relating to the operation of Eastern State Hospital Facility are hereby adopted by reference.

Section 5. Central State Hospital Policy Manual. The policies and procedures set forth in the January 15, 1988 [November 15, 1987], edition of the "Central State Hospital Policy Manual" consisting of nineteen (19) volumes relating to the operation of Central State Hospital Facility are hereby adopted by reference.

Section 6. Western State Hospital Policy Manual. The policies and procedures set forth in the January 15, 1988 [November 15, 1987], edition of the "Western State Hospital Policy Manual" consisting of thirty-three (33) volumes relating to the operation of Western State Hospital Facility are hereby adopted by reference.

Section 7. Glasgow ICF Policy Manual. The policies and procedures set forth in the November 15, 1987, edition of the "Glasgow ICF Policy Manual" consisting of twelve (12) volumes relating to the operation of Glasgow ICF Facility are hereby adopted by reference.

Section 8. Western State Hospital ICF Policy Manual. The policies and procedures set forth in the November 15, 1987, edition of the "Western State Hospital ICF Policy Manual" consisting of nine (9) volumes relating to the operation of Western State Hospital ICF Facility are hereby adopted by reference.

Section 9. Volta Policy Manual. The policies and procedures set forth in the November 15, 1987, edition of the "Volta Policy Manual" consisting of one (1) volume relating to the operation of Volta Facility are hereby adopted by reference.

Section 10. Kentucky Correctional Psychiatric Center Policy Manual. The policies and procedures set forth in the January 15, 1988 [November 15, 1987], edition of the "Kentucky Correctional Psychiatric Center Policy Manual" consisting of thirteen (13) volumes relating to the operation of Kentucky Correctional Psychiatric Center Facility are hereby adopted by reference.

Section 11. Location of Manuals Referenced in This Regulation. A copy of each manual referenced in this regulation is on file in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky, and is open to public inspection.

Section 12. Summary of Amendments.

Section 5 - Central State Hospital Policy Manual

Vol E 11 Pharmacy Manual
Section 4 - Page Two - The word "nursing" was changed to read "pharmacy" and item number 8 has been added in order to meet JCAH 1988 guidelines.
Section Y No. 7 - Page Two - Items No. 16 and 17 to include PRN orders for medication to be limited to two weeks and physicians' orders must clearly state the administration times for the intervals between doses.
Section Y No. 11 - Items No. 4, 5, and 6 were added to clarify the monitoring and evaluation of adverse drug reactions.

Vol E 1 - General Hospital Policy and Procedure Manual

Section B No. 30 - "Hospital Committees" - new policy to be added to facilitate a systematic operation of the hospital and assist departments in providing quality care.

Section D No. 1 - "Bylaws of the Staff" - bylaws were revised to update the ultimate authority of the Governing Board and to include that Medical Staff shall include all physicians and dentists who are privileged to provide quality care for patients at Central State Hospital.

Section K No. 1 - "Psychological Services" - revised policy to add Procedure Nos. 3 and 5. Procedure No. 6 changed Executive Clinical Committee for Credentialling to read Privileging Committee.

Section M No. 1 - "Speech & Language Pathology/Audiology Programs" - no changes made other than having the new Hospital Director's signature on the policy.

CSH Quality Assurance Committee's Flow Chart - revised to be added behind Section Z No. 1 behind Page 4 to change the bottom block to read "Systematic Monitoring Mechanism."

Utilization Review & Medical Care Evaluation Plan of CSH - revised to be added behind Section FF No. 1 - Page 1, Paragraph I - approved by Medical Staff instead of Clinical Staff. Page 1, Paragraph IV - A. Five active alternates appointed has been added; chairperson will serve two years. Page 2, Paragraph IV - G. An alternate member shall be designated to serve in member's absence. Page 2, Paragraph VI - 3. Federal agencies added. Page 3-6. To comply with the confidentiality. Page 3, Paragraph VII - A. - (3rd paragraph) Health Care Financing Administration has been added (See attached addendum) has been deleted. Page 5, Paragraph 5 - Fifth paragraph on page has been deleted, no longer appropriate. Page 5, Paragraph IV - Discharge planning - bottom paragraph has been added, was deleted a few years back when we had no treatment team.

Section HH No. 1.40 - "Patient Name Bands & Privileges" - revised policy - under Procedure No. 4 White Band was changed to Solid White Band and Blue Band was added to Procedure No. 4.

Section HH No. 2.60 - Testimony in Mental Inquest Court (KRS 202A) Preliminary Health and Jury Trial - revised to change Procedure No. 2 to read in the first sentence (6) days rather than (5) days.

Section HH No. 2.90 - "Referral for Follow-up Outpatient Treatment" - revised to change Procedure No. 1 to read Social Worker instead of Case Manager and the same for the Procedure No. 2. Procedure No. 4 & 5 was deleted to add to the No. 4 which states the Social Worker will document this information on the discharge checklist.

Section HH No. 3.10 - "Death of Patient" - revised the entire policy to update designees to be notified promptly when death occurs and including if an active member of the Army is pronounced dead at Central State Hospital.

Section HH No. 5.76 - "Intimate Sexual Behavior with Consenting Adult Patients" - this is a new policy to be added.

Section HH No. 5.77 - "In-house Rape or Sexual Assault" - new policy to be added to assist clinical staff in making decisions about the care of patients who have been raped or sexually assaulted.

Section HH No. 6.40 - "Prevention of Violence & Destructive Behavior" - revised to delete (30 under the Procedure to remove the age and delete (b) under Procedure No. 1.

Section HH No. 9.51 - "Psychotherapeutic Interventions" - new policy combining Family Therapy, Therapy Progress Notes, Individual Therapy and Group Psychotherapy into one policy. This policy covered similar content areas and were combined for reason of efficiency.

Section HH No. 10.26 - "Anesthesia Services" - revised only to change 10.25-1 to be as 10.26.

Section HH No. 10.50 - "Serum/ETOH and Urine Drug/ETOH Screening" - revised to read Serum/ETOH in the policy and under Procedure No. 3 a new paragraph was added and Procedure No. 7 was added.

Delete the following policies from your manual: Section HH No. 8.45 - Nursing Care Plan and Form, Section HH No. 9.30 - Family Therapy, Section HH No. 9.35 - Group Psychotherapy and Section HH No. 9.40 - Individual Therapy.

Section 6 - Western State Hospital Policy Manual

Vol F 2	Nursing procedure Manual Table of Contents - to reflect additions.
Unit I	Procedure #13 - New Procedure for Hemocult Specimen.
Unit III	Procedure #5 - revised to include new intervention in case of poisoning.
	Procedure #2 - new information applicable to isolation.
	Procedures #3, 4, 5, 6, 7, and 8 revised procedure consistent with the guidelines of the Center on Disease Control.
Unit V	Procedure #9 - revised to reflect current nursing practice on infection control.
Unit VI	Procedure #2, "Lavage" - revised to follow current practice.
Vol F-11	Revised to include statement #3(g).

Section 10 - Kentucky Correctional Psychiatric Center

J-2/A-4	"Chart Form Sequence," revised. Consultation Flow Sheet and DSU Admission Screening, and Seclusion/Restraint Flow Sheet added. Nursing Assessment and History deleted. Daily Seclusion/Restraint Record deleted.
J-2/A-4	"Chart Stripping," Revised. Seclusion/Restraint Flow Sheet added. Nursing Assessment & History, and Daily Seclusion/Restraint Record deleted.
J-2/A-4a	"Confidentiality," newly implemented.
J-2/A-9	"Fire and Safety - Nursing Staff Duties," revised information added.
J-2/A-25a	New Policy on "Tornado/Severe Weather-nursing Staff Duties/Responsibilities."
J-2/B-2	"Admission," Revised Information added on DSU Screening, Infection Control, and Room Assignment.
J-2/B-3	"Admission Chart Packet," revised DSU Screening. Nursing History Assessment and Nursing Care Plan added. Nursing Care Plan and Nursing History deleted.

J-2/B-9	"Charting on Inpatients," revised. Policy written with information added concerning Suicide Precaution charting, Nursing Discharge Summary Sheet.
J-2/B-11	"Consultations Off Grounds," revised. Attending physician's approval added. Charting NCP deleted. Consultation Flow Sheet added.
J-2/B-13	"Dental Consultations," revised. Time change for making appointments. Consultation flow sheet added.
J-2/B-18	"Discharge," revised. New Nursing Discharge Summary Sheet added.
J-2/B-22	"EEG," revised. Change scheduling to Medical Records instead of Nursing Clerk. Charting NCP deleted. Charting consultation flow sheet added.
J-2/B-27	"Medical Emergency Plan/Prehospital Care Report" (added), Tri-county Community Hospital added.
J-2/B-28	"Enema (Cleansing)," revised. Charting MAR added. Charting NCP deleted.
J-2/B-30	"Fecal Impaction Removal," revised. Charting MAR added.
J-2/B-37	"In-hospital Incident Report," revised. Nursing quality Assurance statement added.
J-2/B-40	"Laboratory Procedures and EKG Procedures," revised. Stat Lab Procedures changed to include Tri-county Community Hospital.
J-2/B-41	"Medical Treatment," revised. Charting NCP deleted.
J-2/B-51	"Medication Administration Record," revised.
J-2/B-53	"Automatic Stop Order Policy on Drugs," revised.
J-2/B-56	"Reporting Drug Reactions," revised. Added physician to fill out report form obtained from Pharmacist.
J-2/B-57	"Medication Errors," revised. Addition of form "Tool for Scoring Medication Errors" with revised point system.
J-2/B-59	"Drugs Brought to KCPC by Admitted Patients," revised. Recording on Discharge Check-out Form and Nursing Discharge Flow Sheet added.
J-2/B-67	"Physician Log Sheet," revised. Total Patients in Daily Restraint and Seclusion. Name change for clarification. Examples given for recording.
J-2/B-78	"To Obtain a Stool Specimen," revised. Charting NCP deleted.
J-2/B-80	"Suicide Precautions," revised. Charting changed due to use of new Seclusion/Restraint Flow Sheet.
J-2/B-82	"Telephone Orders/Verbal Orders," revised. Verbal orders added.
J-2/B-86	"Transcribing Physician Orders," revised. Addition of verbal orders.
J-2/B-90	"Vital Signs," revised. A. Routine (explained). B. Special (explained).
J-2/B-91	"Weight," revised. Monitoring and teaching included and clarified.
J-2/B-92	"X-Ray Procedures," revised. Scheduling discipline changed. Consultation Flow Sheet added.

[Section 1 - Oakwood Policy Manual

VOL A1 DST 07 #34 (4) - add the words "or fine" after "suspension" under "4th or 5th offense".

Section 2 - Hazelwood Policy Manual

A new policy book has been developed, with the two volumes being condensed into one. The policies included in this current manual are those which still remain from the former, two volumes. There are four new policies.

Policy #D-7.1 Normalization.
Type change: This policy is submitted as required by the accreditation body, ACDD, and explains our overall approach toward normalizing resident care.

Policy #E-14.2 Pastoral Services Advisory Council.
Type change: New policy. This establishes an advisory council composed of local ministers, parents, and residents, and promotes direction in community involvement in the provision of residential religious services.

Policy #G-1 Risk Management.
Type change: New policy. The risk management program for the facility is designed to reduce chances of accidents for employees and residents, thus preventing environmental dangers.

Policy #H-2 Linen and Clothing Exchange.
Type change: New policy in order to more clearly provide residents with their daily linen needs by authorizing daily allotments to staff. The new procedure will reduce the consumption of linen and provide more efficient distribution.

The above policies are new to the facility, and result from the updating of the previous policy manual.

Section 3 - Central State Hospital/ICF-MR Policy Manual

Vol C1, Series 4-17, #25 (4) - add the words "or fine" after "suspension" under "4th or 5th offense".

Section 4 - Eastern State Hospital Policy Manual

Vol D2 Section II, #16 (4) - add the words "or fine" after "suspension" under "4th or 5th offense".

Vol E Section 2, pg. 45 - New policy outlines who is to use the park and the restrictions that have been agreed upon by the Executive Committee.

Section 5 - Central State Hospital Policy Manual

Volume E1
Section B No. 26 - Hospital Environment - revised to add under Procedure No. 6 (third paragraph "Cameras") to read "Photographs of patients are prohibited by anyone."

Section C No. 1 - Fire and Safety - the entire Fire and Safety Manual revised to correspond with the new facility and to make the necessary

procedures and responsibilities for the safe operation of Central State Hospital.

Section Y No. 2 - Hours of Operation - Pharmacy & Central Supply revised to change Procedure 2(a) to include the emergency night cabinet (Documed) and give its location in the new hospital building.

Section HH No. 2.10 - Revised policy to change in the Subject on Line 2 to delete "involuntary" and add "KRS 202A" Procedure No. 3 - substitute "social worker" for "care manager". Procedure No. 4 - delete "see procedure for patients taken out of hospital by visitors".

Section HH No. 2.32 - Revised to substitute social worker for care manager in Paragraphs 1 and 2; and deleting in Paragraph 3 "the case manager" and starting the sentence with "Any staff".

Section HH No. 2.40 - Revised to include in the policy section line 2, "including self care such as eating or taking fluids", and to add in line 3 "KRS 202A".
Procedure No. 2 - second and third sentences deleted.
Procedure No. 4 was added to the procedures.
Procedure No. 8 was added to the procedures.

Section HH No. 2.60 - revised in the Policy section to change "case manager" to "designated staff member".

Procedure No. 1 - changed "case Manager" to read "staff member".
Procedure No. 3 - "case manager" to read "staff member".
Procedure No. 4 - second line changed "case manager" to "staff member".

Section HH No. 2.70 - revised policy for minor clarifications.

Section HH No. 3.20 - revised policy to add under Procedure No. 7 (a) added Switchboard operator and deleted (8 a.m. to 4:30 p.m.) in (g.) by the Hospital Chaplain.

Section HH No. 4.45 - revised policy - under Procedure No. 2 (g) the words "with patient's consent for release of information" was added.

Section HH No. 8.30 - revised policy - Subject - "Ward" was changed to "Patient". Under policy word "ward" was deleted. Procedure (1) "ward" was changed to read "unit" and No. 8 was deleted.

Section HH No. 11.50 - revised policy.

E-16 - Psychology Department Manual
1. Psychological Services - was changed to reflect new organization found in the new hospital.
2. The Psychologist as Consultant to Treatment Team - subject was changed to reflect role as consultants to the treatment team rather than members.
3. Psychological Assessment - description of charting was changed to coincide with new procedure.
4. Individual Psychotherapy - minor changes made in referral section to reflect current policy.
5. Group Psychotherapy - minor changes made in documentation section to conform with new procedures.
6. Supervision - changed to reflect supervision for staff and students.
7. Quality Assurance Program for Psychology - changed to conform with recent changes in Quality Assurance standards.
8. Privileging for Psychology Staff - new policy to describe privileging for psychology staff.

Vol E1 Section X #19 (4) - add the words "or fine" after "suspension" under "4th or 5th offense".

Section 6 - Western State Hospital Policy Manual

Vol F 33 Infection Control Policy
#7 - Disposal of Hospital Waste - New policy in response to treatment need.
#8 - Body Substance Precautions - New policy in response to treatment need.
#9 - Cleaning and Monitoring of Ward Refrigerators - New policy in response to treatment need.

Vol F14, #38 (4) - add the words "or fine" after "suspension" under "4th or 5th offense".

Section 7 - Glasgow ICF Policy Manual

Vol G12, PG. 12b (4) - add the words "or fine" after "suspension" under "4th or 5th offense".

Section 8 - Western State Hospital ICF Policy Manual

Vol H1, #XXVIII (4) - add the words "or fine" after "suspension" under "4th or 5th offense".

Section 9 - Volta Policy Manual

Vol I Personnel I (4) - add the words "or fine" after "suspension" under "4th or 5th offense".

Section 10 - Kentucky Correctional Psychiatric Center

J-5/A14 This policy was revised to include the duties of the 5-A Officer during meals.

Vol J1, A45 (D) - add the words "or fine" after "suspension" under "4th or 5th offense".]

DENNIS D. BOYD, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: January 11, 1988
FILED WITH LRC: January 14, 1988 at 9 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 23, 1988, at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 18, 1988 of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Verna Fairchild
(1) Type and number of entities affected: This regulation with the attached reference material is the ongoing policy and procedure manual of the state facilities for the treatment of patients with mental illness and mental retardation. These facilities function with 2,880 staff members serving 1,850 residents.
(a) Direct and indirect costs or savings to those affected:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements:
(2) Effects on the promulgating administrative body: This regulation usually does not affect the fiscal operation of these state facilities significantly. It affects the care and treatment of patients, compliance with JCAH standards, and Kentucky licensure regulations. The work environment of the staff is frequently the subject of this regulation also, along with the orderly management of the various programs.
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues:
(4) Assessment of alternative methods; reasons why alternatives were rejected: Present procedure not previously adopted by regulation.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Yes

CABINET FOR HUMAN RESOURCES
Department for Employment Services
Division of Unemployment Insurance
(Proposed Amendment)

903 KAR 5:300. Required reports and due dates.

RELATES TO: KRS 341.190, 341.262
PURSUANT TO: KRS 13A.100, 194.050, 341.115
NECESSITY AND FUNCTION: KRS 341.190 authorizes the Secretary for Human Resources to require the furnishing of certain information and records by employing units concerning wages paid, employment and other related matters. KRS 341.262 provides that a penalty will be assessed for failure to submit such reports when due. This regulation delineates the reports with attendant due dates.

Section 1. Required reports include: Employer's Quarterly Unemployment Wage and Tax Report, U.I.-3.

Section 2. Due Dates. (1) Except as provided below, the due date for the filing of the U.I.-3 report is the last day of the month following the close of the calendar quarter in which wages are paid in covered employment.
(2) The initial due date for the filing of U.I.-3 reports by an employing unit newly subject under the provisions of KRS 341.070 shall be the last day of the month following the quarter in which the employing unit is first given notice by the department of its liability as a subject employer, provided that:
(a) For the purpose of this regulation, no employing unit shall be deemed to be newly subject if, prior to beginning employment in Kentucky, it has previously been determined subject under the unemployment compensation law of any other state; or if it has previously been determined subject under the provisions of KRS 341.070 but subsequently terminated such subjectivity under the provisions of KRS 341.250(2); and
(b) This subsection will not apply if th employing unit has failed to file a U.I.-3 report due to willful intent to evade such filing. In such case the provisions of subsection (1) of this section will apply.

Section 3. Reports which are deposited in the mail shall be considered filed as of the date indicated by the postmark thereon.

Section 4. For the purpose of this regulation, when the due date falls on a day during which offices of the Division of Unemployment Insurance are closed, the next day thereafter on which such offices are open shall be considered the due date.

JAMES P. DANIELS, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: January 1, 1988
FILED WITH LRC: January 14, 1988 at 9 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 23, 1988, at 9 a.m. in the Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 18, 1988, of their desire to appear and testify at the hearing: Ryan Halloran, Acting General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James P. Daniels
(1) Type and number of entities affected: Approximately 70,000 Ky. employers.
(a) Direct and indirect costs or savings to those affected:
1. First year: Indeterminate amount of penalty will be avoided by new employers filing late returns.
2. Continuing costs or savings: Same as above.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: Indeterminate reduction in penalty assessed on returns filed late by new employers.
2. Continuing costs or savings: Same as above.
3. Additional factors increasing or decreasing

costs: Some reduction in administrative cost due to reduction in number of penalties assessed.
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments: None
TIERING: Was tiering applied? No

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Division of Management & Development
(Proposed Amendment)

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

RELATES TO: KRS 205.245
PURSUANT TO: KRS 194.050
NECESSITY AND FUNCTION: The Cabinet for Human Resources is responsible under Title XVI of the Social Security Act as amended by Public Law 92-603 to administer a state funded program of supplementation to all December, 1973, recipients of aid to the aged, blind and disabled, hereinafter referred to as AABD, disadvantaged by the implementation of the Supplemental Security Income Program, hereinafter referred to as SSI. KRS 205.245 provides not only for the mandatory supplementation program but also for supplementation to other needy aged, blind and disabled persons. This regulation sets forth the provisions of the supplementation program.

Section 1. Mandatory State Supplementation. Mandatory state supplementation payments must be equal to the difference between the AABD payment for the month of December, 1973, plus any other income available to the recipient as of that month and the total of the SSI payment and other income. Also included are those former aged, blind or disabled recipients ineligible for SSI due to income but whose special needs entitled them to an AABD payment as of December, 1973. Mandatory payments must continue until such time as the needs of the recipient as recognized in December, 1973, have decreased or income has increased to the December level.
(1) The mandatory payment is increased only when income as recognized in December, 1973, decreases, the SSI payment is reduced but the recipient's circumstances are unchanged, or the standard of need utilized by the department in determining optional supplementation payments for a class of recipients is increased.
(2) In cases of man and wife, living together, income changes after September, 1974, will result in increased mandatory payment only if total income of the couple is less than December, 1973, total income.

