Administrative Register of Kentucky

LEGISLATIVE RESEARCH COMMISSION
FRANKFORT, KENTUCKY

VOLUME 14, NUMBER 11
FRIDAY, MAY 1, 1988

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

MEETING NOTICE: The next meeting of the Administrative Regulation Review Subcommittee is tentatively scheduled on May 9, 1988. See tentative agenda on pages 2003–2004 of this Administrative Register.

The **ADMINISTRATIVE REGISTER OF KENTUCKY** is the monthly supplement for the 1987 Edition of **KENTUCKY ADMINISTRATIVE REGULATIONS SERVICE.**

HOW TO CITE: Cite all material in the **ADMINISTRATIVE REGISTER OF KENTUCKY** by Volume number and Page number. Example: Volume 2, Kentucky Register, page 318 (short form: 2 Ky.R. 318).

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 REGISTER OF KENTUCKY
(ISSN 0096-1493)
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The Administrative Register of Kentucky is published monthly by the Legislative Research Commission, Frankfort, Kentucky 40601. Subscription rate, postpaid in the United States: $48 per volume of 12 issues, beginning in July and ending with the June issue of the subsequent year.
Second class postage paid at Frankfort, Kentucky.
POSTMASTER: Send address changes to Administrative Register of Kentucky, Room 64, State Capitol, Frankfort, Kentucky 40601.

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ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
TENTATIVE AGENDA
May 9, 1988
(Rm. 107, Capitol Annex @ 2 p.m.)

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Department for Facilities Management

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200 KAR 6:040. Floodplain Management.

GENERAL GOVERNMENT CABINET

Board of Hairdressers and Cosmetologists
201 KAR 12:175. Fines in lieu of suspension.
201 KAR 12:180. Hearing procedures.

Kentucky Athletic Commission
201 KAR 27:080. Miscellaneous provisions.

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Department of Fish and Wildlife Resources

Fish
301 KAR 1:140. Special commercial fishing permit.
301 KAR 1:210. Free fishing days.

COMMERCE CABINET
Department of Agriculture

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302 KAR 20:065 & E. Sale and exhibition of livestock in Kentucky.
302 KAR 20:070 & E. Stockyards.
302 KAR 20:210 & E. Pseudorabies surveillance.

CORRECTIONS CABINET

Office of the Secretary
501 KAR 6:020. Corrections policies and procedures.
501 KAR 6:030 & E. Kentucky State Reformatory.
501 KAR 6:040. Kentucky State Penitentiary.
501 KAR 6:060. Northpoint Training Center.
501 KAR 6:110 & E. Roederer Farm Center.
501 KAR 6:120. Blackburn Correctional Complex.
501 KAR 6:130. Western Kentucky Farm Center.
501 KAR 6:140. Bell County Forestry Camp.

EDUCATION AND HUMANITIES CABINET
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Office of Superintendent
701 KAR 5:070 & E. Criteria for Commonwealth Institute for Teachers.

Office of Local Services

School Terms, Attendance and Operation
702 KAR 7:090. Requirements for coaches and other personnel staffing interscholastic athletic programs. (Not Amended After Hearing) (Deferred from March meeting)

Office of Instruction

Instructional Services
704 KAR 3:340. Commonwealth Diploma Program.

Office of Instruction

Elementary and Secondary Education Act
704 KAR 10:022. Elementary, middle and secondary schools standards. (Agency requests deferral until May)

Teacher Education
704 KAR 15:080. Paraprofessional employees and volunteer personnel. (Not Amended After Hearing) (Deferred from March meeting)

Teacher Certification
704 KAR 20:005. Kentucky standards for preparation-certification of professional school personnel program approval.
704 KAR 20:305. Written examination prerequisites for teacher certification.
704 KAR 20:470. Principal intern program.
704 KAR 20:480. Repeal of 704 KAR 20:185, 20:200, and 20:208.

Office of Vocational Education

Administration
705 KAR 1:010. Two year program plan.

Office of Vocational Rehabilitation

Administration
706 KAR 1:020. Independent living rehabilitation services state plan.

LABOR CABINET

Occupational Safety and Health

803 KAR 2:020. Adoption of 29 CFR Part 1910.
803 KAR 2:027. Adoption of 29 CFR Parts 1915, 1917, 1918 and 1919, maritime employment.
803 KAR 2:030. Adoption of 29 CFR Part 1926.
803 KAR 2:032. Adoption of 29 CFR Part 1928.

PUBLIC PROTECTION AND REGULATION CABINET

Department of Alcoholic Beverage Control

Conduct of Business; Employees

804 KAR 5:060. Entertainment requirements.

Department of Housing, Buildings and Construction

Kentucky Building Code

815 KAR 7:020. Building code.

CABINET FOR HUMAN RESOURCES

Department for Health Services

Hospitalization of Mentally Ill and Mentally Retarded

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

Department for Employment Services

Unemployment Insurance

903 KAR 5:290 & E. Employer contribution rates.

Department for Social Insurance

Public Assistance

904 KAR 2:201. Repeal of 904 KAR 2:200.

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.

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 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 reviewed by the Administrative Regulation Review Subcommittee 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 reviewed by the Administrative Regulation Review Subcommittee at its next meeting. After review by the Subcommittee, the regulation shall be referred by the Legislative Research Commission to an appropriate jurisdictional committee for a second review. The administrative regulation shall be considered as adopted and in effect as of adjournment on the day the appropriate jurisdictional committee meets or thirty (30) days after being referred by LRC, whichever occurs first.

EMERGENCY REGULATIONS NOW IN EFFECT

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

STATEMENT OF EMERGENCY

Comes the Kentucky Board of Examiners of Psychologists (hereinafter the board) pursuant to KRS 13A.190 and makes the following statement of explanation in support of the attached emergency regulation. 1. Recently the board has decided to implement uniform conditions for practice under temporary licensure or certification as appropriate. 2. KRS 319.032 authorizes the board to adopt reasonable regulations pertaining to the profession of psychology. 3. In the absence of this emergency regulation the board would encounter undue delay in the implementation of this needed public policy. 4. This emergency regulation will be replaced by an ordinary administrative regulation.

WALLACE G. WILKINSON, Governor
KIM R. JONASON, Chair

GENERAL GOVERNMENT CABINET
Board of Examiners of Psychologists

201 KAR 26:240E. Requirements for temporary licensure and certification.

RELATES TO: KRS 319.032
PURSUANT TO: KRS 319.032
EFFECTIVE: April 14, 1988
NECESSITY AND FUNCTION: This regulation permits psychologists to practice under conditions of temporary licensure and certification.

Section 1. (1) Upon acceptance of the application to sit for the examination in psychology, the applicant may practice psychology under the supervision of a licensed psychologist under conditions of temporary licensure established by the board. No applicant shall supervise certified psychologists or psychological assistants until he successfully completes all licensure requirements.

(2) Upon acceptance of the application to sit for the examination in psychology, the applicant may practice psychology under the supervision of a licensed psychologist under conditions of temporary certification established by the board.

KIM R. JONASON, Chair
APPROVED BY AGENCY: April 11, 1988
FILED WITH LRC: April 14, 1988 at 4 p.m.

STATEMENT OF EMERGENCY

In order to continue to operate the Kentucky State Reformatory in accordance with KRS Chapter 196, the Corrections Cabinet needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because the effected institutional policy must be revised immediately to allow the reformatory to implement a change in institutional policies requiring high security to efficiently and effectively house residents who, for disciplinary, security, or health reasons, need to be maintained in an area separate from the institution's general population. Other changes include procedural revisions to the institution's policy regarding the hours of operation of the inmate canteen. Revisions were made to the institution medical policies in order to provide better tracking of inmates in the Medical Alert System, establishes improved procedures for administration of emergency drugs, update procedures for infection control, medication for inmates leaving institutional grounds and hospital operations. This emergency regulation will be replaced by the ordinary administrative regulation filed with LRC on May 15, 1988 in accordance with KRS Chapter 13A.

WALLACE G. WILKINSON, Governor
JOHN T. WIGGINTON, Secretary

CORRECTIONS CABINET

501 KAR 6:030E. Kentucky State Reformatory.

RELATES TO: KRS Chapters 196, 197, 439
PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640
EFFECTIVE: March 16, 1988
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 March 15 [February 12], 1988 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 (Amended 3/15/88)
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 and Release of Psychological/ Psychiatrict Information (Amended 3/15/88)
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 [(Amended 2/12/88)]
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
KSR 10-00-01 Unit D - Staffing Pattern, Staff Allocation, Position Description, Staff Selection, Training and Evaluation, Time and Attendance, and Unit Personnel Records (Added 3/15/88)
KSR 10-00-02 Unit D - General Operational Procedures (Added 3/15/88)
KSR 10-00-03 Unit D - Inmate Tracking System and Records System (Added 3/15/88)
KSR 10-00-04 Unit D - Administrative Segregation (Added 3/15/88)
KSR 10-00-05 Unit D - Disciplinary Segregation (Added 3/15/88)
KSR 10-00-06 Unit D - Protective Custody (Added 3/15/88)
KSR 10-00-07 Unit D - Geriatrics (Added 3/15/88)
KSR 10-00-08 Unit D - Safekeepers (Added 3/15/88)
KSR 10-00-09 Unit D - Hold Ticket Residents (Added 3/15/88)
KSR 10-00-10 Unit D - Inmate Legal Access (Added 3/15/88)
KSR 10-00-11 Unit D - Behavior Problem Control (Added 3/15/88)
KSR 10-00-12 Unit D - Designated Staff Visits (Added 3/15/88)
KSR 10-00-13 Unit D - Property Room Access (Added 3/15/88)
[KSR 10-00-02 Special Management Inmates Operations, Rules and Regulations for Unit D (Deleted 3/15/88)]
[KSR 10-00-03 Special Needs Unit (Deleted 3/15/88)]
[KRS 10-00-04 Unit D Admission/Release Ticket (Deleted 3/15/88)]
KSR 11-00-01 Meal Planning for the General Population
KSR 11-00-02 Special Diets
KSR 11-00-03 Food Service Inspections
KSR 11-00-04 Dining Room Dress Code for Inmates
KSR 11-00-06 Health Standards/Regulations for Food Service Employees
KSR 11-00-07 Early Chow Line Passes for Medically Designated Inmates
KSR 12-00-01 Inmate Summer Dress Regulations
KSR 12-00-02 Sanitation and General Living Conditions
KSR 12-00-03 State Items Issued to Inmates
KSR 12-00-07 Regulations for Inmate Barbershop
KSR 13-00-01 Identification of Mentally Retarded Inmates
KSR 13-00-02 Hospital Operations, Rules and Regulations (Amended 3/15/88)
KSR 13-00-03 Medication for Inmates Leaving Institution Grounds (Amended 3/15/88)
KSR 13-00-04 Dental Care for Inmates
KSR 13-00-05 Medical and Dental Sick Call
KSR 13-00-06 Infection Control (Amended 3/15/88)
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 (Amended 3/15/88)
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 (Amended 3/15/88)
KSR 13-00-16 Suicide Prevention and Intervention Program
KSR 14-00-01 Inmate Rights
KSR 14-00-02 A/C Center and Unit D Inmate Access to Legal Aide Services
KSR 14-00-04 Inmate Grievance Procedure
KSR 14-00-05 Inmate Marriages
KSR 14-00-06 Inmate Legal Aides
KSR 15-00-01 Operational Procedures and Rules and Regulations for Unit A, B, and C
KSR 15-00-02 Regulations Prohibiting Immate Control or Authority Over Other Inmate(s)
KSR 15-00-03 Governor's Meritorious Good Time Award
KSR 15-00-04 Restoration of Forfeited Good Time

KSR 15-00-05	Differential Status for SU (QUIT) Inmates
KSR 15-00-06	Inmate I.D. Cards
KSR 15-00-07	Inmate Rules and Discipline - Adjustment Committee Procedures
KSR 15-00-08	Firehouse Living Area
KSR 16-00-01	Visiting Regulations
KSR 16-00-02	Inmate Correspondence and Mailroom Operations
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
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: March 15, 1988
FILED WITH LRC: March 16, 1988 at 9 a.m.

STATEMENT OF EMERGENCY

In order to continue to operate the Roederer Farm Center in accordance with KRS Chapter 196, the Corrections Cabinet needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because the effected institutional policy must be revised immediately to establish procedures for the assignment of medium security inmates to bed areas within the previously all minimum security Roederer Farm Center. Since the Roederer Farm Center has already been converted in part to a medium security institution this policy must be revised immediately. This emergency regulation will be replaced by the ordinary administrative regulation filed with LRC on March 15, 1988 in accordance with KRS Chapter 13A.

WALLACE G. WILKINSON, Governor
JOHN T. WIGGINTON, Secretary

CORRECTIONS CABINET

501 KAR 6:110E. Roederer Farm Center.

RELATES TO: KRS Chapters 196, 197, 439
PURSUANT TO: KRS 196.035, 197.020, 439.470, 439.590, 439.640
EFFECTIVE: March 16, 1988
NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorizes the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on March 15, 1988 [April 15, 1987] and hereinafter should be referred to as Roederer 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.

RFC 01-04-02	Extraordinary Occurrence Procedure
RFC 01-06-01	Inmate Access to and Communication with RFC Staff
RFC 01-07-01	Institutional Legal Assistance
RFC 01-08-01	Public Information and News Media Access
RFC 01-10-01	RFC Cooperation with Outside Bodies Including Courts, Governmental Legislative, Executive, and Community Agencies
RFC 01-09-01	Staff Participation in Professional Organization and Conferences; Provisions for Leave and Reimbursement for Expenses
RFC 01-12-01	Institutional Duty Officer - Responsibilities
RFC 02-01-01	Fiscal Management: Organization
RFC 02-01-02	Fiscal Management: Accounting Procedures
RFC 02-01-03	Fiscal Management: Agency Funds
RFC 02-01-04	Fiscal Management: Insurance
RFC 02-02-01	Fiscal Management: Budget
RFC 02-02-02	Inmate Control of Personal Funds
RFC 02-02-03	Storage and Disposition of Monies received on Weekends, Holidays, and Between 4:00 p.m. and 8:00 a.m. Weekdays
RFC 02-02-04	Inmate Accounts
RFC 02-03-01	Fiscal Management: Audits
RFC 02-04-01	Purchase Orders
RFC 02-04-02	Processing of Invoices
RFC 02-06-01	Property Inventory
RFC 03-01-01	General Guidelines for RFC Employees
RFC 03-01-02	Service Regulations, Attendance Accumulation and Use of Leave
RFC 03-03-01	Employee Grievance Procedures
RFC 03-04-01	Personnel Records
RFC 03-05-01	Personnel Vacancies: Promotion Board
RFC 03-06-01	Work Planning: Employee Evaluations and Evaluation Control

RFC 03-07-01 Affirmative Action - E.E.O.
RFC 03-08-01 Confidentiality of Information, Roles and Services of Consultants, Contract Personnel, and Volunteers
RFC 03-09-01 Personnel Manning Review
RFC 03-10-01 Employee's Handbook
RFC 03-11-01 Replacement of Damaged or Destroyed Personal Property
RFC 03-12-01 Corrections Cabinet Staff Members Entering the Roederer Farm Center While Being Under the Influence
RFC 03-13-01 Staff/Visitor Meals
RFC 04-01-01 Employee Training and Development
RFC 05-01-01 Information System
RFC 06-01-01 Offender Records
RFC 06-02-01 Use of Inmate Records/Security of Inmate Records
RFC 06-03-01 Records Release of Information
RFC 06-03-02 Storage of Expunged Records
RFC 06-04-01 Court Trips
RFC 06-04-02 Receipt of Order of Appearance
RFC 08-01-01 Fire Prevention
RFC 08-02-01 Fire Procedures
RFC 08-02-02 Fire Extinguishers and Their Use
RFC 08-08-01 Guidelines for the Control and Use of Flammable, Toxic, and Caustic Substances
RFC 09-04-03 Duties and Responsibilities of the Fire/Safety Officer
RFC 09-06-01 Search Policy/Disposition of Contraband
RFC 09-09-02 Drug Abuse Testing
RFC 09-09-03 Breathalyzer
RFC 09-14-01 Restricted Areas
RFC 09-22-01 Use of Force
RFC 09-24-01 Informants
RFC 10-01-01 Special Management Inmates
RFC 11-01-01 Food Services: General Guidelines
RFC 11-02-01 Food Service: Security
RFC 11-03-01 Dining Room Guidelines
RFC 11-04-01 Food Service: Meals
RFC 11-04-02 Food Service: Menu, Nutrition and Special Diets
RFC 11-05-01 Food Service: Kitchen and Dining Room Inmate Work Responsibilities
RFC 11-05-02 Medical Screening of Food Handlers
RFC 11-06-01 Food Service: Inspections and Sanitation
RFC 11-07-01 Food Service: Purchasing, Storage and Farm Products
RFC 11-08-01 Staff/Visitor Meals
RFC 12-01-01 Sanitation, Living Conditions Standards, Clothing Issues
RFC 12-01-02 Bed Areas - Assignment/Condition Standards (Amended 3/15/88)
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RFC 12-03-02 Barber Shop Services and Equipment Control
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RFC 13-01-01 Organization of Health Services
RFC 13-02-01 Health Maintenance Services: Sick Call and Pill Call
RFC 13-03-01 Dental Policy/Sick Call
RFC 13-04-01 Inmate Medical Screenings and Health Evaluations
RFC 13-05-02 Licensure and Training Standards
RFC 13-06-03 Emergency Medical/Dental Care Services
RFC 13-06-04 First Aid/CPR Training Program
RFC 13-07-01 Health Records
RFC 13-10-01 Health Education/Special Health Programs
RFC 13-11-01 Informed Consent [(Added 4/15/87)]
RFC 13-12-01 Mental Health/Provision of Psychiatric Services by KCPC
RFC 13-12-02 Transfer of Inmates to Kentucky Correctional Psychiatric Center
RFC 13-15-01 Medical Restraints
RFC 13-17-01 Vision Care/Optometry Services
RFC 14-01-01 Inmate Rights and Responsibilities
RFC 14-02-01 Legal Services Program
RFC 14-03-01 Inmate Grievance Procedure
RFC 14-04-01 Inmate Participation in Authorized Research
RFC 15-02-01 Hearing Detention
RFC 16-01-01 Inmate Visiting
RFC 16-02-01 Telephone Communications [(Amended 4/15/87)]
RFC 16-03-01 Mail Regulations
RFC 16-03-02 Christmas Packages
RFC 17-01-01 Assessment/Orientation Procedure
RFC 17-02-01 Inmate Reception Process
RFC 17-03-01 Inmate Personal Property and Property Control
RFC 17-04-01 Unauthorized Items
RFC 17-05-01 Inmate Canteen
RFC 18-01-01 Institutional Classification Committee
RFC 18-02-01 Classification/Security Levels
RFC 18-03-01 Classification Process
RFC 18-03-02 Classification Program Planning
RFC 18-03-03 Honor's Program [(Amended 4/15/87)]
RFC 18-04-01 Instruction for Six Month Review
RFC 18-05-01 Transfers to Other Minimum Security Institutions
RFC 18-06-01 Classification Document
RFC 19-01-01 Job Assignments
RFC 20-01-01 Academic Education Program
RFC 20-01-02 Testing and Verification Procedure
RFC 20-02-01 Correctional Educator Senior
RFC 21-01-01 Library Services
RFC 22-01-02 Recreational Equipment Check-in/Check-out Procedure
RFC 22-02-01 Outside Recreation
RFC 22-02-02 Entry/Exit Procedure for Inmate Outside Recreation
RFC 22-03-01 Inmate Clubs and Organizations
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RFC 23-01-01 Religious Services
RFC 23-02-01 Security Procedures for the Chapel
RFC 23-03-01 Visitors for Religious Programs
RFC 23-04-01 Marriage of Inmates
RFC 24-01-01 Social Services and Counseling Program
RFC 25-01-01 Release Preparation Program Description
RFC 25-02-01 Temporary Release/Community Center Release
RFC 25-03-01 Furloughs
RFC 25-04-01 Preparole Progress Report
RFC 25-04-02 Parole Eligibility Dates
RFC 25-05-01 Inmate Discharge Procedure
RFC 26-01-01 Citizen Involvement and Volunteer Services Program

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: March 15, 1988
FILED WITH LRC: March 16, 1988 at 9 a.m.

STATEMENT OF EMERGENCY

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

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

CABINET FOR HUMAN RESOURCES
Certificate of Need and Licensure Board

902 KAR 20:135E. Certificate of need application fee schedule.

RELATES TO: KRS 216B.010 to 216B.131, 216B.990[(1),] (2)
PURSUANT TO: KRS 13A.350, 216B.040, Executive Order 86-366
EFFECTIVE: March 30, 1988
NECESSITY AND FUNCTION: KRS 216B.040 authorizes the Certificate of Need and Licensure Board to establish, by administrative regulation, and collect reasonable application fees for certificates of need and licenses. This regulation provides a fee schedule for certificate of need applications. Executive Order 86-366 provides for the replacement of the Certificate of Need and Licensure Board with the Commission for Health Economics Control in Kentucky.

Section 1. (1) Certificate of need applications not proposing a capital expenditure or proposing a capital expenditure of $150,000 or less shall be assessed an application fee of sixty (60) [fifty (50)] dollars.

(2) Certificate of need applications which propose a capital expenditure greater than $150,000 but not more than $5,000,000 shall be assessed an application fee at a rate of .06 [.05] of one (1) percent.

(3) Certificate of need applications which propose a capital expenditure greater than $5,000,000 but not more than $10,000,000 shall be assessed a base fee of $3,000 [2,500], plus an additional fee of .05 [.04] of one (1) percent of the amount in excess of $5,000,000.

(4) Certificate of need applications which propose a capital expenditure greater than $10,000,000 but not more than $30,000,000 shall be assessed a base fee of $5,500 [4,500] plus an additional fee of .04 [.03] of one (1) percent of the amount in excess of $10,000,000.

(5) Certificate of need applications which propose a capital expenditure greater than $30,000,000 shall be assessed a base fee of $13,500 [10,500] plus an additional fee of .01 of one (1) percent of the amount in excess of $30,000,000.

Section 2. All fees shall be computed to the nearest dollar. Application fees shall be submitted with the application. Applications shall not be deemed complete until the application fee has been paid. Application fees shall be refunded only if notice of withdrawal of the application is received by the executive director of the board within five (5) working days of the date the application is received by the executive director of the board [and the health systems agency. Application fees shall be assessed to all applications not deemed complete by April 14, 1982].

JACK S. LESSHAFFT, SR., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 28, 1988
FILED WITH LRC: March 30, 1988 at 4 p.m.

STATEMENT OF EMERGENCY

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

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

RELATES TO: KRS 205.520
PURSUANT TO: KRS 194.050
EFFECTIVE: April 7, 1988
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with requirements of Title XIX of the Social Security Act. KRS 205.520(3) empowers the cabinet, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provisions of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the resource and income standards by which eligibility of the medically needy is determined.

Section 1. Resource Limitations and Exclusions of the Medically Needy. The following provisions are applicable with regard to computation of allowable resources:

(1) The upper limit for resources for family size of one (1) and for family size of two (2) is set at $1,700 and $3,400 respectively, effective January 1, 1986; at $1,800 and $3,600 respectively, effective January 1, 1987; at $1,900 and $3,800 respectively, effective January 1, 1988; and at $2,000 and $4,000 respectively, effective January 1, 1989, with fifty (50) dollars for each additional member.

(2) A homestead, occupied or abandoned, household equipment, and farm equipment without limitation on value are excluded from consideration.

(3) Equity of $6,000 in income-producing, nonhomestead real property, business or nonbusiness, essential for self-support, is

excluded from consideration. In addition, for AFDC related MA only cases the value of otherwise countable real property (whether income producing or nonincome producing) may be excluded from consideration for six (6) months if a good faith effort is being made to dispose of the property properly; an additional three (3) months may be allowed for the disposal at the request of the recipient if efforts to dispose of the property within the six (6) month period have been unsuccessful.

(4) Equity of $4,500 in automobiles is excluded from consideration; however, if an automobile is used for employment, to obtain medical treatment of a specific or regulation medical problem, of if specially equipped (e.g., as for use by the handicapped) the total value of such automobile is excluded.

(5) Burial reserves of up to $1,500 per individual, which may be in the form of burial agreement(s) (prepaid burials or similar arrangements), trust fund(s), life insurance policies, or other identifiable funds are excluded from consideration. The cash surrender value of life insurance is considered when determining the total value of burial reserves. When burial funds are commingled with other funds, the applicant has up to thirty (30) days to separately identify the burial reserve amount. Interest or other appreciation of value of an excluded burial reserve is excluded so long as such amount is left to accumulate as a part of the burial reserve.

(6) Burial spaces, plots, vaults, crypts, mausoleums, urns, caskets, and other repositories which are customarily and traditionally used for the remains of deceased persons are excluded from consideration as a countable resource without regard to value.

(7) Resources determined in accordance with subsections (3), (4), and (5) of this section to be in excess of excluded amounts must be considered countable resources when determining whether the individual or family group exceeds the upper limits specified in subsection (1) of this section. If resources exceed the upper limits, the individual or family group is ineligible.

(8) The following exclusions are also applicable as stated:

(a) Proceeds from the sale of a home are excluded from consideration for three (3) months from date of receipt if used to purchase another home.

(b) Resources of a blind or disabled person necessary to fulfill an approved plan for achieving self-support are excluded from consideration.

(c) Payments or benefits from federal statutes, other than Title XVI (Supplemental Security Income), are excluded from consideration (as either a resource or income) if precluded from consideration in Title XVI determinations of eligibility by the specific terms of the statute.

(d) Disaster relief assistance is excluded from consideration.

(e) Cash or in-kind replacement for repair or replacement of an excluded resource is excluded from consideration if used to repair or replace the excluded resource within nine (9) months of the date of receipt.

(f) Effective with regard to determinations of eligibility made on or after April 16, 1988, and applicable with regard to the usual three (3) month period for retroactive eligibility, the life interest that Medicaid applicants or recipients may have in real estate or other property shall be excluded from consideration as an available resource.

Section 2. Income and Resource Exemptions. Income and resources which are exempted from consideration for purposes of computing eligibility for the comparable money payment program (Aid to Families With Dependent Children and Supplemental Security Income) shall be exempted from consideration by the cabinet, except that the AFDC earned income disregard (first thirty (30) dollars and one-third (1/3) of the remainder) may not be allowed in determining eligibility for medical assistance only.

Section 3. Income Limitations of the Medically Needy. Eligibility from the standpoint of income is determined by comparing adjusted income as defined in Section 4 of this regulation, of the applicant, applicant and spouse, or applicant, spouse and minor dependent children with the following scale of income protected for basic maintenance:

Size of Family	Annual	Monthly
1	$2,400	$200
2	2,900	242
3	3,400	284
4	4,100	342
5	4,800	400
6	5,500	459

For each additional member, $600 annually or fifty (50) dollars monthly is added to the scale. The change shown in this section of the regulation shall be effective with regard to determinations of eligibility made on or after December 1, 1987.

Section 4. Additional Income Considerations. (1) In comparing income with the scale as contained in Section 3 of this regulation, gross income is adjusted as follows in all cases with exceptions as contained in Section 5 of this regulation:

(a) In cases of adults and children, the standard work related expenses of adult members and out-of-school youth are deducted from gross earnings. For those with either full-time or part-time employment the standard work expense deduction is seventy-five (75) dollars per month. All earnings of an in-school child are disregarded. Full-time and part-time employment, and school attendance, shall be as defined in 904 KAR 2:016, Standards for need and amount; AFDC.