Section 2. Optional State Supplementation. Optional state supplementation is available to those persons meeting technical requirements and resource limitations of the aged, blind or disabled medically needy program as contained in 907 KAR 1:011 and 907 KAR 1:004 (except as otherwise specified herein) who require special living arrangements and who have insufficient income to meet their need for care. Special living arrangements include residence in a personal care home as defined in 902 KAR 20:036 or family care home as defined in 902 KAR 20:041 or situations in which a caretaker must be hired to provide care other than room and board. A supplemental payment is not made to or on behalf of an otherwise eligible individual when the caretaker service is provided by the spouse, parent (of an adult disabled child or a minor child), or adult child (of an aged or disabled parent) who is living with the otherwise eligible individual. When this circumstance exists and a person living outside the home is hired to provide caretaker services, the supplemental payment may be made. Application for SSI, if potential eligibility exists, is mandatory.

Section 3. Resources Considerations. In determining countable resources and the effect of resources on eligibility, the following policies are applied.
(1) The upper limit for resources for an individual and for a couple is set at $1,700 and $2,550, respectively, effective January 1, 1986; at $1,800 and $2,700, respectively, effective January 1, 1987; at $1,900 and $2,850, respectively, effective January 1, 1988; and at $2,000 and $3,000, respectively, effective January 1, 1989.
(2) Income producing property with a net equity of $6,000 or less is excluded.
(3) The first $4,500 of equity value in an automobile is excluded; if used for employment, to obtain medical services, or if specially equipped (e.g., as for use by the handicapped) there is no upper limit on value.
(4) Burial reserves (life insurance, prepaid burial policy, etc.) up to $1,500 are excluded. The face value of life insurance is considered when determining the total value of burial reserves if the face value of the life insurance is less than $1,500. Burial spaces are excluded from consideration when computing the value of burial reserves.
(5) A homestead, household items, and personal items are excluded.
(6) Resources determined in accordance with subsections (2), (3), and (4) of this section to be in excess of excluded amounts must be considered countable resources when determining whether the individual or couple exceeds the upper limits specified in subsection (1) of this section. If resources exceed the upper limits, the individual or couple is ineligible.

Section 4. Income Considerations. In determining the amount of optional supplementation payment, total net income of the applicant or recipient, or applicant or recipient and spouse, including any payments made to a third party in behalf of an applicant or recipient, is deducted from the standard of need with the following exceptions:
(1) Income of the ineligible spouse is conserved for the needs of the ineligible, non-SSI spouse and/or minor dependent children in the amount of one-half (1/2) of the SSI

standard for an individual for each person adjusted by deduction of sixty-five (65) dollars and one-half (1/2) of the remainder from monthly earnings of spouse. Income of the eligible individual is not conserved for the needs of the ineligible spouse and/or minor dependent children. When conserving for the needs of the minor dependent children, income of the children must be appropriately considered so that the amount conserved does not exceed the allowable amount. When the eligible individual and spouse each have earnings, the earnings must be combined prior to the application of the earnings disregard of sixty-five (65) dollars and one-half (1/2) of the remainder.

(2) If one (1) member of a couple is institutionalized and the SSI spouse maintains a home, income in the amount of the SSI standard for one (1) is conserved for the spouse.

Section 5. Standard of Need. (1) The standard, based on living arrangement, from which income as computed in Section 4 of this regulation is deducted to determine the amount of optional payment is as follows:

(a) Personal care home: not less than $546 [532], effective 1/1/88 [12/1/87];

(b) Family care home: not less than $444 [430], effective 1/1/88 [1/1/87];

(c) Caretaker.

1. Single individual, or eligible individual with ineligible spouse (one who is not aged, blind, or disabled): not less than $383 [369], effective 1/1/88 [1/1/87];

2. Married couple, both eligible (aged, blind, or disabled), with one (1) requiring care: not less than $556 [534], effective 1/1/88 [1/1/87];

3. Married couple, both eligible and both requiring care: not less than $594 [572], effective 1/1/88 [1/1/87].

(2) In couple cases, both eligible, the couple's income is combined prior to comparison with the standard of need, and one-half (1/2) of the deficit is payable to each.

Section 6. Institutional Status. No aged, blind or disabled person shall be eligible for state supplementation while residing in a personal care home or family care home unless such home is licensed under KRS 216B.010 to 216B.131.

Section 7. Residency. (1) To be eligible, an applicant or recipient must be a citizen of the United States, or an alien legally admitted to this country or an alien who is residing in this country under color of law. An alien must have been admitted for permanent residence. The applicant or recipient must also be a resident of Kentucky. Generally, this means the individual must be residing in the state for other than a temporary purpose; however, there are exceptions with regard to applicants for or recipients of a state supplementary payment and institutionalized individuals. The residency criteria specified in federal regulations at 42 CFR 435.403 shall be applicable except as otherwise specified herein.

(2) Supplemental payments may be made to Kentucky residents residing outside the state only when the individual has been placed in the other state by this state. In these situations, the other requirements for eligibility shown in other sections of this regulation shall be applicable, except that with regard to the requirement shown in Section 6 of this regulation, the licensure shall be in accordance with a similar licensure act of the other state. If there is no similar licensure act in the other state, the payment may be made only if this state determines that, except for being in another state, the facility meets standards for licensure under the provisions of KRS 216B.010 to 216B.131. To be eligible for a supplemental payment while placed out-of-state the individual must require the level of care provided in the out-of-state placement, there must be no suitable placement available in Kentucky, and the placement must be preauthorized by staff of the Department for Social Insurance.

(3) When determining residency, ability of the individual to indicate intent (to become a Kentucky resident) must be considered if the individual is institutionalized. The individual is considered incapable of indicating intent if:

(a) His/her I.Q. is forty-nine (49) or less or he/she has a mental age of seven (7) or less, based on tests acceptable to the department; or

(b) He/she is judged legally incompetent; or

(c) Medical documentation, or other documentation acceptable to the state, supports a finding that he/she is incapable of indicating intent.

(4) An individual is institutionalized if he/she is residing in a facility providing some services other than room and board. Personal care facilities are considered to be institutions.

(5) For any noninstitutionalized individual under age twenty-one (21) whose eligibility for a supplemental payment is based on blindness or disability, his/her state of residence is Kentucky if he/she is actually residing in the state.

(6) For any noninstitutionalized individual age twenty-one (21) or over, his/her state of residence is Kentucky if he/she is residing in the state and has the intention to remain permanently or for an indefinite period (or, if incapable of indicating intent, is simply residing in the state).

(7) For any institutionalized individual living in Kentucky who is under age twenty-one (21) or who is age twenty-one (21) or older and became incapable of indicating intent before age twenty-one (21), the state of residence is Kentucky if:

(a) The state of residence of the individual's parents, or his/her legal guardian if one has been appointed, is Kentucky; or

(b) The state of residence of the parent applying for the supplemental payment on behalf of the individual is Kentucky, when the other parent lives in another state and there is no appointed legal guardian.

(8) For any institutionalized individual living in Kentucky who became incapable of indicating intent at or after age twenty-one (21), the state of residence is Kentucky if he/she was living in Kentucky when he/she became incapable of indicating intent. If this cannot be determined, the state of residence is Kentucky unless he/she was living in another state when he/she was first determined to be incapable of indicating intent.

(9) For individuals subject to determinations of residency pursuant to subsections (7) and (8) of this section, the state of residency is Kentucky when the individual is residing in Kentucky, and a determination of residency

applying those criteria does not show the individual to be a resident of another state.

(10) For an individual subject to a determination of residency pursuant to subsections (7) and (8) of this section, the state of residence is Kentucky when Kentucky and the state which would otherwise be the individual's state of residency have entered into an interstate residency agreement providing for reciprocal residency status; i.e., when a similarly situated individual in either state would by written agreement between the states be considered a resident of the state in which he is actually residing.

(11) For other institutionalized individuals (i.e., those individuals who are both age twenty-one (21) or over and capable of indicating intent), the state of residence is Kentucky if the individual is residing in Kentucky with the intention to remain permanently or for an indefinite period.

(12) Notwithstanding subsections (3) through (11) of this section, any individual placed by the cabinet in an institution in another state may, with appropriate preauthorization, be considered a resident of Kentucky, and any individual placed in an institution in Kentucky by another state shall not be considered a resident of Kentucky.

(13) An individual receiving a mandatory state supplemental payment from Kentucky shall be considered a resident of Kentucky so long as he/she continues to reside in Kentucky. An individual receiving a mandatory or optional supplemental payment from another state shall not be considered a resident of Kentucky.

(14) An individual eligible for and receiving a supplemental payment in October, 1979, shall be considered a Kentucky resident through July 4, 1984, even if he/she does not meet the residency requirements specified in this section, so long as such individual continues to reside in Kentucky and his/her receipt of supplementary payments has not since October, 1979 been interrupted by a period of ineligibility.

(15) Notwithstanding the preceding provisions of this section, a former Kentucky resident who becomes incapable of indicating intent while residing out of this state shall be considered a Kentucky resident if he/she returns to this state and he/she has a guardian, parent or spouse residing in this state. Such individual shall not be considered a Kentucky resident on the basis of this subsection whenever, subsequent to that time, he/she leaves this state to reside in another state except when the provisions of subsection (11) of this section are met. An individual leaving the state may, however, reestablish Kentucky residency by returning to the state if he has a guardian, parent or spouse residing in this state.

MIKE ROBINSON, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: January 6, 1988
FILED WITH LRC: January 6, 1988 at 3 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 23, 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 February 18, 1987 of their desire to appear and testify at the hearing: Ryan Halloran, Acting General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James E. Randall
(1) Type and number of entities affected: Approximately 6,850 state supplementation recipients.
(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:
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: $263,000 direct cost.
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs: N/A
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: N/A
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(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. State supplementation program is administered statewide.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Division of Management & Development
(Proposed Amendment)

904 KAR 2:116. Low income home energy assistance program.

RELATES TO: KRS 194.050
PURSUANT TO: KRS 194.050
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility as prescribed by Public Law 97-35 (Title XXVI of the Omnibus Budget Reconciliation Act of 1981 as amended) to administer a program to provide assistance for eligible low income households within the Commonwealth of Kentucky to help meet the costs of home energy. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth the eligibility and benefits criteria for each of two (2) components of energy assistance, subsidy and crisis under the Home Energy Assistance Program (HEAP).

Section 1. Application. Each household or authorized representative of the household requesting assistance shall be required to complete an application and provide such information as may be deemed necessary to

determine eligibility and benefit amount in accordance with the procedural requirements prescribed by the cabinet. An "authorized representative" is that person applying on behalf of a household who presents to the cabinet or its representative a written statement signed by the appropriate household member authorizing that person to apply on the household's behalf. An application shall not be considered completed until all information necessary to determine eligibility and benefit amount is received.

Section 2. Definitions. Terms used in HEAP are defined as follows:

(1) "Principal residence" is that place where a person is living voluntarily and not on a temporary basis; the place he/she considers home; the place to which, when absent, he/she intends to return; and such place is identifiable from other residences, commercial establishments, or institutions.

(2) "Energy" is defined to include electricity, gas, and any other fuel such as coal, wood, oil, bottled gas, etc., that is used to sustain reasonable living conditions.

(3) "Household" means any individual or group of individuals who are living together in the principal residence as one (1) economic unit for whom residential energy is customarily purchased in common or who make undesignated payments for energy in the form of rent.

(4) "Economic unit" is one (1) or more persons sharing common living arrangements.

(5) "Subsidy component" is that portion of benefits reserved as energy assistance for heating.

(6) "Crisis component" is that component administered by local organizations under contract with the cabinet to provide fuel, heaters, blankets and/or sleeping bags, vouchers to purchase these items, or minor repair of the heating system to eligible households who are without heat, or will be without fuel within five (5) days, or receive a notice of disconnection of service, or require a heat system repair to obtain adequate heat.

(7) "Life threatening situation" is defined as without heat or will be without heat within forty-eight (48) hours and temperatures at a dangerous level for household members.

Section 3. Eligibility Criteria. (1) A household must meet the following conditions of eligibility for receipt of a HEAP payment under the subsidy and crisis components:

(a) For purposes of determining eligibility, the amount of continuing and noncontinuing earned and unearned gross income including lump sum payments received by the household during the calendar month preceding the month of application will be considered. Income received on an irregular basis will be prorated.

(b) Gross income for the calendar month preceding the month of application must be at or below the applicable amount shown on the income scale for the appropriate size household. Excluded from consideration as income are payments received by a household from a federal, state, or local agency designated for a special purpose and which the applicant must spend for that purpose, payments made to others on the household's behalf, loans, reimbursements for expenses, incentive payments (WIN and JTPA) normally disregarded in AFDC, federal payments or benefits which must be excluded according to federal law, and Supplemental Medical Insurance premiums.

Income Scale

Family Size	Monthly	Yearly
1	$ 504	$ 6,050
2	678	8,140
3	852	10,230
4	1,027	12,320
5	1,201	14,410
6	1,375	16,500

(c) For each household member more than six (6), the above income eligibility limitation for six (6) will be increased by $174 monthly or $2,090 yearly for each additional household member.

(d) The household must have total liquid assets at the time of application of not more than $5,000. Excluded assets are cars, household or personal belongings, principal residence, cash surrender value of insurance policies, prepaid burial policies, real property, and cash on hand or in a bank account if said cash is income considered under paragraph (a) of this subsection.

(e) Applicants for the crisis component must be without heat, or will be without fuel within five (5) days, or have received a notice of disconnection of service, or require a heat system repair to obtain adequate heat.

(2) Households are eligible to receive benefits under the subsidy component once and under the crisis component not to exceed the maximum amount of benefits.

Section 4. Benefit Levels. Payment amounts for the subsidy and crisis components are set at a level to serve a maximum number of households while providing a reasonably adequate benefit relative to energy costs. In the subsidy component, the highest level of assistance will be provided to households with lowest incomes and highest energy costs in relation to income, taking into account family size.

(1) Payments to eligible households under the subsidy component will be made for the full benefit amount based on type of energy for heating, monthly household income, and household size as specified in the following benefit scales.

Benefit Scales
Subsidy Component

Scale A.
Energy Sources: Electricity

Monthly Household Income	Payment Amount Household Size 1 and 2	Household Size 3 or More
$ 0 - $400	$123	$135
$401 - $800	$105	$117
Over $800	---	$101

Scale B.
Energy Sources: LP Gas (Propane), Fuel Oil, Kerosene, Natural Gas

Monthly Household Income	Payment Amount Household Size 1 and 2	Household Size 3 or More
$ 0 - $400	$113	$125
$401 - $800	$ 95	$107
Over $800	---	$ 88

Scale C.
Energy Sources: Coal, Wood

Monthly Household Income	Payment Amount Household Size 1 and 2	Household Size 3 or More
$ 0 - $400	$100	$112
$401 - $800	$ 82	$ 94
Over $800	---	$ 75

(2) If the cabinet receives only a percentage of the federal funds authorized by Congress, benefits to eligible households under the subsidy component may be reduced proportionately.

(3) Benefits to eligible households under the crisis component shall be in the form of fuel or other energy for heating, heaters, blankets, and/or sleeping bags, vouchers to purchase these item, or repair to a heating system to obtain adequate heat. The contracting agency will determine the type and value of assistance necessary to alleviate the crisis, not to exceed a maximum of $300 total benefit value per eligible household.

Section 5. Benefit Delivery Methods. Benefits shall be provided to eligible households as follows:

(1) Whenever feasible, payment under the subsidy component is authorized by a two (2) party check made payable to the recipient and the provider or landlord if the heating is included as an undesignated portion of rent.

(2) When a two (2) party check is not issued under the subsidy component, the recipient shall sign a statement as part of the application prior to receipt of funds affirming that benefits received under HEAP shall be utilized solely for home energy.

(3) Under the subsidy component, at the recipient's discretion, the total benefit may be made in separate authorizations to facilitate payment to more than one (1) provider (e.g., when the recipient heats with both a wood stove and electric space heaters). However, the total amount of the payments may not exceed the maximum for the primary source of energy for heating. The household will decide how to divide payment if more than one (1) provider is used.

(4) For the crisis component, no direct cash payments shall be made to the recipient. Benefits shall be provided to eligible households by the contracting agency in the amount and value determined by the contracting agency necessary to alleviate the crisis, not to exceed the maximum allowable payment. Payments under the crisis component will be authorized to the energy provider by one (1) party checks upon delivery of fuel, heaters, blankets, and/or sleeping bags, restoration or continuation of service, or upon repair of the heating system.

Section 6. Right to a Fair Hearing. Any individual has a right to request and receive a fair hearing in accordance with 904 KAR 2:055, Hearings and appeals.

Section 7. Time Standards. Under the subsidy component, the cabinet shall make an eligibility determination promptly after receipt of a completed and signed application but not to exceed thirty (30) days. Under the crisis component, completed applications will be processed such that the crisis is resolved within forty-eight (48) hours and in life threatening situations within eighteen (18) hours. Applicants under the crisis component will have no more than ten (10) working days from the date of application to provide information necessary to complete the application.

Section 8. Effective Dates. The following shall be the implementation and termination dates for HEAP:

(1) Applications for the subsidy component shall be accepted <u>from</u> [as follows:]

[(a)] Households containing at least one (1) member who is elderly (age sixty (60) or older) or receiving benefits on the basis of 100 percent disability [may apply] beginning October 19, 1987 and ending no later than October 30, 1987.

[(b) Applications shall be accepted from all households beginning November 16, 1987 and ending no later than December 30, 1987.]

(2) Applications for the crisis component shall be accepted beginning January 11, 1988 and ending no later than April 29, 1988.

(3) Applications shall be processed in the order taken until funds are expended. HEAP subsidy component shall be terminated by the secretary when actual and projected component expenditures have resulted in utilization of available funds or December 30, 1988, whichever comes first.

(4) HEAP may be reactivated after termination under the same terms and conditions as shown in this regulation should additional federal funds be made available for that purpose.

Section 9. Allocation of Funds. (1) Up to fifteen (15) percent of the total HEAP allocation shall be reserved for weatherization assistance.

(2) Up to <u>$9,590,422 of benefit funds</u> [$6,000,000] shall be reserved for the crisis component. Eighty-five (85) percent of the funds reserved for the crisis component shall be allocated, by local administering agency, based upon the poverty levels of the counties served by the local administering agency in accordance with the 1980 Census. Fifteen (15) percent of the funds plus any additional funds made available from the subsidy component shall be held by the contracting agency as a contingency fund to be allocated to any local administering agency of the state chosen at the discretion of the contracting agency to provide low income home energy assistance in accordance with its contract. On February 8, 1988, all unobligated allocations may be reallocated as necessary by the contracting agency with the concurrence of the Department for Social Insurance.

(3) <u>Up to $5,000,000 of</u> [Remaining] benefit funds available under Public Law 97-35 [less $25,000 reserved under subsection (5) of this

section] shall be reserved for the subsidy component. [Fifty (50) percent of the funds available under the subsidy component shall be reserved for households eligible to apply beginning October 19, 1987 and ending no later than October 30, 1987. The remaining fifty (50) percent plus any funds remaining available after October 30, 1987 shall be reserved for households applying beginning November 16, 1987 and ending no later than December 30, 1987. The funds available for the households applying beginning November 16, 1987 shall be allocated by area development district based upon the level of poverty in accordance with the 1980 Census. Any funds remaining available under the subsidy component after December 30, 1987 shall be made available under the crisis component contingency fund held by the contracting agency.]

(4) Up to $400,000 of the contingency fund under subsection (2) of this section shall be reserved to assure component availability until March 15, 1988 for emergency crisis assistance for households who are without heat.

(5) Up to $25,000 [of the funds in Section 3 of this regulation] shall be reserved for the Preventive Assistance Program administered by the Department for Social Services to assist families with an energy payment not to exceed $300 per family if the payment will prevent the removal of a child from a family or if it will assist in reuniting a child with the family.

Section 10. Energy Provider Responsibilities. Any provider accepting payment from HEAP for energy provided to eligible recipients is required to comply with the following:

(1) Reconnection of utilities and/or delivery of fuel must be accomplished upon certification for payment;

(2) The household must be charged in the normal billing process the difference between the actual cost of the home energy and the amount of payment made through this program. For balances remaining after acceptance of the HEAP payment, the customer must be offered the opportunity for a deferred payment arrangement or a level payment plan;

(3) HEAP recipients shall not be treated adversely than households not receiving benefits;

(4) The household on whose behalf benefits are paid shall not be discriminated against, either in the costs of goods supplied or the services provided; and

(5) A landlord shall not increase the rent of recipient households on the basis of receipt of this payment.

MIKE ROBINSON, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: January 6, 1988
FILED WITH LRC: January 8, 1988 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 23, 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 February 18, 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 Randall, Director

(1) Type and number of entities affected: 49,000 low income households will not receive benefits under Subsidy Part 2. However, the increase to the Crisis Component funds will enable most, if not all, low income households in a crisis situation to receive assistance.

(a) Direct and indirect costs or savings to those affected: Benefits averaging $105 will not be received by households who would have applied under Subsidy Part 2, but the increased availability of Crisis assistance may offset some of these lost benefits.

1. First year:
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: All households must apply for assistance.

(2) Effects on the promulgating administrative body: The Department for Social Insurance will not be administering Subsidy Part 2 and thus will serve approximately 50,000 fewer households, but the Crisis Component administering agency will have funds to serve approximately 50% more households.

(a) Direct and indirect costs or savings: Up to 10% of funds payable and not transferred may be used for administration.