(b) In cases of adults and children, dependent care as a work expense is allowed not to exceed $160 per child or incapacitated adult per month for full-time employment (as defined in subsection (1) of this section) or $110 per child or incapacitated adult per month for part-time employment (as defined in subsection (1) of this section). A dependent care work expense deduction is allowed only when the dependent is included in the assistance unit.

(2) The following special factors are applicable for pregnant women, infants and children eligible pursuant to Section 9401 of the Omnibus Budget Reconciliation Act of 1986 (OBRA 86):

(a) Such pregnant women and children may have

family income up to, but not to exceed, 100 percent of the nonfarm income official poverty guidelines as promulgated by the Department of Health and Human Services, United States Government, and revised annually, and the updated official poverty guidelines to be used for a year will be the latest poverty guidelines available as of July 1 of the particular state fiscal year;

(b) Pregnant women, infants and children who would be eligible under the provisions of OBRA 86 except for income in excess of the allowable standard may not become eligible by spending down to the official poverty guidelines;

(c) Available liquid assets for the family may not exceed the usual upper limits specified for the medically needy, and all other resources shall be disregarded; [and]

(d) The Aid to Families with Dependent Children (AFDC) budgeting methodology (except for application of the AFDC earned income disregard of the first thirty (30) dollars and one-third (1/3) of the remainder) shall be used; and

(e) Changes of income that occur after the determination of eligibility of a pregnant woman shall not affect such pregnant woman's eligibility through the remainder of the pregnancy including the usual post partum period which ends at the end of the month containing the 60th day of a period beginning on the last day of her pregnancy.

Section 5. Individuals in Chronic Care Institutions. For aged, blind or disabled individuals in chronic care facilities, the following requirements with respect to income limitations and treatment of income shall be applicable.

(1) In determining eligibility, the appropriate medically needy standard is used as are appropriate disregards and exclusions from income. In determining patient liability for the cost of institutional care, gross income is used as shown in subsections (2) and (3) of this section.

(2) Income protected for basic maintenance, effective July 1, 1986, is forty (40) dollars monthly in lieu of the figure shown in Section 3 of this regulation. All income in excess of forty (40) dollars is applied to the cost of care except as follows:

(a) Available income in excess of forty (40) dollars is first conserved as needed to provide for needs of the spouse and minor children up to the appropriate family size amount from the scale as shown in Section 3 of this regulation.

(b) Remaining available income is then applied to the incurred costs of medical and remedial care that are not subject to payment by a third party, including Medicare and health insurance premiums and medical care recognized under state law but not covered under the state's Medicaid plan.

(3) The basic maintenance standard allowed the individual during the month of entrance into or exit from the long term care facility shall reasonably take into account home maintenance costs.

(4) When an individual loses eligibility for a supplementary payment due to entrance into a participating long term care facility, and the supplementary payment is not discontinued on a timely basis, the amount of any overpayment is considered as available income to offset the cost of care (to the Medical Assistance Program) if actually available for payment to the provider.

Section 6. Spend-down Provisions. No technically eligible individual or family is required to utilize protected income for medical expenses before qualifying for medical assistance. Individuals with income in excess of the basic maintenance scale as contained in Section 3 of this regulation may qualify for any part of a three (3) month period in which medical expenses incurred have utilized all excess income anticipated to be in hand during that period.

Section 7. Consideration of State Supplementary Payments. For an individual receiving state supplementary payments, that portion of the individual's income which is in excess of the basic maintenance standard is applied to the special need which results in the supplementary payment.

Section 8. Special Needs Contributions for Institutionalized Individuals. Voluntary payments made by a relative or other party on behalf of a long term care facility resident or patient shall not be considered as available income if made to obtain a special privilege, service, or item not covered by the Medical Assistance Program. Examples of such special services or items include television and telephone service, private room and/or bath, private duty nursing services, etc.

Section 9. Pass-through Cases. Increases in social security payments due to cost of living increases but for which the individual would be eligible for supplemental security income benefits or state supplementary payments, and which are received after April 1, 1977, shall be disregarded in determining eligibility for medical assistance benefits; such individuals shall remain eligible for the full scope of program benefits with no spend-down requirements. Beginning on November 1, 1986, the additional amount specified in Section 12202 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) shall be disregarded, i.e., that amount of social security benefits to which certain widows or widowers were entitled as a result of the recomputation of benefits effective January 1, 1984, and except for which (and subsequent cost of living increases) such individuals would be eligible for federal supplemental security income benefits; eligibility as a result of such disregard shall not exist prior to July 1, 1986. To be eligible, applicants must apply within fifteen (15) months of the date of the Act, i.e., by July 1, 1987.

Section 10. Relative Responsibility. For purposes of the Medical Assistance Program, spouses are considered responsible for spouses and parents are considered responsible for dependent minor children. Effective for determinations of eligibility made on or after December 1, 1987, children under age twenty-one (21) living with parents (but not including children age eighteen (18) and above who are blind or disabled) are considered dependent minor children for purposes of deeming of income and resources under the Medicaid Program even if such children are emancipated under state law.

Stepparents are responsible for their stepchildren as shown in this section and Section 11 of this regulation. This responsibility, with regard to income and resources, is determined as follows:

(1) "Living with" is defined as sharing a common living arrangement or household, but not including living in the same room in a long term care facility. "Living apart" is defined as not sharing a common household, whether due to estrangement, disability, or illness. Effective July 1, 1987, a husband and wife sharing a room or comparable accommodation in a long term care facility may be considered to be "living with" each other after they have continuously shared such a room or accommodation for six (6) months, if treating such husband and wife as living apart would prevent either of them from receiving medical assistance.

(2) In cases of aged, blind, or disabled applicants or recipients living with their eligible spouse, total resources and adjusted income of the couple is considered in relation to the resource and income limitations for a family size of two (2), or if other dependents live with the couple, the appropriate family size including the dependents.

(3) In cases of aged, blind or disabled applicants or recipients living with an ineligible spouse, income from the ineligible spouse shall be deemed as available to the eligible spouse as outlined below.

(a) Determine the potential spend-down amount of the eligible individual by comparing the countable income to the Medically Needy Income Level (MNIL) for one (1) as shown in Section 3 of this regulation.

(b) Allocate to other dependents in the household from the ineligible spouse income in an amount equal to one-half (1/2) of the MNIL for a family size of one (1) for each dependent.

(c) If the ineligible spouse's income is more than one-half (1/2) of the MNIL for a family size of one (1), combine the income of the ineligible spouse with that of the eligible individual and compare that figure with the MNIL for a couple to determine the spend-down amount.

(d) Compare the amount resulting from paragraph (a) of this subsection with the result of paragraph (c) of this subsection and determine eligibility using the spend-down amount, if any, which is greater.

(e) Resources shall be considered in the same manner as for an eligible spouse.

(4) In cases of aged, blind, or disabled couples, living apart for any reason other than institutionalization, both of whom are concurrently applying for or receiving MA only, income and resources are considered in relation to resource and income limitations for a family size of two (2), or if other dependents live with either spouse, the family size including such dependents, but only for the first six (6) months after the month of separation, that such couple lives apart; however, if mutual consideration of income and resources causes the individuals to lose eligibility as a couple, eligibility for the individuals is determined in accordance with subsection (4) of this section. If the separation is due to the institutionalization of a spouse, mutual consideration of income ceases in the month after the month of separation but resources are considered mutually available to each other the month of separation, and <u>for</u> the six (6) months following that month <u>unless such would act to preclude eligibility of the individual in long-term care</u>.

(5) In cases of an aged, blind, or disabled individual living apart from a spouse (for a reason other than institutionalization) who is not a recipient of MA only, eligibility is determined on a couple basis for the month of separation and as a single individual after the month of separation.

(6) For an individual whose case is being worked as if he/she were a single individual due to living apart from his/her spouse, as shown in Section 10(3) and (4) of this regulation, who has jointly held resources with his/her spouse, one-half (1/2) of the jointly held resource would be considered a resource; except that the entire amount of a jointly held checking or savings account is considered a resource if the resource may be accessed independently of the spouse.

(7) Total resources and adjusted income of parent(s) and children for whom application is made is considered in relation to limitations for family size. Excluded, however, is the income and/or resources of an SSI parent and the SSI essential person spouse whose medical assistance eligibility is based on inclusion in the SSI case. Resources and income of an SSI essential person, spouse or nonspouse, whose medical assistance eligibility is not based on inclusion in the SSI case must be considered.

(8) In cases of a blind or disabled child under eighteen (18) living with his/her parent(s) (including stepparent, if applicable), total resources and adjusted income of the parent(s) is related to limitations for family size, including the applicant or recipient child and other dependent children of parent using the adult scale. The income and resources of the parent(s) shall also be considered available to such child who is aged eighteen (18) through twenty-one (21), if in school, when to do so will work to the child's benefit and the individual was aged eighteen (18) through twenty-one (21) in September, 1980, and was MA eligible at that time.

(9) Income and resources of parent(s) are not considered available to a child living apart from the parent(s), but any continuing contribution actually made is considered as income. Living apart may mean living in a medical institution, special school or in foster care and such status continues even if the child makes visits to the parent(s) home. For comparison with the resource and income limitations, the child's individual resources and/or income are considered in relation to family size of one (1).

(10) When a recipient (but not including a child) in a family case has income and resources considered in relation to family size and enters a long term care facility, his/her income and resources are considered in the same manner as previously for up to one (1) year <u>with, effective with regard to determinations of eligibility made on or after February 1, 1988, the individual allowed forty (40) dollars as his/her basic maintenance standard</u>. [For such an individual, the forty (40) dollars maintenance standard is not applicable since his/her needs are considered with that of other family members.] When a child in a family case is in the long term care facility, eligibility of the child is determined in the same manner for up to

a year but his/her liability for the cost of care is determined by allowing to the child from his/her own income forty (40) dollars and considering the remainder available for the cost of care. (Note: in this situation any welfare payment made to the child is disregarded when determining liability for cost of care.) The eligibility of the individual, with regard to income and resources, must be determined on the basis of living apart from the other family members whenever it becomes apparent that the separation will last for more than one (1) year.

Section 11. Treatment of Income of the Stepparent or Parent/Legal Guardian of a Minor Parent/Legal Guardian (hereinafter referred to as a "Grandparent") and Effect on Eligibility of the Assistance Group. An incapacitated (as determined by the department) stepparent's income, or a grandparent's income, is considered in the same manner as for a parent if the stepparent or grandparent is included in the family case. When the stepparent or grandparent living in the home is not being included in the family case the stepparent's or grandparent's gross income is considered available to the spouse or minor parent in accordance with the policies set forth in this section.

(1) Disregards/exclusions from income. The following disregards/exclusions from income shall be applied:

(a) The first seventy-five (75) dollars of the gross earned income of the stepparent or grandparent who is employed full time or part time (with full-time and part-time employment as defined in Section 4(1) of this regulation).

(b) An amount equal to the medically needy income limitations scale as shown in Section 3 of this regulation for the appropriate family size, for the support of the stepparent or grandparent and any other individuals living in the home but whose needs are not taken into consideration in the medical assistance eligibility determination and are claimed by the stepparent or grandparent as dependents for purposes of determining his/her federal personal income tax liability.

(c) Any amount actually paid by the stepparent or grandparent to individuals not living in the home who are claimed by him/her as dependents for purposes of determining his/her personal income tax liability.

(d) Payments by the stepparent or grandparent for alimony or child support with respect to individuals not living in the household.

(e) Income of a stepparent or grandparent receiving supplemental security income.

(f) Verified medical expenses for the stepparent or grandparent and his/her dependents in the home.

(2) Determining eligibility of the children. When a stepparent or grandparent has available income remaining after disregards/exclusions are applied, such income may be deemed to the spouse (of the stepparent) or minor parent (child of the grandparent) but not to the stepchild(ren) or grandchild(ren). Eligibility of the stepchild(ren) or grandchild(ren) is determined in the following manner in order to take this requirement into consideration.

(a) The available income deemed to the spouse or minor parent shall be the lesser of the amount available or the medically needy income level for one (1), as shown in Section 3 of this regulation.

(b) The income of the spouse or minor parent (including the amount deemed) shall be combined with that of the child(ren) and the total compared against the medically needy income level for the appropriate family size. If there is no excess income, the child is eligible. If there is an excess, the excess amount may be spent down in the usual manner.

(3) Determining eligibility of the spouse or minor parent. Available income of the stepparent or grandparent remaining after exclusions/disregards are applied must be considered fully available to the spouse or minor parent. The eligibility of the spouse or minor parent is therefore determined in the same manner as shown in subsection (2) of this section, except that the full amount available (including that portion of the available income, if any, which is in excess of the medically needy income level for one (1)) is deemed to the spouse or minor parent.

(4) When the spouse or minor parent, or both the spouse or minor parent and child(ren) has a spend-down case(s), uncovered incurred medical expenses of all members of the budget unit may be used to meet the spend-down amount(s).

Section 12. Companion Cases. When spouses or parent(s) and children living in the same household apply separately for assistance, relative responsibility must be taken into consideration.

(1) In the case of an application for assistance for a dependent child(ren), the income, resources and needs of the parent(s) must be included in the determination of need of the child(ren) even when the parent(s) applies for assistance for himself/herself on the basis of age, blindness, or disability (except as shown in subsection (3) of this section).

(2) In the case of a spouse, income and resources of both spouses are combined and compared against the medically needy income and resources limits for a family size of two (2) even though a separate determination of eligibility must be made for each individual.

(3) In the case of families with children with a parent eligible for supplemental security income (SSI), neither the income, resources, nor needs of the SSI eligible individual are to be included in the determination of eligibility of the children.

Section 13. Treatment of Lump-sum Income. The following policy is effective January 1, 1986: for adult related cases, lump-sum income is prorated over the three (3) month period following the agency's notice of receipt by the client, with any amount spent by the client prior to notification of the agency deducted from the total considered available; any portion of the income remaining available after the three (3) month period is considered in relation to resource limitations; for AFDC related cases, lump sum income is divided by the medically needy income level and prorated over the resultant number of months.

Section 14. Transferred Resources. When an applicant or recipient transfers a nonexcluded resource(s) for the purpose of becoming eligible for medical assistance, the value of the transferred resource(s) will be considered a resource to the extent provided for by this section. The provisions of this section are

applicable to both family related cases and medical assistance only cases based on age, blindness, or disability.

(1) The disposal of a resource, including liquid assets, at less than fair market value shall be presumed to be for the purpose of establishing eligibility unless the individual presents convincing evidence that the disposal was exclusively for some other purpose. If the purpose of the transfer is for some other reason or if the transferred resource was considered an excluded resource at the time it was transferred, the value of the transferred resource is disregarded. If the resource was transferred for an amount equal to at least the assessed value for tax purposes, the resource will be considered as being disposed of for fair market value. Notwithstanding the preceding, if the assessed agricultural value is used for tax purposes the transfer must be for an amount equal to the fair market value.

(2) After determining that the purpose of the transfer was to become or remain eligible, the cabinet shall first add the uncompensated equity value of the transferred resource to other currently held resources to determine if retention of the property would have resulted in ineligibility. For this purpose, the resource considered available shall be the type of resource it was prior to transfer, e.g., if nonhomestead property was transferred, the uncompensated equity value of the transferred property would be counted against the permissible amount for nonhomestead property. If retention of the resource would not have resulted in ineligibility, the value of the transferred resource would thereafter be disregarded.

(3) If retention would result in ineligibility, the cabinet will consider the excess transferred resource available for up to twenty-four (24) months, subject to the following conditions:

(a) The value of the total excess resources considered available (including the uncompensated equity value of the transferred resource) shall be reduced by $500 for each month that has elapsed since the transfer, beginning with the month of transfer; except

(b) The reduction provided for in paragraph (a) shall not be applicable with regard to any month in which the individual received medical assistance but was actually ineligible due to the provisions of this section.

(4) For those recipients who were receiving assistance on February 28, 1981, this section is applicable only with respect to resources transferred subsequent to that date.

(5) The uncompensated value may be excluded from consideration when good cause exists. A waiver of consideration of the uncompensated amount will be granted subject to the following criteria:

(a) "Good cause" means that an expense (or loss) was incurred by the individual or family group due to a natural disaster, fire, flood, storm or earthquake; or illness resulting from accident or disease; or hospitalization or death a member of the immediate family; or civil disorder or other disruption resulting in vandalism, home explosions, or theft of essential household items.

(b) The exclusion may not exceed the amount of the incurred expense or loss.

(6) If the individual is in a long term care facility, the actual cost of long term care (rather than the $500) may be deducted from the uncompensated value excess on a monthly basis.

Section 15. Special Provisions for AIS/MR Recipients. [Effective April 1, 1983,] Medical assistance eligibility for participants in the program of alternative intermediate services for the mentally retarded (AIS/MR) shall be determined taking into consideration the special provisions contained in this section.

(1) Usual institutional deeming rules shall be applicable with regard to the categorically needy including all participants eligible on the basis of the special income level of 300 percent of the SSI standard. Community deeming procedures are used for all medically needy individuals not eligible under the special income level. [The income and resources of the parent(s) and/or spouse shall not be considered available to the AIS/MR participant.]

(2) AIS/MR services program participants who participate in the AIS/MR program for thirty (30) consecutive days (including any actual days of institutionalization within that period) and who have income not in excess of 300 percent of the SSI standard for an individual shall be determined to be eligible as categorically needy under a special income level (i.e., the special income level is 300 percent of the SSI standards). Income protected for basic maintenance of the AIS/MR participant in the posteligibility determination of patient liability for individuals eligible on the basis of the special income level of 300 percent of the federal SSI standard shall be the standard for the federal supplemental security income program in addition to the SSI general exclusion.

(3) When eligibility is determined using community deeming rules [for a spend-down case], the attributed cost of care against which monthly available income of the AIS/MR participant shall be applied shall be the projected annual average cost of care for all participants divided by twelve (12) and rounded to the nearest dollar. The amount protected for basic maintenance is the usual medically needy standard for the appropriate family size as shown in Section 3 of this regulation plus the SSI general exclusion.

(4) Eligibility shall continue on the same [monthly] basis as for an institutionalized individual when the cost of care is greater than the recipient's adjusted monthly income or the recipient is eligible based on the special income level of 300 percent of the SSI level as specified in 907 KAR 1:011, Technical eligibility requirements.

[(5) Determinations of eligibility for medical assistance of the AIS/MR participant's parent(s), spouse, and/or dependent children shall be made on the same basis as if the participant was institutionalized.]

Section 16. Special Provisions for Hospice Recipients. [Effective October 1, 1986,] Medical assistance eligibility for participants under the Medicaid hospice benefit shall be determined (when necessary to establish eligibility for medical assistance benefits for cases with income in excess of the usual basic maintenance standard) taking into consideration the special provisions contained in this section.

(1) Income protected for basic maintenance of the hospice participant in the posteligibility

determination of patient liability for noninstitutionalized individuals eligible on the basis of the special income level of 300 percent of the federal SSI standard shall be the standard for the federal supplemental security income (SSI) program in addition to the SSI general exclusion. For the noninstitutionalized medically needy participants (all of whom must spend-down on a quarterly basis), the amount protected for basic maintenance is the usual medically needy standard as shown in Section 3 of this regulation plus the SSI general exclusion. For the institutionalized medically needy the amount protected for basic maintenance in the eligibility determination is the medically needy standard for the appropriate family size plus the SSI general exclusion. If a hospice participant is institutionalized in a long-term care facility, the basic maintenance amount is forty (40) dollars per month.

(2) When eligibility is determined for an institutionalized monthly [a] spend-down case, the attributed cost of care against which monthly available income of the hospice participant shall be applied shall be the hospice routine home care per diem (for the hospice providing care) as established by the Medicare program plus the room and board rate for the appropriate level of care (i.e., skilled nursing or intermediate care).

(3) Eligibility shall continue on the same monthly basis as for an institutionalized individual when [the cost of care is greater than the recipient's monthly income or] the recipient is eligible based on the special income level of 300 percent of the SSI level as specified in 907 KAR 1:011, Technical eligibility requirements.

(4) A hospice participant may be eligible for benefits based on this section only if he/she has elected coverage under the Medicaid hospice benefit rather than the regular Medicaid program.

(5) Usual institutional deeming rules shall be applicable with regard to the categorically needy including all participants eligible on the basis of the special income level of 300 percent of the SSI standard. Community deeming procedures are used for all medically needy individuals not eligible under the special income level.

Section 17. Special Provisions for Recipients Participating in the Home and Community Based Services Waiver Program. [Effective January 1, 1987,] Medical assistance eligibility for participants under the home and community based (HCB) services waiver program shall be determined (when necessary to establish eligibility for medical assistance benefits for cases with income in excess of the usual basic maintenance standard) taking into consideration the special provisions contained in this section.

(1) Income protected for basic maintenance of HCB services program participants who are eligible under the special income level shown in this section shall be the standard used for an individual in the federal supplemental security income (SSI) program in addition to the SSI general exclusion.

(2) HCB services program participants who participate in the HCB program for thirty (30) consecutive days (including any actual days of institutionalization within that period) and who have [with] income not in excess of 300 percent of the SSI standard for an individual shall be determined to be eligible as categorically needy under a special income level (i.e., the special income level is 300 percent of the SSI standard).

[(3) Patient liability and relative responsibility is determined in the same manner as if the HCB services program participant was institutionalized except that excess income of responsible relatives will be considered available to the HCB participant with the cost of HCB services projected.]

(3) [(4)] If an HCB services program participant has income in excess of 300 percent of the SSI standard, eligibility of the participant is determined in the usual manner for an individual who is institutionalized, with the cost of HCB services projected if eligibility is determined on a monthly basis, except that the amount protected for basic maintenance is the usual medically needy standard for the appropriate family size [an individual in his own home] as shown in Section 3 of this regulation plus the SSI general exclusion.

(4) Usual institutional deeming rules shall be applicable with regard to all participants eligible on the basis of the special income level of 300 percent of the SSI standard. Community deeming procedures are used for all medically needy individuals not eligible under the special income level.

Section 18. Treatment of Potential Payments from Medicaid Qualifying Trusts. When an individual (or his/her spouse for the individual's benefit) creates (other than by will) a trust (or similar legal device) with amounts payable to the same individual, such trust shall be considered a "Medicaid qualifying trust" if the trustee(s) of the trust are permitted to exercise discretion as to the amount of the payments from the trust to be paid to the individual. In this circumstance the amount considered available to the trust beneficiary shall be the maximum amount the trustee(s) may (using the trustee's discretion) pay in accordance with the terms of the trust, regardless of the amount actually paid. The cabinet may, however, consider as available only that amount actually paid if to do otherwise would create an undue hardship upon the individual; the criteria for determining "undue hardship" shall be established by the cabinet.

Section 19. Implementation. The amendments to this regulation will be effective with regard to determinations of eligibility made on or after April 1, 1988 [October 1, 1987] except as otherwise specified herein.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 29, 1988
FILED WITH LRC: April 7, 1988 at 10 a.m.

STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because

agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation.

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

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services

907 KAR 1:011E. Technical eligibility requirements.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 194.050
EFFECTIVE: April 7, 1988
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet by regulation to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of Medical Assistance, hereinafter referred to as MA, to Kentucky's indigent citizenry. This regulation sets forth the technical eligibility requirements of the MA Program.

Section 1. The Categorically Needy. All individuals receiving Aid to Families with Dependent Children, Title IV-E benefits, Supplemental Security Income or Optional or Mandatory State Supplementation are eligible for MA as categorically needy individuals. In addition, the following classifications of needy persons are included in the program as categorically needy and thus eligible for MA participation.

(1) Children in foster family care or private nonprofit child caring institutions dependent in whole or in part on a governmental or private agency;

(2) Children in psychiatric hospitals or medical institutions for the mentally retarded;

(3) Pregnant women;

(4) Children of unemployed parents;

(5) Children in subsidized adoptions dependent in whole or in part on a governmental agency;

(6) Families terminated from the Aid to Families with Dependent Children (AFDC) program because of increased earnings or hours of employment;

(7) Children (but not their parents) who meet the income and resource requirements of the Aid to Families with Dependent Children program, who were born after September 30, 1983 and who are under the age of five (5); and effective July 1, 1987, children (but not their parents) who meet the income and resource requirements of the Aid to Families with Dependent Children Program, who are under eighteen (18) years of age (or under age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before age nineteen (19));

(8) A child(ren) born to a woman eligible for and receiving medical assistance, so long as the child(ren) has not reached his/her first birthday, resides in the household of the woman, and the woman remains eligible for such assistance. In this situation, an application is deemed to have been made and the child found eligible for MA as of the date of birth;

(9) Effective June 1, 1987, individuals in institutions meeting appropriate patient status criteria who (if not institutionalized) would not be eligible for supplemental security income (SSI) or optional state supplementation benefits due to income, may be eligible under a special income level which is set at 300 percent of the SSI benefit amount payable for an individual with no income. Eligibility for similar hospice participants and similar participants in the waiver projects of home and community based services for the mentally retarded and the aged, blind or disabled may also be determined under this provision. Eligibility of an individual whose gross income exceeds 300 percent of the previously specified SSI benefit amount may not be determined in accordance with this provision;

(10) Effective July 1, 1987, qualified severely impaired individuals as specified in Section 9404 of P.L. 99-509 and Sections 2, 3 and 4 of P.L. 99-643 (to the extent such coverage is mandatory in this state);

(11) Effective July 1, 1987, individuals who lose SSI eligibility but would be eligible for SSI benefits except for entitlement to or an increase in child's insurance benefits based on disability as specified in Section 6 of P.L. 99-643; and

(12) Effective October 1, 1987, women during pregnancy (and as though pregnant through the end of the month containing the 60th day of a period beginning on the last day of pregnancy), and infants and children under two (2) years of age, as permitted by Section 9401 of the Omnibus Budget Reconciliation Act of 1986, subject to the following:

(a) Such pregnant women, infants and children are required to meet the income and resource requirements for this eligibility group as specified in 907 KAR 1:004, Resource and income standard of medically needy; and

(b) When an infant or child eligible under this provision is receiving covered inpatient services on a birthday which will make him/her ineligible due to age, the infant or child will remain eligible until the end of the stay for which the covered inpatient services are furnished so long as the infant or child remains otherwise eligible except for age.

Section 2. The Medically Needy. Other individuals (including children as shown in Section 1(7) of this regulation), and pregnant women meeting income and resource standards of the medically needy program), meeting technical requirements comparable to the categorically needy group, but with sufficient income to meet their basic maintenance needs may apply for MA with need determined in accordance with income and resource standards prescribed by regulation of the Cabinet for Human Resources. Included within the medically needy eligible groups are pregnant women during the course of their pregnancy; a woman who, while pregnant, is eligible for, has applied for, and has received medical assistance, shall continue to be eligible as though she were pregnant until the end of the month containing the 60th day of a period beginning on the last day of her pregnancy (i.e., the day on which her child is born or the pregnancy is otherwise terminated). For individuals covered on January 1, 1985 pursuant to this section, the usual three (3) month rule on retroactivity (as shown in Section

3(15)) will apply.