1. First year: Approximately $500,000 in administrative costs reimbursement will not be available to DSI while an additional $350,000 in administration cost reimbursement will be available for Crisis.
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Administrative requirements for grants under appropriate state and federal law and regulation.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: Not appropriate to federal block grants.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: Low Income Home Energy Assistance Program is 100% federally funded.

TIERING: Was tiering applied? No. Not applicable to LIHEAP regulations.

CABINET FOR HUMAN RESOURCE
Department for Social Insurance
Division of Management & Development
(Proposed Amendment)

904 KAR 2:140. Supplementary policies for programs administered by the Department for Social Insurance.

RELATES TO: KRS 194.030(6), Chapter 205
PURSUANT TO: KRS 194.050
NECESSITY AND FUNCTION: KRS 194.010 designates the Cabinet for Human Resources as the primary

state agency responsible for the development and operation of assistance programs, and KRS 194.050 empowers the secretary of the Cabinet for Human Resources to adopt, administer and enforce regulations sufficient to operate the programs and fulfill the responsibilities vested in the cabinet. This regulation states the general policy of the cabinet with regard to program materials incorporated into regulatory form by reference for use by the Department for Social Insurance, and incorporates by reference materials related to the programs of aid to families with dependent children, medical assistance, home energy assistance, refugee assistance, food stamps, state supplemental payments for the aged, blind or disabled, and collections which are essential for the implementation of those programs.

Section 1. General Policy Relating to Program Materials Incorporated by Reference. (1) Kentucky administrative regulations relating to program matters reflect the policy of the cabinet with regard to the issues addressed in the regulation.

(2) Materials incorporated by reference shall be construed and interpreted in such a manner as to be consistent with the intent of agency policy as reflected in Kentucky administrative regulations, and shall be considered the agency statement of policy with regard to issues not otherwise addressed in Kentucky administrative regulations.

Section 2. Incorporation by Reference. The following listed materials are hereby incorporated by reference, effective on the date shown.

(1) Department for Social Insurance Manual of Forms, effective December [August] 1, 1987. The Manual of Forms provides forms with instructions for completion, usage, distribution and files maintenance for use of the department's field staff in implementing programs under the authority of the department, including: aid to families with dependent children; refugee assistance; home energy assistance; state supplementary payments; medical assistance; and the food stamp program.

(2) Department for Social Insurance Income and Eligibility Verification System (IEVS) Manual, effective August 1, 1987. The IEVS manual provides operating instructions, procedural detail, and technical clarification for use by the department's field staff in implementing this federally mandated social security account number (SSAN) matching system.

(3) Department for Social Insurance Field Services Operation Manual, effective December [August] 1, 1987. The operation manual provides instructions, procedural detail, and technical clarification for use by the department's field staff in implementing the Kentucky Automated Management and Eligibility System (KAMES). The programs included are aid to families with dependent children (AFDC), food stamps, and medical assistance eligibility.

(4) Federal regulations at 45 CFR Parts 16, 74, and 95, effective May 1, 1987. Part 16, Procedures of the Departmental Grant Appeals Board, provides requirements and procedures applicable to resolution of certain disputes arising under several assistance programs funded by the United States Department of Health and Human Services. Part 74, Administration of Grants, establishes uniform requirements for the administration of grants provided under the authority of the United States Department of Health and Human Services, and principles for determining costs applicable to activities assisted by Department of Health and Human Services grants. Part 95, General Administration - Grant Programs (Public Assistance and Medical Assistance), establishes requirements of the United States Department of Health and Human Services for various administrative matters relating to grant programs, including time limits for states to file claims, cost allocation plans, and conditions for federal financial participation for automatic data processing equipment and services.

Section 3. All documents incorporated by reference herein may be reviewed during regular working hours in the Division of Management and Development, Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky.

MIKE ROBINSON, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: January 5, 1988
FILED WITH LRC: January 14, 1988 at 9 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 23, 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 February 18, 1988, of their desire to appear and testify at the hearing: Ryan Halloran, Acting General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James E. Randall
(1) Type and number of entities affected: Complete analysis done when primary program regulations were amended.
(a) Direct and indirect costs or savings to those affected:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements:
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: 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.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Division of Mangement & Development
(Proposed Amendment)

904 KAR 2:170. Incorporation by reference of materials relating to the Child Support Program.

RELATES TO: KRS 205.795
PURSUANT TO: KRS 194.050
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility for administering the Child Support Program in accordance with Title IV-D of the Social Security Act and KRS 205.710 to 205.800, 205.992, and KRS 405.400 to KRS 405.530. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the Child Support Program.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the Child Support Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary Policies for Programs Administered by the Department for Social Insurance.

Section 2. Listing of Incorporated Materials. The following listed materials are hereby incorporated by reference, effective on the date shown:

(1) Federal child support regulations at 45 CFR Parts 300-399, which set forth the requirements and guidelines for the administration of the Child Support Program, effective December [May] 1, 1987;

(2) Federal Office of Child Support Enforcement Action Transmittals, which provide federal program instructions for the implementation of the child support enforcement program in accordance with federal laws and regulations, as follows: OCSE-AT-75-5, 75-6, 76-1, 76-2, 76-5, 76-7, 76-8, 76-9, 76-14, 76-21, 76-22, 76-23, 77-3, 77-14, 78-2, 78-5, 78-6, 78-8, 78-16, 78-18, 79-2, 79-3, 79-6, 79-7, 79-8, 80-5, 80-9, 80-11, 80-17, 81-7, 81-12, 81-26, 82-17, 83-15, 83-18, 84-05, and 86-04, effective May 1, 1986;

(3) Department for Social Insurance Child Support Manual of Procedures, which provides operational instructions and procedural detail for the implementation of the child support enforcement program, effective December [August] 1, 1987;

(4) Department for Social Insurance Child Support System Handbook, which provides systems and data processing instructions for the implementation of the child support enforcement program, effective December 1, 1987 [October 1, 1985];

(5) Department for Social Insurance Child Support Action Memorandums, which provide program clarifications, instructions, and procedural detail for the implementation of the child support enforcement program, as follows: DCSE-AM-82-07, 82-36, 83-16, 83-21, 83-30, 83-31, 83-38, 83-39, 84-10, 84-16, 84-18, 84-19, 84-36, 85-19, 85-30, 85-36, 85-42, 86-12, 86-14, 86-15, 86-25, [and] 87-10, and 87-12, effective December [August] 1, 1987; and

(6) Department for Social Insurance Child Support Manual of Forms, which provides forms with instructions for completion, distribution, and files maintenance for use in implementing the child support enforcement program, effective December [August] 1, 1987.

Section 3. All documents incorporated by reference herein may be reviewed during regular working hours in the Division of Management and Development, Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky.

MIKE ROBINSON, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: January 5, 1988
FILED WITH LRC: January 14, 1988 at 9 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 23, 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 February 18, 1988, of their desire to appear and testify at the hearing: Ryan Halloran, Acting General Counsel, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: James E. Randall
(1) Type and number of entities affected: All IV-D recipients of services and absent parents (approximately 225,000 cases).
(a) Direct and indirect costs or savings to those affected: Minimal
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: Minimal
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Inapplicable to program.

CABINET FOR HUMAN RESOURCES
Department for Social Insurance
Division of Management & Development
(Proposed Amendment)

904 KAR 3:090. Incorporation by reference of materials relating to the Food Stamp Program.

RELATES TO: KRS 194.030(6)
PURSUANT TO: KRS 194.050
NECESSITY AND FUNCTION: The Cabinet for Human

Resources has responsibility to administer a Food Stamp Program as prescribed by the Food Stamp Act of 1977 as amended, and 7 CFR Parts 251-282. KRS 194.050 authorizes the Secretary, Cabinet for Human Resources, to issue regulations necessary for the operation of the cabinet's programs. This regulation incorporates into regulatory form, by reference, materials used by the cabinet in the implementation of the Food Stamp Program.

Section 1. Incorporation by Reference. The cabinet shall incorporate by reference materials used in the implementation of the Food Stamp Program, subject to the provisions contained in 904 KAR 2:140, Section 1, Supplementary Policies for Programs Administered by the Department for Social Insurance.

Section 2. Listing of Incorporated Materials. The following materials are hereby incorporated by reference, effective on the date shown:

(1) Federal food stamp regulations at 7 CFR Parts 250, 251 and 271-282, which set forth the federal requirements and guidelines for the administration of the Food Stamp Program and federal food stamp general notices published through the Federal Register, effective December [August] 1, 1987;

[(2) Department for Social Insurance KAMES-FS Implementation Handbook, which provides operating instructions, procedural detail and technical clarification for use by the department's field staff in implementing the KAMES-FS system. Effective July 1, 1987, this handbook was obsoleted and the contents were relocated in other departmental manuals; and]

(2) [(3)] Federal food stamp regional letters, which set forth federal clarification of federal food stamp regulations, as follows: 80-5, 80-5.1, 80-6, 80-7, 80-8, 80-9, 80-10, 80-11, 80-13, 80-15, 80-16, 80-17, 80-19, 80-21, 80-22.1, 80-23, 80-30, 80-31, 80-32, 80-33, 80-34, 80-36, 80-38, 80-39, 80-41.1, 80-42, 80-43, 80-44, 80-47, 80-48, 80-49, 80-50, 80-51, 80-52, 80-53, 80-54, 80-58, 80-58.1, 80-58.2, 80-59, 80-62, 80-67, 80-71, 80-72, 80-73, 80-76.1, 80-77, 80-78, 80-79, 80-80, 80-81, 80-82, 80-83, 80-85, 80-86, 80-87, 80-88, 80-89, 80-91, 80-92, 80-93, 80-96, 80-98, 80-99, 80-100, 80-101, 80-102, 80-103, 80-105, 80-106, 81-3, 81-3.1, 81-3.2, 81-4, 81-4.1, 81-4.2, 81-4.3, 81-5, 81-6, 81-8, 81-9, 81-10, 81-10.1, 81-10.2, 81-11, 81-12, 81-13, 81-14, 81-15, 81-16, 81-17, 81-18, 81-20, 81-20.1, 81-20.2, 81-21, 81-22, 81-23, 81-24, 81-26, 81-27, 81-28, 81-29, 81-30, 81-30.1, 81-33, 81-34, 81-34.1, 81-36, 81-37, 81-38, 81-40, 81-41, 81-42, 81-43, 81-44, 81-45, 81-46.1, 81-47, 81-48, 81-49, 81-50, 81-51, 81-52, 81-53, 81-54, 81-55, 81-57, 81-57.1, 81-58, 81-60, 81-62, 81-64, 81-66, 81-67, 81-68, 82-3, 82-4, 82-5, 82-6, 82-7, 82-8, 82-9, 82-10, 82-11, 82-12, 82-13, 82-14, 82-15, 82-16, 82-17, 82-18, 82-18.1, 82-19, 82-20, 82-21, 82-23, 82-25, 82-25.1, 82-26, 82-27, 82-29, 82-29.1, 82-30, 82-31, 82-32, 82-35, 82-36, 82-37, 82-38, 82-39, 82-40, 83-1, 83-1.1, 83-1.2, 83-2, 83-2.1, 83-3, 83-4, 83-5, 83-6, 83-7, 83-9, 83-12, 83-15, 83-17, 83-19, 83-21, 83-22, 83-24, 83-25, 83-26, 83-27, 83-28, 83-30, 83-31, 83-33, 83-36, 84-1, 84-2, 84-3, 84-4, 84-5, 84-6, 84-7, 84-8, 84-9, 84-10, 84-12, 84-15, 84-16, 84-17, 84-18, 84-19, 84-20, 84-22, 84-23, 84-24, 84-26, 84-27, 84-30, 84-32, 84-33, 84-34, 84-36, 84-37, 84-38, 84-40, 84-41, 84-42, 84-43, 84-45, 84-46, 84-47, 84-48, and 84-49, effective January 1, 1985.

(3) [(4)] Federal Food and Nutrition Service South East Regional Office (SERO) regulations supplement which sets forth federal policy clearances of federal regulations specified in subsection (1) of this section, effective December [August] 1, 1987.

Section 3. All documents incorporated by reference herein may be reviewed during regular working hours in the Division of Management and Development, Department for Social Insurance, 275 East Main Street, Frankfort, Kentucky.

MIKE ROBINSON, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: January 5, 1988
FILED WITH LRC: January 14, 1988 at 9 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 23, 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 February 18, 1988 of their desire to appear and testify at the hearing: Ryan Halloran, Acting 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:
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: Federal regulations do not allow for 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:
(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 across the state.

PROPOSED REGULATIONS RECEIVED THROUGH JANUARY 15, 1988

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality

401 KAR 59:052. New volatile organic liquid storage vessels.

RELATES TO: KRS 224.320, 224.330, 224.340
PURSUANT TO: KRS 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from new volatile organic liquid storage vessels.

Section 1. General References. (1) In the federal regulation adopted by reference in this regulation, except as specified in this section, "Administrator" shall be read as "secretary," "U.S. EPA" and "Agency" shall be read as "cabinet," and "this subpart" shall be read as "this regulation."
(2) The changes in subsection (1) of this section shall not apply to 40 CFR 60.111b(f)(4), 60.114b, 60.116b(e)(3)(iii), 60.116b(e)(3)(iv), and 60.116b(f)(2)(iii).

Section 2. The federal regulation for new volatile organic liquid storage vessels contained in 40 CFR 60, Subpart Kb, made effective by Federal Register 52 FR 11429, April 8, 1987, and as corrected by Federal Register 52 FR 22779, June 16, 1987, is hereby adopted and filed herein by reference. The methods for determining compliance as required in 40 CFR 60, Subpart Kb, are filed by reference in 401 KAR 50:015.

Section 3. Summary. The federal regulation adopted herein by reference, 40 CFR 60, Subpart Kb, limits emissions of volatile organic compounds from new storage vessels for volatile organic liquids, including petroleum, that commenced construction, reconstruction, or modification after July 23, 1984. The affected facility is each storage vessel with a capacity greater than or equal to forty (40) cubic meters (10,567 gallons) that is used to store volatile organic liquids, except as specified in the federal regulation. The standards in the federal regulation represent the best demonstrated technology.

Section 4. Availability. (1) Copies of the Code of Federal Regulations (CFR) and Federal Register are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.
(2) Copies of the material incorporated by reference in this regulation shall be available for public review at the following offices of the Division for Air Quality:
(a) Director's Office, Division for Air Quality, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601, (502) 564-3382;
(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41101, (606) 325-8569;
(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42101, (502) 843-5475;
(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky 41042, (606) 371-0598;
(e) Hazard Regional Office, 233 Birch Street, Hazard, Kentucky 41701, (606) 439-2391;
(f) Owensboro Regional Office, 311 West Second Street, Owensboro, Kentucky 42301, (502) 686-3304; and
(g) Paducah Regional Office, 1390 Irvin Cobb Drive, Paducah, Kentucky 42001, (502) 444-8295.

MARY HELEN MILLER, Secretary
APPROVED BY AGENCY: December 15, 1987
FILED WITH LRC: December 15, 1987 at 3 p.m.
PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on February 26, 1988 at 10 a.m. (EST) in the auditorium in the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Roger B. McCann, Director, Division for Air Quality, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann
(1) Type and number of entities affected: This regulation adopts by reference the federal regulation on new source performance standards (NSPS) for volatile organic liquid storage vessels (including petroleum liquid storage vessels), 40 CFR 60, Subpart Kb. Except as provided in 40 CFR 60.110b, the federal regulation applies to each storage vessel with a capacity greater than or equal to 40 cubic meters (10,567 gallons) that is used to store volatile organic liquids for which construction, reconstruction, or modification is commenced after July 23, 1984. In the Federal Register of April 8, 1987 (52 FR 11429), and as corrected in the Federal Register of June 16, 1987 (52 FR 22799), the U.S. EPA promulgated a new federal NSPS regulation, 40 CFR 60, Subpart Kb, limiting emissions from volatile organic liquid storage vessels. The cabinet is adopting by reference the federal regulation, 40 CFR 60, Subpart Kb, so that Kentucky can be granted delegation of authority to implement and enforce the provisions of the federal regulation.
Available information indicates that there are 38 storage vessels which have commenced construction after July 23, 1984, and are potentially affected by this regulation, depending on the capacity of each vessel and true vapor pressure of the liquid stored. Any new source would also be subject to the requirements in this regulation.
(a) Direct and indirect costs or savings to those affected: Since the standards of this regulation are identical to the federal regulation, there are no additional costs associated with complying with the state's regulation over complying with the federal regulation. Present and future sources in Kentucky subject to this regulation will have the same controls as required anywhere else in the country; therefore, there are no economic disadvantages to Kentucky caused by promulgating this regulation.

1. First year: The cost estimate throughout the nation provided by the U.S. EPA for the federal regulation indicates the initial capital cost is $14,100 for a typical plant controlled by the standards.

2. Continuing costs or savings: The annualized cost throughout the nation provided by the U.S. EPA for the federal regulation is $3,200 for a typical plant.

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

(b) Reporting and paperwork requirements: New plants will be required to apply for construction and operating permits. The reporting and recordkeeping requirements appear in 40 CFR 60.115b.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The division will review and process construction and operating permits. Costs will be recovered by a permit fee pursuant to 401 KAR 50:036.

2. Continuing costs or savings: The division presently inspects all permitted sources of air pollutants and maintains plant and emissions data for emissions inventory purposes. Such activities are part of the division's normal day-to-day operations and are budgeted accordingly. Any new source will be inspected and the costs will be absorbed as a part of the operating budget.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The division will review and issue construction and operating permits for new sources and will issue reports of inspections and emissions data as in 1 and 2 above.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered since this regulation contains the same provisions as the federal regulation. Kentucky is promulgating this regulation so that the Commonwealth will have the delegated authority to enforce the provisions of the federal regulation, thereby allowing sources to work with the state to obtain the necessary permits rather than the federal government.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: The regulations on the prevention of significant deterioration (PSD) and new source review in nonattainment areas, 401 KAR 51:017 and 401 KAR 51:052, respectively, may be overlapping if a source subject to PSD or to new source review in nonattainment areas has emissions greater than 100 tons per year. The standards in this NSPS regulation establish the minimum amount of controls necessary; however, 401 KAR 51:017 or 401 KAR 51:052 may require additional controls over those which are required by this NSPS regulation. In any case, the regulation with the more stringent emission limitation would apply to the source for purposes of PSD and new source review in nonattainment areas.

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

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

(6) Any additional information or comments: This regulation adopts by reference the federal regulation on New Source Performance Standards (NSPS) for new volatile organic liquid storage vessels, 40 CFR 60, Subpart Kb, which was promulgated in the Federal Register of April 8, 1987 (52 FR 11429), and was corrected June 16, 1987 (52 FR 22779). This regulation applies to volatile organic liquid (including petroleum) storage vessels which have commenced construction, modification, or reconstruction after July 23, 1984. The cabinet is adopting by reference the federal regulation, as corrected, so that Kentucky's regulation will be identical to the federal regulation and so that delegation of authority to implement the provisions of this regulation will be granted.

TIERING: Was tiering applied? Yes. This regulation applies to new volatile organic liquid storage vessels with a capacity greater than or equal to 40 cubic meters (10,567 gallons). Other exemptions are provided in 40 CFR 60.110b. For example, this regulation does not apply to storage vessels located at gasoline service stations.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate. (Cite federal mandate.) This regulation adopts by reference the federal regulation so that the state's regulation will be identical to the federal regulation, 40 CFR 60, Subpart Kb. Therefore, this regulation has the same requirements as the federal regulation.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. This regulation is identical to the federal regulation.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality

401 KAR 59:236. New rubber tire manufacturing industry.

RELATES TO: KRS 224.320, 224.330, 224.340
PURSUANT TO: KRS 224.033
NECESSITY AND FUNCTION: KRS 224.033 requires the Natural Resources and Environmental Protection Cabinet to prescribe regulations for the prevention, abatement, and control of air pollution. This regulation provides for the control of emissions from new rubber tire manufacturing industry.

Section 1. General References. (1) In the federal regulation adopted by reference in this regulation, except as specified in this section, "Administrator" shall be read as "secretary," "U.S. EPA" and "Agency" shall be read as "cabinet," and "this subpart" shall be read as "this regulation."

(2) The changes in subsection (1) of this section shall not apply to 40 CFR

60.543(c)(2)(ii)(B).

Section 2. The federal regulation for new rubber tire manufacturing industry contained in 40 CFR 60, Subpart BBB, made effective by Federal Register 52 FR 34874, September 15, 1987, and as corrected by Federal Register 52 FR 37874, October 9, 1987, is hereby adopted and filed herein by reference.

Section 3. Summary. The federal regulation adopted herein by reference, 40 CFR 60, Subpart BBB, limits emissions of volatile organic compounds from those affected facilities in the rubber tire manufacturing industry which commenced construction or modification after January 20, 1983. The affected facilities are each undertread cementing operation, each sidewall cementing operation, each tread end cementing operation, each bead cementing operation, each green tire spraying operation, each Michelin-A operation, each Michelin-B operation, and each Michelin-C automatic operation. The standards in the federal regulation represent the best demonstrated technology for the industry.