Section 3. Technical Eligibility Requirements. Technical eligibility factors of families and individuals included as categorically needy under Section 1(1) through (6) of this regulation, or as medically needy under Section 2 of this regulation are:

(1) Children in foster care, private institutions, psychiatric hospitals or mental retardation institutions must be under eighteen (18) years of age (or under age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before age nineteen (19));

(2) Pregnant women are eligible only upon medical proof of pregnancy, except as otherwise specified in Section 2 of this regulation;

(3) Unemployment relating to eligibility of both parents and children is defined as:

(a) Employment of less than 100 hours per month, except that the hours may exceed that standard for a particular month if the work is intermittent and the excess is of a temporary nature as evidenced by the fact that the individual was under the 100 hour standard for the prior two (2) months and is expected to be under the standard during the next month;

(b) The individual has prior labor market attachment consisting of earned income of at least fifty (50) dollars during six (6) or more calendar quarters ending on March 31, June 30, September 30, or December 31, within any thirteen (13) calendar quarter period ending within one (1) year of application, or the individual within twelve (12) months prior to application received unemployment compensation;

(c) The individual is currently receiving or has been found ineligible for unemployment compensation;

(d) The individual is currently registered for employment at the state employment office, and available for full-time employment;

(e) The unemployed parent must not have refused suitable employment without good cause as determined in accordance with 45 CFR Section 233.100(a)(3)(ii);

(f) The unemployed parent must meet the requirements for independent employment search as specified herein. That is:

1. The unemployed parent must make not less than twenty-four (24) contacts with prospective employers in each three (3) month period following an approval, reinvestigation or reapproval.

2. The unemployed parent may not contact the same prospective employer more than once in each calendar month.

3. If the unemployed parent does not meet the requirement for the minimum number of employment contacts during the three (3) month period, the parent may, prior to or upon receipt of the advance notice of proposed discontinuance, meet the requirement for the number of contacts for the prior three (3) month period. These contacts shall not offset the requirement for employer contacts during the three (3) month period following the next approval, reinvestigation or reapproval.

(4) Under the definition contained in subsection (3) of this section, a parent shall not be considered as unemployed if he is:

(a) Temporarily unemployed due to weather conditions or lack of work when it is anticipated he can return to work within thirty (30) days; or

(b) On strike, or unemployed as a result of involvement in a labor dispute when such involvement would disqualify the individual from eligibility for unemployment insurance in accordance with KRS 341.360; or

(c) Unemployed because he voluntarily quit his most recent work for the purpose of attending school; or

(d) A farm owner or tenant farmer, unless he has previously habitually required and secured outside employment and currently is unable to secure outside employment; or

(e) Self-employed and not available for full-time employment.

(5) An aged individual must be at least sixty-five (65) years of age.

(6) A blind individual must meet the definition of blindness as contained in Titles II and XVI of the Social Security Act relating to RSDI and SSI.

(7) A disabled individual must meet the definition of permanent and total disability as contained in Titles II and XVI of the Social Security Act relating to RSDI and SSI.

(8) For families losing AFDC eligibility solely because of increased earnings or hours of employment, medical assistance shall continue for four (4) months to all such family members as were included in the family grant (and children born during the four (4) month period) if the family was eligible for and received AFDC in any three (3) or more months during the six (6) month period immediately preceding the month in which it became ineligible for AFDC. The four (4) month period begins on the date AFDC is terminated. If AFDC benefits are paid erroneously for one (1) or more months in such a situation, the four (4) month period begins with the first month in which AFDC was erroneously paid, i.e., the month in which the AFDC should have been terminated.

(9) Families losing AFDC eligibility solely due to loss of the thirty (30) dollars disregard or the one-third (1/3) disregard from earnings shall be deemed AFDC eligible for nine (9) months after the termination of the disregard, and shall as a result be eligible for continued medical assistance for the nine (9) month period. The nine (9) month period begins on the date the AFDC should have been terminated. Coverage for medical assistance is extended to all family members who were included in the grant (and children born during the nine (9) month period).

(10) Families losing AFDC eligibility as a result (wholly or partly) of the collection or increased collection of child or spousal support, and who were eligible for and received AFDC in at least three (3) of the six (6) months immediately preceding the month in which such ineligibility begins, shall be deemed AFDC eligible for Title XIX purposes for four (4) months beginning with the month in which ineligibility begins. If AFDC benefits are paid erroneously for one (1) or more months in such a situation, the four (4) month period begins with the first month in which AFDC was erroneously paid, i.e., the month in which the AFDC should have been terminated. Coverage for medical assistance is extended to all family members losing eligibility as a result of the receipt of the child or spousal support. The extended eligibility provision contained herein is

applicable only with respect to families discontinued on or after July 18, 1984 and before October 1, 1988.

(11) Parents may be included for assistance in the cases of families with children including natural and adoptive parents. Other relatives who may be included in the case (one (1) only) are caretaker relatives to the same extent they may be eligible in the Aid to Families with Dependent Children Program.

(12) An applicant who is deceased may have eligibility determined in the same manner as if he was alive, in order to pay medical bills during the terminal illness.

(13) Children of the same parent, i.e., a "common" parent, residing in the same household shall be included in the same case unless this acts to preclude eligibility of an otherwise eligible household member. Effective April 1, 1986, for new approvals and at time of reinvestigation for other cases, the family unit must be determined in the same manner as is required for AFDC cases, except that if a family member(s) is pregnant the unborn child(ren) will be considered as a family member(s) for budgeting purposes.

(14) The following citizenship and/or residency requirements will be applicable:

(a) 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 (except as specified in paragraph (b) of this subsection). An alien must have been admitted for permanent residence except as shown in paragraphs (b), (c) and (d) of this subsection. 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 recipients of a state supplementary payment and institutionalized individuals. The conditions for determining state residency are specified in federal regulations at 42 CFR 435.403, which are hereby incorporated by reference.

(b) Effective January 1, 1987, an alien not legally admitted to this country or residing in this country under color of law may be eligible for medical assistance under the following circumstances and conditions:

1. The alien must meet all other requirements for receipt of medical assistance, however, an alien qualifying as a categorically needy recipient need not actually receive an AFDC or federal supplemental security income (SSI) cash payment so long as the alien meets the income resource and categorical requirements of the applicable cash assistance program;

2. The alien must have (or have had within the usual period for retroactive eligibility) an emergency medical condition, defined as a medical condition (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part;

3. Approval of eligibility shall be for a time limited period, with such period to include the month in which the medical emergency began and the next following month, with the added provision that the eligibility period may be extended for an appropriate period of time upon presentation to the cabinet of acceptable documentation that the medical emergency will exist for a more extended period of time than is allowed for in the time limited eligibility period; and

4. The medical assistance to which the alien shall be entitled is limited to the medical care and services (including limited follow-up) necessary for the treatment of the emergency medical condition of the alien.

(c) Effective May 5, 1987, select groups of aliens who are illegally residing in this country may qualify for legalization of residence status under Section 201 of P.L. 99-603. Such aliens are prohibited from Medicaid eligibility for a period of five (5) years (beginning on the date temporary resident status is granted) except as follows:

1. The aged, blind or disabled may be eligible;

2. Children under age eighteen (18) may be eligible;

3. Pregnant women may be eligible for pregnancy related services only; and

4. All such aliens may qualify for emergency services to the extent specified in paragraph (b) of this subsection and with the limitations shown therein.

(d) Effective June 1, 1987, aliens qualifying for legalization of status as seasonal agricultural workers under Section 302 of P.L. 99-603 are subject to the same coverage limitations as shown in paragraph (c) of this subsection.

(15) An individual may be determined eligible for medical assistance for up to three (3) months prior to the month of application if all conditions of eligibility are met. The effective date of medical assistance is generally the first day of the month of eligibility. For individuals eligible on the basis of unemployment, eligibility may not exist for the thirty (30) day period following the starting date of the unemployment. In these cases, the effective date of eligibility may be as early as the first day following the end of the thirty (30) day period if all other conditions of eligibility are met. For individuals eligible on the basis of desertion, a period of desertion must have existed for thirty (30) days, and the effective date of eligibility may not precede the first day of the month in which the thirty (30) day period ends. For individuals eligible on the basis of utilizing their excess income for incurred medical expenses, the effective date of eligibility is the day the spend-down liability is met.

(16) "Child" means a needy dependent child under the age of eighteen (18) (or under age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before the age nineteen (19)), who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States, and who is a recipient of or applicant for public assistance. Included within this definition is an individual(s) meeting the age requirement specified above, previously emancipated, who has returned to the home of his parents, or to the home of another relative, so long as such individual is not thereby residing with his spouse.

(17) Benefits shall be denied to any family for any month in which any legally liable

caretaker relative with whom the child is living is, on the last day of such month, participating in a strike, and no individual's needs shall be considered in determining eligibility for medical assistance for the family if, on the last day of the month, such individual is participating in a strike. The definition of a strike includes a strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.

(18) Effective May 1, 1987, an individual sanctioned (removed) from an AFDC case due to failure to meet an AFDC technical eligibility requirement may not be eligible for medical assistance as a medically needy individual unless such individual is separately eligible for medical assistance without regard to eligibility as a member of the group from which such individual has been sanctioned.

Section 4. Institutional Status. No individual shall be eligible for MA if a resident or inmate of a nonmedical public institution. No individual shall be eligible for MA while a patient in a state tuberculosis hospital unless he has reached age sixty-five (65). No individual shall be eligible for MA while a patient in a mental hospital or psychiatric facility [state institution for mental illness] unless he is under age twenty-one (21) or age twenty-two (22) if receiving such inpatient services on his/her 21st birthday [eighteen (18) (or under age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before age nineteen (19))] or is sixty-five (65) years of age or over. No individual shall be eligible for MA while a patient in a skilled nursing facility or intermediate care facility classified by the Medicaid program as an institution for mental diseases unless such individual has reached age sixty-five (65).

Section 5. Emergency Shelters. Effective July 1, 1985, an individual (or family group) who is in an emergency shelter for a temporary period of time may be eligible for medical assistance even though the shelter is considered a public institution under certain conditions. These conditions are as follows:

(1) The individual (or family group) must be a resident of an emergency shelter no more than three (3) months in any twelve (12) month period.

(2) The individual (or family group) must not be in the facility serving a sentence imposed by the court, or awaiting trial.

(3) The individual (or family group) must be otherwise eligible when outside the emergency shelter; that is, eligibility must have existed immediately prior to admittance to the shelter, or it must exist immediately after leaving the shelter.

Section 6. Application for other Benefits. As a condition of eligibility for medical assistance, applicants and recipients must apply for all annuities, pensions, retirement and disability benefits to which they are entitled, unless they can show good cause for not doing so. Good cause is considered to exist when such benefits have previously been denied with no change of circumstances, or the individual does not meet all eligibility conditions. Annuities, pensions, retirement and disability benefits include, but are not limited to, veterans' compensations and pensions, retirement and survivors disability insurance benefits, railroad retirement benefits, and unemployment compensation. Notwithstanding the preceding, no applicant or recipient shall be required to apply for federal benefits when the federal law providing for such benefits shows the benefit to be optional and that the potential applicant or recipient for such benefit need not apply for such benefit when to do so would, in his opinion, act to his disadvantage.

Section 7. Assignment of Rights to Medical Support. By accepting assistance for or on behalf of a child, a recipient is deemed to have made an assignment to the Cabinet for Human Resources of any medical support owed for the child not to exceed the amount of medical assistance payments made on behalf of the recipient.

Section 8. Third Party Liability as a Condition of Eligibility. Any individual applying for or receiving medical assistance shall be required as a condition of eligibility to cooperate with the Cabinet for Human Resources in identifying, and providing information to assist the cabinet in pursuing, any third party who may be liable to pay for care or services available under the Medicaid Program unless such individual has good cause for refusing to cooperate as determined by the cabinet taking into consideration the best interests of the individuals involved. A failure of the individual to cooperate without good cause shall result in ineligibility of the individual.

Section 9. Provision of Social Security Numbers. Beginning May 1, 1985, each applicant for or recipient of medical assistance shall be required to provide a social security number as a condition of eligibility. However, no one shall be denied eligibility or discontinued from eligibility due to a delay in receipt of a social security number from the Social Security Administration when appropriate application for such number has been made. For recipients, the requirement shall be effective with the first full reinvestigation occurring on or after May 1, 1985.

Section 10. Effective Date. The amendment to this regulation will be effective with regard to determinations of eligibility made on or after May 1, 1988.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 29, 1988
FILED WITH LRC: April 7, 1988 at 10 a.m.

STATEMENT OF EMERGENCY

Under KRS Chapter 13A the administrative body is required to implement this regulation or not have the authority to operate. Therefore, in order to continue to operate the Cabinet for Human Resources in accordance with KRS Chapter 194, the Cabinet for Human Resources needs to

implement this emergency regulation. An ordinary administrative regulation cannot suffice because agency policy will not be accurately reflected in a timely manner. This emergency regulation will be replaced by an ordinary administrative regulation.

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

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services

907 KAR 1:013E. Payments for [acute care and mental] hospital inpatient services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 194.050
EFFECTIVE: April 7, 1988

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the cabinet for [acute care and mental] hospital inpatient services.

Section 1. Acute Care Hospital, Rehabilitation Hospital and Mental Hospital (Including Psychiatric Facility) Inpatient Services. The state agency will pay for inpatient hospital services provided to eligible recipients of Medical Assistance through the use of rates that are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated hospitals to provide services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

Section 2. Establishment of Payment Rates. The policies, methods, and standards to be used by the cabinet in setting payment rates are specified in the cabinet's "Inpatient Hospital Reimbursement Manual" revised April 1, 1988 [January 1, 1987], which is incorporated herein by reference. For any reimbursement issue or area not specified in the manual, the cabinet will apply the Medicare standards and principles described in 20 CFR Sections 405.402 through 405.488 (excluding the Medicare inpatient routine nursing salary differential).

Section 3. Compliance with Federal Medicaid Requirements. The cabinet will comply with the requirements shown in 42 CFR 447.250 through 447.280.

Section 4. General Description of the Payment System. (1) Use of prospective rates. Each hospital will be paid using a prospective payment rate based on allowable Medicaid costs and Medicaid inpatient days. The prospective rate will be all inclusive in that both routine and ancillary cost will be reimbursed through the rate. For universal rate years prior to January 1, 1985 the prospective rate will not be subject to retroactive adjustment except to the extent that an audited cost report alters the basis for the prospective rate and/or the projected inflation index utilized in setting the individual rate is different from actual inflation as determined by the index being used. For universal rate years beginning on or after January 1, 1985, the prospective rate will not be subject to retroactive adjustment except to the extent that facilities with a rate based on unaudited data will have their rate appropriately revised for the rate year when the audited cost report is received from the fiscal intermediary. However, total prospective payments shall not exceed the total customary charges in the prospective year. Overpayments will be recouped by payment from the provider to the cabinet of the amount of the overpayment, or alternatively, by the withholding of the overpayment amount by the cabinet from future payments otherwise due the provider.

(2) Use of a uniform rate year. A uniform rate year will be set for all facilities, with the rate year established as January 1 through December 31 of each year. The first uniform rate year for mental hospitals shall be July 1, 1985 through June 30, 1986; however, effective January 1, 1986 the mental hospital rate year shall be reestablished and shall be January 1 through December 31 of each year thereafter. Changes of rates throughout the rate year as a result of policy changes shall not change the rate year, although the facility rates may change. Hospitals are not required to change their fiscal years.

(3) Trending of cost reports. Allowable Medicaid cost as shown in cost reports on file in the cabinet, both audited and unaudited, will be trended to the beginning of the rate year so as to update Medicaid costs. When trending, capital costs and return on equity capital are excluded. The trending factor to be used will be the Data Resources, Inc. rate of inflation for the period being trended.

(4) Indexing for inflation. After allowable costs have been trended to the beginning of the rate year, an indexing factor is applied so as to project inflationary cost in the uniform rate year. The forecasting index currently in use is prepared by Data Resources, Inc. This policy shall be effective August 3, 1985.

(5) Peer grouping. Acute care hospitals (but not including those considered to be primarily rehabilitative in nature) will be peer grouped according to bed size. The peer groupings for the payment system will be: 0-50 beds, 51-100 beds, 101-200 beds, 201-400 beds, and 401 beds and up (except that the designated state teaching hospitals affiliated with or a part of the University of Kentucky and the University of Louisville shall not be included in the array for facilities with 401 beds and up unless such facility's primary characteristics are considered essentially the same as the peer group's, and the facility, although not a university teaching hospital as such, is treated in such a manner as to recognize the presence of the major pediatric teaching component existing outside the state university hospitals). No facility in the 201-400 peer group shall have its operational per diem reduced below that amount in effect in the 1982 rate year as a result of the establishment of a peer grouping of 401 beds and up. Mental hospitals will not be peer grouped but will have a separate array of mental hospitals only. Rehabilitation hospitals and acute care hospitals considered to be primarily rehabilitative in nature will not be

peer grouped or arrayed.

(6) Use of a minimum occupancy factor. A minimum occupancy factor will be applied to capital costs attributable to the Medicaid program. A sixty (60) percent occupancy factor will apply to hospitals with 100 or fewer beds. A seventy-five (75) percent occupancy factor will apply to facilities with 101 or more beds. Capital costs are interest and depreciation related to plant and equipment.

(7) Use of a reduced depreciation allowance. The allowable amount for depreciation on building and fixtures (not including major movable equipment) shall be sixty-five (65) percent of the reported depreciation amount as shown in the hospital's cost reports. The use of a reduced depreciation allowance is not applicable with regard to mental hospitals.

(8) Use of upper limits. For acute care hospitals, an upper limit will be established on all costs (except Medicaid capital cost) at the weighted median per diem cost for hospitals in each peer group, using the most recent medicaid cost report available as of December 1 of each year. For mental hospitals, an upper limit will be established on all costs (except Medicaid capital cost) at the weighted median per diem cost for hospitals in the array. Upon being set, the arrays and upper limits will not be altered due to revisions or corrections of data; however the arrays and/or upper limits may be changed as a result of changes of agency policy. The upper limit is established at 120 percent for those acute care hospitals serving a disproportionate number of poor patients (defined as twenty (20) percent or more Medicaid clients as compared to the total number of clients served) and the upper limit is established at 115 [105] percent for those mental hospitals serving a disproportionate number of poor patients (defined as thirty-five (35) percent or more Medicaid clients as compared to the total number of clients served). For the designated state teaching hospitals affiliated with or a part of the University of Kentucky and the University of Louisville, and major pediatric teaching hospitals affiliated thereto, their upper limit shall recognize their status as teaching hospitals traditionally serving a disproportionate number of poor patients, and shall be set at 126 percent of the median of the array for all other hospitals of comparable size (401 beds and up). Such major pediatric teaching hospitals shall also be paid, in addition to the facilities' base rate, an amount which is equal to two (2) percent of the base for each one (1) percent of Medicaid occupancy.

(9) Operating costs shall not include professional (physician) costs for purposes of establishing the median based upper limits. Professional costs shall be trended separately.

(10) Hospitals whose general characteristics are not those of an acute care or mental hospital (i.e., because they are rehabilitation hospitals or acute care hospitals considered to be primarily rehabilitative in nature) are not subject to the operating cost upper limits.

(11) Rate appeals. As specified in the Inpatient Hospital Reimbursement Manual, hospitals may request an adjustment to the prospective rate with the submittal of supporting documentation. The established appeal procedure allows a representative of the hospital group to participate as a member of the rate review panel.

Section 5. Payments to Participating Out-of-state Hospitals. Participating out-of-state hospitals, except those where the other state's Medicaid Program pays on the basis of diagnosis related groupings, shall be reimbursed for covered services rendered eligible Kentucky Medicaid recipients at the lower of the rate paid by the other state's Medicaid Program or the upper limit for Kentucky hospitals in a peer group for hospitals of comparable size (or total array, in the instance of mental hospitals), except that payments shall not exceed charges. For those participating out-of-state hospitals where the other state's Medicaid Program pays on the basis of diagnosis related groupings, reimbursement for covered services rendered eligible Kentucky Medicaid recipients shall be at the lower of eight (80) percent of the hospital's covered charges or the upper limit for Kentucky hospitals in a peer group for hospitals of comparable size. The operating cost upper limits shall be appropriately adjusted to include capital costs. The appropriate amount to include for capital costs shall be the average allowable per diem capital cost for the peer group (not adjusted for occupancy). Professional costs (i.e., physician fees) shall be paid on the basis of the usual and customary charges of the provider.

Section 6. The amendments shown herein shall be effective with regard to payments for services rendered April 1, 1988 [January 1, 1987], and thereafter.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 29, 1988
FILED WITH LRC: April 7, 1988 at 10 a.m.

STATEMENT OF EMERGENCY

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

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

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services

907 KAR 1:036E. Amounts payable for skilled nursing and intermediate care facility services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 194.050
EFFECTIVE: April 7, 1988

NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed,

or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the cabinet for skilled nursing care facility services and intermediate care facility services.

Section 1. Reimbursement for Skilled Nursing and Intermediate Care Facilities. All skilled nursing or intermediate care facilities participating in the Title XIX program shall be reimbursed in accordance with this regulation. Payments made shall be in accordance with the requirements set forth in 42 CFR 447.250 through 42 CFR 447.280. A skilled nursing facility desiring to participate in Title XIX shall be required to participate in Title XVIII-A.

Section 2. Basic Principles of Reimbursement. (1) Payment shall be on the basis of rates which are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

(2) Payment amounts shall be arrived at by application of the reimbursement principles developed by the cabinet (Kentucky Medical Assistance Program Intermediate Care/Skilled Nursing Facility Reimbursement Manual, revised <u>May 1, 1988</u> [July 1, 1987]) and supplemented by the use of the Title XVIII-A reimbursement principles.

Section 3. Implementation of the Payment System. The cabinet's reimbursement system is supported by the Title XVIII-A Principles of Reimbursement, with the system utilizing such principles as guidelines in unaddressed policy areas. The cabinet's reimbursement system includes the following specific policies, components or principles:

(1) Prospective payment rates for routine services shall be set by the cabinet on a facility by facility basis, and shall not be subject to retroactive adjustment. Prospective rates shall be set annually, and may be revised on an interim basis in accordance with procedures set by the cabinet. An adjustment to the prospective rate (subject to the maximum payment for that type of facility) will be considered only if a facility's increased costs are attributable to one (1) of the following reasons: governmentally imposed minimum wage increases; the direct effect of new licensure requirements or new interpretations of existing requirements by the appropriate governmental agency as issued in regulation or written policy which affects all facilities within the class; or other governmental actions that result in an unforeseen cost increase. The amount of any prospective rate adjustment may not exceed that amount by which the cost increase resulting directly from the governmental action exceeds on an annualized basis the inflation allowance amount included in the prospective rate for the general cost area in which the increase occurs. For purposes of this determination, costs will be classified into two (2) general areas, salaries and other. The effective date of interim rate adjustment shall be the first day of the month in which the adjustment is requested or in which the cost increase occurred, whichever is later.

(2) The prospective rate shall not exceed, on a facility by facility basis, an administratively established maximum payment for that type of facility. The state will set a uniform rate year for SNFs and ICFs (July 1 - June 30) by taking the latest audited cost data available as of May 16 of each year and trending the facility costs to July 1 of the rate year. (Unaudited, partial year, and/or budgeted cost data may be used if a full year's audited data is unavailable. Unaudited reports are subject to adjustment to the audited amount, and will be used when an audited cost report ending within twenty-four (24) months of the 30th of April preceding the rate year is not available. Facilities paid on the basis of partial year or budgeted cost reports shall have their reimbursement settled back to allowable cost, with usual upper limits applied. Facilities beginning program participation on or after July 1, 1984 whose rates are subject to settlement back to cost will not be included in the arrays until such time as the facilities are no longer subject to cost settlement.) After allowable costs are indexed for inflation for the rate year, freestanding (nonhospital based) facilities will be arrayed and the maximum set at 102 percent of the median for the class (SNF or ICF). <u>Publicly operated skilled nursing and intermediate care facilities classified as institutions for mental diseases will not be subject to the administratively set upper limit and component limitations, although such facilities will be included in the arrays for purposes of establishing the applicable upper limits.</u> In recognition of the higher costs of hospital based SNFs, their upper limit shall be set at 135 percent of 102 percent of the median of allowable trended and indexed costs of all other SNFs, however, such upper limit shall not exceed 102 percent of the median of the array of allowable trended and indexed costs of hospital based SNFs. The maximum payment amounts will be adjusted each July 1, beginning with July 1, 1985, so that the maximum payment amount for the prospective uniform rate year will be at 102 percent of the median per diem allowable costs for the class (SNF or ICF) on July 1 of that year. For purposes of administrative ease in computations normal rounding may be used in establishing the maximum payment amount, with the maximum payment amount rounded to the nearest five (5) cents. Upon being set, the arrays and upper limits will not be altered due to revisions or corrections of data. For ICF-MRs, there is no administratively established upper limit. Effective January 1, 1987, and continuing through the rate years beginning July 1, 1987, and July 1, 1988, the allowable cost for each facility shall include a patient care labor intensity factor of two and six-tenths (2.6) percent applied to that portion of the facilities' operating costs attributable (based on averages for the class of facility) to labor costs. This allowance is generally intended for the purpose of direct service staff improvements to enhance patient care. Effective with the rate year beginning on July 1, 1987, that portion of the facilities' operating costs attributable (based on averages for the class of facility) to labor costs shall be indexed for the rate year by a labor cost intensity factor based on the state employee annual salary increment; this indexing shall be in lieu of the usual indexing for inflation of such labor

costs, however, the labor cost intensity factor shall be not less than the usual indexing factor and, if necessary, shall be increased to an amount equal to the usual indexing factor. This adjustment is designed to allow for salary and staffing improvements to improve patient care.

(3) The reasonable direct cost of ancillary services provided by the facility as a part of total care shall be compensated on a reimbursement cost basis as an addition to the prospective rate except for ventilator therapy services which shall be paid on a prospective rate basis. Ancillary services reimbursement shall be subject to a year-end audit, retroactive adjustment and final settlement. Ancillary costs may be subject to maximum allowable cost limits under federal regulations. Any percentage reduction made in payment of current billed charges shall not exceed twenty-five (25) percent, except in the instance of individual facilities where the actual retroactive adjustment for a facility for the previous year reveals an overpayment by the cabinet exceeding twenty-five (25) percent of billed charges, or where an evaluation by the cabinet of an individual facility's current billed charges shows the charges to be in excess of average billed charges for other comparable facilities serving the same area by more than twenty-five (25) percent. A refund will be requested from a facility if the amount paid to the facility for legend drugs, covered legend devices and nonlegend drugs, if applicable, exceeds the program's computed maximum allowable cost. The amount of refund will be determined by conducting a statistically accurate sample of the Medicaid patients for the facility's fiscal year. The percentage that a facility is over the computed maximum allowable cost will be multiplied by the amount paid by the program for drugs for the fiscal year under review.

(4) Interest expense used in setting the prospective rate is an allowable cost if permitted under Title XVIII-A principles and if it meets these additional criteria:

(a) It represents interest on long-term debt existing at the time the vendor enters the program or represents interest on any new long-term debt, the proceeds of which are used to purchase fixed assets relating to the provision of the appropriate level of care. If the debt is subject to variable interest rates found in balloon-type financing, renegotiated interest rates will be allowable. The form of indebtedness may include mortgages, bonds, notes and debentures when the principal is to be repaid over a period in excess of one (1) year; or

(b) It is other interest for working capital and operating needs that directly relates to providing patient care. The form of such indebtedness may include, but is not limited to, notes, advances and various types of receivable financing; however, short-term interest expense on a principal amount in excess of program payments made under the prospective rate equivalent to two (2) months experience based on ninety (90) percent occupancy or actual program receivables will be disallowed in determining cost;

(c) For both paragraphs (a) and (b) of this subsection, interest on a principal amount used to purchase goodwill or other intangible assets will not be considered an allowable cost.