Section 4. Availability. (1) Copies of the Code of Federal Regulations (CFR) and Federal Register are available for sale from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(2) Copies of the material incorporated by reference in this regulation shall be available for public review at the following offices of the Division for Air Quality:

(a) Director's Office, Division for Air Quality, Frankfort Office Park, 18 Reilly Road, Frankfort, Kentucky 40601, (502) 564-3382;

(b) Ashland Regional Office, 3700 Thirteenth Street, Ashland, Kentucky 41101, (606) 325-8569;

(c) Bowling Green Regional Office, 1508 Westen Avenue, Bowling Green, Kentucky 42101, (502) 843-5475;

(d) Florence Regional Office, 7964 Kentucky Drive, Suite 8, Florence, Kentucky 41042, (606) 371-0598;

(e) Hazard Regional Office, 233 Birch Street, Hazard, Kentucky 41701, (606) 439-2391;

(f) Owensboro Regional Office, 311 West Second Street, Owensboro, Kentucky 42301, (502) 686-3304; and

(g) Paducah Regional Office, 1390 Irvin Cobb Drive, Paducah, Kentucky 42001, (502) 444-8295.

Section 5. 401 KAR 59:235, New pneumatic rubber tire manufacturing plants, is hereby repealed.

MARY HELEN MILLER, Secretary

APPROVED BY AGENCY: December 15, 1987

FILED WITH LRC: December 15, 1987 at 3 p.m.

PUBLIC HEARING SCHEDULED: A public hearing to receive comments on this proposed amendment will be conducted on February 26, 1988 at 10 a.m. (EST) in the auditorium in the Capital Plaza Tower, Frankfort, Kentucky. Those persons interested in attending this public hearing shall contact, in writing at least five days prior to the hearing, Roger B. McCann, Director, Division for Air Quality, 18 Reilly Road, Frankfort Office Park, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roger B. McCann

(1) Type and number of entities affected: This regulation adopts by reference the federal regulation on new source performance standards (NSPS) for the rubber tire manufacturing industry, 40 CFR 60, Subpart BBB. The federal regulation applies to affected facilities in rubber tire manufacturing plants for which construction or modification commenced after January 20, 1983. The affected facilities are each undertread cementing operation, each sidewall cementing operation, each tread end cementing operation, each bead cementing operation, each green tire spraying operation, each Michelin-A operation, each Michelin-B operation, and each Michelin-C automatic operation. In the Federal Register of September 15, 1987 (52 FR 34874), and as corrected in the Federal Register of October 9, 1987 (52 FR 37874), the U.S. EPA promulgated a new federal NSPS regulation, 40 CFR 60, Subpart BBB, limiting emissions from the rubber tire manufacturing industry. The cabinet is adopting by reference the federal regulation, 40 CFR 60, Subpart BBB, so that Kentucky can be granted delegation of authority to implement and enforce the provisions of the federal regulation.

Available information indicates there are 3 existing sources in the rubber tire manufacturing industry. Any new sources locating in Kentucky or any modification or construction of affected facilities at existing sources are potentially subject to the provisions of this regulation.

(a) Direct and indirect costs or savings to those affected: Since the standards of this regulation are identical to the federal regulation, there are no additional costs associated with complying with the state's regulation over complying with the federal regulation. Present and future sources in Kentucky subject to this regulation will have the same controls as required anywhere else in the country; therefore, there are no economic disadvantages to Kentucky caused by promulgating this regulation. The cost estimate throughout the nation provided by the U.S. EPA for the federal regulation indicates that the fifth year annualized cost for a single medium-sized plant will be about $114,000.

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: New or modified plants will be required to apply for construction and operating permits. The recordkeeping requirements appear in 40 CFR 60.545, and the reporting requirements appear n 40 CFR 60.546.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The division will review and process construction and operating permits. Costs will be recovered by a permit fee pursuant to 401 KAR 50:036.

2. Continuing costs or savings: The division presently inspects all permitted sources of air pollutants and maintains plant and emissions data for emissions inventory purposes. Such activities are part of the division's normal day-to-day operations and are budgeted

accordingly. Any new source will be inspected and the costs will be absorbed as a part of the operating budget.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: The division will review and issue construction and operating permits for new and modified sources and will issue reports of inspections and emissions data as in 1 and 2 above.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered since this regulation contains the same provisions as the federal regulation. Kentucky is promulgating this regulation so that the Commonwealth will have the delegated authority to enforce the provisions of the federal regulation, thereby allowing sources to work with the state to obtain the necessary permits rather than the federal government.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: The regulations on the prevention of significant deterioration (PSD) and new source review in nonattainment areas, 401 KAR 51:017 and 401 KAR 51:052, respectively, may be overlapping if a source subject to PSD has emissions greater than 250 tons per year or if a source subject to new source review in nonattainment areas has emissions greater than 100 tons per year. The standards in this NSPS regulation establish the minimum amount of controls necessary; however, 401 KAR 51:017 or 401 KAR 51:052 may require additional controls over those which are required by this NSPS regulation. In any case, the regulation with the more stringent emission limitation would apply to the source for purposes of PSD and new source review in nonattainment areas.

In addition, this regulation repeals the present regulation for new pneumatic rubber tire manufacturing plants (401 KAR 59:235) so that there would not be a duplication or conflict of requirements for these sources.

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

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

(6) Any additional information or comments: This regulation adopts by reference the federal regulation on New Source Performance Standards (NSPS) for the new rubber tire manufacturing industry, 40 CFR 60, Subpart BBB, which was promulgated in the Federal Register of September 15, 1987 (52 FR 34874), and was corrected in the Federal Register of October 9, 1987 (52 FR 37874). This regulation applies to affected facilities in the rubber tire manufacturing industry which commenced construction or modification after January 20, 1983. The affected facilities are each undertread cementing operation, each sidewall cementing operation, each tread end cementing operation, each bead cementing operation, each green tire spraying operation, each Michelin-A operation, each Michelin-B operation, and each Michelin-C automatic operation. The cabinet is adopting by reference the federal regulation so that Kentucky's regulation will be identical to the federal regulation and so that delegation of authority to implement the provisions of this regulation will be granted.

In addition, this regulation repeals the present regulation for new pneumatic rubber tire manufacturing plants (401 KAR 59:235) so that there would not be a duplication or conflict of requirements for these sources.

TIERING: Was tiering applied? Yes. The regulation applies only to affected facilities which produce specified tires that are mass produced in an assembly line fashion. Also, for certain operations there are monthly volatile organic compound use cutoffs below which the affected facility is exempt from the prescribed percent emission reduction requirements.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate. (Cite federal mandate.) This regulation adopts by reference the federal regulation so that the state's regulation will be identical to the federal regulation, 40 CFR 60, Subpart BBB. Therefore, this regulation has the same requirements as the federal regulation.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: No. This regulation is identical to the federal regulation.

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

TRANSPORTATION CABINET
Department of Vehicle Registration

601 KAR 9:130. Motor vehicle registration.

RELATES TO: KRS Chapter 186, 186A
PURSUANT TO: KRS 186.020
NECESSITY AND FUNCTION: KRS 186.020 requires owners of motor vehicles to apply for registration in accordance with regulations issued by the Transportation Cabinet before operating the motor vehicle or permitting its operation. This administrative regulation establishes those procedures.

Section 1. The vehicle transaction record form required by KRS 186A.060 shall serve as the application for first time vehicle registration. The certificate of registration issued when a vehicle is registered in Kentucky shall serve as the application for renewal of registration.

Section 2. During the fifteen (15) day period allowed by KRS 186.020(1) an assigned title shall be carried in the motor vehicle if the vehicle was last licensed in a title issuing jurisdiction. If the jurisdiction does not issue titles, the standard document for perfecting the sale of the motor vehicle in the licensing jurisdiction shall be carried in the vehicle.

Section 3. Any person finding a lost, unexpired registration plate shall deliver it to the Department of Vehicle Regulation or to any county clerk.

Section 4. Any full-time college student or

member of the armed forces who is temporarily maintaining a place of abode in Kentucky while attending a Kentucky college or university or stationed at a military facility is not required to register his vehicle in Kentucky if he maintains residency in his home state. However, the purchase of property in Kentucky or the possession of a valid Kentucky operator's license shall be prima facie evidence that the vehicle owner is a resident of Kentucky and therefore required to register the vehicle in Kentucky.

Section 5. 601 KAR 9:050 is hereby repealed.

MARJORIE C. KLEE, Commissioner
C. LESLIE DAWSON, Secretary
APPROVED BY AGENCY: January 6, 1988
FILED WITH LRC: January 8, 1988 at 1 p.m.
PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this administrative regulation on February 22, 1988 at 10:30 a.m., local prevailing time in the Fourth Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by February 17, 1988 so notify: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, Tenth Floor, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen
(1) Type and number of entities affected: All vehicle owners in the Commonwealth of Kentucky.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Sets forth application forms to be used in registering a vehicle.
(2) Effects on the promulgating administrative body: None. Procedure has been followed for years, but had never been put in regulation.
(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: Applications for registration must be processed.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Rejected the do-nothing alternative since the state law requires the procedures for registration and any exemptions from registration to be set forth in regulation.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments:
TIERING: Was tiering applied? Yes

TRANSPORTATION CABINET
Department of Vehicle Regulation

601 KAR 9:135. Apportioned registration.

RELATES TO: KRS Chapter 186
PURSUANT TO: KRS 186.050
NECESSITY AND FUNCTION: KRS 186.050 requires the Transportation Cabinet to promulgate regulations concerning the registration of commercial motor vehicles under the Articles of the International Registration Plan. This administrative regulation sets forth the procedures to be followed in registering a commercial motor vehicle under the provisions of the International Registration Plan.

Section 1. Definitions. These words and terms shall have the meaning set forth when used in this administrative regulation:
(1) "Fleet" shall mean one (1) or more apportionable vehicles;
(2) "Apportionable vehicle" shall mean any vehicle except recreational vehicles, vehicles displaying restricted plates, city pickup and delivery vehicles, and government owned vehicles, used or intended for use in two (2) or more jurisdictions that allocate or proportionally register vehicles and is used for the transportation of persons for hire or designed, used or maintained primarily for the transportation of property; and
(a) Is a power unit having a gross weight in excess of 26,000 pounds; or
(b) Is a power unit having three (3) or more axles, regardless of weight; or
(c) Is used in combination and the weight of such combination exceeds 26,000 pounds gross vehicle weight.

Section 2. Application for Apportioned Registration. (1) A commercial vehicle operator who operates in more than one (1) licensing jurisdiction may apply for proportional registration of his fleet in those jurisdictions in which he operates and which are members of the International Registration Plan. Vehicles, or combinations of power unit and trailers, having a gross vehicle weight of 26,000 pounds or less and two (2) axle vehicles may be apportioned registered at the option of the registrant. If the operator is based in Kentucky, he shall apply for his apportioned registration in Kentucky.
(2) The registration year is from April 1 of each year through the following March 31. An applicant for proportional registration of a fleet or other vehicle to be effective April 1 shall submit his application prior to March 1 of the same calendar year. The application shall be made on forms prescribed and furnished by the Department of Vehicle Regulation.

Section 3. Apportioned Mileage Reporting and Recordkeeping. (1) The fleet miles required to be reported on the application for proportional registration shall be the fleet miles traveled from July 1 through June 30 of the year immediately preceding the registration year. The mileage shall be distributed by jurisdiction. For each jurisdiction, whether or not a member of the International Registration Plan, all miles traveled in that jurisdiction by any apportioned power unit, whether the vehicle is empty or loaded, shall be reported. The mileage

to be reported for any motor vehicle power unit which was added to or deleted from the apportioned fleet during the mileage reporting period shall be only those miles generated while it was part of the apportioned fleet. Mileage shall include loaded and unladen trips; intrastate and interstate trips; and miles operated under trip permits.

(2) Apportioned registrants shall maintain operational records for the current registration year and the three (3) registration years immediately prior to the current year. Operational records shall be documents supporting the reported miles traveled in each jurisdiction and the total miles traveled. The information shall be retained in an individual vehicle mileage record. The individual vehicle mileage record shall contain at a minimum the following information:

(a) Registrant's name;
(b) Beginning date of trip;
(c) Ending date of trip;
(d) Trip origin;
(e) Trip destination;
(f) Route of travel for trip;
(g) Total trip miles;
(h) Mileage by jurisdiction for each trip;
(i) Vehicle unit number and vehicle identification number;
(j) Fleet identification number;
(k) Trailer number, if applicable; and
(l) Driver's name.

Section 4. Proof of Insurance and Certificate of Apportioned Registration. The applicant shall apply to the appropriate county clerk for a certificate of apportioned registration for each vehicle in the fleet and any other vehicle to be apportioned registered. The county clerk's fee for the issuance of the certificate shall be two (2) dollars for each vehicle. The applicant shall submit proof of insurance at the time he applies for the certificate of apportioned registration.

Section 5. Registration Fees. (1) The applicant shall submit the application for proportional registration to the Department of Vehicle Regulation for approval. Such submission may either be in person or by mail. After the Department of Vehicle Regulation has approved an application, the department shall compute the proportional registration fee due each jurisdiction under the International Registration Plan. The applicant shall be given a bill for registration in all jurisdictions which do not bill the applicant directly. The applicant shall return either in person or by mail the bill and a certified check, cashier's check or money order made payable to the Kentucky State Treasurer to the department. In order to receive apportioned registration plates prior to April 1 of the registration year, the applicant shall submit the required fee prior to March 10.

(2) The required fee shall be accompanied by the following:

(a) Proof of payment of the federal heavy vehicle use tax in accordance with the provisions of 601 KAR 9:115; and

(b) Payment of the ad valorem taxes due for all units to be registered.

(3) The Department of Vehicle Regulation shall send an apportioned license plate, and IRP cab card to the registrant for each vehicle registered under the provisions of the International Registration Plan. The IRP cab card shall list those jurisdictions to which the registrant has apportioned his registration fees. The original IRP cab card shall be carried in the cab of the vehicle at all times.

Section 6. Supplemental Applications. Should an applicant need to add to or delete vehicles from its fleet, the department shall be notified on a supplemental application form prescribed and furnished by the department. This form shall be used for any vehicle additions, vehicle deletions, vehicle transfers or weight increases.

(1) Vehicle deletions shall be accompanied by the apportioned registration plate and the certificate of apportioned registration. The registrant may, at the end of the registration quarter, apply for a refund of the fees which apply to the unexpired quarters of the registration year.

(2) If a vehicle is being added by a registrant at the same time he is deleting another, the Kentucky registration fee may be transferred from the deleted to the added vehicle. The transfer fee shall be two (2) dollars. The registrant shall be notified of the transfer fee owed to other jurisdictions.

(3) If the declared gross weight of the vehicle is to be increased, the increased fee owed shall be prorated from the date the increased weight is allowed.

Section 7. Adding Jurisdictions to IRP Registrations. If the operation of a registrant is being expanded to include an additional jurisdiction which participates in the International Registration Plan, the registrant may amend his mileage schedule to reflect an estimate of miles to be operated in the new jurisdiction. The mileage percentages for an added jurisdiction shall be computed as added on to the actual mileages earlier reported. Percentages approved on the original application shall not be changed during the registration year. When an additional jurisdiction is added during the registration year, all vehicles in the fleet shall be changed to reflect operation in the additional jurisdiction. The Department of Vehicle Regulation shall send replacement IRP cab cards to the registrant. Upon receipt of the new cab cards the registrant shall return the outdated IRP cab cards to the department.

Section 8. Conversion to Apportioned Registration. If a vehicle is registered in Kentucky as a commercial or limited activity vehicle and the registrant intends to convert to an apportioned registration, the registrant shall first purchase an apportioned registration from the appropriate county clerk. The current commercial or limited activity license plate shall be submitted to the Department of Vehicle Regulation with the application for apportioned registration. The applicant shall be given credit for the remainder of the value of his current registration. This credit shall be applied toward fees due Kentucky on the apportioned registration. All fees due other jurisdictions and any additional fees due to Kentucky shall be paid in accordance with Section 4 of this regulation before the apportioned credentials may be issued.

Section 9. Replacement of Credentials. (1) If

the owner of a vehicle registered pursuant to KRS 186.050(14) loses his copy of a certificate of apportioned registration he may obtain a duplicate from the Department of Vehicle Regulation by filing an affidavit upon a form furnished by the department and he shall pay to the department a fee of two (2) dollars.

(2) If the owner loses a registration plate issued him under the provisions of KRS 186.050(14) he shall surrender his certificate of apportioned registration to the department and file therewith a written statement as to the loss of the plate. Upon the payment of the sum of two (2) dollars to the department, the owner shall be issued another certificate of apportioned registration and a plate which shall bear a different number from that of the lost plate. The original copy of the surrendered certificate of apportioned registration shall be maintained by the department. The department shall forthwith cancel the registration corresponding to the number of the lost plate, and the cancellation shall be reported by the department to the Commissioner of the Department of State Police. Any person finding a lost registration plate shall deliver it to the Department of Vehicle Regulation or to any county clerk for forwarding it to the department.

Section 10. Apportioned Registration of Leased Vehicles. Proportional registration of leased vehicles may be accomplished in one (1) of the following ways:

(1) The owner/lessor may be the registrant and the vehicle may be registered in the name of the owner/lessor. The allocation of registration fees shall be based on the operational records of the owner/lessor. The apportioned license plate and IRP cab card shall be the property of the lessor; or

(2) The leasee may be the registrant and the vehicle may be registered by the lessee in both the owner/lessor's name and that of the leasee. The allocation of registration fees shall be based on the operational records of the lessee. The apportioned license plate and IRP cab card shall be the property of the lessee.

Section 11. Apportioned Registration of Trailers. (1) Under the International Registration Plan, trailers, semitrailers, and auxiliary axles are not apportionable vehicles. However, a member jurisdiction may file an exception to the IRP. Kentucky registrants are only required to pay trailer registration fees to Kentucky and to those member jurisdictions which have filed an exception.

(2) Apportioned trailer credentials shall be obtained through the appropriate county clerk. When Kentucky trailer registrations have been purchased, the registrants may submit to the Department of Vehicle Regulation a list of all trailers apportioned registered. The department shall send the registrant the IRP cab cards. In order to receive the IRP cab card by April 1 of the registration year, the registrant shall submit the list prior to March 1.

MARJORIE C. KLEE, Commissioner
C. LESLIE DAWSON, Secretary
APPROVED BY AGENCY: January 6, 1988
FILED WITH LRC: January 8, 1988 at 1 p.m.
PUBLIC HEARING SCHEDULED: A public comment hearing will be held on this administrative regulation on February 22, 1988 at 11 a.m., local prevailing time in the Fourth Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by February 17, 1988 so notify: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, Tenth Floor, State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen
(1) Type and number of entities affected: All owners of trucks based in Kentucky who wish to participate in the International Registration Plan (IRP).
(a) Direct and indirect costs or savings to those affected: None - fees established by statute.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Sets forth the application process to participate in the IRP, the forms and information required.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: Administrative cost of processing applications.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Review and processing applications.
(3) Assessment of anticipated effect on state and local revenues: None - revenue division established by statute.
(4) Assessment of alternative methods; reasons why alternatives were rejected: The do-nothing alternative was rejected because statutes require this process to be included in an administrative regulation.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments:
TIERING: Was tiering applied? Yes

TRANSPORTATION CABINET
Motor Vehicle Commission

605 KAR 1:170. Temporary sale or display event license for a motor vehicle dealer trade association.

RELATES TO: 190.010 through 190.990
PURSUANT TO: 190.020, 190.030(1), 190.073
NECESSITY AND FUNCTION: KRS 190.030 authorizes the Motor Vehicle Commission to provide by regulation for "other licensee activities and an appropriate fee therefor." 605 KAR 1:150 provides for a temporary sale location permit. Kentucky is the location of several major regional vehicle association trade shows and sales each year. This regulation addresses the participation of foreign members of an

association in an association sponsored sale or display located within the same metropolitan statistical area as the association.

Section 1. "Metropolitan statistical area" means a specific geographic area as defined by the United States Department of Commerce, Bureau of the Census, and shown in Kentucky Commerce Cabinet 1987 Kentucky Economic Statistics, page 88, or updated editions thereof, said publication being adopted by reference herein. All documents incorporated by reference herein are on file for public inspection at the office of the Motor Vehicle Commission, 114 West Clinton Street, Frankfort, Kentucky 40601.

Section 2. No trade association of motor vehicle dealers may sponsor a display or sale of motor vehicles at any location unless an application for a temporary sale or display permit is made on forms provided by the licensor and filed with the licensor a minimum of five (5) days prior to the next regularly scheduled meeting of the licensor before the requested permit period. The permit shall state the duration of its validity which in no event shall exceed five (5) successive days, the location for which it is issued, the name of the sponsoring association, and the names of the participating dealers.

Section 3. A permit sought by a trade association of motor vehicle dealers shall authorize its membership's participation in a sale or display activity only at a location within the same metropolitan statistical area as the association, within this state.

Section 4. The fee for a temporary sale event permit shall be $100 per participating dealer.

JAMES O. BUTTS, Chairman
APPROVED BY AGENCY: January 15, 1988
FILED WITH LRC: January 15, 1988 at noon
PUBLIC HEARING SCHEDULED: A public hearing on this proposed regulation will be held on Monday, February 22, 1988, at 10 a.m., at the office of the Motor Vehicle Commission, 114 West Clinton Street, Frankfort, Kentucky. Those interested in attending this hearing shall contact: David Garnett, Executive Director, Kentucky Motor Vehicle Commission, 114 West Clinton Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: David Garnett, Executive Director, MVC
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements:
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues:
(4) Assessment of alternative methods; reasons why alternatives were rejected:
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No

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

811 KAR 2:110. Substance abuse by commission employees and licensees.

RELATES TO: KRS 230.630, 230.640
PURSUANT TO: KRS Chapter 13A, 230.640(2)
NECESSITY AND FUNCTION: To regulate conditions under which Arabian, quarter horse and appaloosa racing shall be conducted in Kentucky. The function of this regulation is to provide for the testing of individuals for alcohol and drugs.

Section 1. (1) While acting within the scope of his or her license while on the premises of an association licensed by the Kentucky Harness Racing Commission, no licensee of this commission nor employee of any racing association licensed by this commission shall have present within his/her body while on the grounds of said licensed association any amount of alcohol which would constitute legal impairment or intoxication.
(2) A breathalyzer reading of .05 percent blood alcohol content or more shall constitute legal impairment or intoxication.
(3) Every extended pari-mutuel track shall be equipped with a breathalyzer device for the detection of alcohol.
(4) The deputy commissioner or his assistant may in his discretion direct all jockeys, judges, stewards, starters and marshals licensed by this commission to submit to a blanket breathalyzer test. In the event such a blanket test is ordered by the deputy commissioner or his assistant, it must be administered across the board to all members of the class of licensees who are on the premises of the association. All licensees in the affected class of licensees must, when so ordered, submit to the breathalyzer examination. In the event a licensee refuses to take the breathalyzer examination, the licensee shall not be permitted to continue his/her duties for the remainder of the day. In the event a licensee takes the test as directed and the results thereof show a reading of .05 percent alcohol content or more, said licensee shall likewise not be permitted to continue his/her duties for that day.
(5) A designated commission representative may, with reasonable suspicion, random selection, or blanket testing, direct any licensee of this commission or employee of an association licensed by this commission to submit to a breathalyzer test for the detection of alcohol. In the event a licensee or employee refuses to take the breathalyzer examination, the licensee or employee shall not be permitted

to continue his/her duties for the remainder of the day. In the event said licensee or employee takes the test as directed and the results thereof show a reading of .05 percent alcohol or more, said licensee or employee shall not be permitted to continue his/her duties for that day.

(6) Any licensee or employee who is suspended for one (1) day by the deputy commissioner, or his assistant or by a steward or harness racing commission representative, either for failure to take a breathalyzer examination or because the breathalyzer examination has a reading of .05 percent alcohol content or more, shall, after a hearing before the stewards or commission, be subject to fine or suspension, or both, by the stewards or commission for alcohol intoxication. A refusal by a licensee or employee to submit to the breathalyzer test may be introduced as evidence against any licensee or employee involved at this hearing. In the event the quarter horse racing stewards render such a decision, the ruling is appealable to the commission, as is the case in any other fine suspension imposed by the stewards.

Section 2. (1) While acting within the scope of his or her license while on the premises of an association licensed by the Kentucky Harness Racing Commission, no licensee of this commission or employee of any racing association licensed by this commission shall have present within his/her body while on the grounds of said licensed association any controlled substance as listed in KRS Chapter 218A, or in Schedules I-V of Title 21 U.S. Code §812. No licensee of this commission or employee of any racing association licensed by this commission shall have present within his/her body while on the grounds of said licensed association any prescription legend drugs, unless said prescription legend drug was obtained directly from or pursuant to a valid prescription of a duly licensed physician who is acting in the course of his/her professional practice.

(2) The deputy commissioner, a designated Harness Racing Commission representative, or the presiding steward may direct any person or persons licensed by this commission, based upon reasonable suspicion, random selection, or blanket testing, to deliver a specimen of urine in the presence of said commission representative for the purpose of testing for the presence of controlled substances or drugs.

(3) The test results shall be filed with the Harness Racing Commission as soon as practicable, and the presiding steward apprised of the result.

(4) In the event a licensee refuses to deliver a specimen of urine or in the event the result of the test is positive for the presence of a controlled substance or an unauthorized legend drug as delineated in subsection (1) of this section, the licensee shall be automatically suspended for one (1) year. A second refusal or positive test will result in a lifetime suspension.

(5) The quantity of urine collected shall be sufficient to enable the sample to be split.

Section 3. The expense of the testing conducted to enforce this regulation shall be borne either by the licensed racing association, or, the individual licensee or employee involved. In the event the tests produce a negative result, the expense shall be paid by the licensed racing association involved. In the event the testing produces a positive result showing the presence of .05 percent alcohol content, or the presence of any controlled substance or legend drug, then the expense shall be borne by the licensee or employee involved.

CARL B. LARSEN, Executive Director
AMANDA S. LOGAN, Deputy Secretary
APPROVED BY AGENCY: December 18, 1987
FILED WITH LRC: January 14, 1988 at 2 p.m.
PUBLIC HEARING SCHEDULED: A public hearing has been scheduled on this regulation on February 24, 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, Executive Director
(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
Office of the Inspector General

902 KAR 20:250. Specialized Medical Technology Services.

RELATES TO: KRS 216B.010 through 216B.131, 216B.990(1), (2), 311.241 through 311.247, 311.990
PURSUANT TO: KRS 13A.100, 216B.040, 216B.105, Executive Order 86-366

NECESSITY AND FUNCTION: KRS 216B.105 mandates that the Cabinet for Human Resources regulate health facilities and health services. This regulation provides minimum licensure requirements for the operation of specialized medical technologies and services within the Commonwealth.

Section 1. Scope of Operation and Services. "Specialized medical technologies" describes a particular medical technology service which improves some aspect of diagnosis, therapy or related capability. Advanced technologies are often translated to medical equipment which has a high capital and/or operating cost. For the purpose of this regulation, specialized medical technology services shall be in a fixed/free standing location, exclusive of a hospital building, or if located within a hospital building is operated independently from the hospital's governing authority. The following specialized medical technology services include Magnetic Resonance Imaging (MRI), Computed Tomography (CT) Scanning, Lithotripters, Cardiac Catheterization, Radiation Therapy, X-Ray, and other Diagnostic Imaging Services.

Section 2. Definitions. (1) "Governing authority" or "licensee" means the individual, agency, partnership, or corporation, in which the ultimate responsibility and authority for the conduct of the institution is vested.

(2) "Commission" means the Commission for Health Economics Control in Kentucky.

(3) "Health service" means clinically related services provided within the Commonwealth to two (2) or more persons, including but not limited to diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services.

(4) "License" means an authorization issued by the cabinet for the purpose of operating a specialized medical technology service.

(5) "Certificate of need" means an authorization by the commission to proceed to acquire, to establish, to offer, or to substantially change a health service as covered by KRS Chapter 216B.

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

(7) "Certified radiation operator" means a person who has been certified pursuant to KRS 211.870 and 902 KAR 105:010 to 105:070 as an operator of sources of radiation.

(8) "Qualified Urologist" means a person who is a doctor of medicine or a doctor of osteopathy licensed to practice medicine and surgery and who is board certified or is in the process of being certified by the American Board of Urology or the American Osteopathic Board of Surgery and who otherwise meets criteria established by the specialized medical technology service's governing authority.

(9) "Magnetic Resonance Imaging (MRI)" means a diagnostic imaging modality which utilizes magnetic resonance, an interaction between atoms and electromagnetic fields, to project images of internal body structures.

(10) "Computed Tomography (C.T.) Scanning" means a radiological diagnostic imaging procedure that shows cross sectional images of internal body structures.

(11) "Lithotripter" means a noninvasive treatment technique that utilizes shock waves to shatter kidney stones.

(12) "Licensure agency" means the Division for Licensing and Regulation in the Office of the Inspector General, Cabinet for Human Resources.

(13) "Qualified anesthesiologist" means a person who is a doctor of medicine or a doctor of osteopathy licensed to practice medicine and surgery and who is board certified or in the process of being certified by the American Board of Anesthesiology or the American Osteopathic Board of Surgery and who otherwise meets the criteria established by the specialized medical technology service's governing authority.

Section 3. Administration. (1) Licensee.

(a) The licensee shall be legally responsible for the service and for compliance with federal, state and local laws and regulations pertaining to the operation of the service, limited to the scope of the service's certificate of need.

(b) The licensee shall establish lines of authority and designate an administrator who shall be principally responsible for the daily operation of the service.

(2) Policies. The service shall follow written administrative policies covering all aspects of operation, including:

(a) A description of organizational structure, staffing and allocation of responsibility and accountability;

(b) A description of linkages with inpatient facilities and other providers;

(c) Policies and procedures for the guidance and control of personnel performances;

(d) A written program narrative describing in detail the service(s) offered, methods and protocols for service delivery, qualifications of personnel involved in the delivery of the services, and goals of the service(s);

(e) A description of the administrative and patient care records and reports; and

(f) Procedures to be followed in the storage, handling and administration of drugs and biologicals.

(3) Personnel.

(a) The facility shall employ a sufficient number of qualified personnel to provide effective patient care and all other related services. The licensee shall provide written personnel policies which are available to all employees and are reviewed and revised on an annual basis. If the staff/patient ratio does not meet the needs of the patients, the Division of Licensing and Regulation shall determine and inform the program administrator in writing how many additional personnel are to be added and of what job classification, and shall give the basis for this determination.

(b) Medical director. The service shall have a medical director who is a licensed physician responsible for all medical aspects of the service.

(c) There shall be a written job description for each position which shall be reviewed and revised as necessary.

(d) Current personnel records shall be maintained for each employee which include the following:

1. Name, address and social security number;
2. Evidence of current registration, certification or licensure of personnel;
3. Records of training and experience; and
4. Records of performance evaluation.

(4) In-service training. All personnel shall participate in ongoing in-service training programs relating to their respective job

activities including thorough job orientation for new employees.

(5) Medical records.

(a) The service shall maintain medical records which contain at least the following:

1. Medical and social history, including data obtainable from other providers;

2. Name of referring physician and physicians orders for services;

3. Description of each medical visit or contact, to include condition or reason necessitating visit or contact, assessment, diagnosis, services provided, medications and treatments prescribed, and disposition made;

4. Reports of all physical examinations, laboratory, x-ray, and other test findings; and

5. Documentation of all referrals made, including reason for referral, to whom patient was referred, and any information obtained from referral source.

(b) Confidentiality of all patient records shall be maintained at all times.

(c) Transfer of records. The service shall follow written systematic procedures to assist in continuity of care where the patient moves to another source of care, and the service shall, upon proper release, transfer medical records or an abstract thereof when requested.

(d) Retention of records. After patient's death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years or in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is longer.

(e) A specific location shall be designated by the specialized medical technology service for the maintenance and storage of the service's medical records.

(f) Provision shall be made for written designation of specific locations for the storage of medical records in the event the specialized medical technology service ceases to operate because of disaster, or for any other reason. The licensee shall safeguard the record and its content against loss, defacement and tampering.

Section 4. Provision of Services. A licensed specialized medical technology service shall comply with the requirements listed in Sections 3 and 5 of this regulation, and the additional requirements in this section specific to that particular technology or service.

(1) Diagnostic imaging services.

(a) Diagnostic imaging services are those services which produce an image, either through film or computer generated video, of the internal structures of a patient. These services include:

1. MRI;
2. CT scanning;
3. X-ray;
4. Ultrasound;
5. Mammography;
6. Fluoroscopy; and
7. Xerography.

(b) Any specialized medical technology service which provides diagnostic imaging services shall comply with the following:

1. Diagnostic imaging services shall be performed only on the order of a physician;

2. The services shall prepare a record for each patient to the date of the procedure, name of the patient, description of the procedures ordered and performed, the referring physician, the name of the person performing the procedure, and the date the name of the physician to whom the results were sent;

3. Equipment used for direct patient care shall be fully approved by the Federal Drug Administration (FDA) for clinical use;

4. The service shall follow a written preventive maintenance program to ensure that imaging equipment is operative, properly calibrated, and shielded to protect the operator, patient, environment, and the integrity of the images produced;

5. Imaging services shall have a current license or registration pursuant to applicable Kentucky Statutes and any regulations promulgated thereunder;

6. All personnel engaged in the operation of imaging equipment shall have adequate training and be currently licensed, registered or certified in accordance with applicable state statutes and regulations;

7. There shall be a written training plan for the adequate training of personnel in the safe and proper usage of the imaging equipment;

8. There shall be a physician's signed order which specifies the reason the procedure is required, the area of the body to be exposed, and the number of images to be obtained and the views needed; and

9. There shall be sufficiently trained on duty personnel with adequate equipment to provide emergency resuscitation services in the event of a patient emergency.

(2) Other specialized services. These services include specialized lithotripter services, cardiac catheterization services, and radiation therapy services.

(a) The following standards shall apply to all other specialized services.

1. Other specialized services shall be performed only on the order of a physician;

2. Other specialized services shall be provided under the supervision of a physician who is qualified by advanced training and experience in the use of this specific service offered;

3. Other specialized service shall prepare a record for each patient to include the date of the procedure, name of the patient, description of the procedures ordered and performed, the referring physician, and the name of the person performing the procedure.

4. There shall be a physician's signed order which specifies the reason the procedure is required, the area of the body to be exposed, and the anticipated outcome of treatment;

5. There shall be sufficiently trained on duty personnel with adequate equipment to provide emergency resuscitation services in the event of a patient emergency; and

6. There shall be a written description of procedures to be followed in the event a patient has a medical emergency.

7. There shall be a written training plan utilized to instruct personnel in the safe and proper usage of the equipment.

(b) Specialized lithotripter services. A specialized lithotripter service is a health service which provides for a noninvasive technique for removing kidney or ureteral stones through the use of lithotripter. The following standards shall apply to specialized lithotripter services:

1. Policies. A lithotripter service shall develop patient care policies with the advice of

a group of professional personnel that includes at least one (1) qualified urologist and one (1) qualified anesthetist. At least one (1) member shall not be a member of the lithotripter service staff. The policies shall include:

a. A description of how a patient will be transported between the hospital and the lithotripter service;

b. A description of guidelines for the review and evaluation of the service on an annual basis; and

c. Policies and protocols governing the utilization and responsibilities of associated hospital staff, if any, in the delivery of lithotripter services;

2. Personnel. The lithotripter service shall employ at least one (1) lithotripter technician, and shall employ or make arrangements with the qualified urologist to be present in the unit during the delivery of lithotripsy services, and one (1) qualified anesthetist to be available for procedures requiring anesthesia;

3. Lithotripsy equipment used for direct patient care shall comply with the following:

a. Lithotripsy equipment shall be fully approved by the Federal Drug Administration (FDA) for clinical use;

b. The licensee shall follow a written preventive maintenance program to ensure that equipment shall be operative, properly calibrated, properly shielded, and safe for the patient, operator, and environment;

c. All personnel engaged in the operation of lithotripsy equipment shall have adequate training and be currently licensed, registered or certified in accordance with applicable state statutes and regulations; and

d. There shall be a written training plan for the adequate training of personnel in the safe and proper usage of the equipment.

(c) Cardiac catheterization services and radiation therapy services. These services shall also comply with the following:

1. The services shall assure that sufficient personnel shall be present to supervise and conduct the services provided, including at least one (1) certified radiation operator, or one (1) physician with specialized training and experience in the area of the services provided.

2. These services shall have a current license, registration or certification pursuant to KRS 211.842 to 211.852 and any regulations promulgated thereunder;

3. There shall be written policies and procedures governing radiologic services and administrative routines that support sound radiologic practices;

4. Reports of interpretations shall be written or dictated and signed by the radiologist or physician;

5. The use of all x-ray apparatus shall be limited to certified radiation operators or physicians. The same limitation shall apply to personnel applying and removing radium element, its disintegration products, and radioactive isotopes;

6. The radiology department shall be free of hazards for patients and personnel. Proper safety precautions shall be maintained against fire, explosion, electrical and radiation hazards;

7. These services shall have a written credentialling and peer review system to ensure that only properly licensed, registered, certified, and trained personnel shall be involved in the delivery of services; and

8. Cardiac catheterization procedures shall be performed by a physician with specific training in the areas of cardiac catheterization.

Section 5. Physical environment. (1) Accessibility. The facility shall meet requirements for making buildings and facilities accessible to and usable by the physically handicapped pursuant to KRS 198B.260 and regulations promulgated thereunder.

(2) Fire safety. The facility shall be approved by the Fire Marshal's office before licensure and relicensure is granted by the licensure agency.

(3) Housekeeping and maintenance services. (a) Housekeeping. The facility shall maintain a clean and safe facility free of unpleasant odors. Odors shall be eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans and other sources.

(b) Maintenance. The premises shall be well kept and in good repair. Requirements shall include:

1. The facility shall insure that the grounds are well kept and the exterior of the building, including the sidewalks, steps, porches, ramps, and fences are in good repair;

2. The interior of the building including walls, ceilings, floors, windows, window coverings, doors, plumbing and electrical fixtures shall be in good repair. Windows and doors shall be screened;

3. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly;

4. A pest control program shall be in operation in the facility. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. The compounds shall be stored under lock;

5. Sharp wastes, such as broken glass, scalpel blades, and hypodermic needles, shall be segregated from other wastes and aggregated in rigid disposable containers immediately after use. Needles and syringes shall not be cut, dismantled, or destroyed after use, but shall be placed intact directly into a rigid container. The rigid containers of sharp wastes shall either be incinerated, on site or off site, or disposed of in a sanitary landfill approved pursuant to 401 KAR 47:020.

6. The facility shall establish a written policy for the handling and disposal of all infectious, pathological, and contaminated waste. Any incinerator used for the disposal of waste shall be in compliance with 401 KAR 59:020 or 401 KAR 61:010.

a. Infectious waste shall be placed in double impervious plastic bags and each bag shall be two (2) mils in thickness. A bag, when full, shall not exceed twenty five (25) pounds. All bags shall be securely closed and a tag, which reads "INFECTIOUS WASTE" and identifies the specialized medical technology service from which the waste is being removed and shall be attached to the bag in a conspicuous manner.

b. All unpreserved tissue specimens shall be incinerated on or off site.

c. The following wastes shall be sterilized before disposal or be disposed of by incineration if they are combustible:

(i) Dressings and materials from open or contaminated wounds;
(ii) Waste materials and disposable linens from isolation rooms;
(iii) Culture plates;
(iv) Test tubes;
(v) Sputum cups; and
(vi) Contaminated sponges and swabs.

WILLIAM M. GARDNER, Inspector General
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: January 12, 1988
FILED WITH LRC: January 14, 1988 at 9 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 23, 1988, at 9 a.m., in the Health Services Auditorium, first 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 February 18, 1988, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Eric Friedlander
(1) Type and number of entities affected: Freestanding and independently operated hospital based magnetic resonance imaging, computed tomography scanning, lithotripsy, cardiac catheterization, radiation therapy and other diagnostic imaging services.
(a) Direct and indirect costs or savings to those affected: Minimal
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No additional requirements.
(2) Effects on the promulgating administrative body: Minimal
(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: Minimal increase.
(3) Assessment of anticipated effect on state and local revenues: Minimal
(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS Chapter 216B requires that minimum standards be established for licensure.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. These are minimum licensure standards. All facilities are required to meet the same requirements.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No federal standards presently exist for these specialized services.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: N/A
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

CABINET FOR HUMAN RESOURCES
Office of the Inspector General

902 KAR 20:260. Special health clinics.

RELATES TO: KRS 216B.010 through 216B.131, 216B.990
PURSUANT TO: KRS 13A.100, 216B.040, 216B.105, Executive Order 86-366
NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105 mandate that the Cabinet for Human Resources regulate health facilities and health services. This regulation provides minimum licensure requirements for the operation of special health clinics.

Section 1. Scope of Operations and Services. Special health clinics are institutions which provided limited health services, on an outpatient basis. These services include: family planning clinics, pulmonary care clinics, disability determination clinics, weight loss clinics, speech and hearing clinics, wellness centers, counseling centers, and any clinic which only provides diagnostic services.

Section 2. Definitions. (1) "Governing authority" or "licensee" means the individual, agency, partnership, or corporation, in which the ultimate responsibility and authority for the conduct of the clinic is vested.
(2) "Commission" means the Commission for Health Economics Control in Kentucky.
(3) "Health service" means clinically related services provided within the Commonwealth to two (2) or more persons, including but not limited to diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services.
(4) "License" means an authorization issued by the cabinet for the purpose of operating a special health clinic.
(5) "Certificate of need" means an authorization by the commission to proceed to acquire, to establish, to offer, or to substantially change a health service as covered by KRS Chapter 216B.
(6) "Cabinet" means the Cabinet for Human Resources.
(7) "Certified radiation operator" means a person who has been certified pursuant to KRS 211.870 and 902 KAR 105:010 to 105:070 as an operator of sources of radiation.
(8) "Diagnostic services" means those services which are performed to ascertain and assess an individual's physical health conditon.
(9) "Treatment services" means those services provided to an individual who, because of a

physical health condition, is in need of medical assistance for the attainment of their maximum level of physical function.

(10) "Qualified registered nurse" means a nurse who is licensed to engage in registered nursing practice pursuant to KRS 314.041.

(11) "Licensure agency" means the Division for Licensing and Regulation in the Office of the Inspector General, Cabinet for Human Resources.

Section 3. Administration. (1) Licensee.