(5) Compensation to owner/administrators will be considered an allowable cost provided that it is reasonable, and that the services actually performed are a necessary function. Compensation includes the total benefit received by the owner for the services he renders to the institution, excluding fringe benefits routinely provided to all employees and the owner/administrator. Payment for services requiring a licensed or certified professional performed on an intermittent basis will not be considered a part of compensation. "Necessary function" means that had the owner not rendered services pertinent to the operation of the institution, the institution would have had to employ another person to perform the service. Reasonableness of compensation will be based on total licensed beds (all levels).

(6) The allowable cost for services or goods purchased by the facility from related organizations shall be the cost to the related organization, except when it can be demonstrated that the related organization is in fact equivalent to any other second party supplier, i.e., a relationship for purposes of this payment system is not considered to exist. A relationship will be considered to exist when an individual or individuals possess five (5) percent or more of ownership or equity in the facility and the supplying business; however, an exception to the relationship will be determined to exist when fifty-one (51) percent or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(7) The amount allowable for leasing costs shall not exceed the amount which would be allowable based on the computation of historical costs, except that for general intermediate care facilities entering into lease/rent arrangements prior to April 22, 1976, intermediate care facilities for the mentally retarded entering into lease/rent arrangements prior to February 23, 1977, and skilled nursing facilities entering into lease/rent arrangements prior to December 1, 1979, the cabinet will determine the allowable costs of such arrangements based on the general reasonableness of such costs.

(8) The following provisions are applicable with regard to median per diem cost center upper limits:

(a) For facilities (except ICF-MRs) beginning participation in the Medicaid program on or after April 1, 1981, (and classified as newly participating facilities for purposes of this subsection), the following upper limits (within the class) shall be applicable with regard to otherwise allowable per diem costs, by cost center: for nursing services, 125 percent of the median; for dietary services, 125 percent of the median; for capital costs, 105 percent of the median; and for all other costs, 105 percent of the median.

(b) Facilities participating in the Medicaid program prior to April 1, 1981, shall be classified as newly participating facilities (solely for purposes of this subsection) when either of the following occurs on or after April 1, 1981: first, when the facility expands its bed capacity by expansion of its currently existing plant or, second, when a multilevel facility (one providing more than one (1) type of care) converts existing personal care beds in the facility to either skilled nursing or intermediate care beds, and the number of

additional or converted personal care beds equals or exceeds (in the cumulative) twenty-five (25) percent of the Medicaid certified beds in the facility as of March 31, 1981; however, as an exception to the conditions specified in this subsection a facility will not be considered as newly participating if it increases its certified bed capacity by no more than a cumulative total of thirty-five (35) beds (on or after April 1, 1981) so long as its new total certified bed capacity does not exceed sixty-five (65) beds. Facilities participating in the Medicaid program prior to April 1, 1981 shall not be classified as newly participating facilities solely because of changes of ownership.

(c) For purposes of application of this subsection the facility classes are basic intermediate care and skilled nursing care. The "median per diem cost" is the midpoint of the range of all facilities' costs (for the class) which are attributable to the specific cost center, which are otherwise allowable costs for the facilities' prior fiscal year, and which are adjusted by trending, indexing and the occupancy factor. The median for each cost center for each class shall be determined annually using the same cost data for the class which was used in setting the maximum payment amount. The Department for Medicaid Services shall notify all participating facilities of the median per diem cost center upper limits currently in effect.

(d) A facility may request that the Reimbursement Review Panel grant a waiver of its status as a newly participating facility based upon a presentation of facts showing that the provider had already incurred a substantial material financial obligation or binding commitment toward building or expanding a facility prior to April 1, 1981. The obtaining of a certificate of need shall not be construed, in itself, to be sufficient to justify approval of a waiver request, and a waiver, if granted, shall be applicable only with regard to that building or expansion for which the waiver was requested and approved.

(e) Intermediate care facilities for the mentally retarded (ICF-MRs) are not subject to the median per diem cost center upper limits shown in this subsection.

(9) Certain costs not directly associated with patient care will not be considered allowable costs. Costs which are not allowable include political contributions, travel and related costs for trips outside the state (for purposes of conventions, meetings, assemblies, conferences, or any related activities), specified vehicle costs as shown in the Reimbursement Manual, and legal fees for unsuccessful lawsuits against the cabinet. However, costs (excluding transportation costs) for training or educational purposes outside the state are allowable costs unless such costs are incurred by administrators or owners.

(10) To determine the gain or loss on the sale of a facility for purposes of determining a purchaser's cost basis in relation to depreciation and interest costs, the following methods will be used for changes of ownership occurring before July 18, 1984:

(a) Determine the actual gain on the sale of the facility.

(b) Add to the seller's depreciated basis two-thirds (2/3) of one (1) percent of the gain for each month of ownership since the date of acquisition of the facility by the seller to arrive at the purchaser's cost basis.

(c) Gain is defined as any amount in excess of the seller's depreciated basis as computed under program policies at the time of the sale, excluding the value of goodwill included in the purchase price.

(d) A sale is any bona fide transfer of legal ownership from an owner(s) to a new owner(s) for reasonable compensation, which is usually fair market value. Lease-purchase agreements and/or other similar arrangements which do not result in transfer of legal ownership from the original owner to the new owner are not considered sales until such time as legal ownership of the property is transferred.

(e) If an enforceable agreement for a change of ownership was entered into prior to July 18, 1984, the purchaser's cost basis will be determined in the manner set forth in paragraphs (a) through (d) of this subsection.

(11) Notwithstanding the provisions contained in subsection (10) of this section, or in any other section or subsection of this regulation or the "Kentucky Medical Assistance Program Intermediate Care/Skilled Nursing Facility Reimbursement Manual," the cost basis for any facility changing ownership on or after July 18, 1984 (but not including changes of ownership pursuant to an enforceable agreement entered into prior to July 18, 1984 as specified in subsection (10)(e) of this section) shall be determined in accordance with the methodology set forth herein for the reevaluation of assets of skilled nursing and intermediate care facilities.

(a) No increase will be allowed in capital costs.

(b) The allowable historical base for depreciation for the purchaser will be the lesser of the allowable historical cost of the seller less any depreciation allowed to the seller in prior periods, or the actual purchase price.

(c) The amount of interest expense allowable to the purchaser is limited to the amount that was allowable to the seller at the time of the sale.

(12) Each facility shall maintain and make available such records (in a form acceptable to the cabinet) as the cabinet may require to justify and document all costs to and services performed by the facility. The cabinet shall have access to all fiscal and service records and data maintained by the provider, including unlimited on-site access for accounting, auditing, medical review, utilization control and program planning purposes.

(13) The following shall apply with regard to the annual cost report required of the facility:

(a) The year-end cost report shall contain information relating to prior year cost, and will be used in establishing prospective rates and setting ancillary reimbursement amounts.

(b) New items or expansions representing a departure from current service levels for which the facility requests prior approval by the program are to be so indicated with a description and rationale as a supplement to the cost report.

(c) Cabinet approval or rejection of projections and/or expansions will be made on a prospective basis in the context that if such expansions and related costs are approved they

will be considered when actually incurred as an allowable cost. Rejection of items or costs will represent notice that such costs will not be considered as part of the cost basis for reimbursement. Unless otherwise specified, approval will relate to the substance and intent rather than the cost projection.

(d) When a request for prior approval of projections and/or expansions is made, absence of a response by the cabinet shall not be construed as approval of the item or expansion.

(14) The cabinet shall review each year-end cost report to determine the necessity for and scope of an [a field] audit in relation to routine and ancillary service cost. If an audit is not performed, the report will be settled without audit. If an audit is indicated, it will be either a limited-scope audit or a full field audit. An [A field] audit may be conducted for purposes of verifying cost to be used in setting the prospective rate or for purposes of adjusting prospective rates which have been set based on unaudited data; [field] audits may be conducted annually or at less frequent intervals. An [A field] audit of ancillary cost will be conducted as needed.

(15) Year-end adjustments of the prospective rate and a retroactive cost settlement will be made when:

(a) Incorrect payments have been made due to computational errors (other than the omission of cost data) discovered in the cost basis or establishment of the prospective rate.

(b) Incorrect payments have been made due to misrepresentation on the part of the facility (whether intentional or unintentional).

(c) A facility is sold and the funded depreciation account is not transferred to the purchaser.

(16) Reimbursement paid may not exceed the facility's customary charges to the general public for such services, except in the case of public facilities rendering inpatient services at a nominal charge (which may be reimbursed at the prospective rate established by the cabinet).

(17) The cabinet may develop and/or utilize methodology to assure an adequate level of care. Facilities determined by the cabinet to be providing less than adequate care may have penalties imposed against them in the form of reduced payment rates.

(18) Each facility shall submit the required data for determination of the prospective rate no later than sixty (60) days following the close of the facility's fiscal year. This time limit may be extended at the specific request of the facility (with the cabinet's concurrence).

(19) Each ICF which admits a recipient from an SNF during the period of September 1, 1985 through January 31, 1986 shall receive an incentive payment of seven (7) dollars and fifty (50) cents for each day of covered care rendered such recipient, subject to the following conditions:

(a) The recipient must meet SNF patient status criteria as of August 31, 1985 only because of nonavailability of an ICF bed, where the recipient is on the waiting list of an ICF; and

(b) The incentive payment may be paid for more than ninety (90) covered days of care only if all such days are prior to February 1, 1986.

(20) When a recipient in a SNF changes patient status (from SNF to ICF) on or after February 1, 1986 and is admitted to an ICF within the permitted transfer period for the recipient (i.e., while the recipient still qualifies for coverage at the skilled rate), the ICF shall receive an incentive payment of seven (7) dollars and fifty (50) cents for each day of covered care rendered the recipient; such incentive payment shall be paid for no more than ninety (90) days of care.

(21) The incentive payment referenced in subsections (19) and (20) of this section shall be paid without regard to maximum payment limitations shown elsewhere in this regulation.

(22) Effective September 26, 1985 (for services provided on or after September 1, 1985), a participating skilled nursing facility may be paid for care provided to Medicaid eligible patients who meet intermediate care patient status criteria subject to the following criteria or conditions:

(a) The payment will be made at the upper limit for payments to intermediate care facilities, or the skilled nursing rate for the facility if lower;

(b) The patient must be in the skilled nursing facility bed awaiting placement to an intermediate care bed; and

(c) The patient must have been reclassified from SNF patient status to ICF patient status; or, alternatively, the patient must meet ICF patient status criteria, and the appropriate representative of the Department for Social Services must certify that no ICF bed is available and that an emergency exists so that placement in the SNF bed offers the best alternative in the circumstances. Payment made based on the certification that no ICF bed is available and that an emergency exists may be made for no more than thirty (30) days; however, the certification and declaration of emergency may be renewed by the Department for Social Services as appropriate and payment may be made pursuant to such renewal.

(23) SNF's which on February 1, 1986 continued to care for recipients who were classified as meeting SNF patient status criteria as of August 31, 1985 only because of nonavailability of an ICF bed, where the recipient is on the waiting list of an ICF, may receive the usual SNF rate for those recipients subject to the following transitional reimbursement standards and criteria:

(a) The facility must file a letter of intent with the Cabinet for Human Resources, Office of the Secretary, 275 East Main Street, Fourth Floor, Frankfort, Kentucky 40621 by January 31, 1986 (receipt in the cabinet is required) for downward conversion of the bed(s) in which the recipient(s) is residing.

(b) Any facility which files a letter of intent must submit to the Commission for Health Economics Control in Kentucky (CHECK) an appropriate certificate of need application for downward conversion of the skilled bed(s), no later than February 14, 1986, in order for the transitional reimbursement payments to continue.

(c) Payment under this transitional reimbursement provision shall continue only until such time as the Commission for Health Economics Control in Kentucky (CHECK) has acted on the application and any appropriate licensure action has been effected.

Section 4. Prospective Rate Computation. The prospective rate for each facility will be set in accordance with the following:

(1) Determine allowable prior year cost for

routine services.

(2) The allowable prior year cost, not including fixed or capital costs, will then be trended to the beginning of the uniform rate year and increased by a percentage so as to reasonably take into account economic conditions and trends. Such percentage increase shall be known as an inflation factor.

(3) The unadjusted basic per diem cost (defined as the unadjusted allowable cost per patient per day for routine services) will then be determined by comparison of costs with the facility's occupancy rate (i.e., the occupancy factor) as determined in accordance with procedures set by the cabinet. The occupancy rate shall not be less than actual bed occupancy, except that it shall not exceed ninety-eight (98) percent of certified bed days (or ninety-eight (98) percent of actual bed usage days, if more, based on prior year utilization rates). The minimum occupancy rate shall be ninety (90) percent of certified bed days for facilities with less than ninety (90) percent certified bed occupancy. The cabinet may impose a lower occupancy rate for newly constructed or newly participating facilities, or for existing facilities suffering a patient census decline as a result of a competing facility newly constructed or opened serving the same area. The cabinet may impose a lower occupancy rate during the first two (2) full facility fiscal years an existing skilled nursing facility participates in the program under this payment system.

(4) Cost center median related per diem upper limits will then be applied as appropriate to the unadjusted basic per diem cost. The resultant adjusted amounts (and unadjusted amounts, as applicable) will be combined (or recombined) to arrive at the basic per diem cost (defined as the adjusted allowable cost per patient per day for routine services).

(5) To the basic per diem cost shall be added a specified dollar amount for investment risk and an incentive for cost containment in lieu of a return on equity capital, except that no return for investment risk shall be made to nonprofit facilities, and publicly owned and operated facilities shall not receive the investment or incentive return.

(a) Cost incentive and investment schedule for general intermediate care facilities:

(Effective 7-1-87)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$31.99 & below	$.92	$.58
32.00 - 32.99	$.86	$.50
33.00 - 33.99	$.78	$.41
34.00 - 34.99	$.70	$.32
35.00 - 35.99	$.61	$.21
36.00 - 36.99	$.51	$.09
37.00 - 37.87	$.35	-

Maximum Payment $37.87

(b) Cost incentive and investment schedule for intermediate care facilities for the mentally retarded:

(Effective 7-1-87)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$86.99 & below	$1.38	$.87
87.00 - 92.99	$1.29	$.75
93.00 - 98.99	$1.18	$.62
99.00 -104.99	$1.06	$.47
105.00 -110.99	$ .92	$.31
111.00 -116.99	$ .76	$.13
117.00 -123.49	$ .53	-

(c) Cost incentive and investment schedule for skilled nursing facilities:

(Effective 7-1-87)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$41.99 & below	$.92	$.58
42.00 - 43.99	.86	.50
44.00 - 45.99	.78	.41
46.00 - 47.99	.70	.32
48.00 - 49.99	.61	.21
50.00 - 51.99	.51	.09
52.00 - 54.00	.35	-

Maximum Payment $54.00*

*The maximum payment for hospital based skilled nursing facilities is set at $72.90.

(6) The prospective rate is then compared, as appropriate, with the maximum payment. If in excess of the program maximum, the prospective rate shall be reduced to the appropriate maximum payment amount. The maximum payment amounts have been set to be at or about 102 percent of the median of adjusted basic per diem costs for the class, recognizing that hospital based skilled nursing facilities have special requirements that must be considered. The cabinet has determined that the maximum payment rates shall be reviewed annually against the criteria of 102 percent of the median for the class and that adjustments to the payment maximums will be made effective July 1, 1985 and each July 1 thereafter. This policy shall allow, but does not require lowering of the maximum payments below the current levels if application of the criteria against available cost data should show that 102 percent of the median is a lower dollar amount than has been currently set.

Section 5. Reimbursement Review and Appeal. Participating facilities may appeal cabinet decisions as to application of the general policies and procedures in accordance with the following:

(1) First recourse shall be for the facility to request in writing to the Director, Division of Reimbursement and Contracts, a reevaluation of the point at issue. This request must be received within forty-five (45) days following notification of the prospective rate or forwarding of the audited cost report by the program. The director shall review the matter and notify the facility of any action to be taken by the cabinet (including the retention of the original application of policy) within twenty (20) days of receipt of the request for

review or the date of the program/vendor conference, if one is held, except that additional time may be taken as necessary to secure further information or clarification pertinent to the resolution of the issue.

(2) Second recourse shall be for the facility to request in writing to the Commissioner, Department for Medicaid Services, a review by a standing review panel to be established by the commissioner. This request must be postmarked within twenty (20) days following notification of the decision of the Director, Division of Reimbursement and Contracts. Such panel shall consist of three (3) members: one (1) member from the Division of Reimbursement and Contracts, one (1) member from the Kentucky Association of Health Care Facilities, and one (1) member from the Department for Medicaid Services (but not within the Division of Reimbursement and Contracts) as designated by the Commissioner, Department for Medicaid Services, with such designated member to act as chairperson of the review panel. A date for the reimbursement review panel to convene will be established within twenty (20) days after receipt of the written request. The panel shall issue a binding decision on the issue within thirty (30) days of the hearing of the issue, except that additional time may be taken as necessary to secure further information or clarification pertinent to the resolution of the issue. In carrying out the intent and purposes of the program the panel may take into consideration extenuating circumstances which must be considered in order to provide for equitable treatment and reimbursement of the provider. The attendance of the representative of the Kentucky Association of Health Care Facilities at review panel meetings shall be at the cabinet's expense.

Section 6. Definitions. For purposes of Sections 1 through 6 of this regulation, the following definitions shall prevail unless the specific context dictates otherwise.

(1) "Allowable cost" means that portion of the facility's cost which may be allowed by the cabinet in establishing the reimbursement rate. Generally, cost is considered allowable if the item of supply or service is necessary for the provision of the appropriate level of patient care and the cost incurred by the facility is within cost limits established by the cabinet, i.e., the allowable cost is "reasonable."

(2) "Ancillary services" means those direct services for which a separate charge is customarily made, and which except for ventilator therapy services are retrospectively settled on the basis of reasonable allowable cost at the end of the facilities' fiscal year. Ancillary services are limited to the following:

(a) Legend and nonlegend drugs, including indwelling catheters and syringes, and irrigation supplies and solutions utilized with those catheters regardless of how those supplies and solutions are utilized. Coverage and allowable cost payment limitations are specified in the cabinet's regulation on payment for drugs.

(b) Physical, occupational and speech therapy.

(c) Laboratory procedures.

(d) X-ray.

(e) Oxygen and other related oxygen supplies and inhalation therapy.

(f) Psychological and psychiatric therapy (for ICF/MR only).

(g) Ventilator therapy services, subject to the coverage limitations shown in the Reimbursement Manual.

(3) "Hospital based skilled nursing facilities" means those skilled nursing facilities so classified by Title XVIII-A.

(4) The "basic per diem cost" is the computed rate arrived at when otherwise allowable costs are trended and adjusted in accordance with the inflation factor, the occupancy factor, and the median cost center per diem upper limits.

(5) "Inflation factor" means the comparison of allowable routine service costs, not including fixed or capital costs, with an inflation rate to arrive at projected current year cost increases, which when added to allowable costs, including fixed or capital costs, yields projected current year allowable costs. The inflation factor shall be included for rates computed on August 3, 1985 and thereafter.

(6) "Incentive factor" means the comparison of the basic per diem cost with the incentive return schedule to arrive at the actual dollar amount of cost containment incentive return to be added to the basic per diem cost.

(7) "Investment factor" means the comparison of the basic per diem cost with the investment return schedule to arrive at the actual dollar amount of investment return to be added to the basic per diem cost.

(8) "Maximum allowable cost" means the maximum amount which may be allowed to a facility as reasonable cost for provision of an item of supply or service while complying with limitations expressed in related federal or state regulations.

(9) "Maximum payment" means the maximum amount the cabinet will reimburse, on a facility by facility basis, for routine services.

(10) "Occupancy factor" means the imposition of an assumed level of occupancy used in computing unadjusted basic per diem rates.

(11) "Prospective rate" means a payment rate of return for routine services based on allowable costs and other factors, and includes the understanding that except as specified such prospective rate shall not be retroactively adjusted, either in favor of the facility or the cabinet.

(12) "Routine services" means the regular room, dietary, medical social services, nursing services, minor medical and surgical supplies, and the use of equipment and facilities. Routine services include but are not limited to the following:

(a) All general nursing services, including administration of oxygen and related medications, handfeeding, incontinency care and tray services.

(b) Items which are furnished routinely and relatively uniformly to all patients, such as patient gowns, water pitchers, basins, and bed pans. Personal items such as paper tissues, deodorants, and mouthwashes are allowable as routine services if generally furnished to all patients.

(c) Items stocked at nursing stations or on the floor in gross supply and distributed or utilized individually in small quantities, such as alcohol, applicators, cotton balls, bandaids and tongue depressors.

(d) Items which are utilized by individual patients but which are reusable and expected to be available in an institution providing a skilled nursing or intermediate care facility

level of care, such as ice bags, bed rails, canes, crutches, walkers, wheelchairs, traction equipment, and other durable medical equipment.

(e) Laundry services, including personal clothing to the extent it is the normal attire for everyday facility use, but excluding dry cleaning costs.

(f) Other items or services generally available or needed within a facility unless specifically identified as ancillary services. (Items excluded from reimbursement include private duty nursing services and ambulance services costs.)

(13) The first twenty (20) cents of cost of each disposable incontinent brief shall be considered to be ancillary costs when such briefs are provided upon a physician's orders, with the balance of the cost of such briefs considered to be routine costs.

Section 7. Implementation Date. The amendments to this regulation shall be effective on May 1, 1988 [July 1, 1987].

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 29, 1988
FILED WITH LRC: April 7, 1988 at 10 a.m.

AS AMENDED AND EFFECTIVE APRIL 14, 1988

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Environmental Protection
Division for Air Quality
(As Amended)

401 KAR 50:010. Definitions and abbreviations.

RELATES TO: KRS 224.320, 224.330, 224.340
PURSUANT TO: KRS 224.033
EFFECTIVE: April 14, 1988
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 Chapter I, 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 Chapter I, 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.

CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: March 11, 1988
FILED WITH LRC: March 11, 1988 at 11:45 a.m.

CABINET FOR HUMAN RESOURCES
Office of Inspector General
(As Amended)

902 KAR 20:008. License procedures and fee schedule.

RELATES TO: KRS 216B.010 to 216B.130, 216B.990
PURSUANT TO: KRS 216B.040, 216B.105, Executive Order 86-366
EFFECTIVE: April 14, 1988
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 for the requirements for obtaining a license to operate a health facility and establishes the fee schedule for a license.

Section 1. Definitions. (1) "Volunteer service" means an ambulance service in which none of the drivers or attendants receive any compensation for their work.
(2) "Inspecting agency" means the Division of Licensing and Regulation in the Office of the Inspector General, Cabinet for Human Resources.
(3) "Commission" means the Commission on Health Economics Control in Kentucky.

Section 2. Licenses. (1) No person shall operate any health facility in this Commonwealth without first obtaining the appropriate license therefor.
(2) The license shall be conspicuously posted in a public area of the facility.
(3) All applications for licensure shall be filed with the Office of the Inspector General, Division of Licensing and Regulation, 275 East Main Street, Frankfort, Kentucky 40621.
(4) All applicants for licenses shall, as a condition precedent to licensure or relicensure, be in compliance with the applicable regulations relating to the particular health facility. Compliance with licensure regulations shall be ascertained through on-site inspections of the health facility. **Representatives of the inspecting agency shall have access to the health facility/health service during the hours that the facility operates.** Any regulatory violation identified during such inspections will be transmitted in writing to the health facility by the inspecting agency. The health facility shall submit a written plan for the elimination or correction of the regulatory violations to the inspecting agency within ten (10) days. Such plan shall specify the date(s) by which each of the violations will be corrected. Following a review of the plan, the inspecting agency shall notify the health facility in writing of the acceptability of the plan. In instances where a portion or all of the plan is unacceptable, the inspecting agency shall specify the reasons for the unacceptability. In such cases, the health facility shall modify or amend the plan and resubmit it to the inspecting agency within ten (10) days.
(5) All licensees shall, as a condition of licensure or relicensure, be in compliance with the following reporting requirements unless otherwise exempted by statute. All licensees shall have submitted completed annual routine reports approved by the Commission on Health Economics Control in Kentucky and any special reports required by the commission concerning health services provided, health manpower employed, or utilization of health services within forty-five (45) days of the date the request is mailed. Completed routine semiannual reports approved by the commission shall be submitted within thirty (30) days of the date the request is mailed. Licensees shall be notified of the content of routine (e.g., annual and semiannual reports) reports as follows:
(a) Licensees shall be notified of the content of reports for calendar year 1986 and subsequent years no later than October 1 of the previous year.
(b) The cabinet shall recommend the content of the reports to the commission no later than the date of the regularly scheduled September

meeting of the commission.

(6) Unannounced inspections shall be conducted on complaint allegations. Such inspections shall be conducted utilizing the procedures outlined under subsection (4) of this section.

(7) All licenses shall expire on December 31 following the date of issuance unless otherwise expressly provided in the license certificate.

(8) Licenses may be renewed upon payment of the prescribed fee and compliance with the applicable provisions of the licensure regulations.

(9) Each license to operate shall be issued only for the person or persons and premises, including the number of beds (if applicable), named in the application and shall not be transferable. A new application shall be filed in the event of change of ownership. A change of ownership for licenses shall be deemed to occur when more than fifty (50) percent of an existing facility or capital stock or voting rights of a corporation is purchased, leased or acquired by comparable arrangement by one (1) person from another.

(10) Upon the filing of a new application for a license because of change of ownership, the new license shall be automatically issued for the remainder of the current licensure period. No additional fee will be charged for the remainder of the licensure period.

(11) There shall be full disclosure to the commission of the name and address (and any changes) of:

(a) Each person having (directly or indirectly) ownership interest of ten (10) percent or more in the facility;

(b) Each officer and director of the corporation, where a facility is organized as a corporation; and

(c) Each partner, where a facility is organized as a partnership.

Section 3. Fee Schedule. (1) Fees for review of plans and specifications for construction of health facilities shall be as follows:

License Type	Rate
(a) Hospitals plans and specifications review	$.03 per sq. ft. [.025]
(initial through final)	$1,900 maximum [1,500]
(b) All other health facilities plans and specifications review	$.03 per sq. ft. [.025]
(initial through final)	$1,000 maximum [800]

(2) Annual fees. The annual licensure fee (including renewals) for health services shall be as follows:

License Type	Rate
(a) Air ambulance services	$ 65 [50]
(b) Alternative birth centers	$130 [100]
(c) Ambulatory surgical center	$130 [100]
(d) Chemical dependency treatment service	$7 [5] per bed $130 [100]/minimum $1,300 /maximum [1,000]
(e) Community mental health and mental retardation center	$630 [500]
(f) Day health care	$65 [50]
(g) Ambulance service (Per nonvolunteer service)	$65 [50]
(Per volunteer service)	$15 [10]
(h) Family care homes	$35 [25]
(i) Group homes mentally retarded/developmentally disabled	$65 [50]
(j) Health maintenance organizations	$4 [3] per 100 patients
(k) Home health agencies	$65 [50]
(l) Homemaker	$65 [50]
(m) Hospice	$15 [10]
(n) Hospitals	
1. Accredited hospital	$4 [3] per bed $130 [100]/minimum $1,300 /maximum [1,000]
2. Nonaccredited hospital	$7 [5] per bed $130 [100]/minimum $1,300 maximum [1,000]
(o) Intermediate care facilities	$7 [5] per bed $130 [100]/minimum $1,300 maximum [1,000]
(p) Medical detoxification services	No fee
(q) Nonemergency health transportation service (per service)	$65 [50]
(r) Nursing home	$7 [5] per bed $130 [100]/minimum $1,300 maximum [1,000]
(s) Outpatient clinics and ambulatory care facilities	$130 [100]
(t) Personal care home	$3 [2] per bed $65 [80]/minimum $650 [500]/maximum
(u) Primary care center	$130 [100] $20 per satellite [15]
(v) Psychiatric hospitals	
1. Accredited	$4 [3] per bed $130 [100]/minimum $1,300 maximum [1,000]
2. Nonaccredited hospital	$7 [5] per bed $130 [100]/minimum $1,300 maximum [1,000]
(w) Rehabilitation (outpatient)	$65 [50]
(x) Renal dialysis	$15 per station [10]
(y) Rural health clinics	$65 [50]
(z) Skilled nursing facilities	$7 [5] per bed $130 [100]/minimum $1,300 maximum [1,000]
(aa) Special health clinics	$130
(bb) Specialized medical technologies	$130
(cc) Mobile health services	$130
(dd) Comprehensive physical rehabilitation hospitals	
1. Accredited	$4 per bed $130/minimum $1,300/maximum

2. Nonaccredited	$7 per bed $130/minimum $1,300/maximum

WILLIAM M. GARDNER, Inspector General
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: February 2, 1988
FILED WITH LRC: February 11, 1988 at 10 a.m.