(a) The licensee shall be legally responsible for the service and for compliance with federal, state and local laws and regulations pertaining to the operation of the service, limited to the scope of the service's certificate of need.

(b) The licensee shall establish lines of authority and designate an administrator who shall be principally responsible for the daily operation of the clinic

(2) Policies. The clinic shall establish and follow written administrative policies covering all aspects of operation, including:

(a) A description of organizational structure, staffing and allocation of responsibility and accountability;

(b) A description of linkages with inpatient facilities and other providers;

(c) Policies and procedures for the guidance and control of personnel performances;

(d) A written program narrative describing in detail the service(s) offered, methods and protocols for service delivery, qualifications of personnel involved in the delivery of the services, and goals of the service(s);

(e) A description of the administrative and patient care records and reports; and

(f) Procedures to be followed in the storage, handling and administration of drugs and biologicals.

(3) Personnel.

(a) Medical director. The clinic shall have a medical director who is a licensed physician responsible for all medical aspects of the clinic except those clinics which provide only audiological services.

(b) The clinic shall employ a sufficient number of qualified personnel (e.g., nurses, therapists and technicians) to provide effective patient care and all other related services. There shall be written personnel policies which are made available to all employees.

(c) There shall be a written job description for each position which shall be reviewed and revised as necessary.

(d) Current personnel records shall be maintained for each employee which include the following:

1. Name, address and social security number;

2. Evidence of current registration, certification or licensure of personnel;

3. Records of training and experience; and

4. Records of performance evaluation.

(4) In-service training. All personnel shall participate in ongoing in-service training programs relating to their respective job activities including thorough job orientation for new employees.

(5) Medical records.

(a) The clinic shall maintain medical records which contain at least the following:

1. Medical and social history, including data obtainable from other providers;

2. Names of referring physician, if any, and physicians orders for special diagnostic services;

3. Description of each medical visit or contact, to include condition or reason necessitating visit or contact, assessment, diagnosis, services provided, medications and treatments prescribed, and disposition made;

4. Reports of all physical examinations, laboratory and other test findings; and

5. Documentation of all referrals made, including reason for referral, to whom patient was referred, and any information obtained from referral source.

(b) Confidentiality of all patient records shall be maintained at all times.

(c) Transfer of records. The clinic shall establish systematic procedures to assist in continuity of care where the patient moves to another source of care, and the clinic shall, upon proper release, transfer medical records or an abstract thereof when requested.

(d) Retention of records. After patient's death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years or in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is longer.

(e) Provision shall be made for written designation of a specific location for the storage of medical records in the event the special health clinic ceases to operate because of disaster, or for any other reason. The licensee shall safeguard the record and its content against loss, defacement and tampering.

(f) A specific location shall be designated by the special health clinic for the storage and maintenance of the clinic's medical records.

Section 4. Provision of Services. A licensed special health clinic shall comply with the requirements listed in Sections 3 and 5 of this regulation, the clinic's program narrative, and the additional requirements of this section which relate to the particular service(s) offered by the licensee.

(1) Equipment used for direct patient care by a special health clinic shall comply with the following:

(a) The licensee shall establish and follow a written preventive maintenance program to ensure that equipment shall be operative and properly calibrated;

(b) All personnel engaged in the operation of diagnostic equipment shall have adequate training and be currently licensed, registered or certified in accordance with applicable state statutes and regulations; and

(c) There shall be a written training plan for the adequate training of personnel in the safe and proper usage of the equipment.

(2) Diagnostic services shall be performed only on the order of a physician, except for services offered by a family planning clinic.

(a) Diagnostic services includes family planning clinics, disability determination clinics, counseling centers, wellness centers and other clinics providing diagnostic services only.

(b) Diagnostic services shall be provided under the supervision of a physician who is qualified by advanced training and experience in the use of the specific technique utilized for diagnostic purposes, except for a family planning clinic.

(c) The clinic shall prepare a record for each patient to include the date of the procedure,

name of the patient, description of the procedures ordered and performed, the referring physician, the name of the person performing the procedure, and the date and name of the physician, if any, to whom the results were sent;

(d) Physical examination services shall be nonabusive and provided in a manner which ensures the greatest amount of safety and security for the patient.

1. Protocols for diagnostic examinations shall be developed by the medical director.

2. Personnel performing physical examination shall have adequate training and be currently licensed, registered or certified in accordance with applicable Kentucky statutes and regulations.

3. Personnel performing physical examinations shall be limited by the relevant scope of practice of state licensure.

(3) Treatment services includes pulmonary care clinics, weight loss clinics, and speech and hearing clinics.

(a) Policies. The licensee shall develop patient care policies with the advice of a group of professional personnel that includes one (1) or more physicians and one (1) or more registered nurses. At least one (1) member shall not be a member of the clinic staff. The policies shall include:

1. A description of the services the clinic provides directly and those provided through agreement.

2. Guidelines for the medical management of health problems which include the conditions requiring medical consultation and/or patient referral, and the maintenance of health records; and

3. Procedures for review and evaluation of the services provided by the clinic at least annually.

(b) Personnel. The clinic shall have a staff that includes at least one (1) physician and at least one (1) registered nurse. The clinic shall employ such other staff or ancillary personnel that are necessary to provide the services essential to the clinic's operation.

1. The physician shall:

a. Be responsible for all medical aspects of the clinic and shall provide direct medical services in accordance with the Medical Practice Act, KRS Chapter 311. In addition, the physician shall provide medical direction, supervision, and consultation to the staff;

b. In conjunction with the registered nurse(s) participate in the development, execution and periodic review of the clinic's written policies and services;

c. Periodically review the clinic's patient records, provide medical orders, and provide medical care services to patient of the clinic; and

d. Be present for consultation weekly, and be available within one (1) hour through direct telecommunication for consultation, assistance with medical emergencies, or patient referral.

2. The registered nurse shall:

a. Participate in the development, execution and periodic review of the written policies governing and the services the clinic provides;

b. Participate with the physician in periodic review of patient health records;

c. Provide services in accordance with clinic policies, established protocols, the Nurse Practice Act (KRS Chapter 314), and with regulations promulgated thereunder;

(i) Arrange for, or refer patients to needed services that cannot be provided at the clinic; and

(ii) Assure that adequate patient health records are maintained and transferred when patients are referred.

(c) The clinic shall carry out, or arrange for an annual evaluation of its total program, shall consider the findings of the evaluation, and take corrective action, if necessary. The evaluation shall include:

1. The utilization of clinic services including at least the number of patients served and the volume of services;

2. A representative sample of both active and closed clinical records; and

3. The clinic's health care policies.

(d) The clinic shall develop and maintain written protocols (i.e., standing orders, rules of practice, and medical directives) which apply to services provided by the center and which explicitly direct the step-by-step collection of subjective and objective data from the patient. The protocols shall further direct data analysis, direct explicit medical action depending upon the data collected, and include rational for each decision made. The protocols shall be signed by the staff physician.

(e) A pulmonary care clinic shall have linkage agreements or arrangements with each of the following:

1. Inpatient hospital care;

2. Physician services in a hospital, patient's home, or long term care facility;

3. Additional and specialized diagnostic and laboratory services that are not available at the clinic;

4. Home health agency;

5. Emergency medical services; and

6. Pharmacy services.

Section 5. Physical environment. (1) Accessibility. The clinic shall meet requirements for making buildings and facilities accessible to and usable by the physically handicapped pursuant to KRS 198B.260 and regulations promulgated thereunder.

(2) Fire safety. The clinic shall be approved by the Fire Marshal's office before licensure and relicensure is granted by the licensure agency.

(3) Housekeeping and maintenance services.

(a) Housekeeping. The clinic shall maintain a clean and safe facility free of unpleasant odors. Odors shall be eliminated at their source by prompt and thorough cleaning of commodes, urinals, bedpans and other sources.

(b) Maintenance. The premises shall be well kept and in good repair. Requirements shall include:

1. The clinic shall insure that the grounds are well kept and the exterior of the building, including the sidewalks, steps, porches, ramps, and fences are in good repair;

2. The interior of the building including walls, ceilings, floors, windows, window coverings, doors, plumbing and electrical fixtures shall be in good repair. Windows and doors which can be opened for ventilation shall be screened;

3. Garbage and trash shall be stored in areas separate from those used for the preparation and storage of food and shall be removed from the premises regularly. Containers shall be cleaned regularly;

4. A pest control program shall be in operation in the clinic. Pest control services shall be provided by maintenance personnel of the facility or by contract with a pest control company. The compounds shall be stored under lock;

5. Sharp wastes, such as broken glass, scalpel blades, and hypodermic needles, shall be segregated from other wastes and aggregated in rigid disposable containers immediately after use. Needles and syringes shall not be cut, dismantled, or destroyed after use, but shall be placed intact directly into a rigid container. The rigid containers of sharp wastes shall either be incinerated, on site or off site, or disposed of in a sanitary landfill approved pursuant to 401 KAR 47:020; and

6. The clinic shall establish a written policy for the handling and disposal of all infectious, pathological, and contaminated waste. Any incinerator used for the disposal of waste shall be in compliance with 401 KAR 59:020 or 401 KAR 61:010.

a. Infectious waste shall be placed in double impervious plastic bags and each bag shall be two (2) mils in thickness. A bag, when full, shall not exceed twenty five (25) pounds. All bags shall be securely closed and a tag, which reads "INFECTIOUS WASTE" and identifies the clinic from which the waste is being removed and shall be attached to the bag in a conspicuous manner.

b. All unpreserved tissue specimens procedures shall be incinerated on or off site.

c. The following wastes shall be sterilized before disposal or be disposed of by incineration if they are combustible:

(i) Dressings and materials from open or contaminated wounds;

(ii) Waste materials and disposable linens from isolation rooms;

(iii) Culture plates;

(iv) Test tubes;

(v) Sputum cups; and

(vi) Contaminated sponges and swabs.

WILLIAM M. GARDNER, Inspector General
HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: January 12, 1988

FILED WITH LRC: January 14, 1988 at 9 a.m.

PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 23, 1988, at 9 a.m., in the Health Services Auditorium, first 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 February 18, 1988, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Eric Friedlander

(1) Type and number of entities affected: All clinics and health centers requiring a certificate of need providing family planning, pulmonary care, disability determination, weight loss, speech and hearing, wellness and counseling services.

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: No additional requirements.

(2) Effects on the promulgating administrative body: Minimal

(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: Minimal increase.

(3) Assessment of anticipated effect on state and local revenues: Minimal

(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS Chapter 216B requires that minimum standards be established for licensure.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. These are minimum licensure standards. All facilities are required to meet the same requirements.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No federal standards exist for those special services.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: N/A

3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

CABINET FOR HUMAN RESOURCES
Office of the Inspector General

902 KAR 20:270. Mobile health services.

RELATES TO: KRS 216B.010 through 216B.131, 216B.990

PURSUANT TO: KRS 13A.100, 216B.040, 216B.105, Executive Order 86-366

NECESSITY AND FUNCTION: KRS 216B.040 and 216B.105 mandate that the Cabinet for Human Resources regulate health facilities and health services. This regulation provides minimum licensure requirements for the operation of mobile health services.

Section 1. Scope of Operation and Services. Mobile health services provide medical services in various locations and in some instances utilize a specially equipped vehicle such as a van, trailer or mobile home. These services include mobile diagnostic imaging and examination services, mobile treatment services, and any other medical or dental services provided through the use of a mobile vehicle or performed at various locations.

Section 2. Definitions. (1) "Governing authority" or "licensee" means the individual, agency, partnership, or corporation, in which the ultimate responsibility and authority for the conduct of the institution is vested.

(2) "Commission" means the Commission for Health Economics Control in Kentucky.

(3) "Health service" means clinically related services provided within the Commonwealth to two (2) or more persons, including but not limited to diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services.

(4) "License" means an authorization issued by the cabinet for the purpose of operating mobile health services.

(5) "Certificate of need" means an authorization by the commission to proceed to acquire, to establish, to offer, or to substantially change a health service as covered by KRS Chapter 216B.

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

(7) "Certified radiation operator" means a person who has been certified pursuant to KRS 211.870 and 902 KAR 105:010 to 105:070 as an operator of sources of radiation.

(8) "Qualified urologist" means a person who is a doctor of medicine or a doctor of osteopathy licensed to practice medicine and surgery and who is board certified or is in the process of being certified by the American Board of Urology or the American Osteopathic Board of Surgery and who otherwise meets criteria established by the mobile health service's governing authority.

(9) "Magnetic Resonance Imaging (MRI)" means a diagnostic imaging modality which utilizes magnetic resonance, an interaction between atoms and electromagnetic fields, to project images of internal body structures.

(10) "Computed Tomography (C.T.) Scanning" means a radiological diagnostic imaging procedure that shows cross sectional images of internal body structures.

(11) "Lithotripter" means a noninvasive treatment technique that utilizes shock waves to shatter kidney stones.

(12) "Registered nurse" means a nurse who is licensed to engage in registered nursing practice pursuant to KRS 314.041.

(13) "Qualified anesthesiologist" means a person who is a doctor of medicine or a doctor of osteopathy licensed to practice medicine and surgery and who is board certified or in the process of being certified by the American Board of Anesthesiology or the American Osteopathic Board of Surgery and who otherwise meets the criteria established by the mobile health service's governing authority.

Section 3. Administration. (1) Licensee.

(a) The licensee shall be legally responsible for the service and for compliance with federal, state and local laws and regulations pertaining to the operation of the service, limited to the scope of the service's certificate of need.

(b) The licensee shall establish lines of authority and designate an administrator who will be principally responsible for the daily operation of the service. In the case of a service whose governing authority is comprised of more than one (1) licensed hospital, a separate administrator may be designated from each hospital to serve as the administrator of the service when it is being provided at the hospital where the designee is employed.

(2) Policies. There shall be written administrative policies which the service follows covering all aspects of operation, including:

(a) A description of organizational structure, staffing and allocation of responsibility and accountability;

(b) A description of linkages with inpatient facilities and other providers;

(c) Policies and procedures for the guidance and control of personnel performances;

(d) A written program narrative describing in detail the service(s) offered, methods and protocols for service delivery, qualifications of personnel involved in the delivery of the services, and goals of the service(s);

(e) A description of the administrative and patient care records and reports; and

(f) Procedures to be followed in the storage, handling and administration of drugs and biologicals.

(3) Personnel.

(a) Medical director. The service shall have a medical director. The medical director shall be a licensed physician or dentist with specialized training and experience in, and responsibility for, all medical aspects of the service. In the case of a service whose governing authority is comprised of more than one (1) licensed hospital, a separate medical director may be designated from each hospital's medical staff to serve as the medical director of the service when it is being provided at the hospital where the physician is on staff. If a service operates only diagnostic examination equipment, and if the service is offered only to licensed hospitals, and if the employees of the service makes no medical assessment of the diagnostic patient data collected, then the service shall be exempt from the requirements of this paragraph.

(b) The service shall employ, or provide for through a written contractural agreement, sufficient number of qualified personnel to provide effective patient care and all other related services. The licensee shall provide written personnel policies which shall be available to all employees, reviewed on an annual basis, and revised as necessary. If the staff/patient ratio does not meet the needs of the patients, the Division of Licensing and Regulation shall determine and inform the program administrator in writing how many additional personnel are to be added and of what job classification, and shall give the basis for this determination.

(c) There shall be a written job description for each position which shall be reviewed and revised as necessary.

(d) Current personnel records shall be maintained for each employee which include the following:

1. Name, address and social security number;

2. Evidence of current registration, certification or licensure of personnel;

3. Records of training and experience; and

4. Records of performance evaluation.

(4) In-service training. All personnel shall participate in ongoing in-service training programs relating to their respective job activities including thorough job orientation for new employees.

(5) Medical records.

(a) The service shall maintain medical records which contain at least the following:

1. Medical and social history, including data obtainable from other providers;

2. Names of referring physician, if any, and physician's orders for special diagnostic services such as x-ray or CT scans;

3. Description of each medical visit or contact, to include condition or reason necessitating visit or contact, assessment diagnosis, services provided, medications and treatments prescribed, and disposition made;

4. Reports of all physical examinations, laboratory, x-ray, and other test findings; and

5. Documentation of all referrals made, including reason for referral, to whom patient was referred, and any information obtained from referral source.

(b) Confidentiality of all patient records shall be maintained at all times.

(c) Transfer of records. The service shall establish systematic procedures to assist in continuity of care where the patient moves to another source of care, and the service shall, upon proper release, transfer medical records or an abstract thereof when requested.

(d) Retention of records. After patient's death or discharge the completed medical record shall be placed in an inactive file and retained for five (5) years or in case of a minor, three (3) years after the patient reaches the age of majority under state law, whichever is longer.

(e) A specific location shall be designated by the mobile health service for the maintenance and storage of the service's medical records.

(f) Provisions for storage of medical records in the event the mobile health service ceases to operate because of disaster, or for any other reason. The licensee shall safeguard the record and its content against loss, defacement and tampering.

Section 4. Vehicle Requirements. (1) All vehicles used in the provision of a health service, as provided by the service's certificate of need, shall be kept, in optimum order with clean interiors and equipment.

(2) The following standards shall apply only to those vehicles which the patient enters.

(a) There shall be adequate heating and air-conditioning capability in both the driver and patient compartments.

(b) There shall be a minimum of two (2) potential power sources for the vehicle. To insure an immediately available source of power in the event of a power failure, one (1) must be self-contained on the vehicle. The other source must be an exterior source of power hookup.

(c) The vehicle shall be accessible to the handicapped either through the use of a wheelchair lift or a ramp which complies with applicable American National Standards Institute (ANSI) requirements.

(d) The vehicle shall have adequate and safe space for staff and examination procedures, as determined by the cabinet.

(e) Equipment. Vehicles used in the provision of a health service, as provided by the service's certificate of need, shall have the following essential equipment:

1. One (1) five (5) pound dry chemical fire extinguisher;

2. One (1) first aid kit;

3. Suction apparatus;

4. Oxygen equipment (portable) including:

a. One (1) "D" size oxygen cylinder;

b. One (1) pressure gauge and flow rate regulator;

c. Adaptor and tubing; and

d. Transparent masks for adults and children. Nasal cannulas may be substituted.

(f) Personnel. Each mobile health service vehicle shall at a minimum be staffed by one (1) person, who may also be the driver of the vehicle, who shall have the following qualifications:

1. Red Cross Advanced and Emergency Care Certification, each with supplemental CPR instruction certified by the American Red Cross or the American Heart Association; or

2. EMT-first responder certification; or

3. EMT-A certification; or

4. Licensure as a registered nurse or physician.

Section 5. Provision of Services. A licensed mobile health service shall comply with the requirements listed in Sections 3, 4, and 6 of this regulation, the service's program narrative, and the additional requirements of this section which relate to the particular service(s) offered by the licensee.

(1) Diagnostic services. Diagnostic services are those services which are performed to ascertain and assess an individual's physical health condition.

(a) Diagnostic services shall be performed only on the order of a physician.

(b) The service shall prepare a record for each patient to include the date of the procedure, name of the patient, description of the procedures ordered and performed, the referring physician, the name of the person performing the procedure, the date and the name of the physician to whom the results were sent.

(c) Diagnostic imaging services.

1. Diagnostic imaging services are those services which produce an image, either through film or computer generated video, of the internal structures of a patient. These services include:

a. X-ray;

b. MRI;

c. CT scanning;

d. Ultrasound;

e. Mammography;

f. Fluoroscopy; and

g. Xerography.

2. Any mobile health service which provides diagnostic imaging services shall comply with the following:

a. Equipment used for direct patient care shall be fully approved by the Federal Food and Drug Administration (FDA) for clinical use;

b. There shall be a written preventive maintenance program which the service follows to ensure that imaging equipment is operative, properly calibrated, and shielded to protect the operator, patient, environment, and the integrity of the images produced;

c. Diagnostic imaging services shall be provided under the supervision of a physician who is qualified by advanced training and experience in the use of the specific imaging technique for diagnostic purposes;

d. Imaging services shall have a current license or registration pursuant to applicable Kentucky statutes and any regulations promulgated thereunder;

e. All personnel engaged in the operation of

imaging equipment shall have adequate training and be currently licensed or certified in accordance with applicable Kentucky statutes and regulations;

f. There shall be a written training plan for the adequate training of personnel in the safe and proper usage of the imaging equipment;

g. There shall be a physician's signed order which specifies the reason the procedure is required, the area of the body to be exposed, and the number of images to be obtained and the views needed, and a statement concerning the condition of the patient which indicates why mobile imaging services are necessary; and

h. There shall be sufficiently trained on duty personnel with adequate equipment to provide emergency resuscitation services in the event of a patient emergency.

(d) Other diagnostic services.

1. Other diagnostic services are those services which are provided through the use of diagnostic equipment, and physical examination. These services include:

a. Electrocardiogram services;
b. Electroencephalogram services;
c. Holter Monitor services;
d. Disability determination services;
e. Pulmonary function services;
f. Aphresis services;
g. Blood gas analysis services;
h. Echosonography services; and
i. Doppler services.

2. Equipment used for direct patient care shall comply with the following:

a. The licensee shall establish and follow a written preventive maintenance program to ensure that equipment shall be operative and properly calibrated;

b. All personnel engaged in the operation of diagnostic equipment shall have adequate training and be currently licensed or certified in accordance with applicable Kentucky statutes and regulations; and

c. There shall be a written training plan for the adequate training of personnel in the safe and proper usage of the equipment.