CABINET FOR HUMAN RESOURCES
Office of the Inspector General
(As Amended)

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
EFFECTIVE: April 14, 1988
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 and requires a certificate of need.

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 which require a certificate of need and are 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 event the clinic performs any functions related to 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 or [and] social history relevant to the services provided, 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 relevant to the services provided; 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 **in accordance with the special health clinics protocol** [only on the order of a physician, except for services offered by a family planning clinic or a counseling center].

(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**, or a wellness center**.

(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.

4. A wellness center must have at least one (1) person on staff, employed full time, who has current advanced cardiac life support certification.

(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) licensed [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 licensed [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 licensed [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. All clinics shall comply with this requirement by July 1, 1989.

(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 if the clinic generates them. 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: March 7, 1988
FILED WITH LRC: March 9, 1988 at 11 a.m.

PROPOSED AMENDMENTS RECEIVED BY APRIL 15, 1988

GENERAL GOVERNMENT CABINET
Board of Podiatry
(Proposed Amendment)

201 KAR 25:021. Annual renewal notice for licenses, fees.

RELATES TO: KRS 311.450
PURSUANT TO: KRS 311.410(4)
NECESSITY AND FUNCTION: KRS 311.450 requires the board to send notices to all podiatrists licensed by this board to their last know address on or before June 1 of each year. This regulation requires the mailing of an annual renewal notice to all licensed podiatrists and requires all licensed podiatrists to complete the annual renewal notice and return it, along with the annual renewal fee to the board. It further requires all licensed podiatrists to keep the board apprised of the current address of the licensee; establishes penalty for noncompliance.

Section 1. The State Board of Podiatry shall on or before June 1 of each year mail to each licensed podiatrist an annual renewal notice. This annual renewal notice must be completed and returned to the board on or before July 1 of each year. The annual renewal fee, in the amount of 100 [fifty (50)] dollars shall be attached to the completed renewal notice when it is returned to the board. Said annual renewal fee shall be paid by certified check, cashier's check or postal money order, payable to the State Board of Podiatry. All information requested on the annual renewal notice form shall be furnished to the board when the completed annual renewal notice form is returned to the board.

Section 2. In addition, the licensed podiatrist shall return with the annual renewal notice form a statement showing his compliance with the continuing education requirements of the board.

Section 3. Failure to complete the requirements for annual renewal of the license by July 1 of the current year shall result in a penalty of 100 [fifty (50)] dollars.

JOSEPH P. LEONE, D.M.D., Chairman
APPROVED: April 13, 1988
FILED WITH LRC: April 13, 1988 at 2 p.m.
PUBLIC HEARING: A public hearing on this regulation will be held on May 25, 1988 at 10 a.m. local prevailing time at the offices of the Kentucky State Board of Podiatry, 110 Hubbard Lane, Louisville, Kentucky 40207. Any person interested in commenting on this regulation at that hearing should contact Dr. C. A. Nava, Secretary, 110 Hubbard Lane, Louisville, Kentucky 40207, in writing by May 20, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: C. A. Nava
(1) Type and number of entities affected: Approximately 65 licensees.
(a) Direct and indirect costs or savings to those affected: $50 per licensee.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Minimal
(2) Effects on the promulgating administrative body: No significant effect.
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: An increase in revenue of approximately $3,300.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? N/A

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

301 KAR 2:045. Upland game birds, fur bearers and small game; seasons, limits.

RELATES TO: KRS 150.010, 150.025, 150.170, 150.180, 150.300, 150.305, 150.330, 150.340, 150.360, 150.365, 150.370, 150.390, 150.399, 150.400, 150.410, 150.415, 150.416, 150.417
PURSUANT TO: KRS 13A.350, 150,025
NECESSITY AND FUNCTION: This regulation pertains to the hunting season, bag and possession limits for upland game birds and animals and trapping season for fur bearers. This regulation is necessary for the continued protection of the species listed herein, and to insure a permanent and continued supply of wildlife resources [for the purpose of furnishing sport and recreation] for present and future residents of the state. The function of this regulation is to provide for the prudent taking of upland game birds, animals and fur bearers within reasonable limits based upon an adequate supply. This amendment is necessary to change the season dates for selected species listed herein.

Section 1. Hunting and Trapping Seasons. (1) Squirrel (gray and fox): Eastern zone - first Saturday in September through the Friday preceding the second Saturday in November and the day following the deer gun season through December 31. The Eastern zone includes the following counties: Clinton, Russell, Wayne, Pulaski, McCreary, Whitley, Bell, Harlan, Knox, Laurel, Clay, Jackson, Owsley, Leslie, Perry, Letcher, Knott, Breathitt, Magoffin, Floyd, Pike, Martin, Johnson, Elliott, and Lawrence. Western zone - third Saturday in August through October 31, and the day following the [closure of] deer gun season through December 31. The

Western zone includes all counties not listed above.

(2) Rabbits: the day following the [closure of] deer gun season through the third Sunday in February.

(3) Quail: the day following the [closure of] deer gun season through the third Sunday in February.

(4) Grouse: the day following the [closure of] deer gun season through the last day in February. Grouse hunting permitted only east of the line delineated by Interstate 75 from the Kentucky/Ohio state line to US 60, south of US 60 to the Bluegrass Parkway, south of the Bluegrass Parkway to Interstate 65, and east of Interstate 65 to the Kentucky/Tennessee state line.

(5) Fur bearers: the day following the [closure of] deer gun season through January 31. Includes mink, muskrat, beaver, opossum, gray fox, red fox, raccoon, weasels and striped skunk.

(6) Traps and snares. All traps set on dry land are limited to No. 2 or smaller foothold traps and No. 220 or smaller Conibear-type traps set no closer than ten (10) feet apart and snares without a self-locking device. Traps or snares shall not be set in trails or paths commonly used by humans and/or domestic animals.

(7) Special beaver trapping season: second Saturday in February through the last day of February using foothold traps of size number 3 and larger, Conibear-type traps with jaw spread eight (8) inches or larger and nonlocking snares. Only water sets are permitted.

(8) Taking raccoon and opossum. Raccoon and opossum may not be taken from a vehicle or boat with the aid of artificial light at any time or any place except by trapping.

(9) Falconry hunting. Squirrels, rabbits, quail, ruffed grouse, and fur bearers may be taken by falconry from September 1 through February 15. During the portions of this season which occur outside of seasons specified in subsections (1), (2), (3), (4) and (5) of this section, the daily falconry bag limit may not exceed two (2) of any of these species, singly or in the aggregate, per falconer.

(10) The wildlife listed in this section may be taken by the use of hand or mouth operated calling or attracting devices.

Section 2. Bag and Possession Limits.

Game	Bag Limits	Possession Limits
Squirrel (gray and fox)	6	12
Rabbit	4	8
Quail	8	16
Grouse	4	8
Fur bearers (except raccoon by means other than trapping)	No limits	No limits
Raccoon (by means other than trapping)	1*	No limits**

*One (1) per hunter, with no more than three (3) per party of three (3) or more hunters while hunting.

**No possession limit on raccoons, except that no hunter or party of hunters shall take more than the daily bag limit within a twenty-four (24) hour period from noon to noon.

Section 3. Trapping Licenses. The following trapping licenses are required:

(1) Resident landowner or tenant trapping license. This license authorizes the licensee to take wild animals by trapping upon owned farmlands. The landowner's and/or tenant's dependent children or spouses may also purchase such a license. Either the tenant or his dependent children residing upon the owner's lands have the same privilege.

(2) Resident statewide trapping license. This license authorizes the holder thereof to take wild animals by trapping upon his lands or lands of another person with [written] consent of the landowner.

(3) Nonresident statewide trapping license. This license authorizes the holder thereof to take wild animals by trapping upon his lands or lands or another person with [written] consent of the landowner.

Section 4. Shooting Hours. Shooting hours for the above species are daylight hours only, except for raccoon and opossum which may be taken any time during day or night.

Section 5. Squirrel Hunting Weapons. No person hunting squirrels may use or possess a breech-loading rifle of .240 caliber or larger.

Section 6. Prohibited Ammunition. No person hunting any species listed in this regulation may have in his or her possession any buckshot or shotgun slugs.

MARY RAY OAKEN, Secretary
DON R. McCORMICK, Commissioner
CHARLES E. PALMER, JR., Chairman

APPROVED BY AGENCY: April 4, 1988
FILED WITH LRC: April 4, 1988 at 3 p.m.

PUBLIC HEARING: A public hearing on this regulation will be held on May 27, 1988 at 9 a.m. in the Commission Room, Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Lauren E. Schaaf, Director, Wildlife Division, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick

(1) Type and number of entities affected: Approximately 340,000 small game hunters and 7,000 trappers are expected to participate in the hunting and trapping seasons proposed by this regulation.

(a) Direct and indirect costs or savings to those affected: Direct costs involve the purchase of a state hunting license and/or a state trapping license. Indirect costs are determined by the individual, depending upon his level of participation.

1. First year: Persons participating in the hunting or trapping seasons proposed by this regulation would be required to possess a valid hunting license ($8.50 for residents) or a valid trapping license ($11.50 resident, $6.00 resident landowner/tenant), respectively.

2. Continuing costs or savings: Same as first year.

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body: Requires time and effort in developing,

publishing, reporting on, and enforcing the proposed regulation.

(a) Direct and indirect costs or savings: Primary costs are associated with enforcing the regulation.

1. First year: The estimated cost associated with establishing and carrying out the provisions of this regulation is $900,000.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: Approximately 340,000 small game hunters may be expected to expend money for equipment, transportation, food and lodging. The average annual expenditure for these items by Kentucky small game hunters is $96.98 according to the 1980 National Hunting and Fishing survey. The average season expenditure for Kentucky trappers during the 1981-82 trapping season was $209.32. State and local revenues can be expected to be positively affected due to necessary expenditures by small game hunters and trappers for the required licenses and due to taxes levied upon items purchased.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The only available alternative to regulated hunting is closure of the season. This alternative was rejected as contrary to the conservation ethic which is based upon the wise use of renewable resources and the fact that small game and furbearer populations are at levels which can sustain a regulated harvest by sportsmen.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? This type of regulation does not appear to be adaptable to the tiering process since it is specific to small game hunters and trappers.

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

301 KAR 2:047. Specified areas; seasons, limits for birds and small game.

RELATES TO: KRS 150.010, 150.025, 150.170, 150.175, 150.180, 150.300, 150.330, 150.340, 150.360, 150.370, 150.399, 150.400, 150.410, 150.415, 150.416, 150.417

PURSUANT TO: KRS 13A.350, 150.025

NECESSITY AND FUNCTION: This regulation pertains to the hunting seasons, bag and possession limits for upland game birds and animals on specified wildlife management areas and refuges. This regulation is necessary for the continued protection of the species listed herein, and to insure a permanent and continued supply of [the] wildlife resources [for the purpose of furnishing sport and recreation] for present and future residents of the state. The function of this regulation is to provide for the prudent taking of upland game birds and animals within reasonable limits based upon an adequate supply. This amendment is necessary because of changes in season dates and the opening or closure of certain wildlife management areas to hunting.

Section 1. All statewide and specified area regulations, seasons, bag and possession limits apply to the following wildlife management areas and refuges unless exceptions are listed herein.

[Section 2. The following wildlife management areas are closed to all hunting at all times except for deer and turkey hunting as authorized by other applicable regulations:]

[(1) That portion of Grayson Wildlife Management Area east of the Little Sandy River and on Bruin Creek portions of Grayson Lake.]

[(2) Robinson Forest Wildlife Management Area in Breathitt, Perry and Knott Counties.]

[(3) Mill Creek Wildlife Management Area in Jackson County.]

[(4) Cane Creek Wildlife Management Area in Laurel County.]

Section 2. [3.] Exceptions to Statewide Small Game Hunting Regulations for Wildlife Management Areas and Refuges. (1) West Kentucky Wildlife Management Area located in McCracken County.

(a) Quail: November 1 through January 31 on Tracts 2, 3, 6 and 7.

(b) Rabbit: November 1 through January 31 on Tracts 2, 3, 6 and 7. December 22 through 31 on Tract 5 and January 1 through 10 on Tract 4.

(c) Squirrel (gray and fox): from opening of Western zone squirrel [statewide] season through October 31 on Tracts 1, 2, 3, 4, 5 and 6. November 1 through December 31 on Tract 6 only.

(d) Raccoon and opossum: tracts 1 through 6 only. There is no shakeout season on this area.

(e) All hunters and dog trainers must check in and out daily at the designated check station.

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

(g) [Weapon restrictions.] No rifles, or ball or slug ammunition of any type shall be permitted for taking small game on this area.

(h) Dog training is closed April 1 through August 31 excepting permitted field trials.

(i) Tract 6 is closed to vehicular traffic February 1 [March 1] through April 16.

(j) There will be no small game hunting, trapping or dog training during the deer gun quota hunts.

(2) Land Between the Lakes Wildlife Management Area (LBL) located in Trigg and Lyon Counties. Areas open to hunting for the following species are located north of the state line to Barkley Canal, except that no hunting is allowed in developed public use areas, safety zones and posted areas unless otherwise noted.

(a) Squirrel (gray and fox): from opening of Western zone squirrel [statewide] season through September 23 [25]; December 1 through January 31; and during deer archery season only by legally licensed and equipped deer archery hunters.

(b) Quail: December 1 through the last day of February.

(c) Rabbit: December 1 through the last day of February.

(d) Raccoon and opossum: Tuesday, Friday and Saturday nights only during the period December

1 through January 31. Daily bag limit one (1) person per night. Raccoon and opossum hunters must check in and out nightly at designated check station. Harvest report cards must be displayed in vehicle windshield while hunting and submitted at the check station upon completion of each night's hunt. Season will be closed in some hunt areas on dates listed in the LBL Hunting Guide.

(e) Field trials: September 1 through October 31 and November 30 through March 31. Scheduled basis only. Written requests must be received by LBL [Land Between the Lakes] at least ten (10) days prior to the proposed hunt date. Approval must be obtained from LBL [Land Between the Lakes] and the Department of Fish and Wildlife Resources District Supervisor. Field trials must be recognized club hunts and each participant must be on a club roster for that hunt.

(f) Fox chasing: from sunset to sunrise; third Saturday in August through October 1 south of Highway 68 to state line.

(g) [Gray] Fox (gray and red) taking: [daylight hours only;] gun and archery on December 1 through January 31.

(h) Woodchuck: daylight hours only. March 15 through March 31 and during the LBL deer archery season only by legally licensed and equipped deer archery hunters. All harvested animals must be removed from the area. [October 1 through November 11 and December 13 through December 31 only by legally licensed and equipped deer archery hunters.] Gun hunting is prohibited in Hunt Area 8 and in that portion of Hunt Area 9 designated as the ORV area.

(i) Coyote: daylight hours only by legally licensed hunters during any LBL open season with weapons specified for that season.

(j) Bird dog, beagle and raccoon hound training season: during the entire month of October only in areas designated in the LBL Hunting and Angling Guide.

(k) All dogs must wear a collar bearing the owner's name, address, and telephone number. Dogs may not be used for hunting October 1 through November 11, except in authorized field trials and designated dog training Hunt Areas.

(l) Trapping for fur bearers.

1. Only those persons who are selected by a drawing are permitted to trap fur bearers on LBL [Land Between the Lakes].

2. Authorized trappers may trap in assigned areas only and must report their harvest in accordance with LBL [Land Between the Lakes] instructions.

3. Trapping season: December 26 [28] through January 8 [11] for all fur bearers.

4. Trapping devices. No. 3 or smaller foothold traps [and live traps] are permitted. The jaws of No. 1 1/2 and larger foothold traps used on land must be offset three-sixteenths (3/16) inch or be of the soft catch-type trap. Water sets are restricted to No. 3 or smaller foothold traps, No. 330 or smaller Conibear-type traps, and snares.

(m) Weapons restrictions. The use of crossbows, center-fire rifles, center-fire handguns, and shotguns with slugs or shot larger than BBs is prohibited for the taking of all species listed in this subsection except that woodchucks may be taken with center-fire rifles during the specified spring season.

(3) Reelfoot National Wildlife Refuge located in Fulton County.

(a) Squirrel (gray and fox): fourth Saturday in August through October 15 only in areas designated by signs as open to public hunting.

(b) Raccoon: four (4) consecutive nights beginning on the last Wednesday in September and four (4) consecutive nights beginning on the first Wednesday in October on the Long Point Refuge unit, with hunting allowed only during the hours of 7:30 p.m. to 12 midnight. No bag or possession limits.

(c) Hunters are required to check in and out at designated check stations.

(d) No other hunting is permitted except as authorized by other applicable regulations.

(4) Ballard County Wildlife Management Area located in Ballard County.

(a) Areas designated by signs are closed to hunting.

(b) The wooded area south of Terrell Landing Road and designated by signs reading "Wildlife Management Area for Public Hunting" is open in conjunction with other applicable [statewide] seasons.

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

(a) This area is closed to all hunting except dove and squirrel.

(b) Dog training is closed April 1 through August 31 excepting permitted field trials.

(6) Curtis Gates Lloyd/Mullins Wildlife and Recreation Area located in Grant County.

(a) Areas closed to hunting are designated by refuge signs.

(b) Quail and rabbit: November 1 through January 31 except during the deer gun season.

(c) Dog training is closed April 1 through August 31 excepting permitted field trials.

(d) All hunters and dog trainers must check in and out daily at the designated check station.

(7) Pioneer Weapons Wildlife Management Area located in Bath and Menifee Counties. Hunters on this area are restricted to pioneer weapons only. These include muzzle-loading rifles, muzzle-loading pistols, muzzle-loading shotguns, longbows and crossbows. Muzzle-loading shotguns for taking squirrels, quail, grouse and rabbits must not use shot larger than No. 2 in size.

(a) Dog training is closed February 1 through August 31 excepting permitted field trials.

(b) Breech-loading firearms must be unloaded in both the chamber and magazine unless possessed by authorized personnel.

(8) Fort Campbell Wildlife Management Area located in Christian and Trigg Counties. There will be no hunting on Mondays or Tuesdays except when Monday or Tuesday is a federal holiday or as follows: December 22-23 and 29-30. There will be no hunting on December 25 and January 1.

(a) Seasons, bag and possession limits.

1. Squirrel (gray and fox): August 13 [15] through September 16 [25], November 24 [26] through December 9 [11], December 10 [12] through 31 on selected areas; January 2 through 30 [31].

2. Quail: November 24 [26] through December 9 [11], December 10 [12] through 31 on selected areas; January 2 through February 27 [29].

3. Rabbit: November 24 [26] through December 9 [11], December 10 [12] through 31 on selected areas; January 2 through February 27 [29]; bag limit five (5); possession limit ten (10).

4. Raccoon, gray fox and opossum: taking with gun and/or dogs, November 24 [26] through December 9 [11], December 10 [12] through 31 on selected areas. January 2 through 30 [31]; limit one (1) per person.

5. Coyote and woodchuck: May 2 through August 13 [14] and during any other authorized hunt.
6. Red fox: November 24 [26] through December 9 [11], December 10 [12] through 31 on selected areas. January 2 through 30 [31].
(b) Permission must be obtained for each hunt at building #6645 and hunters must stay within their assigned area. A hunting permit costing fifteen (15) dollars is required.
(c) All hunters between the ages of twelve (12) and eighteen (18) must possess a valid hunter safety certificate.
(9) Clay Wildlife Management Area located in Nicholas County.
(a) Quail and rabbit: November 1 through December 31 [January 31].
(b) Grouse: October 1 through December 31 [10 through January 15].
(c) Squirrel: October 1 through December 31.
(d) [(c)] All hunters and dog trainers must check in and out daily at the designated check station.
(e) [(d)] Dog training is closed April 1 through August 31.
(f) There will be no small game hunting, trapping or dog training during deer gun quota hunts.
(10) Pine Mountain Wildlife Management Area located in Letcher County is closed to training of all dogs February 1 [April 1] through August 31.
(11) Dewey Lake Wildlife Management Area in Floyd County, Paintsville Lake Wildlife Management Area in Johnson and Morgan Counties, Fishtrap Lake Wildlife Management Area in Pike County and Redbird Wildlife Management Area in Clay and Leslie Counties.
(a) Squirrel (gray and fox): September 15 through December 31 [open September 1 through September 30 and December 8 through December 31 only].
(b) Grouse; October 1 through December 31 [, quail, raccoon, and rabbit hunting and trapping for fur bearers: December 8 through December 31 only].
(c) Quail and rabbit: November 1 through December 31 [Dog training: December 8 through December 31 only].
(d) Furbearer: the day following the deer gun season through December 31 [Firearms: shotguns only].
(e) Closed to all other hunting except [deer and turkey] as authorized by other applicable regulations.
(f) There will be no small game hunting or trapping during deer gun quota hunts.
(g) Closed to all dog training.
(h) Shotguns only.
(12) Beaver Creek Wildlife Management Area located in McCreary and Pulaski Counties, Mill Creek Wildlife Management Area in Jackson County and Cane Creek Wildlife Management Area in Laurel County and all private in-holdings within these [this] areas.
(a) Squirrel: September 15 through December 31 [except during the ten (10) day deer gun season].
(b) Grouse: October 1 through December 31 [except during the ten (10) day deer gun season].
(c) Quail and rabbit: November 1 through December 31 [except during the ten (10) day deer gun season].
(d) Furbearer: December 6 [7] through December 31. All trappers must obtain and comply with a harvest survey conducted through the area manager.
(e) Closed to all other hunting except [Deer, waterfowl, dove and turkey] as authorized by other applicable regulations.
(f) There will be no small game hunting, trapping or dog training during deer gun quota hunts. [Dog training: this area closed to all dog training.]
(g) Dog training is closed February 1 through August 31 excepting permitted field trials.
(13) Higginson-Henry Wildlife Management Area located in Union County.
(a) Quail and rabbit: November 1 through January 31 [only].
(b) Dog training is closed April 1 through August 31 excepting permitted field trials.
(c) All hunters and dog trainers must check in and out daily at the designated check station.
(d) There will be no small game hunting, trapping or dog training during deer gun quota hunts.
(14) Yellowbank Wildlife Management Area located in Breckinridge County.
(a) Quail and rabbit: November 1 through January 31 [only].
(b) All hunters and dog trainers must check in and out daily at the designated check station.
(c) Dog training is closed April 1 through August 31.
(d) There will be no small game hunting, trapping or dog training during deer gun quota hunts.
(15) Kleber Wildlife Management Area located in Owen and Franklin Counties.
(a) Quail and rabbit: November 1 through January 31.
(b) All hunters and dog trainers must check in and out daily at the designated check station.
(c) Dog training is closed April 1 through August 31.
(d) There will be no small game hunting, trapping or dog training during deer gun quota hunts.
(16) Swan Lake Wildlife Management Area located in Ballard County.
(a) Areas designated by signs are closed to hunting.
(b) Closed to all dog training.
(17) Westvaco Public Hunting Areas. Persons hunting on Westvaco Public Hunting Areas must possess a valid Westvaco Hunting Permit.
[(18) Paintsville Wildlife Management Area located in Johnson and Morgan Counties.]
[(a) Grouse: October 1 through October 31 and December 7 through December 31.]
[(b) Squirrel (gray and fox), quail, raccoon, and rabbit hunting and trapping for fur bearers: December 7 through December 31.]
[(c) This area is closed to all other hunting except deer, waterfowl, dove and turkey as authorized by other applicable regulations.]
[(d) Closed to all dog training.]
[(19) Fishtrap Lake Wildlife Management Area located in Pike County.]
[(a) Squirrel (gray and fox), grouse, quail, raccoon and rabbit hunting and trapping for fur bearers: December 7 through December 31.]
[(b) Dog training: December 7 through December 31.]
[(c) Closed to all other hunting except deer, waterfowl, dove and turkey as authorized by other applicable regulations.]
[(20) Redbird Wildlife Management Area located in Leslie and Clay Counties.]
[(a) Squirrel (gray and fox): October 1 through October 31 and December 7 through

December 31.]

[(b) Grouse: October 1 through October 31 and December 7 through December 31.]

[(c) Quail, rabbit and raccoon hunting and trapping for fur bearers: One-half (1/2) hour before sunrise on December 7 through one-half (1/2) hour after sunset on December 31.]

[(d) Dog training: One-half (1/2) hour before sunrise on December 7 through one-half (1/2) hour after sunset on December 31.]

[(e) Closed to all other hunting except deer and turkey as authorized by other applicable regulations.]

(18) [(21)] Sloughs Wildlife Management Area located in Henderson and Union Counties. Frank Sauerheber Unit: areas designated by signs are closed to all hunting, fishing, boating and trespassing [and dog training] from October 15 through March 15.

(19) [(22)] Peal Wildlife Management Area located in Ballard County.

(a) Squirrel (gray and fox): third Saturday in August through the Friday preceding the [statewide] deer gun season and the day following the [closure of] deer gun season through December 31.

(b) Furbearer: Twenty (20) day taking season commencing the day following the [closure of] deer gun season. There is no shakeout season on this area.

(20) Big South Fork National Recreation Area located in McCreary County. Dog training is closed February 1 through August 31 excepting permitted field trials.

(21) Taylorsville Lake Wildlife Management Area in Spencer, Anderson and Nelson Counties.

(a) Areas closed to all hunting, fishing, boating and trespassing are designated by refuge signs.

(b) Quail and rabbit: November 1 through January 31 except during the deer gun season.

(22) Fleming Wildlife Management Area located in Fleming County.

(a) Quail and rabbit: November 1 through December 31.

(b) Grouse: October 1 through December 31.

(c) Squirrel: October 1 through December 31.

(d) Dog training is closed February 1 through August 31 excepting permitted field trials.

(e) There will be no small game hunting, trapping or dog training during the deer gun season.

(23) Grayson Lake Wildlife Management Area in Carter and Elliott Counties.

(a) The portion of the management area west of the Little Sandy River and Bruin Creek portions of Grayson Lake is open to hunting.

(b) Quail and rabbit: November 1 through December 31.

(c) Grouse: October 1 through December 31.

(d) Squirrel: October 1 through December 31.

(e) Dog training is closed February 1 through August 31 excepting permitted field trials.

(f) There will be no small game hunting, trapping or dog training during deer gun quota hunts.

(g) The portion of the management area east of the Little Sandy River and Bruin Creek portions of Grayson Lake is closed to hunting.

(24) Robinson Forest Wildlife Management Area located in Breathitt, Perry and Knott Counties is closed to all hunting.

MARY RAY OAKEN, Secretary
DON R. McCORMICK, Commissioner

CHARLES E. PALMER, JR., Chairman
APPROVED BY AGENCY: April 4, 1988
FILED WITH LRC: April 4, 1988 at 3 p.m.

PUBLIC HEARING: A public hearing on this regulation will be held on May 27, 1988 at 2 p.m. in the Commission Room, Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Lauren E. Schaaf, Director, Wildlife Division, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick

(1) Type and number of entities affected: Approximately 340,000 small game hunters and 7,000 trappers are expected to participate in the 1987-88 statewide hunting and trapping seasons. About 6,800 of these can be expected to avail themselves of the opportunity to participate in seasons on the special areas designated in this regulation.

(a) Direct and indirect costs or savings to those affected: Direct costs involve the purchase of a state hunting license and/or a state trapping license. Indirect costs are determined by the individual, depending upon his level of participation.

1. First year: Persons participating in the hunting or trapping seasons proposed by this regulation would be required to possess a valid hunting license ($8.50 for residents) or a valid trapping license ($11.50 resident, $6.00 resident landowner/tenant), respectively. A $15 hunting permit is required by Fort Campbell authorities.

2. Continuing costs or savings: Same as first year.

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

(b) Reporting and paperwork requirements: Hunters are required to check in and/or out at some of the management areas specified in this regulation.

(2) Effects on the promulgating administrative body: Requires time and effort in developing, publishing, reporting on, and enforcing the proposed regulation.

(a) Direct and indirect costs or savings: Primary costs are associated with enforcing the regulation.

1. First year: The estimated cost associated with establishing and carrying out the provisions of this regulation is $2,500.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: Approximately 6,800 small game hunters and 140 trappers may be expected to expend money for equipment, transportation, food and lodging. The average annual expenditure for these items by Kentucky small game hunters is $96.98 according to the 1980 National Hunting and Fishing survey. The average season expenditure for Kentucky trappers during the 1981-82 trapping season was $209.32. State and local revenues can be expected to be positively affected due to necessary expenditures by small game hunters and trappers for the required

licenses and due to taxes levied upon items purchased.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The only available alternative to regulated hunting is closure of the season. This alternative was rejected as contrary to the conservation ethic which is based upon the wise use of renewable resources and the fact that small game and furbearer populations are at levels which can sustain a regulated harvest by sportsmen.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? This type of regulation does not appear to be adaptable to the tiering process since it is specific to small game hunters and trappers.

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

301 KAR 2:111. Deer and turkey hunting on special areas.

RELATES TO: KRS 150.010, 150.025, 150.170, 150.175, 150.305, 150.330, 150.340, 150.360, 150.370, 150.390, 150.990

PURSUANT TO: KRS 13A.350, 150.025

NECESSITY AND FUNCTION: This regulation pertains to the deer gun and archery season and the turkey [archery] season on special deer areas. This regulation is necessary for the continued protection of the species listed herein, and to insure a permanent and continued supply of the wildlife resource [for the purpose of furnishing sport and recreation] for present and future residents of the state. The function of this regulation is to provide for the prudent taking of deer and turkey within reasonable limits based upon an adequate supply. This amendment is necessary to establish current season dates and hunting rules.

Section 1. Deer and turkey Season on Special Deer Areas. Unless stated herein, statewide deer gun and archery season regulations as stated in 301 KAR 2:170 apply. These areas are open only on the dates specified below for the species mentioned herein. Either the state white or yellow tag is valid on these areas.

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

(a) Deer archery hunts (either sex): white-tailed or fallow deer. The fourth Saturday in September through October 27, October 31 through November 10 and December 17 through December 31 [November 5 and November 10-12 and 17-19].

(b) Quota deer hunts.

1. Quota gun hunts: white-tailed or fallow deer and sex as specified on permit. November 19-20, 22-23, and 26-27 [21-22, 24-25, and 28-29].

2. Quota archery hunts: white-tailed or fallow deer as specified on permit, in that portion of the Environmental Education Area designated as hunt area 17. October 29-31, November 19-21 and 26-28 [November 7-9, 21-23, and 28-30].

(c) Turkey archery hunts: one (1) turkey of either sex during the deer archery hunts as specified in subsection (1)(a) of this section. Hunter must have a valid wild turkey permit in possession when a turkey is taken. Turkey hunting will be allowed only by hunters with a valid unfilled deer tag.

(d) Quota deer gun hunt for youths only: one (1) white-tailed deer or fallow of either sex on October 29-30 [November 7-8]. Hunting is restricted to persons at least ten (10) years of age but who have not reached their 16th birthday. Each youth must be accompanied by an adult and must have a valid Kentucky hunting license, a state deer permit, an LBL Youth Hunt Permit and a state approved Hunter Safety Certificate.

(e) Bag limits. The deer bag limit for the Kentucky portion of LBL is two (2) deer; provided only one (1) deer is taken during any quota gun or quota archery hunts at LBL.

(f) Areas open and closed to hunting. State line to Barkley Canal is open to hunting except for developed public use areas (unless posted as open), safety zones and areas posted as closed.

(g) Youth and quota hunt applications. Hunters will be selected by a drawing. Application forms are available from, and must be submitted to, Quota Deer Hunt, Land Between the Lakes, Golden Pond, Kentucky 42231. Completed applications must be received by the wildlife staff at the Land Between the Lakes Administrative Office no later than 3:30 p.m. on the last Wednesday in July.

(h) Checking in and out.

1. Quota gun hunters. All [gun] hunters, including those camping in LBL, must check in prior to hunting, but will not be required to check out unless a deer is harvested. All successful hunters must fill out an official game check card at the check station. Hunters must check in between 9 a.m. and 6 p.m. the day before the hunt, or after 4 a.m. on hunt days. Check stations will be open from 4 a.m. to 6:30 p.m. (CST) on hunt days.

2. Archery hunters. Archery hunters are not required to check in or out except on quota hunts. All deer and turkey harvested must be checked out. All successful hunters must fill out an official game check card at the check station.

(i) Permits and tagging requirements.

1. Permits. An LBL hunter use permit is required for each hunter participating in the deer and turkey archery season and an LBL computer card permit is required for each hunter participating in the quota gun or quota archery deer hunts.

2. Tags. All harvested deer and turkey must be tagged with an LBL permanent game tag before being removed from the area. [Hunters eligible to harvest a second deer at LBL must present their stamped (at a check station) and punched "A" tag portion of their Kentucky first deer permit. They will be issued a free Land Between the Lakes permanent game tag which must be accompanied by a Kentucky second deer permit to be valid.] Permanent LBL game tags will be attached to all harvested deer and turkey at LBL check stations.

(j) Prohibited [and permitted] weapons. [All deer hunting weapons listed in the statewide

deer gun and archery season regulation are permitted except for] Crossbows are not permitted [and muzzle-loading handguns].

(k) The taking of coyotes. Hunters participating in the quota gun hunts may take coyotes provided they have not yet taken their deer and have a valid deer tag.

(2) For LBL general hunting rules refer to 301 KAR 2:050.

(3) Fort Campbell Wildlife Management Area located in Christian and Trigg Counties. There will be no hunting on Tuesdays and Wednesdays except when Tuesday or Wednesday is a federal holiday or as follows: December 22-23 and 29-30, then hunting will be permitted. There will be no hunting on December 25 and January 1.

(a) Deer archery and muzzle-loading rifles season. [()Either sex deer ()]: September 24 [26] through October 7 [9].

(b) Deer gun and archery season. [()Either sex deer ()]: October 8 [10] through November 21 [23] and December 10 [12] through December 31 on selected areas.

(c) Wild turkey archery season: Either sex turkey [gobblers only with visible beards]. Statewide season limits apply. September 24 [26] through October 7 [9]. Only those turkey hunters who possess valid deer and turkey hunting permits are permitted to hunt turkey at this time. Turkey hunting will be permitted only by hunters with a valid unfilled deer tag.

(d) Wild turkey shotgun only season: either sex turkey. September 17-19 and 22-23.

(e) [(d)] White turkey season: either sex white turkeys. The post bag limit is one (1) white turkey per deer gun season. Statewide and post season limits on white turkey do not apply to the taking of other turkey. White turkey may be taken during any open hunting season on Ft. Campbell. Only those turkey hunters who possess valid unfilled deer tags and turkey hunting permits are permitted to hunt turkey at this time.

(f) [(e)] Bag limits. The bag limit for Kentucky license holders hunting on Fort Campbell will be two (2) deer of either sex taken by either gun or bow. Prior to November 24 [23], once a hunter has taken his first deer on Fort Campbell, he is not eligible for weekend drawings (i.e., he can only hunt on Mondays, Thursdays, or Fridays or on weekend standby) until the reopening of deer hunting on December 10 [12]. At that time if he has not harvested his limit he is eligible for the weekend drawing until he has taken his limit.

(g) [(f)] Permits and tagging requirements.

1. Deer hunters must purchase a fifteen (15) dollar post hunting and fishing permit which includes a Fort Campbell deer tag, at building #6645. All Fort Campbell deer hunters must also have a valid Kentucky deer permit. Persons sixty-five (65) years of age or older are not required to purchase a post hunting and fishing permit.

2. All deer taken on post by Kentucky hunters must have a valid Kentucky [first or second] deer tag attached to the carcass. All successful hunters must fill out an official game check card [and the "A" tag portion of the permit stamped by post authorities at building #6645].

(h) [(g)] Prohibited and permitted weapons. Handguns and crossbows are prohibited. [Center-fire] Rifles will be permitted only in areas west of Palmyra Road. All rifles must be equipped with telescopic sights. Hunting arrows must be not less than twenty-four (24) inches in length, equipped with broadhead barbless blades not less than seven-eighths (7/8) inch nor more than two (2) inches wide for single two (2) edged blades, or not more than three (3) or more blades. The minimum weight for all broadheads is 100 grains. Explosive heads are prohibited on arrows.

(i) [(h)] Hunter safety certificate. All deer hunters between the ages of twelve (12) and eighteen (18) must possess a hunter safety certificate.

(j) [(i)] Special clothing requirements. All deer gun hunters must wear a cap and jacket or panels of daylight fluorescent orange totaling 500 square inches.

(4) Fort Knox Wildlife Management Area located in Hardin, Bullitt and Meade Counties.

(a) Deer archery hunt (either sex): second Saturday in October through the first [second] Sunday in November and December 19 through December 31.

(b) Deer gun hunt (either sex): November 26-27, December 3-4 and December 17-18 [the third and fourth Saturdays and Sundays in November and the first Saturday and Sunday in December].

(c) Bag limits. The post bag limit is one (1) deer of either sex.

(d) Applications. Separate applications are required for archery and gun hunts.

1. Archery hunts. Civilians not working on post must apply for weekend archery hunts by mail. No more than five (5) hunters may apply on any one (1) application. Applications must not be postmarked earlier than the second Saturday in August [July] or later than the fourth Sunday in August [July] to be considered for the drawing for weekend archery hunts. Applicants drawn will be assigned one (1) weekend of archery hunting. Weekday archery hunting will be on a first come, first served basis. Sign-up for weekday hunts must be made forty-eight (48) hours in advance at Hunt Control Headquarters Building 1060.

2. Gun hunts. Civilians not working on post must apply for a two (2) day gun hunt by mail. No more than five (5) hunters may apply on any one (1) application. Applications must not be postmarked earlier than the second Saturday in August or later than the fourth Sunday in August to be considered for a random drawing. Hunters will be assigned one (1), two (2) day hunting period.

3. Application procedure. All applications must contain the type of hunt (gun or bow), names and addresses of each hunter, a self-addressed stamped envelope and a twenty-five (25) dollar money order, certified check or cashier's check for each hunter, made payable to Treasurer of the United States. Mail applications to Community Recreation Division [Morale Support Activities], Hunt Control Office, Fort Knox, Kentucky 40121-5000.

(e) Check station[s and validation of state deer permit]. All deer taken during the archery season must be checked in at Building 1060. Deer taken during the gun hunts must be checked in at Building 7331 on 9th Avenue. Successful hunters must have their completed hunter portion of the game check card in their possession for their deer to be legal. [Deer tags must be stamped "Taken at Fort Knox" to be valid.]

(f) Hunting hours: one-half (1/2) hour before sunrise until 5 p.m. local prevailing time.

Hunters must clear hunt control by 7 p.m.

(g) Prohibited and permitted weapons. Only breech-loading and muzzle-loading shotguns of twelve (12) gauge maximum and twenty (20) gauge minimum firing a single projectile, and muzzle-loading rifles of .40 caliber to .58 caliber firing a single projectile will be permitted. Magazined shotguns must be plugged to a three-shot capacity. Hunters may have only ten (10) rounds of ammunition in possession for any one (1) hunting day. Crossbows are prohibited.

(h) Hunter safety certificates. All deer hunters under the age of thirty-five (35) [twenty-one (21)] must possess a hunter safety certificate.

(i) Special clothing requirements. Hunters must wear a solid hunter orange vest, jacket or coveralls and a hunter orange hat.

(5) Blue Grass Ordnance Depot Activity located in Madison County.

(a) Deer archery hunts: during the month of October and November.

(b) Deer gun hunts: during the month of November and December.

(c) Bag limits. The post bag limit is one (1) deer of the sex announced on the day of the hunt.

(d) Applications. Hunters may submit applications for archery or gun hunts, but not for both. Applications for the drawings must be made on a postcard with only one (1) hunter allowed per card. More than one (1) postcard per individual will disqualify the applicant. When a maximum of two (2) people desire to hunt together, the required information may be written on individual three (3) inch by five (5) inch cards, stapled together, and mailed in one (1) envelope. The upper right-hand corner of each card shall state the name of the person the applicant is desiring to hunt with. Each applicant must furnish name and address (including zip code), social security number, date of birth, telephone number and specify whether gun or archery hunting is desired. Hunters, their hunting dates and areas will be selected by a drawing. All cards or envelopes must be postmarked no earlier than July 1 [August 10] or later than August 1 [September 9] to be eligible for the drawing. Improper applications will be discarded. A fifteen (15) dollars per person fee will be charged for hunting payable on the assigned hunting date. Mail all applications to: [Commander,] Lexington-Blue Grass Depot, Attention: Land Manager, Lexington, Kentucky 40511-5010.

(e) Age limits. No one under the age of fourteen (14) will be allowed to hunt. [Hunters under eighteen (18) must be accompanied by an adult.]

(f) Prohibited and permitted weapons. Only breech-loading shotguns are permitted. Only longbows, recurve and compound bows having a pull weight of forty (40) pounds or greater are permitted. Crossbows are prohibited.

(g) Harvest quota. Hunting will be discontinued whenever the designated deer harvest quota is reached or upon the direction of the Activity Commander.

(h) Hunter safety certificates. All deer hunters born after January 1, 1970 must possess a hunter safety certificate.

(6) Reelfoot National Wildlife Refuge located in Fulton county.

(a) Deer quota [gun] hunts: open to either sex deer beginning the last Saturday in October and the first and [,] second [and third] Saturday in November and lasting for two (2) consecutive days each.

(b) Drawing. Only those persons selected by a drawing will be allowed to gun hunt. Hunters may hunt for one (1) day only.

(c) Deer archery hunt: open to either sex deer beginning the third Sunday [Saturday] in October and lasting for thirteen (13) [five (5)] consecutive days.

(d) Bag limits. The refuge bag limit is two (2) [one (1)] deer of either sex.

(e) Check stations. All gun deer hunters are required to check in and out at designated check stations.

(7) Westvaco public hunting area. All persons hunting must possess a valid Westvaco hunting permit.

(8) Higginson-Henry WMA located in Union County.

(a) Turkey archery season: either sex during the month of October.

(b) Special requirements. All hunters must possess both a valid deer tag and turkey tag.

MARY RAY OAKEN, Secretary
DON R. McCORMICK, Commissioner
CHARLES E. PALMER, JR., Chairman
APPROVED BY AGENCY: March 7, 1988
FILED WITH LRC: April 14, 1988 at noon

PUBLIC HEARING: A public hearing on this regulation will be held on May 24, 1988 at 10 a.m. in the meeting room of the Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Lauren E. Schaaf, Director, Wildlife Division, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick

(1) Type and number of entities affected: An estimated 211,000 persons will participate in white-tailed deer hunting, and and estimated 3,000 persons will participate in wild turkey hunting in 1988. An unknown portion of these will avail themselves of the hunting opportunities offered on the federal installations spoken to in this regulation.

(a) Direct and indirect costs or savings to those affected: Direct and indirect costs involve the purchase of a state hunting license, 1 deer permit, and special hunting permits required by the administration of the federal installations. Indirect costs are determined by the individual hunter, depending upon his level of participation.

1. First year: Persons participating in the deer hunting proposed for authorization by this regulation would be required to possess a valid hunting license ($8.50 for residents) and a deer permit ($17.50) unless exempt by regulations. Those participating in turkey hunting would be required to also purchase a turkey permit ($6.50).

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs (note any effects upon competition): An additional hunting fee is charged by Fort Knox, Bluegrass Ordnance Depot Activity, Land Between the Lakes, and Fort Campbell.

(b) Reporting and paperwork requirements:

Hunters will be asked to check their deer and turkey at a check station and fill out a tag denoting specific information about the deer and turkey taken. Hunters must complete applications for drawing hunts.

(2) Effects on the promulgating administrative body: Requires time and effort in developing, publishing, reporting on, and enforcing the proposed regulation.

(a) Direct and indirect costs or savings: Primary costs are associated with promulgation and enforcement of the regulation.

1. First year: The estimated department cost associated with establishing and carrying out the provisions of this regulation is $2,500.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: Deer and turkey hunters may be expected to expend money for equipment, transportation, food and lodging. The annual expenditure for these items averages $25 per day of hunting according to the 1980 National Hunting and Fishing survey. State and local revenues can be expected to be positively affected due to the necessary expenditures for the required licenses and taxes levied upon items purchased by hunters.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The only alternative to regulated hunting is closure of the season. This alternative was rejected as contrary to the conservation ethic which is based on the wise use of renewable resources and the fact that white-tailed deer and turkey populations are at levels which can sustain a regulated harvest by Kentucky sportsmen.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. This type of regulation does not appear to be adaptable to the tiering process since it is specific to deer hunters.

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

301 KAR 2:170. Seasons for deer hunting.

RELATES TO: KRS 150.010, 150.025, 150.170, 150.175, 150.180, 150.305, 150.330, 150.340, 150.360, 150.370, 150.390, 150.400, 150.415, 150.416, 150.990

PURSUANT TO: KRS 13A.350, 150,025

NECESSITY AND FUNCTION: This regulation pertains to the deer gun and archery seasons in specified counties and on wildlife management areas (WMA). This regulation is necessary to set deer hunting season dates, to specify the counties and management areas open to deer hunting, to prescribe the methods by which deer may be legally taken, and to prescribe procedures by which handicapped persons may apply for exemptions from conventional hunting methods requirements. The function of this regulation is to provide for the prudent taking of deer within reasonable limits, and to insure a permanent and continuing supply of deer [to furnish sport and recreation] for present and future residents of the state. This amendment is necessary to adjust for date, weapon and tag limit changes in the deer seasons.

Section 1. Deer Gun Seasons, Zones, Dates, Tags, and Legal Deer. Deer hunting is permitted in the following zones on the dates listed, except as specified in subsection (9) [(10)] of this section and Section 4 of this regulation.

(1) Zone No. 1: open to antlered deer gun hunting for ten (10) consecutive days beginning the second Saturday in November. On the first eight (8) days, either sex deer may be taken. The white tag is valid for either sex deer on the appropriate day. The yellow tag is valid only for antlerless deer on the first eight (8) days of the season. Counties in this zone are Breckinridge, Butler, Caldwell, Christian, Crittenden, Hancock, Henderson, Hopkins, Livingston, Logan, Muhlenburg, Ohio, Todd, Union, and Webster.

(2) Zone No. 2: open to antlered deer gun hunting for ten (10) consecutive days beginning the second Saturday in November. On the last six (6) days, either sex deer may be taken. Both white and yellow tags are valid for antlered or antlerless deer on the appropriate day. Counties in this zone are Allen, Ballard, Boone, Bracken, Carlisle, Carroll, Gallatin, Grant, Graves, Henry, Hickman, McCracken, McLean, Oldham, Owen, Pendleton, and Trimble.

(3) Zone No. 3: open to antlered deer gun hunting for ten (10) consecutive days beginning the second Saturday in November. On the last three (3) days, either sex deer may be taken. Both yellow and white tags are valid for antlerless or antlered deer on the appropriate day. Counties in this zone are Anderson, Bullitt, Franklin, Harrison, Jefferson, Larue, Lyon, Marion, Meade, Nelson, Robertson, Scott, Shelby, Spencer, Trigg, and Washington.

(4) Zone No. 4: open to antlered deer gun hunting for ten (10) consecutive days beginning the second Saturday in November. On the last day, either sex deer may be taken. Both yellow and white tags are valid for antlerless or antlered deer on the appropriate day. Counties in this zone are Adair, Barren, Boyle, Calloway, Campbell, Casey, Cumberland, Daviess, Edmonson, Fulton, Grayson, Green, Hardin, Kenton, Marshall, Mercer, Metcalfe, Taylor, Warren, and Woodford.

(5) Zone No. 5: open to antlered deer gun hunting for ten (10) consecutive days beginning the second Saturday in November. The yellow tag is not valid. Counties in this zone are Bath, Clark, Mason, Menifee, Monroe, Nicholas, Rowan, Russell, and Simpson.

(6) Zone No. 6: open to antlered deer gun hunting for ten (10) consecutive days beginning the second Saturday in November. The yellow tag is not valid. Counties in this zone are Boyd, Carter, Elliott, Greenup, Lawrence, McCreary, Morgon, Pulaski, and Wayne.

(7) Zone No. 7: open to antlered deer gun hunting for five (5) consecutive days beginning on the Thursday following the second Saturday in

November. The yellow tag is not valid. Counties in this zone are Clinton, Fleming, Hart, Jackson, Laurel, Lincoln, and Whitley.

(8) Zone No. 8: open to antlered deer gun hunting for three (3) consecutive days beginning on the third Saturday in November. The yellow tag is not valid. Counties in this zone are Bell, Bourbon, Breathitt, Clay, Fayette, Floyd, Garrard, Harlan, Jessamine, Johnson, Knott, Lee, Leslie, Lewis, Madison, Magoffin, Martin, Montgomery, Owsley, Pike, Powell, Rockcastle, and Wolfe.

(9) Zone No. 9: counties, wildlife management areas, and parks closed to all deer hunting:

(a) Counties in this zone are Estill, Knox, Letcher, and Perry.

(b) Wildlife management areas: Ballard WMA in Ballard County (except that portion south of Terrell Landing Road); Central Kentucky WMA in Madison County; Paintsville Lake WMA in Johnson and Morgan Counties; Robinson Forest WMA in Breathitt, Perry, and Knott Counties; and Swan Lake WMA in Ballard County.

(c) Deer hunting is prohibited within the boundaries of all national parks.

(10) Exceptions to tag usage. Both tags may be used with antlerless deer permits to take antlerless deer in any zone.

[(1) Zone No. 1: open to antlered and antlerless deer gun hunting for ten (10) consecutive days beginning the second Saturday in November. Counties in this zone are: Christian, Hopkins, Logan, Muhlenberg, Ohio, and Todd.]

[(2) Zone No. 2: open to antlered deer gun hunting for ten (10) consecutive days beginning the second Saturday in November. On the first six (6) of the hunt, either sex deer may be taken. Counties in this zone are: Breckinridge, Butler, Caldwell, Crittenden, Hancock, Livingston, and Webster.]

[(3) Zone No. 3: open to antlered deer gun hunting for ten (10) consecutive days beginning the second Saturday in November. On the first three (3) days of the hunt, either sex deer may be taken. Counties in this zone are: Allen, Ballard, Boone, Carlisle, Carroll, Gallatin, Graves, Henderson, Hickman, McLean, Oldham, Trimble and Union.]

[(4) Zone No. 4: open to antlered deer gun hunting for ten (10) consecutive days beginning the second Saturday in November. On the last three (3) days of the hunt, either sex deer may be taken. Counties in this zone are: Franklin, Grant, Henry, Owen, Pendleton, and Shelby.]

[(5) Zone No. 5: open to antlered deer gun hunting for ten (10) consecutive days beginning the second Saturday in November. On the last two (2) days of the hunt, either sex deer may be taken. Counties in this zone are: Anderson, Bracken, Harrison, Jefferson, Marion, Meade, Nelson, Robertson, Scott, Spencer, and Washington.]

[(6) Zone No. 6: open to antlered deer gun hunting for ten (10) consecutive days beginning the second Saturday in November. On the last day of the hunt, either sex deer may be taken. Counties in this zone are: Adair, Bullitt, Calloway, Casey, Fulton, Grayson, Green, Hardin, Larue, Lyon, McCracken, Mercer, Taylor, Trigg, Warren, and Woodford.]

[(7) Zone No. 7: open to antlered deer gun hunting for ten (10) consecutive days beginning on the second Saturday in November. Counties in this zone are: Barren, Boyle, Campbell, Cumberland, Daviess, Edmonson, Kenton, Marshall, Mason, Metcalfe, Nicholas, Russell, and Simpson.]

[(8) Zone No. 8: open to antlered deer hunting for five (5) consecutive days beginning on the Thursday following the second Saturday in November. Counties in this zone are: Bath, Boyd, Carter, Clark, Clinton, Elliott, Fleming, Greenup, Hart, Lawrence, McCreary, Menifee, Monroe, Morgan, Pulaski, Rowan, and Wayne.]

[(9) Zone No. 9: open to antlered deer hunting for three (3) consecutive days beginning on the third Saturday in November. Counties in this zone are: Bell, Bourbon, Breathitt, Fayette, Floyd, Garrard, Harlan, Jackson (except that portion included in Zone 10), Jessamine, Johnson, Knott, Laurel (except that portion included in Zone 10), Lee, Leslie, Lewis, Lincoln, Madison, Magoffin, Martin, Montgomery, Owsley, Pike, Powell, Rockcastle, Whitley, and Wolfe.]

[(10) Zone No. 10: counties, wildlife management areas, and parks closed to all deer hunting:]

[(a) Counties in this zone are Clay, Estill, that portion of Jackson south of SR 30, Knox, that portion of Laurel east of SR 30 and SR 25, Letcher, and Perry.]

[(b) Wildlife Management Areas: Ballard WMA in Ballard County (except that portion south of Terrell Landing Road), Cane Creek WMA in Laurel County, Central Kentucky WMA in Madison County, Mill Creek WMA in Jackson County, Paintsville Lake WMA in Johnson and Morgan Counties, and Robinson Forest WMA in Breathitt, Perry, and Knott Counties and Swan Lake WMA in Ballard County.]

[(c) Deer hunting is prohibited within the boundaries of all national parks.]

Section 2. Deer Archery Season, Zones, Dates, Tags, and Legal Deer. Both the yellow and white tags are valid for antlered and antlerless deer in Zones 1, 2, 3, 4, and 5, except as specified in Sections 1 and 3 of this regulation. Both tags are valid for antlered and antlerless deer for the first thirty (30) days of archery season in Zone 6. In the remainder of the archery season in Zone 6, they are valid for antlered deer only. Both the yellow and white tags are valid for antlered deer only in Zones 7 and 8. [Zones 1, 2, 3, 4, 5, 6, and 7 are open to either sex archery deer hunting during specified periods as follows, except as specified in Section 4 of this regulation. Zones 8 and 9 are open to antlered deer only archery hunting except as specified in Section 4 of this regulation.]

(1) Archery season (longbows, recurve and compound bows): October 1 through December 31.

(2) Crossbow season: beginning the day after the close of the gun season and continuing for ten (10) consecutive days and during gun and special muzzle-loading seasons only.