3. Physical examination services shall be nonabusive and provided in a manner which ensures the greatest amount of safety and security for the patient.

a. Protocols for diagnostic examinations shall be developed by the medical director.

b. Personnel performing physical examinations shall have adequate training and be currently licensed or certified in accordance with applicable Kentucky statutes and regulations.

c. Personnel performing physical examinations shall be limited by the relevant scope of practice of Kentucky licensure.

(2) Treatment services. Treatment services are those services provided to an individual who, because of a physical health condition, is in need of medical assistance for the attainment of their maximum level of physical function.

(a) Mobile health clinic. A mobile health clinic is a health service providing both diagnostic and treatment services through the use of a mobile vehicle. A mobile health clinic may provide a wide range of diagnostic and treatment services on an outpatient basis for a variety of physical health conditions.

1. Policies. the licensee shall develop patient care policies with the advice of a group of professional personnel that includes one (1) or more physicians and one (1) or more advanced registered nurse practitioners. At least one (1) member shall not be a member of the mobile health clinic staff. The policies shall include:

a. A description of the services the mobile health clinic provides directly and those provided through agreement;

b. Guidelines for the medical management of health problems which include the conditions requiring medical consultation and/or patient referral, and the maintenance of health records; and

c. Procedures for review and evaluation of the services provided by the clinic at least annually.

2. Personnel. The mobile health clinic shall have a staff that includes at least one (1) physician and at least one (1) advanced registered nurse practitioner. The clinic shall employ such other staff or ancillary personnel that are necessary to provide the services essential to the clinic's operation.

a. The physician shall:

(i) Be responsible for all medical aspects of the clinic and shall provide direct medical services in accordance with the Medical Practice Act, KRS Chapter 311. In addition, the physician shall provide medical direction, supervision, and consultation to the staff;

(ii) In conjunction with the advanced registered nurse practitioner(s), participate in developing, executing, and periodically reviewing the mobile health clinic's written policies and services;

(iii) Periodically review the mobile health clinic's patient records, provide medical orders, and provide medical care services to patients of the mobile health clinic; and

(iv) Be present for consultation weekly, and be available within one (1) hour, through direct telecommunication for consultation, assistance with medical emergencies, or patient referral.

b. The advanced registered nurse practitioner shall:

(i) Participate in the development, execution and periodic review of the written policies governing the services the mobile health clinic provides;

(ii) Participate with the physician in periodic review of patient health records;

(iii) Provide services in accordance with mobile health clinic policies, established protocols, the Nurse Practice Act (KRS Chapter 314), and with regulations promulgated thereunder;

i. Arrange for, or refer patients to needed services that cannot be provided at the mobile health clinic; and

ii. Assure that adequate patient health records are maintained and transferred when patients are referred.

3. The mobile health clinic shall have linkage agreements or arrangements with each of the following:

a. Inpatient hospital care;
b. Physician services in a hospital, patient's home, or long-term care facility;
c. Additional and specialized diagnostic and laboratory services that are not available at the mobile health clinic;
d. Home health agency;
e. Emergency medical services;
f. Pharmacy services; and
g. Local health department.

4. The mobile health clinic shall carry out, or arrange for an annual evaluation of its total

program, shall consider the findings of the evaluation, and take corrective action, if necessary. The evaluation shall include:

a. The utilization of clinic services including at least the number of patients served and the volume of services;

b. A representative sample of both active and closed clinical records; and

c. The mobile health clinic's health care policies.

5. The mobile health clinic shall develop and maintain written protocols, i.e., standing orders, rules of practice, and medical directives, which apply to services provided by the clinic and which explicitly direct the step-by-step collection of subjective and objective data from the patient. The protocols shall further direct data analysis, direct explicit medical action depending upon the data collected, and include rationale for each decision made. The protocols shall be signed by the staff physician.

6. The mobile health clinic staff shall furnish those diagnostic and therapeutic services and supplies that are commonly furnished in a physician's office or at the entry point into the health care delivery system. These include medical history, physical examination, assessment of health status, and treatment for a variety of medical conditions.

7. The mobile health clinic shall provide basic laboratory services essential to the immediate diagnosis and treatment of the patient, including:

a. Chemical examinations of urine by stick or tablet methods or both (including urine ketones);

b. Microscopic examinations of urine sediment;

c. Hemoglobin or hematocrit;

d. Blood sugar;

e. Gram stain;

f. Examination of stool specimens for occult blood;

g. Pregnancy tests;

h. Primary culturing for transmittal to a hospital laboratory or licensed laboratory; and

i. Test for pinworms.

8. The mobile health clinic shall provide medical emergency procedures as a first response to common life-threatening injuries and acute illness, and have available the drugs and biologicals commonly used in life-saving procedures, such as analgesics, anesthetics (local), antibiotics, anticonvulsants, antidotes and emetics, serums and toxoids.

9. The clinic shall post in a conspicuous area at the entrance, visible from the outside of the clinic, the hours that emergency medical services will be available in the clinic, the clinic's next scheduled visit, and where emergency medical services not provided by the clinic can be obtained during and after the clinic's regular scheduled visits and hours of operation.

(b) Mobile dental clinic. A mobile dental clinic is a health service providing both diagnostic and dental treatment services at different locations through the use of a mobile vehicle or equipment.

1. Policies. The licensee shall develop patient care policies with the advice of a group of professional personnel that includes at least one (1) licensed dentist. These policies shall include:

a. Guidelines which identify the dental problems which may not be performed in the mobile unit, and provisions for patient referral;

b. Guidelines for the review and evaluation of the services provided by the clinic at least annually; and

c. Guidelines for procedures to be followed in the event a patient has a medical emergency.

2. Personnel. The mobile dental clinic shall have a staff that includes at least one (1) licensed dentist and at least one (1) dental assistant.

a. The dentist shall:

(i) Be responsible for all aspects of patient care in accordance with KRS Chapter 313 and any regulations promulgated thereunder;

(ii) Be present in the clinic at all times that a patient is receiving dental care; and

(iii) Provide direct supervision to all staff involved in the delivery of services.

b. The dental assistant shall:

(i) Provide services in accordance with the mobile dental clinic policies and established protocols, KRS Chapter 313, and any regulations promulgated thereunder; and

(ii) Provide services only under the direct supervision of a licensed dentist.

3. Equipment. The mobile dental clinics shall have the following equipment:

a. X-ray units;

b. Sterilizer;

c. High speed suction;

d. Dental lights; and

e. Emergency kit with the following drug types:

(i) Antiallergenic;

(ii) Vasodilators;

(iii) Anticonvulsives; and

(iv) Vasopressors.

(c) Mobile lithotripter service. A mobile lithotripter service is a health service which provides for a noninvasive technique for removing kidney or ureteral stones through the use of a lithotripter at various hospital locations.

1. Mobile lithotripter services may only be delivered on the grounds of the hospital utilizing the mobile lithotripter service.

2. Lithotripsy services shall be performed only on the order of a physician.

3. Lithotripsy services shall be provided under the supervision of a physician who is qualified by advanced training and experience in the use of lithotripsy treatment.

4. The service shall prepare a record for each patient to include the date of the procedure, name of the patient, description of the procedures ordered and performed, the referring physician, and the name of the person performing the procedure.

5. There shall be a physician's signed order which specifies the reason the procedure is required, the area of the body to be exposed, and the anticipated outcome of treatment.

6. Policies. A mobile lithotripter service shall develop patient care policies with the advice of a group of professional personnel that includes at least one (1) qualified urologist and one (1) qualified anesthetist. At least one (1) member shall not be a member of the mobile lithotripter service staff. The policies shall include:

a. A description of how a patient will be transported between the hospital and the mobile lithotripter service;

b. Procedures to be followed in the event a patient has a medical emergency;

c. Guidelines for the review and evaluation of

the service on an annual basis; and

d. Policies and protocols governing the utilization and responsibilities of hospital staff in the delivery of lithotripter services.

7. Personnel. The mobile lithotripter service shall employ at least one (1) lithotripter technician, and shall employ or make arrangements with the hospital utilizing the service for at least one (1) registered nurse, one (1) qualified urologist to be present in the unit during the delivery of lithotripsy services, and (1) qualified anesthetist to be available for procedures requiring anesthesia;

8. Lithotripsy equipment used for direct patient care shall comply with the following:

a. Lithotripsy equipment shall be fully approved by the Federal Food and Drug Administration (FDA) for clinical use;

b. The licensee shall establish and follow a written preventive maintenance program to ensure that equipment shall be operative, properly calibrated, properly shielded, and safe for the patient, operator, and environment;

c. All personnel engaged in the operation of diagnostic equipment shall have adequate training and be currently licensed, certified or registered in accordance with applicable Kentucky statutes and regulations; and

d. There shall be a written training plan for the adequate training of personnel in the safe and proper usage of the equipment; and

e. There shall be sufficiently trained on duty personnel with adequate equipment to provide emergency resuscitation in the event of a patient emergency.

(d) Other treatment services shall include in home intravenous (I.V.) therapy services.

1. Other treatment services shall be performed only on the order of a physician.

2. In home I.V. therapy services shall only be performed by a registered nurse.

3. Policies. The licensee shall develop patient care policies with the advice of a group of professional personnel that includes one (1) or more physician(s) and one (1) or more registered nurse(s). At least one (1) member shall not be a member of the service's staff. The policies shall include:

a. A description of the services provided.

b. Guidelines for the medical management of health problems which include the conditions requiring medical consultation and/or patient referral, and the maintenance of health records; and

c. Procedures for review and evaluation of the services provided at least annually.

4. Personnel. The service shall have a staff that includes at least one (1) physician and at least one (1) registered nurse. The service shall employ such other staff or ancillary personnel that are necessary and essential to the service's operation.

a. The physician shall:

(i) Be responsible for all medical aspects of the service and shall provide direct medical services in accordance with the Medical Practice Act, KRS Chapter 311. In addition, the physician shall provide medical direction, supervision, and consultation to the staff;

(ii) In conjunction with the registered nurse(s) participate in development, execution, and periodic review of written policies and services provided;

(iii) Periodically review the service's patient records, provide medical orders, and provide medical care services as needed to patient's of the service; and

(iv) Be present for consultation weekly, and be available within one (1) hour through direct telecommunication for consultation, assistance with medical emergencies, or patient referral.

b. The registered nurse shall:

(i) Participate in the development, execution and periodic review of the written policies governing the services provided;

(ii) Participate with the physician in periodic review of patient health records;

(iii) Provide services in accordance with established policies, protocols, the Nurse Practice Act (KRS Chapter 314), and with regulations promulgated thereunder;

i. Arrange for, or refer patients to needed services that cannot be provided by the service; and

ii. Assure that adequate patient health records are maintained and transferred when patients are referred.

5. The service shall have linkage agreements or arrangements with each of the following:

a. Inpatient hospital care;

b. Physician services in a hospital, patient's home, or long-term care facility;

c. Home health agency; and

d. Emergency medical services.

6. The service shall carry out, or arrange for an annual evaluation of its total program, shall consider the findings of the evaluation, and take corrective action, if necessary. The evaluation shall include:

a. The utilization of the service including at least the number of patients served and the volume of services;

b. A representative sample of both active and closed records; and

c. The service's health care policies.

Section 6. Waste Processing. (1) Sharp wastes, such as broken glass, scalpel blades, and hypodermic needles, shall be segregated from other wastes and aggregated in rigid disposable containers immediately after use. Needles and syringes shall not be cut, dismantled, or destroyed after use, but shall be placed intact into a rigid container. The rigid containers of sharp wastes shall either be incinerated or disposed of in a sanitary landfill approved pursuant to 401 KAR 47:020.

(2) The mobile health service shall establish a written policy for the handling and disposal of all infectious pathological and contaminated waste. Any incinerator used for the disposal of waste shall be in compliance with 401 KAR 59:020 or 401 KAR 61:010.

(a) Infectious waste shall be placed in double impervious plastic bags and each bag shall be two (2) mils in thickness. A bag, when full, shall not exceed twenty five (25) pounds. All bags shall be securely closed and a tag, which reads "INFECTIOUS WASTE" and identifies the mobile health service from which the waste is being removed, shall be attached to the bag in a conspicuous manner.

(b) All unpreserved tissue specimens shall be incinerated off site.

(c) The following waste shall be sterilized before disposal or be disposed of by incineration if they are combustible:

1. Dressings and materials from open or contaminated wounds;

2. Waste materials and disposable linens from

isolation rooms;
3. Culture plates;
4. Test tubes;
5. Sputum cups; and
6. Contaminated sponges and swabs.

WILLIAM M. GARDNER, Inspector General
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: January 12, 1988
FILED WITH LRC: January 14, 1988 at 9 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for February 23, 1988, at 9 a.m., in the Health Services Auditorium, first 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 February 18, 1988, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Eric Friedlander
(1) Type and number of entities affected: All health services requiring a certificate of need that are delivered at more than one location.
(a) Direct and indirect costs or savings to those affected:
1. First year: Minimal
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No additional requirements.
(2) Effects on the promulgating administrative body: Minimal
(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: Minimal increase.
(3) Assessment of anticipated effect on state and local revenues:
(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS Chapter 216B mandates that minimum standards be established for licensure.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. These are minimum licensure standards. All facilities are required to meet the same requirements.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: No federal standards exist for these mobile services.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: N/A
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of the January 4, 1988 Meeting

The January meeting of the Administrative Regulation Review Subcommittee was held on Monday, January 4, 1988 at 1 p.m. in Room 107. Representative Mark D. O'Brien, Chairman, called the meeting to order, and the secretary called the roll. On motion of Representative Meyer, seconded by Representative Layman, the minutes of the December 10 and 11, 1987 meeting were approved.

Present January 4, 1988 were:

Members: Representative Mark D. O'Brien, Chairman; Senators Harold Haering and Pat McCuiston; Representatives Jim Bruce, Ronny Layman and Joe Meyer.

Guests: Larry Perkins, Board of Registration for Professional Engineers & Land Surveyors; Pete Pfeiffer, Thomas A. Young, Department of Fish and Wildlife Resources; Wanda Delaplane, Department of Agriculture; Kay Harker, Teresa McGinnis, David W. Morgan, Natural Resources & Environmental Protection Cabinet; Earl Dunlap, Coleman R. Gilbert, David W. Richart, Cathy Cravens Snell, Justice Cabinet; Michael Bradley, Corrections Cabinet; Steve Anders, Robert K. Bird, Charles Briggs, Bill Debord, Lewis H. Dotson, Brenda Goldey, Ronald Gordon, David L. Herald, Yolanda L. Morris, James L. Pact, Linda Priest, Sandra G. Pullen, Yvette M. Smith, Richard Sutherland, Buddy C. Yount, Transportation Cabinet; Gary Bale, Betty Lindsey, R. C. Strong, Akeel Zaheer, Department of Education; Patrick Watts, Bob Johnston, Tom Marshall, Gerald E. Wuetcher, Public Service Commission; Thomas C. Barnes, Jr., Judith Walden, Department of Housing, Buildings and Construction; Barbara Coleman, Karen Doyle, Eva Ellis, Reginald Finger, M.D., Ked Fitzpatrick, Gary Grubbs, N. Clifton Howard, Eugenia Jump, Greg Lawther, Patrick Rickard, Phillip R. Spangler, Stanley A. Stratford, R. Hughes Walker, Peggy Wallace, Cabinet for Human Resources; Tommy Turner, LaRue Co. Judge/Executive; Karen Hellard, Kentucky Association for Child Care Management; Hanne Karay, Kinder Kollege; John Karay; Nancy Cox, KAHCF.

LRC Staff: Susan Wunderlich, Joe Hood, Gregory Karambellas, Donna Pierce, Ann Gordon & Carla Arnold.

The Administrative Regulation Review Subcommittee met on January 4, 1988, and submits this report:

The Subcommittee determined that the following regulation should be referred by the Legislative Research Commission for further study:

Justice Cabinet: Juvenile Detention Facilities

500 KAR 6:200 (Physical plant.) Representative Bruce pointed out that legislation would be introduced relating to confinement of juveniles. Since any legislation that might be enacted would have an effect on this administrative regulation, Representative Bruce moved that the Legislative Research Commission be requested to refer this regulation to the appropriate standing committee for use in the development of legislation relating to the detention of juveniles.

The Subcommittee determined that the following regulations, as amended, complied with KRS Chapter 13A:

Corrections Cabinet: Office of the Secretary

501 KAR 6:040 (Kentucky State Penitentiary.) A question had been raised regarding the transportation of visitors to Kentucky State Penitentiary. Agency personnel stated that, infrequently, transportation was provided. No fee was charged. Since the cabinet had liability insurance, it preferred to continue the policy. The Subcommittee had no objection. This regulation was amended to state that wages were paid on a daily basis.

501 KAR 6:140 (Bell County Forestry Camp.) This regulation was amended to state that wages were paid on a daily basis.

Education and Humanities Cabinet: Department of Education: Office of Instruction: Teacher Certification

704 KAR 20:215 (Vocational education administrators.) This regulation was technically amended to reflect the effective date of the regulation.

704 KAR 20:460 (Examination prerequisites for principal certification.) This regulation was technically amended to reflect the effective date of the regulation.

Office of Vocational Education: Management of State-Operated Schools

705 KAR 5:130 (Attendance policies for long-term adults in state-operated vocational schools.) This regulation was amended by deleting a sentence that required compliance with federal requirements.

Public Protection and Regulation Cabinet: Plumbing

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.) This regulation was amended to cite the correction Section in 815 KAR 20:060.

Cabinet for Human Resources: Department for Health Services: State Health Plan

902 KAR 17:010 (State health plan.) This administrative regulation was amended to reflect that the State Health Plan had been signed by Governor Wallace G. Wilkinson, instead of the former Governor, Martha Layne Collins.

The Subcommittee determined that the following regulations complied with KRS Chapter 13A:

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.)

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 (Liability requirements.)

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

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

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

401 KAR 34:165 (Wording of the instrument for a corporate guarantee.)

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

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

Corrections Cabinet: Office of the Secretary

501 KAR 6:030 (Kentucky State Reformatory.)

501 KAR 6:060 (Northpoint Training Center.)

501 KAR 6:120 (Blackburn Correctional Complex.) A question had been raised regarding the use of the term "administer" with regards to medication. Agency personnel explained that the previous term, "dispense" was incorrect since only pharmacists or medical personnel would dispense drugs. The agency felt that "administer" was the proper term and the subcommittee had no objection to its use.

501 KAR 6:130 (Western Kentucky Farm Center.) A question had been raised regarding the transportation of visitors to Kentucky State Penitentiary. Agency personnel stated that, infrequently, transportation was provided. No fee was charged. Since the cabinet had liability insurance, it preferred to continue the policy. The Subcommittee had no objection.

Transportation Cabinet: Office of Minority Affairs

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

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

Department of Vehicle Regulation: Division of Motor Carriers

601 KAR 1:005 (Safety regulations.)

Motor Vehicle Tax

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

Department of Highways: Traffic

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

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

Education and Humanities Cabinet: Department of Education: Office of Instruction: Instructional Services

704 KAR 3:030 (Special instructional service units.)

Teacher Education
704 KAR 15:030 (Experimental programs of teacher preparation.)
Office of Vocational Education: Instructional Programs
705 KAR 4:210 (Diploma requirements for postsecondary students.)
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.)

Public Service Commission: Utilities
807 KAR 5:008 (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.) Representative Meyer asked if the method of computation would result in a greater fee being charged for repair of a building than for new construction. Agency personnel stated that they could not answer that question would provide Representative Meyer with information regarding this question.
815 KAR 7:020 (Building code.) Representative Bruce asked for an explanation of the requirements of this regulation as they related to sprinkler systems and hospitals. Agency personnel replied that a window large enough to provide ingress to firefighters is required unless the hospital or other residential institutional building is equipped with automatic fire suppression systems. Representative Bruce then asked what effect these requirements had on tobacco warehouses. Agency personnel replied that if a tobacco warehouse was used primarily for storage, the sprinkler system requirement applied. However, if the warehouse was used strictly for auction of tobacco, the requirements did not apply. In response to another question by Representative Bruce, agency personnel pointed out that the 18 feet clearance requirement relating to tobacco warehouses was to ensure access by firefighting personnel.
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 20:075 (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.) Representative Meyer asked for an explanation of the smoking policy. Agency personnel responded that the time limits had been repealed and that patients' smoking was subject to doctors' orders.
State Health Plan
902 KAR 17:020 (State health plan process.)
Department for Social Insurance: Public Assistance
904 KAR 2:006 (Technical requirements; AFDC.)
904 KAR 2:016 (Standards for need and amount; AFDC.)
904 KAR 2:020 (Child support.) Representative Bruce asked for an explanation of this regulation. Agency personnel replied that in compliance with legislation enacted by the General Assembly, information regarding those parents in arrears of $1000 or more in child support is shared with credit reporting agencies. The amendments to this regulation related only to the method of transfer of such information.
Department for Social Services: Child Welfare
905 KAR 1:180 (DSS policy and procedures manual.)
Department for Medicaid Services: Medicaid Services
907 KAR 1:010 (Payments for physicians' services.)