(3) Archery and crossbow hunting during gun seasons. Archery and crossbow equipment may be used during any gun and special muzzle-loading seasons. Archery and crossbow hunters must abide by the gun or special muzzle-loading seasons regulations and tag restrictions in effect for the county or WMA in which they are hunting as specified in Sections 1, 3, 4, and 7 of this regulation. Hunters may not possess [both] archery or crossbow equipment and firearms while deer hunting except during the open county gun and muzzle-loader seasons. Deer taken by archery

on WMA's during the open county gun season or special muzzle-loading season shall be of the sex specified by the county gun zone in which that WMA occurs, or as specified in this or other regulations.

Section 3. Special Muzzle-loading Gun Season, Zones, Dates, Tags, and Legal Deer. Zones 1, 2, 3, 4, 5, 6, and 7 as specified in Section 1 of this regulation, are open to muzzle-loading gun deer hunting during the specified period as follows, except as specified in Section 4 of this regulation.

(1) Special muzzle-loading gun season: five (5) consecutive days beginning the second Saturday in December. [second Saturday and Sunday in December.]

(2) Permitted firearms: only those muzzle-loading firearms specified in Section 8(1) of this regulation are permitted. Hunters may not possess breech-loading firearms while deer hunting during this period.

(3) Tags: both white and yellow tags are valid for antlered or antlerless deer in Zones 1, 2, and 3 as specified in Section 1 of this regulation. Both white and yellow tags are valid for antlerless and antlered deer on the first two (2) days and for antlered deer only on the last three (3) days in Zone 4. Both white and yellow tags are valid for antlered deer only in Zones 5 and 6. The white tag is valid for antlered deer only in Zone 7. There is no muzzle-loader season in Zones 8 or 9. [Legal deer: either sex deer hunting in Zones 1, 2, 3, 4, 5, and 6. Antlered deer only in Zone 7.]

Section 4. Exceptions to Deer Hunting Regulations on Wildlife Management Areas. All deer gun and archery regulations apply unless otherwise specified herein. Deer hunting will be permitted only on the dates listed in this section. Either the yellow or white tag may be used to tag a deer taken on the below-mentioned areas. Except as otherwise specified below, during all quota hunts, [gun] hunters must check in and out at the area check station and, during archery hunts, hunters need not check in but must check out if a deer is taken. During all hunts, [Archery] hunters must check in and out on the following areas: Clay, Higginson-Henry, Kleber, West Kentucky, and Yellowbank WMAs. Persons hunting (including archers) during the quota hunts [gun season] on all the areas listed below (except the Pioneer Weapons WMA and Redbird WMA) must be selected by a drawing and may use any legal deer hunting method. Persons bearing the permit issued to the original applicant may substitute for the original applicant. Applications must be made only on forms provided by the Department of Fish and Wildlife Resources and must contain the hunting license number of the applicant when a license is required. No more than four (4) hunters may apply as a party. Those desiring to hunt as a party must submit applications stapled together. A juvenile may only apply to one (1) conventional adult quota hunt and one (1) youth quota hunt. An adult may apply to only one (1) conventional quota hunt. Additional applications will result in disqualification. [More than one (1) application per individual will disqualify that applicant.] Completed applications must be stamped, self-addressed and be postmarked no later than August 31. Hunters may hunt on assigned dates and areas only. Except as specified below, the special muzzle-loading gun season does not apply to these areas.

(1) Beaver Creek WMA in McCreary and Pulaski Counties, Cane Creek WMA in Laurel County, and Mill Creek WMA in Jackson County.

(a) Archery hunt [season]: antlered deer only, October 15 through November 10 [1 through 30].

(b) Quota hunt [Gun season]: antlered deer only, first Saturday and Sunday in December.

(2) Clay WMA in Nicholas County.

(a) Archery hunt [season]: either sex deer, October 15 through 30.

(b) Quota hunt [Gun season]: either sex deer, first Saturday and Sunday in December.

(3) Dewey Lake WMA in Floyd County:

(a) Archery hunt [season]: antlered deer only, October 1 through November 11 and December 5 through December 31 [30].

(b) Quota hunt [Gun season]: antlered deer only, first Saturday and Sunday in December.

(4) Grayson Lake WMA in Carter and Elliott Counties.

(a) Youth quota hunt [gun season]: either sex deer, first Saturday and Sunday in December. Open only to persons at least ten (10) years of age but who have not reached their 16th birthday. Each youth must have [a valid Kentucky hunting license, a Kentucky deer permit,] a state approved hunter safety certificate, and must be accompanied by an adult. Youth hunting only on that portion east of Route 1496, east of the Little Sandy River and on the Bruin Creek portions of the area.

(b) Archery and crossbow hunt [season]: either sex deer west of the Little Sandy River and west of the Bruin Creek portions of Grayson Lake only, October 1 through December 31.

(5) Higginson-Henry WMA in Union County: quota gun and archery hunt [season] for either sex deer, first Saturday and Sunday in November [December]. Archery hunt [season]: either sex deer, October 1 through December 31, except during quota hunt.

(6) Kleber WMA in Owen and Franklin Counties: quota gun and archery hunt [season] for either sex deer, first Saturday and Sunday in December. Archery hunt [season]: October 15 through December 31.

(7) Peal WMA in Ballard County: gun season open under [statewide] Zone 2 [3] regulations. Archery hunt [season] for either sex deer October 1 through the end of statewide gun season.

[(8) Pennyrile Forest WMA in Hopkins and Caldwell counties shall conform to Zone 6 statewide regulations.]

(8) [(9)] Pioneer Weapons WMA in Bath and Menifee Counties:

(a) Muzzle-loading firearms only; muzzle-loading handguns of .44 caliber or larger are permitted; crossbows may be used during the entire archery season.

(b) Checking in or out is not required. All deer taken must be checked in accordance with Section 6(3) of this regulation.

(c) Hunting is permitted during the muzzle-loader season as specified in Section 3 of this regulation.

(9) [(10)] Redbird WMA in Clay and Leslie Counties.

(a) Archery hunt [season]: antlered deer only, October 1 through November 11 and December 5 through December 31 [30].

(b) Gun hunt [season]: antlered deer only, third Saturday in November. Any legal deer

hunting equipment may be used. [first Saturday and Sunday in December.]

(10) [(11)] West Kentucky WMA in McCracken County:

(a) Archery hunt [season]: either sex deer, October 6 [1] through the Friday preceding the first Saturday in November and November 7 through 13 [opening of statewide gun season] on tracts 1 through 6 and December 24 [22] through 31 on tracts 5 and 6 only.

(b) First quota hunt: either sex deer, third Saturday and Sunday in November.

(c) [(b)] Second quota hunt [Gun season]: either sex deer, third [second] Saturday and Sunday in December.

(d) [(c)] Youth quota hunt [gun season]: either sex deer, first Saturday and Sunday in November [third Saturday and fourth Sunday in November]. Open only to persons at least ten (10) years of age but who have not reached their 16th birthday. Each youth must have [a valid Kentucky hunting license, a Kentucky deer permit,] a state approved hunter safety certificate, and must be accompanied by an adult.

(e) [(d)] All gun hunters are limited to muzzle- or breech-loading shotguns only.

(f) [(e)] No firearms permitted on any "A" tract or tract 7 at any time.

(g) [(f)] All hunters must check in and out daily.

(h) [(g)] Crossbow hunt [season]: beginning October 28 [the first Friday in November] and continuing for eight (8) consecutive days.

(11) [(12)] Yellowbank WMA in Breckinridge County.

(a) Quota hunt [Gun season] for either sex deer, first Saturday and Sunday in November [December].

(b) Archery hunt [season]: antlered deer only October 1 through 14 either sex deer, October 15 [1] through December 31, except during quota hunt.

Section 5. Legal Deer, Taking of Other Species, Hunting Hours and Bag Limits. (1) An antlered deer is defined as having one (1) antler at least four (4) inches in length, measured from the skin to the tip of the antler.

(2) Hunting is permitted during daylight hours only.

(3) The limit is two (2) deer per hunter per year. [Only one (1) deer may be taken by firearms outside the following designated special deer areas: Beaver Creek, Blue Grass Depot Activity, Clay, Dewey Lake, Ft. Campbell, Ft. Knox, Glenwood Hall Resort, Grayson Lake, Land Between the Lakes, Redbird, West Kentucky, Yellowbank, Kleber, and Higginson-Henry WMAs. Under no circumstances shall any individual be permitted to take more than two (2) deer anywhere in the state.]

[(4) Two (2) deer may be taken by firearms provided that one (1) is taken in Zones 1, 2, 3, or with an antlerless deer permit.]

(4) [(5)] The taking of coyotes and wild hogs during the gun, archery and special muzzle-loader season is permitted by deer hunters possessing a valid deer tag as specified in Sections 1, 2 and 3 of this regulation, and using legal weapons as specified in Sections 7 and 8 of this regulation. Any wild hog taken must be reported to an official deer check station and the carcass presented for examination. [provided that they have not yet taken the annual bag limit of deer.]

Section 6. Hunting License, Deer Permits, Deer Tags and Check Station Requirements. (1) Hunting license and deer permits. All deer hunters, except those exempted by KRS 150.170(3), (5), (6), or (7), must possess a valid annual Kentucky hunting license and a valid deer permit. Hunters not eligible to purchase a junior hunting license must purchase the two (2) tag permit. Hunters eligible to purchase a junior hunting license, may purchase either the junior deer permit or the two (2) tag permit. The junior permit may be used in place of either the white or yellow tag. [All persons taking or attempting to take deer must have in possession a valid annual Kentucky hunting license and a valid deer hunting permit unless exempted by KRS 150.170(3), (5), (6) or (7).]

(2) Leaving head attached. Any person possessing a deer must leave the head attached to the body until the carcass is removed from the field and checked in [processed].

(3) Mandatory deer check stations. Any person taking a deer during any deer hunting season must present the entire or field dressed carcass to have it checked at the deer check station nearest to where the deer was taken, or by the nearest available conservation officer, no later than 9 a.m. on the day following the day taken. The hunter must fill out [the stub attached to the deer permit or] an official game check card and submit it to the check station operator or conservation officer. The hunter's portion of this card must be retained in the hunter's possession until the deer is taken to the processor or parts are separated for taxidermy as specified in subsection (4)(c) of this section.

(4) Tagging deer carcass and head.

(a) Immediately after taking a deer and before moving the carcass, the hunter must attach a valid, adhesive backed, paper [the metal] tag portion of the deer permit to the deer. This tag must be [permanently locked and] attached so that it cannot be removed without destroying the tag or mutilating the carcass and must remain attached until the carcass is processed and packaged. Persons who are license exempted must attach the following information to any deer which is not on their property or not in their possession: name of owner, address, date killed and location killed. [The hunter must detach the stub marked "A Tag" and, before moving the carcass, punch a clearly visible hole through the space provided to indicate the weapon used to take the deer.]

(b) Deer taken in Kentucky may not be transported outside state boundaries unless they have been checked in at an official check station.

(c) [(b)] Deer heads or other parts separated from the carcass for mounting by a taxidermist must have the [taxidermist tag or] hunter's portion of the official game check card properly filled out and attached to the separated part.

(d) [(c)] Deer hides may be sold to licensed fur buyers and licensed fur processors only.

(e) [(d)] Legally taken deer feet may be sold to and purchased from licensed taxidermists.

(f) All locker and processing plants must keep accurate records of name of hunter, address, and date received for deer in their facility. Each deer shall have a tag stating the above information.

[(5) Second deer permit. A hunter may purchase a second deer permit, which shall be valid only

when accompanied by a properly punched, stamped or signed "A Tag" portion of the first deer permit or properly completed official game check card. If this portion of the first deer permit or official game check card is marked to indicate that the first deer was taken by gun, the second deer permit is valid only for archery hunting, except that two (2) deer may be taken by gun if one (1) is taken as specified in Section 5(3) and (4) of this regulation.]

Section 7. Prohibited Methods and Conditions for Gun, Special Muzzle-loading and Archery Deer Hunting.

(1) Persons under eighteen (18) years of age may not hunt deer with a gun unless accompanied by an adult.

(2) Deer may not be taken with the aid of dogs or any domestic animal, or by the use of a boat or any type of vehicle.

(3) A deer may not be taken while the deer is swimming.

(4) All deer hunters must wear a visible vest, coat, coveralls, cap or hat of hunter orange color when hunting during any deer season or hunt where firearms are permitted [the gun or special muzzle-loading season]. The entire garment must be hunter orange.

(5) On department owned and operated wildlife management areas, Westvaco Public Hunting Area, the Daniel Boone National Forest, Reelfoot National Waterfowl Refuge and the Big South Fork National River and Recreation Area, the use of any nails, spikes, screw-in devices, wire or tree climbers is prohibited for attaching tree stands or for climbing trees. Only portable tree stands and climbing devices that do not injure trees may be used. Portable stands may be placed in trees no more than two (2) weeks before opening day of each hunting period and must be removed within one (1) week following the last day of each hunting period. All portable tree stands must be marked with the owner's name and address. Existing permanent tree stands may not be used.

(6) Rattling of antlers or sticks and the use of hand or mouth operated calls are permitted.

[(7) No person or persons shall cast the rays of a spotlight, jacklight or other artificial lighting device on any highway or in any field, woodland or forest, while having in his or her possession, or under his or her control, a firearm or other implement by which a deer could be killed, even though such deer is not shot at, injured or killed. This shall not apply when the headlights of a motor vehicle in normal operation on a highway are cast upon a field, woodland or forest in the normal course of travel, nor shall it apply to landowners or tenants engaged in normal or necessary activity upon their lands.]

(7) [(8)] No person shall possess a deer taken contrary to this or any other regulation or statute.

Section 8. Firearms and Ammunition Restrictions for Gun Deer Hunting. (1) Permitted [firearms]: center-fire rifles with a minimum caliber of .240 and a cartridge case length of not less than one and one-half (1 1/2) [one and eleven-sixteenths (1 11/16)] inches; muzzle-loading rifles of .40 caliber or larger; and muzzle-loading and breech-loading shotguns of ten (10) gauge maximum and twenty (20) gauge minimum firing a single projectile. Handguns with barrel lengths of 3.9 inches and a minimum caliber of .30 [.357] with a cartridge case length of not less than one and one-fourth (1 1/4) inch. Legal handgun cartridges may be used in rifles and legal rifle cartridges may be used in handguns.

(2) Prohibited [firearms]: any caliber or cartridge that does not meet the requirements given in subsection (1) of this section; any fully automatic weapon or weapon capable of firing more than one (1) round with one (1) trigger pull; muzzle-loading handguns; [.] semiautomatic and pump rifles or shotguns [may not have] a magazine capacity [to] exceeding ten (10) [eight (8)] rounds[.

(3)] fully jacketed [military type] ammunition [and] tracer bullet ammunition; [are prohibited.] buckshot or any type of shot shells [are prohibited].

Section 9. Equipment Restrictions for Archery Deer Hunting. (1) Longbows, recurve and compound bows may not be fitted with any device capable of holding an arrow at full draw without aid from the hunter.

(2) Arrows must be barbless without chemical treatment or chemical attachments, with broadhead points at least seven-eighths (7/8) inch wide.

(3) Crossbows must have a minimum pull weight of 100 pounds and a working safety device. Minimum bolt weight is 380 grains with a barbless broadhead point at least seven-eighths (7/8) inch wide with no chemical treatments or chemical attachments.

Section 10. Hunting Methods Exemptions for Handicapped Hunters. Persons with physical handicaps that would make it impossible for them to hunt by conventional methods may apply by letter to the commissioner of the department for a hunting methods exemption. The commissioner may authorize any reasonable exception that would permit a handicapped person to hunt when he or she could not otherwise do so because of his or her handicap. Specific exemptions to be allowed will be described in the letter of authorization, which will be signed by the commissioner and a conservation officer who will certify that the applicant for the exemption is, in his opinion, handicapped to such a degree that the requested exemption is necessary to permit the applicant to hunt. Hunting method exemptions will expire at the end of the license [calendar] year.

MARY RAY OAKEN, Secretary
DON R. McCORMICK, Commissioner
CHARLES E. PALMER, JR., Chairman
APPROVED BY AGENCY: March 7, 1988
FILED WITH LRC: April 14, 1988 at noon
PUBLIC HEARING: A public hearing on this regulation will be held on May 24, 1988 at 2 p.m. in the ground floor meeting room of the Department of Fish and Wildlife Offices, #1 Game Farm Road, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Lauren E. Schaaf, Director, Wildlife Division, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick

(1) Type and number of entities affected: An estimated 211,000 persons will participate in the white-tailed deer hunting proposed by this regulation.

(a) Direct and indirect costs or savings to those affected: These costs involve the purchase of a state hunting license and a deer permit. Indirect costs are determined by the individual hunter, depending upon his level of participation.

1. First year: Persons participating in the hunting proposed for authorization by this regulation would be required to possess a valid hunting license ($8.50 for residents) and a deer permit ($17.50) unless exempt by regulations.

2. Continuing costs or savings: Same as first year.

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

(b) Reporting and paperwork requirements: Deer hunters will be asked to check their deer at a county deer check station and fill out a game check card denoting specific information about the deer.

(2) Effects on the promulgating administrative body: Requires time and effort in developing, publishing, reporting on, and enforcing the proposed regulation.

(a) Direct and indirect costs or savings: Primary costs are associated with enforcement of the regulation.

1. First year: The estimated cost associated with establishing and carrying out the provisions of this regulation is $1,000,000.

2. Continuing costs or savings: Same as first year.

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: Approximately 211,000 deer hunters may be expected to expend money for equipment, transportation, food and lodging. The annual expenditure for these items averages $25 per day of hunting according to the 1980 National Hunting and Fishing survey. State and local revenues can be expected to be positively affected due to the necessary expenditures for the required licenses and taxes levied upon items purchased by hunters.

(4) Assessment of alternative methods; reasons why alternatives were rejected: The only alternative to regulated hunting is closure of the season. This alternative was rejected as contrary to the conservation ethic which is based on the wise use of renewable resources and the fact that white-tailed deer populations are at levels which can sustain a regulated harvest by Kentucky sportsmen.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. This type of regulation does not appear to be adaptable to the tiering process since it is specific to deer hunters.

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

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

RELATES TO: KRS 150.025, 150.170, 150.175, 150.235, 150.237, 150.305, 150.330, 150.360, 150.990

PURSUANT TO: KRS 13A.350, 150.025 [Chapter 13A]

NECESSITY AND FUNCTION: This regulation is necessary to control hunting seasons and conditions governing shoot to retrieve field trials on private and government-owned lands and the game bird species allowed. The function of this regulation is to provide additional hunting and dog training opportunities and to control the introduction of exotic game birds that may be detrimental to native species or the department's experimental game bird releases. It also insures that native game birds are harvested only during the regular small game hunting season. The purpose of this amendment is to create a category of licensure for single day shoot to retrieve field trials that do not have a license requirement exemption.

Section 1. Definitions. "Shoot to retrieve field trials" are those in which domestically or pen raised game birds are killed or taken by hunters or shooters participating in the event.

Section 2. Hunting Seasons and Game Birds Allowed. Domestically reared and banded quails, August 15 through May 15 inclusive, and year round for domestically reared and banded chukar, pheasant and mallard duck on private and government-owned lands under a shoot to retrieve field trial permit issued by the department. The use of other domestically reared game birds may be authorized by the department upon written request.

Section 3. Bag and Possession Limits. There are no bag and possession limits.

Section 4. Banding Requirements. All domestically reared game birds listed in Section 2 of this regulation must be leg banded prior to release, except mallards which must have a right hind toe clipped. Mallards must be tagged prior to transport. Bands or tags may be obtained at cost from the department at the time of application for the permit.

Section 5. Field Trial Permits, Applications and Fees. (1) At least thirty (30) [fourteen (14)] days in advance, application for a shoot to retrieve field trial must be made through the conservation officer in whose county the trial is to be held or through the regional supervisor. Written permission of the private landowner or appropriate government authority must be obtained and submitted with the application. The permit will be issued through the department office in Frankfort. Application may be for either a four (4) day or single day field trial permit. With the four (4) day permit, all participants, [Participants in the shoot to retrieve field trial,] whether

residents or nonresidents, shall not be required to possess any other license to participate in the event for which the permit was issued. The permit shall expire four (4) days after the date on which the event began. With the single day permit, participants must have in their possession either a resident or nonresident annual Kentucky hunting license.

(2) See 301 KAR 3:021 for the fee amount which must be submitted with the permit application.

(3) A permit is not required to conduct shoot to retrieve field trials on licensed shooting preserves during the appropriate season as specified in other regulation(s). All participants, however, must be licensed according to the provisions of other regulations.

Section 6. Transporting and Possession of Game Birds. Birds harvested under this regulation must remain banded until prepared for cooking.

Section 7. Rescheduling and Cancellations. A scheduled shoot to retrieve field trial date or place may be changed by notifying the conservation officer, regional supervisor or appropriate government authority on or prior to the original opening date. If the place is changed, written permission of the private landowner or appropriate government authority must be submitted to the conservation officer or regional supervisor. Fees for cancelled field trials will not be refunded.

Section 8. Bird Replacement and Out-of-Bounds Birds. (1) Unbanded quail harvested outside of the regular small game hunting season dates must be replaced at the end of the trial by releasing an equal number of live quail.

(2) Field trial game birds may be hunted only on the land described in the permit.

MARY RAY OAKEN, Secretary
DON R. McCORMICK, Commissioner
CHARLES E. PALMER, JR., Chairman
APPROVED BY AGENCY: March 7, 1988
FILED WITH LRC: April 14, 1988 at noon

PUBLIC HEARING: A public hearing on this regulation will be held on May 25, 1988 at 11 a.m. in the Commission Room, Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Lauren E. Schaaf, Director, Wildlife Division, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick

(1) Type and number of entities affected: Approximately 20 clubs that normally would have purchased a $50 shoot to retrieve field trial permit will no longer have to do so. Now they may opt to purchase a less expensive permit to cover one day field trials.

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

1. First year: $700 in fee savings for clubs will be realized by going to the daily rate.

2. Continuing costs or savings: Same as #1 above.

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

(b) Reporting and paperwork requirements: Will remain the same as now.

(2) Effects on the promulgating administrative body: No change of paperwork associated with shoot to retrieve field trials.

(a) Direct and indirect costs or savings: Postage and handling for permit issuance will remain at $40-50 per year. Other costs fixed.

1. First year: Same as 2(a).

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

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None over and above those required now.

(3) Assessment of anticipated effect on state and local revenues: Likely lower revenues to the Department of Fish and Wildlife by approximately $300 per year.

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

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes. Fees were lowered to recognize small trial events of a shorter duration.

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

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

RELATES TO: KRS 150.025, 150.175, 150.225, 150.237, 150.240, 150.280, 150.290, 150.525, 150.660

PURSUANT TO: KRS 13A.350, 150.025

NECESSITY AND FUNCTION: The commissioner, with the concurrence of the Fish and Wildlife Resources Commission, finds it necessary to establish the hunting and fishing license fees schedule in this regulation to generate the necessary funds to finance programs to protect, manage, and conserve the fish and wildlife resources of the state so a permanent and continued supply will be maintained for the benefit of present and future generations. The purpose of this amendment is to add a fee for a single day shoot to retrieve field trial, raise fees for big game (deer) permits, add junior big game (deer) permits.

Section 1. License fees for hunting and fishing are as follows:

The following sport fishing license fees will be effective January 1, 1988:

(1) Sport fishing licenses:

Statewide fishing license (resident): $8.50

Statewide fishing license (nonresident): $20.00

Joint statewide fishing license (resident): $15.30

Ohio River fishing license (resident Ohio, Indiana and Illinois only): $8.50

3-day fishing license (nonresident only): $7.50

15-day fishing license (nonresident only): $12.50

Trout stamp (resident or nonresident): $3.50

(2) Commercial fishing licenses:
Commercial fishing license (resident) plus ten (10) commercial gear tags: $72.00
Commercial fishing license (nonresident) plus ten (10) nonresident commercial gear tags: $500.00
Ohio River commercial fishing license (resident Ohio, Indiana and Illinois only) plus ten (10) Ohio River commercial gear tags: $72.00
(3) Commercial fishing gear tags (not to be sold singly):
Commercial fishing gear tag (resident) blocks of 10 tags: $6.50
Commercial fishing gear tag (nonresident) blocks of 10 tags: $58.00
Ohio River commercial fishing gear tag (resident Ohio, Indiana and Illinois only) block of ten (10) tags: $21.50
(4) Special experimental commercial fishing permit: $500.00
(5) Live fish and bait dealers licenses:
Live fish and bait dealers license (resident) Separate license required for each place of business: $25.50
Live fish and bait dealers license (nonresident): $42.50
The following mussel license fees will be effective January 1, 1988:
(6) Mussel licenses:
Musseling license (resident): $100.00
Musseling license (nonresident): $500.00
Mussel buyer's license (resident): $100.00
Mussel buyer's license (nonresident): $300.00
(7) Hunting licenses:
Statewide hunting license (resident): $8.50
Statewide hunting license (nonresident): $75.00
Statewide hunting license, small game only (5-day nonresident): $20.00
Statewide junior hunting license (resident only): $4.00
Statewide waterfowl stamp: $5.25
(8) Hunting and fishing license (combination resident): $15.00
(9) Trapping licenses:
Trapping license (statewide resident): $11.50
Trapping license (resident landowner/tenant): $6.00
Trapping license (nonresident): $115.00
Trap tags, each (resident or nonresident): $.20
(10) Big game licenses:
Big game permit, deer (resident or nonresident): $17.50 [11.50]
Junior big game permit, deer (resident or nonresident): $11.50.
Big game permit, turkey (resident or nonresident): $6.50
(11) Taxidermist license: $11.50
(12) Commercial guide licenses:
Commercial guide license (resident): $14.50
Commercial guide license (nonresident): $42.50
(13) Fur dealer's licenses:
Fur processor's license (resident): $150.00
Fur buyer's license (resident): $30.00
Fur buyer's license (nonresident): $230.00
(14) Special nonresident hunting preserve license valid only for preserve issued (not required if hunter has valid hunting license): $8.50
(15) Kentucky regulated shooting preserve permit: $35.00
(16) Commercial fox hound training enclosure permit: $250.00
(17) Pet and propagation permit for game and fish:
Pet and propagation permit for game and fish, noncommercial: $6.00
Pet and propagation permit for game and fish, commercial: $30.00
(18) Scientific fish and wildlife collecting permit:
Scientific fish and wildlife collecting permit, educational: $3.00
Scientific fish and wildlife collecting permit, scientific: $115.00
(19) Food permits:
Food permit for selling bobwhite quail from propagation farms only: $150.00
Retail food permit for propagated quail: $2.50
(20) Commercial waterfowl shooting permit (operator's license): $40.00
(21) Falconry permit (birds of prey): $12.00
(22) Pay lake license (minimum $50 for first two (2) acres or less; $10 per additional acre or part thereof, up to maximum of $100
(23) Shoot to retrieve field trial permit (per trial, maximum four (4) days): $50.00
Shoot to retrieve field trial permit (single day): $15.00.
(24) Bird dog training device: $2.50

Section 2. The kind of license or tags authorized by this regulation shall not be changed, altered, or defaced in any manner, except the trout stamp and waterfowl stamp, which must carry the licensee's signature in ink across the face of stamp and be attached to the back of the proper fishing or hunting license. All licenses, permits, tags, and stamps are nontransferable.