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.)
Transportation Cabinet: Department of Vehicle Regulation: Division of Motor Carriers
601 KAR 1:115 (Taxicabs.)
Education and Humanities Cabinet: Department of Education: Office of Instruction: Elementary and Secondary Education Act
704 KAR 10:022 (Elementary, middle and secondary schools standards.)
Public Protection and Regulation Cabinet: Boilers and Pressure Vessels
815 KAR 15:010 (Definitions.)
Cabinet for Human Resources: Department for Social Services: Day Care
905 KAR 2:010 (Standards for all child day care facilities.) Representative Meyer asked whether the exemption of preschool programs that were not part of an educational system also applied to private Montessori schools. Agency personnel responded they would provide Representative Meyer with this information at the next meeting.

The Subcommittee had no objections to emergency regulations which had been filed.

The Subcommittee adjourned at 2:15 p.m. until February 8, 1988.

CUMULATIVE SUPPLEMENT

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LOCATOR INDEX -- EFFECTIVE DATES

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

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201 KAR 8:006	1859 (See 14 Ky.R.)	
201 KAR 8:390	1860 (See 14 Ky.R.)	
201 KAR 27:017	2169	8-5-87
806 KAR 12:110		
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806 KAR 38:060		
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806 KAR 38:080		
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902 KAR 13:010		
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101 KAR 2:040E	1045	10-15-87
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101 KAR 2:050E	1048	10-15-87
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201 KAR 25:011E	544	8-24-87
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201 KAR 25:012E	545	8-24-87
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201 KAR 27:017E		
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301 KAR 2:044E	407	8-7-87
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301 KAR 2:220E	686	9-16-87
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301 KAR 4:050E	693	9-16-87
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302 KAR 20:040E	693	10-8-87
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302 KAR 20:055E	698	10-8-87
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302 KAR 20:065E	700	10-8-87
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401 KAR 34:165E	716	10-15-87
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603 KAR 5:230E	755	10-15-87
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907 KAR 1:140E	17	6-8-87
Replaced	81	8-5-87
907 KAR 1:150E	19	6-8-87
Replaced	83	8-5-87
907 KAR 1:250E	20	6-8-87
Replaced	85	8-5-87

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Amended	832	12-11-87
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Amended	834	12-11-87
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Amended	161	7-2-87
201 KAR 8:006		
Amended	821	10-2-87
201 KAR 8:390		
Amended	1196	12-11-87
201 KAR 9:101		
Amended	1577	
201 KAR 9:121		
Amended	836	12-11-87
201 KAR 9:161		
Amended	1578	
201 KAR 11:220	1021	12-11-87
Amended	1579	
201 KAR 12:170	666	11-6-87
201 KAR 18:050		
Amended	571	11-6-87
201 KAR 18:170	1170	1-4-88
201 KAR 19:095		
Amended	837	12-11-87
201 KAR 20:057		
Amended	30	9-10-87
201 KAR 20:070		
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Amended	573	11-6-87
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Amended	574	
Amended	1066	11-6-87
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201 KAR 20:110		
Amended	575	
Amended	1067	11-6-87
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201 KAR 20:115		
Amended	576	11-6-87
201 KAR 20:161		
Amended	578	
Amended	1068	11-6-87
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Amended	579	
Amended	1069	11-6-87
201 KAR 20:205		
Amended	581	11-6-87
201 KAR 20:210		
Amended	582	11-6-87
201 KAR 20:215		
Amended	583	11-6-87
201 KAR 20:220		
Amended	584	11-6-87
201 KAR 20:225		
Amended	585	
Amended	1071	11-6-87
Amended	1583	
201 KAR 20:230		
Amended	587	11-6-87
201 KAR 20:240		
Amended	588	11-6-87
201 KAR 20:270		
Amended	589	11-6-87
201 KAR 20:290		
Amended	590	11-6-87
201 KAR 20:310		
Amended	591	11-6-87
201 KAR 20:320		
Amended	593	11-6-87
201 KAR 20:330		
Amended	594	11-6-87
201 KAR 20:360		
Amended	595	11-6-87
201 KAR 20:370		
Amended	596	11-6-87
201 KAR 20:380	667	11-6-87
201 KAR 23:040		
Amended	167	8-5-87
201 KAR 23:060		
Amended	168	8-5-87
201 KAR 23:070		
Amended	168	8-5-87
201 KAR 25:011		
Amended	597	12-11-87
201 KAR 25:012		
Amended	598	12-11-87
201 KAR 26:171	526	10-2-87
201 KAR 26:200		
Amended	231	9-10-87
201 KAR 26:210	313	9-10-87
201 KAR 26:220	314	9-10-87
201 KAR 26:230	528	10-2-87
201 KAR 27:018	669	
Amended	1197	12-11-87
201 KAR 27:019	669	12-11-87
201 KAR 28:050		
Amended	31	8-5-87
201 KAR 28:060		
Amended	32	8-5-87
201 KAR 28:080		
Amended	232	9-10-87
201 KAR 28:090		
Amended	233	9-10-87
201 KAR 28:110		
Amended	33	8-5-87
301 KAR 1:055		
Repealed	1170	1-4-88
301 KAR 1:075		
Amended	1080	1-4-88
301 KAR 1:085		
Amended	1288	
301 KAR 1:120		
Amended	1081	1-4-88
301 KAR 1:145		
Amended	1082	1-4-88
301 KAR 1:190	670	11-6-87
301 KAR 1:191	1542	
301 KAR 1:200	1170	1-4-88
301 KAR 2:044		
Amended	463	10-2-87
301 KAR 2:050		
Amended	33	8-5-87
301 KAR 2:110		
Amended	35	8-5-87
301 KAR 2:140		
Amended	839	12-11-87
301 KAR 2:220		
Amended	598	11-6-87
301 KAR 2:230		
Amended	841	12-11-87
301 KAR 2:240	87	8-5-87
301 KAR 3:021		
Amended	842	12-11-87
301 KAR 3:030		
Amended	36	8-5-87
301 KAR 4:050		
Amended	604	11-6-87
302 KAR 16:040		
Amended	234	9-10-87
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Amended	844	12-11-87
302 KAR 20:055		
Amended	850	12-11-87
302 KAR 20:065		
Amended	854	12-11-87
302 KAR 20:070		
Amended	858	12-11-87
302 KAR 20:210	1023	12-11-87
302 KAR 34:050	315	
302 KAR 36:010	1542	
302 KAR 45:010		
Amended	431	8-5-87
401 KAR 4:060	316	
Amended	556	10-2-87
401 KAR 5:010		
Amended	1289	
401 KAR 6:040		
Amended	1292	
401 KAR 30:010		
Amended	1297	
401 KAR 30:020		
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401 KAR 30:070		
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401 KAR 30:080		
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401 KAR 31:060		
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401 KAR 31:120		
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401 KAR 31:160		
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401 KAR 31:170		
Amended	1350	
401 KAR 32:010		
Amended	1360	
401 KAR 32:030		
Amended	1362	
401 KAR 32:040		
Amended	1363	
401 KAR 32:050		
Amended	1365	
401 KAR 32:100		
Amended	1369	
401 KAR 33:010		
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401 KAR 33:020		
Amended	1377	
401 KAR 34:010		
Amended	1380	
401 KAR 34:020		
Amended	1381	
401 KAR 34:050		
Amended	1386	
401 KAR 34:070		
Amended	1389	
401 KAR 34:080		
Amended	1395	
401 KAR 34:090		
Amended	1397	
401 KAR 34:100		
Amended	1406	
401 KAR 34:120		
Amended	864	
Amended	1198	1-4-88
401 KAR 34:144		
Amended	868	1-4-88
401 KAR 34:159		
Amended	870	1-4-88
401 KAR 34:162		
Amended	873	1-4-88
401 KAR 34:165		
Amended	876	1-4-88
401 KAR 34:190		
Amended	1415	
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401 KAR 35:010		
Amended	1428	
401 KAR 35:020		
Amended	1430	
401 KAR 35:050		
Amended	1433	
401 KAR 35:070		
Amended	1437	
401 KAR 35:080		
Amended	1444	
401 KAR 35:090		
Amended	1446	
401 KAR 35:100		
Amended	1454	
401 KAR 35:120		
Amended	879	
Amended	1201	1-4-88
401 KAR 35:190		
Amended	1462	
401 KAR 35:200		
Amended	1470	
401 KAR 36:030		
Amended	1473	
401 KAR 36:040		
Amended	1474	
401 KAR 36:050	1543	
401 KAR 37:010	1546	
401 KAR 37:030	1551	
401 KAR 37:040	1553	
401 KAR 37:050	1555	
401 KAR 37:100	1557	
401 KAR 38:010		
Amended	1479	
401 KAR 38:020		
Amended	1482	
401 KAR 38:030		
Amended	1485	
401 KAR 38:040		
Amended	1489	
401 KAR 38:070		
Amended	1493	
401 KAR 38:090		
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401 KAR 38:160		
Amended	1503	
401 KAR 39:010		
Amended	1504	
401 KAR 39:080		
Amended	1506	
401 KAR 39:090	1559	
401 KAR 39:100	1560	
401 KAR 42:010		
Amended	1507	
401 KAR 47:010	529	
Withdrawn		10-29-87
401 KAR 47:020		
Amended	464	
Withdrawn		10-29-87
401 KAR 47:040		
Amended	468	
Amended	821	11-6-87
401 KAR 49:030		
Amended	475	
Amended	827	11-6-87
401 KAR 49:050	530	
Amended	829	11-6-87
401 KAR 50:010		
Amended	1585	
401 KAR 50:015		
Amended	1589	
401 KAR 50:035		
Amended	1593	
401 KAR 51:010		
Amended	1598	
401 KAR 51:017		
Amended	883	12-11-87
Amended	1601	
401 KAR 51:052		
Amended	892	12-11-87
Amended	1612	
401 KAR 53:005		
Amended	1619	
401 KAR 53:010		
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401 KAR 55:005		
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Amended	1625	

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401 KAR 57:045		
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401 KAR 59:010		
Amended	1627	
401 KAR 59:050		
Amended	1629	
401 KAR 59:052	1706	
401 KAR 59:221		
Amended	902	12-11-87
401 KAR 59:236	1707	
401 KAR 59:305		
Amended	903	12-11-87
401 KAR 59:310	1025	12-11-87
401 KAR 61:020		
Amended	1633	
401 KAR 61:170		
Amended	1636	
401 KAR 63:041	320	*(No eff. date)
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401 KAR 63:042	670	11-6-87
405 KAR 7:070		
Amended	37	
Amended	432	9-10-87
405 KAR 16:060		
Amended	22	
405 KAR 18:060		
Amended	24	
405 KAR 18:190		
Amended	27	
500 KAR 4:030		
Amended	162	7-2-87
500 KAR 4:040		
Amended	163	7-2-87
500 KAR 4:050		
Amended	163	7-2-87
500 KAR 4:060		
Amended	164	7-2-87
500 KAR 4:070		
Amended	165	7-2-87
500 KAR 6:010	328	10-2-87
500 KAR 6:020	330	10-2-87
500 KAR 6:030	332	10-2-87
500 KAR 6:040	333	10-2-87
500 KAR 6:050	334	10-2-87
500 KAR 6:060	336	10-2-87
500 KAR 6:070	337	10-2-87
500 KAR 6:080	338	10-2-87
500 KAR 6:090	339	10-2-87
500 KAR 6:100	340	10-2-87
500 KAR 6:110	342	10-2-87
500 KAR 6:120	344	10-2-87
500 KAR 6:130	346	10-2-87
500 KAR 6:140	346	10-2-87
500 KAR 6:150	347	10-2-87
500 KAR 6:160	348	10-2-87
500 KAR 6:170	349	10-2-87
500 KAR 6:180	349	10-2-87
500 KAR 6:190	531	*(No eff. date)
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500 KAR 6:200	1171	1-4-88
501 KAR 6:020		
Amended	45	8-5-87
Amended	235	9-10-87
Amended	1509	
501 KAR 6:030		
Amended	47	8-5-87
Amended	236	9-10-87
Amended	605	11-6-87
Amended	905	12-11-87
Amended	1083	1-4-88
Amended	1511	
Amended	1638	
501 KAR 6:040		
Amended	48	8-5-87
Amended	238	9-10-87
Amended	478	10-2-87
Amended	907	12-11-87
Amended	1085	1-4-88
Amended	1639	
501 KAR 6:050		
Amended	480	10-2-87
Amended	908	12-11-87
Amended	1513	
501 KAR 6:060		
Amended	50	8-5-87
Amended	239	9-10-87
Amended	481	10-2-87
Amended	910	12-11-87
Amended	1086	1-4-88
Amended	1641	
501 KAR 6:070		
Amended	1515	
Amended	1643	
501 KAR 6:080		
Amended	52	8-5-87
501 KAR 6:120		
Amended	52	8-5-87
Amended	911	12-11-87
Amended	1088	1-4-88
501 KAR 6:130		
Amended	54	8-5-87
Amended	241	9-10-87
Amended	483	10-2-87
Amended	1091	1-4-88
Amended	1644	
501 KAR 6:140	533	10-2-87
Amended	1092	1-4-88
501 KAR 8:010	88	9-10-87
502 KAR 20:020		
Amended	607	11-6-87
503 KAR 1:100		
Amended	242	9-10-87
503 KAR 5:090		
Amended	608	
Withdrawn		11-16-87
600 KAR 1:050		
Amended	611	12-11-87
600 KAR 1:070		
Amended	55	8-5-87
600 KAR 2:010		
Amended	243	9-10-87
600 KAR 2:020		
Amended	244	9-10-87
600 KAR 2:030		
Amended	245	9-10-87
600 KAR 4:010	1027	
Amended	1203	1-4-88
600 KAR 4:020	1032	
Amended	1208	1-4-88
601 KAR 1:005		
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Amended	484	
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Amended	1097	
Amended	1576	
601 KAR 1:115		
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Amended	560	
601 KAR 2:010		
Amended	248	9-10-87
601 KAR 9:010		
Amended	249	9-10-87
601 KAR 9:012		
Amended	250	9-10-87
601 KAR 9:013		
Amended	251	9-10-87
601 KAR 9:015		
Amended	252	9-10-87
601 KAR 9:040		
Amended	252	9-10-87
601 KAR 9:047		
Amended	254	9-10-87
601 KAR 9:060		
Amended	255	9-10-87
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Amended	256	*(No eff. date)
Amended	1098	1-4-88
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601 KAR 9:080		
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601 KAR 9:085		
Amended	261	9-10-87
601 KAR 9:125	91	8-5-87
Amended	614	11-6-87
601 KAR 9:130	1709	
601 KAR 9:135	1710	
601 KAR 12:020		
Amended	485	10-2-87
601 KAR 12:030		
Amended	486	10-2-87
601 KAR 12:040		
Amended	486	10-2-87
601 KAR 13:010		
Amended	487	10-2-87
601 KAR 13:020		
Amended	489	10-2-87
601 KAR 13:030		
Amended	491	10-2-87
602 KAR 15:010		
Amended	262	9-10-87
602 KAR 15:020		
Amended	263	9-10-87
602 KAR 50:010		
Amended	265	9-10-87
602 KAR 50:030		
Amended	267	9-10-87
602 KAR 50:050		
Amended	268	9-10-87
602 KAR 50:120		
Amended	269	9-10-87
603 KAR 1:030		
Amended	492	10-2-87
603 KAR 2:015		
Amended	171	9-10-87
Amended	1645	
603 KAR 5:025		
Amended	271	9-10-87
603 KAR 5:061		
Amended	55	8-5-87
603 KAR 5:066		
Amended	272	9-10-87
603 KAR 5:075		
Amended	274	9-10-87
603 KAR 5:100		
Amended	492	10-2-87
603 KAR 5:110		
Amended	57	8-5-87
603 KAR 5:120		
Amended	1648	
603 KAR 5:210		
Amended	914	
Amended	1211	1-4-88
603 KAR 5:230		
Amended	174	8-5-87
Amended	945	
Amended	1241	1-4-88
603 KAR 8:010		
Amended	275	9-10-87
605 KAR 1:160	678	11-6-87
605 KAR 1:170	1712	
702 KAR 3:190		
Amended	615	11-6-87
702 KAR 7:065		
Amended	989	12-11-87
702 KAR 7:090		
Amended	1651	
704 KAR 3:030		
Amended	1102	1-4-88
704 KAR 10:022		
Amended	277	9-10-87
Amended	1103	
704 KAR 15:030		
Amended	1104	1-4-88
704 KAR 15:080		
Amended	1652	
704 KAR 20:005		
Amended	616	11-6-87
704 KAR 20:215		
Amended	1105	1-4-88
704 KAR 20:280		
Amended	617	11-6-87
704 KAR 20:330		
Amended	1654	
704 KAR 20:450	350	9-10-87
704 KAR 20:460	1174	1-4-88
705 KAR 2:120	351	
Amended	561	10-2-87
705 KAR 4:210		
Amended	1107	1-4-88
705 KAR 5:060		
Amended	278	9-10-87
705 KAR 5:100	352	9-10-87
705 KAR 5:110	353	9-10-87
705 KAR 5:130	1175	1-4-88
706 KAR 1:010		
Amended	279	9-10-87
Amended	618	11-6-87
706 KAR 1:020		
Amended	619	12-11-87
707 KAR 1:003		
Amended	279	9-10-87
709 KAR 1:070		
Amended	1108	1-4-88
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720 KAR 1:010		
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806 KAR 5:050		
Amended	212	8-5-87
806 KAR 6:090	1035	
Amended	1285	1-4-88
806 KAR 9:200		
Amended	212	8-5-87
806 KAR 9:210		
Amended	213	8-5-87
807 KAR 5:008		
Amended	1109	1-4-88
808 KAR 3:050		
Amended	71	8-5-87
810 KAR 1:011		
Amended	620	11-6-87
810 KAR 1:013		
Amended	493	10-2-87
Amended	625	11-6-87
Amended	990	
Withdrawn		12-11-87
811 KAR 1:090		
Amended	1531	
811 KAR 1:105		
Amended	628	11-6-87
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Amended	1656	
811 KAR 1:215		
Amended	630	11-6-87
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Amended	1663	
811 KAR 2:035		
Amended	1666	
811 KAR 2:040		
Amended	1670	
811 KAR 2:045		
Amended	1673	
811 KAR 2:050		
Amended	1674	
811 KAR 2:060		
Amended	1533	
Amended	1676	
811 KAR 2:070		
Amended	1683	
811 KAR 2:080		
Amended	1686	
811 KAR 2:085		
Amended	1687	
811 KAR 2:096	535	10-2-87
Amended	1689	
811 KAR 2:110	1713	
815 KAR 7:010		
Amended	281	9-10-87
815 KAR 7:013		
Amended	1111	1-4-88
815 KAR 7:020		
Amended	289	9-10-87
Amended	1112	1-4-88
815 KAR 7:070		
Amended	632	11-6-87
815 KAR 10:020		
Amended	496	11-6-87
815 KAR 15:010		
Amended	634	
Withdrawn		1-11-88
815 KAR 20:010		
Amended	1116	1-4-88
815 KAR 20:020		
Amended	1123	1-4-88
815 KAR 20:060		
Amended	1123	1-4-88
815 KAR 20:073		
Amended	1126	1-4-88
815 KAR 20:075		
Amended	1127	1-4-88
815 KAR 20:076	1176	1-4-88
815 KAR 20:077	1178	1-4-88
815 KAR 20:090		
Amended	1129	1-4-88
815 KAR 20:100		
Amended	1133	1-4-88
815 KAR 20:120		
Amended	636	11-6-87
Amended	1135	1-4-88
815 KAR 20:130		
Amended	1142	1-4-88
815 KAR 20:191		
Amended	1146	1-4-88
902 KAR 3:005		
Repealed	354	10-2-87
902 KAR 3:007		
Repealed	357	10-2-87
902 KAR 3:010		
Repealed	561	10-2-87
902 KAR 3:015		
Repealed	363	10-2-87
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Repealed	361	10-2-87
902 KAR 3:025		
Repealed	357	10-2-87
902 KAR 3:030		
Repealed	359	10-2-87
902 KAR 3:035		
Repealed	360	10-2-87
902 KAR 3:040		
Repealed	363	10-2-87
902 KAR 3:045		
Repealed	363	10-2-87
902 KAR 3:050		
Repealed	365	10-2-87
902 KAR 3:055	354	10-2-87
902 KAR 3:060	355	
Amended	561	10-2-87
902 KAR 3:065	357	10-2-87
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902 KAR 3:075	360	10-2-87
902 KAR 3:080	361	10-2-87
902 KAR 3:085	363	10-2-87
902 KAR 3:090	363	10-2-87
902 KAR 3:095	365	10-2-87
902 KAR 3:100	366	
Amended	563	10-2-87
902 KAR 3:105	367	
Amended	564	10-2-87
902 KAR 3:110	368	
Amended	564	10-2-87
902 KAR 3:115	369	
Amended	565	10-2-87
902 KAR 3:120	371	10-2-87
902 KAR 3:200		
Repealed	372	10-2-87
902 KAR 3:205	372	10-2-87
902 KAR 3:210	373	
Amended	566	10-2-87
902 KAR 3:215	375	10-2-87
902 KAR 3:220	376	10-2-87
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902 KAR 3:250	385	
Amended	569	10-2-87
902 KAR 3:255	387	10-2-87
902 KAR 3:260	388	10-2-87
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