MARY RAY OAKEN, Secretary
DON R. McCORMICK, Commissioner
CHARLES E. PALMER, JR., Chairman
APPROVED BY AGENCY: March 7, 1988
FILED WITH LRC: April 14, 1988 at noon
PUBLIC HEARING: A public hearing on this regulation will be held on May 25, 1988 at 2 p.m. in the Commission Room, Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Lauren E. Schaaf, Director, Wildlife Division, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick
(1) Type and number of entities affected: Approximately 20 clubs that would have purchased a $50 shoot to retrieve field trial permit will no longer have to do so. Now they may opt to purchase a less expensive permit to cover one day field trials. Approximately 211,000 deer hunters will purchase the more expensive type of deer tag. An unspecified but minor part of that total will be for the junior deer permit.
(a) Direct and indirect costs or savings to those affected:
1. First year: Those clubs sponsoring single day field trials will benefit by saving $35 in permit fees per event. Each deer hunter, with the exception of junior hunters, will be accessed $6.50 more than in 1987, however, the tag allows the hunter to take two deer if he complies with certain conditions. Previously, tags only allowed one deer.
2. Continuing costs or savings: See above.
3. Additional factors increasing or decreasing

costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None additional for field trial and deer hunters.
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: Postage and handling for collector fees will be $10-15 per year. Other costs fixed.
1. First year: Same as 2(a).
2. Continuing costs or savings: Same as 2(a).
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None over and above those now required.
(3) Assessment of anticipated effect on state and local revenues: New deer hunting fees should encourage hunting and enhance state and local revenues. Revenues to the Department of Fish and Wildlife will be enhanced by approximately $1.2 million annually by deer hunter fee changes. Changes in the field trial fees will cost the department approximately $300 in revenue annually.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Do nothing. Reasons why alternatives were rejected: field trialers were very dissatisfied with the old fee structure which cost the same for a one or three day field trial. They thought it was unfair and the department concurred. Deer populations in the state warrant control by hunting. The new tag system will encourage participation and doe harvest, which is the only means of controlling deer numbers by hunting.
(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. This type of regulation does not appear to be adaptable to the tiering process.

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

301 KAR 3:030. Year-round season for some birds and animals.

RELATES TO: KRS 150.010, 150.025, 150.170, 150.330, 150.360, 150.990
PURSUANT TO: KRS 13A.350, 150.025
NECESSITY AND FUNCTION: This regulation pertains to the open season for unprotected species of wild birds and wild animals. Since all wildlife is protected unless declared unprotected, this regulation is necessary to establish the species that can be hunted year-round, and to insure that only those species declared unprotected may be taken by the use of hand, or mouth, mechanically or electronically operated calling or attracting devices. The function of this regulation is to furnish sport and recreation while utilizing wildlife species that sometimes create a nuisance or a health hazard. This regulation enacts a closure for hunting some species in early November. The purpose of this amendment is to remove the wild hog from the year round hunting list and to allow squirrel to be hunted in the normal hunting closure period in early November. [Past year-round hunting for most of these species has had little effect upon their abundance. This amendment is necessary to synchronize and maintain a closure to all hunting for a period of time prior to opening other hunting seasons in November.]

Section 1. The following species of wild birds and wild animals may be taken, pursued, possessed or transported all year except as stated in Section 3 of this regulation, by any person possessing a valid hunting license: [Wild hog,] coyote, woodchuck, crow, English sparrow and starling.

Section 2. Unprotected wild animals. All species of moles, mice, rats, [and] shrews, terrestrial invertebrates, snake and lizards, except those which may be protected as rare or endangered species under the provisions of 301 KAR 3:061, are unprotected and may be taken without possessing a hunting license. All other wild birds and wild animals are protected except during open season and as specified by other regulations.

Section 3. Closed season. There shall be a closed season on all species of wild birds and wild animals, protected or unprotected, except deer, waterfowl, woodcock, snipe, raccoon, squirrel, and opossum from November 1 to midnight on the day of the closure of statewide deer gun season, except that coyotes may be taken during this period by deer hunters, only as specified in regulations 301 KAR 2:047, 301 KAR 2:111 and 301 KAR 2:170. This does not prohibit tenants residing on the land, nor landowners from killing wildlife which is causing damage to persons or property on their land.

Section 4. Except as otherwise provided by regulation, only those birds and animals listed in Section 1 of this regulation may be taken by the use of hand or mouth calling or attracting devices, or mechanically or electronically operated calling or attracting devices during daylight hours only.

MARY RAY OAKEN, Secretary
DON R. McCORMICK, Commissioner
CHARLES E. PALMER, JR., Chairman
APPROVED BY AGENCY: March 7, 1988
FILED WITH LRC: April 14, 1988 at noon
PUBLIC HEARING: A public hearing on this regulation will be held on May 25, 1988 at 9 a.m. in the Commission Room, Department of Fish and Wildlife Resources, #1 Game Farm Road, Frankfort, Kentucky. Those interested in attending this hearing shall contact: Lauren E. Schaaf, Director, Wildlife Division, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick
(1) Type and number of entities affected: Approximately 300,000 hunters. No negative impacts on either hunters or wildlife are expected.

(a) Direct and indirect costs or savings to those affected: There are no significant costs involved in this activity.

1. First year: This regulation applies only to people who are licensed hunters. No special licenses are required.

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: Requires time and effort in developing and publishing the proposed regulation. No extra enforcement effort will be required.

(a) Direct and indirect costs or savings: All costs are associated with developing and publishing the regulation.

1. First year: The estimated cost associated with establishing and advertising this regulation is $300.

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: No impact should be realized.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Do nothing. Reasons why alternatives were rejected: Continuing to keep a year round hunting season on the wild hog, could, at some point, have a negative impact on deer and turkey populations due to frequency of hunters in the field and an associated poaching problem. Keeping the squirrel season closed from November 1-11 would have shortened the season considerably in eastern Kentucky, and unnecessary situation.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. This type of regulation does not appear to be adaptable to the tiering process.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:030. Kentucky State Reformatory.

RELATES TO: KRS Chapters 196, 197, 439

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

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on April [March] 15, 1988 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 [(Amended 3/15/88)]
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 and Release of Psychological/ Psychiatrict Information [(Amended 3/15/88)]
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 (Amended 4/15/88)

KSR 09-00-05 Gate I Entrance and Exit Procedure (Amended 4/15/88)
KSR 09-00-09 Contraband, Dangerous Contraband and Search Policy (Amended 4/15/88)
KSR 09-00-14 Use of Force (Amended 4/15/88)
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
KSR 10-00-01 Unit D - Staffing Pattern, Staff Allocation, Position Description, Staff Selection, Training and Evaluation, Time and Attendance, and Unit Personnel Records [(Added 3/15/88)]
KSR 10-00-02 Unit D - General Operational Procedures [(Added 3/15/88)]
KSR 10-00-03 Unit D - Inmate Tracking System and Records System [(Added 3/15/88)]
KSR 10-00-04 Unit D - Administrative Segregation [(Added 3/15/88)]
KSR 10-00-05 Unit D - Disciplinary Segregation [(Added 3/15/88)]
KSR 10-00-06 Unit D - Protective Custody [(Added 3/15/88)]
KSR 10-00-07 Unit D - Geriatrics [(Added 3/15/88)]
KSR 10-00-08 Unit D - Safekeepers [(Added 3/15/88)]
KSR 10-00-09 Unit D - Hold Ticket Residents [(Added 3/15/88)]
KSR 10-00-10 Unit D - Inmate Legal Access [(Added 3/15/88)]
KSR 10-00-11 Unit D - Behavior Problem Control [(Added 3/15/88)]
KSR 10-00-12 Unit D - Designated Staff Visits [(Added 3/15/88)]
KSR 10-00-13 Unit D - Property Room Access [(Added 3/15/88)]
KSR 11-00-01 Meal Planning for the General Population
KSR 11-00-02 Special Diets
KSR 11-00-03 Food Service Inspections
KSR 11-00-04 Dining Room Dress Code for Inmates
KSR 11-00-06 Health Standards/Regulations for Food Service Employees
KSR 11-00-07 Early Chow Line Passes for Medically Designated Inmates
KSR 12-00-01 Inmate Summer Dress Regulations
KSR 12-00-02 Sanitation and General Living Conditions
KSR 12-00-03 State Items Issued to Inmates
KSR 12-00-07 Regulations for Inmate Barbershop
KSR 13-00-01 Identification of Mentally Retarded Inmates
KSR 13-00-02 Hospital Operations, Rules and Regulations [(Amended 3/15/88)]
KSR 13-00-03 Medication for Inmates Leaving Institution Grounds [(Amended 3/15/88)]
KSR 13-00-04 Dental Care for Inmates
KSR 13-00-05 Medical and Dental Sick Call
KSR 13-00-06 Infection Control [(Amended 3/15/88)]
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 [(Amended 3/15/88)]
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 [(Amended 3/15/88)]
KSR 13-00-16 Suicide Prevention and Intervention Program
KSR 14-00-01 Inmate Rights
KSR 14-00-02 A/C Center and Unit D Inmate Access to Legal Aide Services
KSR 14-00-04 Inmate Grievance Procedure
KSR 14-00-05 Inmate Marriages
KSR 14-00-06 Inmate Legal Aides
KSR 15-00-01 Operational Procedures and Rules and Regulations for Unit A, B, and C
KSR 15-00-02 Regulations Prohibiting Immate Control or Authority Over Other Inmate(s)
[KSR 15-00-03 Governor's Meritorious Good Time Award (Deleted 4/15/88)]
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 - Assessment/Classification Center (Amended 4/15/88)
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 (Amended 4/15/88)
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
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: April 15, 1988
FILED WITH LRC: April 15, 1988 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 23, 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: 560 employees of the Kentucky State Reformatory, 1441 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 April [March] 15, 1988 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 (Amended 4/15/88)
KSP 030000-04	Requisition and Purchase of Supplies and Equipment
KSP 030000-05	Inmate Personal Funds (Amended 4/15/88)
KSP 030000-06	Inmate Commissary Program
KSP 040000-01	Management Information System
KSP 040000-02	Inmate Records
KSP 040000-08	Inmate Equal Opportunity Policy
KSP 050000-14	Searches and Preservation of Evidence
KSP 060000-01	Special Security Unit
KSP 060000-02	Operational Procedures for Disciplinary Segregation, Administrative Segregation, Administrative Control and Behavioral Control Units
KSP 060000-04	Protective Custody Unit
KSP 060000-11	Criteria for Disciplinary Segregation and Incentive Time Reduction Program
KSP 070000-01	Hospital Services
KSP 070000-02	Sick Call
KSP 070000-03	Health Evaluations
KSP 070000-04	Consultations
KSP 070000-05	Emergency Medical Procedure
KSP 070000-13	Pharmacy Procedures
KSP 070000-14	Medical Records

KSP 070000-16	Psychiatric and Psychological Services
KSP 070000-17	Dental Services for Special Management Units
KSP 070000-19	Optometric Services
KSP 070000-20	Menu Preparation and Planning
KSP 070000-24	Food Service, General Sanitation, Safety, and Protection Standards and Requirements
KSP 070000-25	Food Service Inspections
KSP 070000-30	Therapeutic Diets
KSP 090000-01	Inmate Work Programs (Amended 4/15/88)
KSP 090000-03	Correctional Industries
KSP 100000-02	Visiting Program
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 [(Amended 3/15/88)]
KSP 100000-08	Behavioral Counseling Record
KSP 100000-09	Due Process/Disciplinary Procedures
KSP 100000-11	Authorized and Unauthorized Inmate Property
KSP 100000-14	Property Room: Clothing Storage and Inventory (Amended 4/15/88)
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 [(Amended 3/15/88)]
KSP 100000-21	Photocopies for NonIndigent Inmates with Special Court Deadlines
KSP 110000-04	Preparole Progress Report [(Amended 3/15/88)]
KSP 110000-06	General Guidelines of the Classification Committee (Amended 4/15/88)
KSP 110000-07	Statutory Good Time Restoration (Amended 4/15/88)
KSP 110000-08	Award of Meritorious Good Time (Amended 4/15/88)
KSP 110000-10	Special Needs Inmates
KSP 110000-11	Classification Committee - Transfer Requests [(Amended 3/15/88)]
KSP 110000-12	Classification Committee - Inmate Work Assignments
KSP 110000-13	Classification Document [(Amended 3/15/88)]
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 120000-04	Academic Education
KSP 120000-07	Community Center Program
KSP 120000-08	Inmate Furloughs [(Amended 3/15/88)]
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 [(Amended 3/15/88)]
KSP 130000-10	Execution Plan

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: April 15, 1988
FILED WITH LRC: April 15, 1988 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 23, 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: 300 employees of the Kentucky State Penitentiary, 809 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 April [March] 15, 1988 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
NTC 02-10-01 Insurance Coverage
NTC 02-12-01 Inmate Personal Accounts
NTC 03-01-01 Employee Dress and Personal Appearance
NTC 03-02-01 Prohibited Employee Conduct
NTC 03-03-01 Staff Members Suspected of Being Under the Influence of Intoxicants (Amended 4/15/88)
NTC 03-04-01 Shift/Post Assignments and Transfers (Amended 4/15/88)
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 (Amended 4/15/88)
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 08-05-01 The Fire and Safety Officer
NTC 08-05-02 Fire Procedures
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 [(Amended 3/15/88)]
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
NTC 15-02-02 Extra Duty Assignments
NTC 15-02-03 Hearing Officer
NTC 15-03-01 Rules for Inmates Assigned to Outside Detail [(Amended 3/15/88)]
NTC 15-03-02 Rules and Regulations for General Population Dormitories
NTC 15-04-01 Inmate Identification
NTC 16-01-01 Mail Regulations [(Amended 3/15/88)]
NTC 16-02-01 Visiting (Amended 4/15/88)
NTC 16-02-02 Extended and Special Visits
NTC 16-02-03 Honor Dorm Visiting (Amended 4/15/88)
NTC 16-03-01 Inmate Furloughs
NTC 16-05-01 Telephone Use and Control
NTC 17-01-01 Personal Property Control
NTC 17-01-02 Authorized Inmate Personal Property [(Amended 3/15/88)]

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
NTC 18-02-01	Classification
NTC 18-02-02	Classification - 48 Hour Notification
NTC 18-03-01	Special Notice Form
NTC 18-05-01	Transfers of Inmates
NTC 18-05-02	Transfer of Inmates to Kentucky Correctional Psychiatric Center
NTC 19-01-01	Inmate Work Program
NTC 19-01-03	Temporary Leave from Job Assignment
NTC 19-02-01	Correctional Industries
NTC 19-02-02	Guidelines for Correctional Industries
NTC 20-01-01	Academic School Program
NTC 21-01-01	Library Services
NTC 22-03-01	Conducting Inmate Organizational Meetings and Programs
NTC 23-01-01	Religious Services
NTC 23-03-01	Marriage of Inmates
NTC 24-04-01	Honor Status
NTC 24-05-01	Unit Management [(Amended 3/15/88)]
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 [(Amended 3/15/88)]
NTC 25-03-01	Inmate Release Procedure
NTC 26-01-01	Citizen Involvement and Volunteer Services Program [(Amended 3/15/88)]

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: April 15, 1988
FILED WITH LRC: April 15, 1988 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 23, 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: 237 employees of the Northpoint Training Center, 722 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 April [January] 15, 1988 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 (Amended 4/15/88)
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 3/15/88)]
KCIW 11-01-01	Food Service Operation Inspections (Amended 4/15/88)
KCIW 11-01-02	Budgeting, Accounting, and Purchasing Procedures for Food Products
KCIW 11-02-01	Menu Preparation/Special Diets (Amended 4/15/88)
KCIW 11-03-01	General Guidelines for Food Service Workers [Operations Manager] (Amended 4/15/88)
KCIW 11-03-02	General Guidelines for Food Service Workers
KCIW 11-04-01	Health [Standards] Regulations and General Guidelines for the Food Service Area [Workers] (Amended 4/15/88)
KCIW 12-01-01	Control of Pests and Vermin
KCIW 12-02-01	Laundry Facilities/Clothing Issuance
KCIW 12-02-03	Donated Items
KCIW 12-04-01	Sanitation and General Living Conditions
KCIW 13-01-01	Provision of Medical and Dental Care (Amended 4/15/88)
KCIW 13-01-02	Preliminary Health Screening and Appraisal (Amended 4/15/88)
KCIW 13-01-03	Use of Pharmaceutical Products (Amended 4/15/88)
KCIW 13-03-01	Emergency Care (Amended 4/15/88)
KCIW 13-03-02	Infirmary Care and Outside Services
KCIW 13-03-03	Outside Hospital Security
KCIW 13-04-01	Medical Alert System (Amended 4/15/88)
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
KCIW 16-05-01	Commercial Vendor Packages, Appliance and Drug Store Orders
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
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
KCIW 25-03-01	Escorted Leave into the Community

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: April 15, 1988
FILED WITH LRC: April 15, 1988 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 23, 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: 82 employees of the Kentucky Correctional Institute for Women, 170 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 5:066. Weight limits for trucks.

RELATES TO: KRS 189.222
PURSUANT TO: KRS 174.080
NECESSITY AND FUNCTION: KRS 189.222 authorizes the Secretary of Transportation to establish reasonable weight limits for trucks using the state maintained highway system. This regulation prescribes the maximum weight limits for each classification of roads in accordance with amended state and federal laws.

Section 1. General. The Secretary of Transportation, in respect to highways which are a part of the State Maintained System, by Official Order, has determined that an increase to the maximum gross weight prescribed in KRS 189.221, on designated highways or portions thereof, is justified by the strength, safety, and durability of the designated highways, and said highways do not appear susceptible to unreasonable and unusual damage by reason of such increases and said secretary is authorized to establish reasonable classification of such roads and to fix a different maximum for each classification. Provided, however, that any increase shall not, in any way, exceed the federal law or regulations thereunder or jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky or exceed the weights as specified hereinafter.

Section 2. Definitions. (1) Trucking highways. All state maintained roads are assigned a maximum allowable gross weight as follows:
(a) Class "AAA" designates a maximum allowable gross weight of 80,000 pounds.
(b) Class "AA" designates a maximum allowable gross weight of 62,000 pounds.
(c) Class "A" designates a maximum allowable gross weight of 44,000 pounds.

(2) Truck types. For the purpose of posting bridges at the site and for listing bridge weight restrictions in these regulations, the following truck types have been established:
(a) Type 1. This is a single unit truck consisting of two (2) single axles.
(b) Type 2. This is a single unit truck consisting of one (1) steering axle and two (2) axles in tandem arrangement.
(c) Type 3. This is a truck consisting of one (1) steering axle and three (3) axles in tridem arrangement.
(d) Type 4. This is a tractor-semitrailer combination truck consisting of five (5) or more axles.
(e) [(3)] There are numerous other axle combinations not covered in these basic truck types that are restricted by weight based on their axle spacing and weight distribution per axle.
(3) "Ocean transport container" means an article of transport equipment:
(a) Of a permanent character and accordingly strong enough to be suitable for repeated use;
(b) Specially designed to facilitate the carriage of goods by one (1) or more modes of transport, without intermediate reloading;
(c) Fitted with the devices permitting its ready handling, particularly its transfer from one (1) mode of transport to another;
(d) So designed as to be easy to fill and empty; and
(e) Having an internal volume of thirty-five and three-tenths (35.3) cubic feet or more. These containers include neither vehicles nor conventional packing.

Section 3. The maximum weight for trucks using Class "AAA" highways, except the Interstate System, shall be as follows:
(1) Gross weight, including load, not to exceed 80,000 pounds. Gross axle weight for a single axle not to exceed 20,000 pounds (with axles less than forty-two (42) inches apart to be considered as a single axle).
(2) Gross weight not to exceed 34,000 pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; 50,000 pounds on three (3) axles in tridem arrangement which are spaced forty-two (42) inches or more apart but less than 120 inches apart. In no event shall any single axle in any arrangement exceed 20,000 pounds.
(3) Tire weight. The weight transmitted to the pavement shall not exceed 600 pounds per inch of aggregate width for all tires.
(4) On structures on Class "AAA" highways which have a posted load limit of less than 80,000 pounds, the posted limit shall not be exceeded.

Section 4. The maximum weight for trucks using Class "AAA" highways which are a part of the Interstate System shall be as follows:
(1) Gross weight, including load, not to exceed 80,000 pounds. Gross axle weight for a single axle not to exceed 20,000 pounds (with axles less than forty-two (42) inches apart to be considered as a single axle).
(2) Gross weight not to exceed 34,000 pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; 50,400 pounds on three (3) axles in tridem arrangement

which are spaced forty-two (42) inches or more apart but less than 120 inches apart, or as determined by formula in subsection (3) below, whichever is greater. In no event shall any single axle in any arrangement exceed 20,000 pounds.

(3) The maximum gross weight for a truck consisting of two (2) single axles which exceeds 37,800 pounds gross weight, and for a truck consisting of one (1) single axle and two (2) axles in tandem arrangement which exceeds 52,500 pounds gross weight, or for a truck which consists of three (3) single axles which exceeds 56,700 pounds gross weight, and for a truck consisting of one (1) single axle and three (3) axles in tridem arrangement which exceeds 69,300 pounds gross weight, and for a truck consisting of two (2) single axles and two (2) axles in tandem arrangement which exceeds 71,400 pounds gross weight, or for any truck with any combination of axles which exceed 73,280 pounds gross weight shall be determined by the following formula:

$$W = 500 (LN/N-1 + 12N + 36)$$

Where W equals gross weight, L equals distance in feet between the extreme axles of the group of consecutive axles under consideration and N equals the number of axles in the group, except that two (2) consecutive sets of tandem axles may carry 34,000 pounds each, providing that the distance between the first and last axles of such consecutive sets of axles is thirty-six (36) feet or more or providing that until September 1, 1988 the distance between the first and last axles of such consecutive sets of axles of five (5) axle combination vehicles consisting of a truck tractor and tank trailer, dump trailer or trailer for ocean transport containers shall be thirty (30) feet or more. On September 1, 1988 the distance between the first and last axles of all vehicles shall be thirty-six (36) feet or more. In no event shall any axle in any arrangement exceed 20,000 pounds nor the gross weight exceed 80,000 pounds.

(4) Tire weight. The weight transmitted to the pavement shall not exceed 600 pounds per inch of aggregate width of all tires.

(5) On structures on Class "AAA" highways which have a posted load limit of less than 80,000 pounds, the posted limit shall not be exceeded.

(6) There shall be no tolerances allowed on gross weight, axle weight, or combinations of axle weights on vehicles operating over a Class "AAA" highway which is a part of the Interstate System.

Section 5. The maximum weight for trucks using Class "AA" highways shall be as follows:

(1) Gross weight, including load, not to exceed 62,000 pounds.

(2) Gross axle weight for a single axle not to exceed 20,000 pounds (with axles less than forty-two (42) inches apart to be considered as a single axle).

(3) Gross weight not to exceed 34,000 pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; 50,000 pounds on three (3) axles in tridem arrangement which are spaced forty-two (42) inches or more apart but less than 120 inches apart. In no event shall any single axle in any arrangement exceed 20,000 pounds.

(4) Tire weight. The weight transmitted to the pavement shall not exceed 600 pounds per inch of aggregate width of all tires.

(5) On structures on Class "AA" highways which have a posted load limit of less than 62,000 pounds, the posted limit shall not be exceeded.

Section 6. The maximum weight for trucks using Class "A" highways shall be as follows:

(1) Gross weight, including load, not to exceed 44,000 pounds.

(2) Gross axle weight for a single axle not to exceed 20,000 pounds (with axles less than forty-two (42) inches apart to be considered as a single axle).

(3) Gross weight not to exceed 34,000 pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart.

(4) Tire weight. The weight transmitted to the pavement shall not exceed 600 pounds per inch of aggregate width of all tires.

(5) On structures on Class "A" highways which have a posted load limit of less than 44,000 pounds, the posted limit shall not be exceeded.

Section 7. There shall be no tolerance allowed on gross weight, however, a tolerance of not more than five (5) percent shall be allowed on axle weight on highways which are not a part of the Interstate System.

Section 8. As long as any highway remains a part of the state maintained system, as defined by regulation 603 KAR 3:030, the classification of that highway in administrative regulation 603 KAR 5:096 constitutes a designation by the Secretary of Transportation as contemplated by KRS 189.280, and city ordinances which impose less stringent limits than this administrative regulation shall not apply to such state maintained highways, including bridges, unless specific relinquishment of this responsibility to a city is made by the Secretary of Transportation.

MILO D. BRYANT, Secretary
ROBERT K. CAPITO, State Highway Engineer
APPROVED BY AGENCY: March 28, 1988
FILED WITH LRC: March 30, 1988 at 8 a.m.
PUBLIC HEARING: A public comment hearing will be held on this administrative regulation on May 25, 1988 at 9 a.m., local prevailing time in the Fourth Floor Hearing Room of the State Office Building located at the corner of High and Clinton Streets, Frankfort, Kentucky. Any person who intends to attend this hearing must in writing by May 20, 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: Very few combination vehicles operating in Kentucky.

(a) Direct and indirect costs or savings to those affected: None - exemption from the bridge formula ends September 1, 1988.

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

(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None - federal requirement.
(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

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The changes in administrative regulation are the same as the temporary exception provided for in Section 119 of the Federal-aid Highway Act of 1987.
2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: Same as those in the federal mandate.
3. If the proposed regulation imposes additional requirements or responsibilities, justify the imposition of these stricter standards, requirements or responsibilities: N/A

PUBLIC PROTECTION & REGULATION CABINET
Department of Insurance
(Proposed Amendment)

806 KAR 39:070. Proof of motor vehicle insurance.

RELATES TO: KRS 186.021, 186A.040, 304.12-020, 304.39-080, 304.39-085, 304.39-(HB 317)
PURSUANT TO: KRS 186.021, 304.2-110, 304.39-300
NECESSITY AND FUNCTION: KRS 304.2-110 provides that the Commissioner of Insurance may make reasonable regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code. KRS 304.39-300 provides that the Commissioner of Insurance may make regulations to provide for the effective administration of the Kentucky Motor Vehicle Reparations Act. KRS 186.021 requires the Commissioner of Insurance to adopt regulations prescribing the manner in which proof of compliance with KRS 304.39-080 is presented to county clerks when renewing the registrations of motor vehicles.

Section 1. Definitions. As used in this regulation:
(1) "Commissioner" means the Commissioner of the Kentucky Department of Insurance.
(2) "Insurer" means all insurers providing security covering a motor vehicle pursuant to KRS 304.39 and self-insurers pursuant to KRS 304.39-080 and 806 KAR 39:050.
(3) "Motor vehicle insurance policy" means an insurance contract purporting to provide security covering a motor vehicle pursuant to KRS 304.39.
(4) "Person" has the meaning set forth in KRS 304.1-020.
(5) "Written proof of motor vehicle insurance" means the document prescribed by Section 2 of this regulation.

Section 2. Written Proof of Motor Vehicle Insurance to be Provided by Insurers. (1) Each insurer issuing an insurance contract which provides security covering a motor vehicle shall provide to the named insured on or before January 1, 1985, written proof that the insurer has in effect an insurance contract providing security in conformity with KRS 304.39. Generally, the written proof of motor vehicle insurance should be mailed to the named insured at the latest address of record with the insurer. However, the written proof of motor vehicle insurance may be distributed to the named insured in any manner reasonably calculated to put the written proof of motor vehicle insurance in the possession of the named insured on or before January 1, 1985.
(2) Provision of written proof of motor vehicle insurance for new and renewal motor vehicle insurance policies.
(a) Written proof of motor vehicle insurance shall be provided annually upon renewal of motor vehicle insurance policies.
(b) Each new policy of motor vehicle insurance issued after the effective date of this regulation shall be accompanied by written proof of motor vehicle insurance. Insurers should be aware that new policies of motor vehicle insurance issued shortly before January 1, 1985, should be accompanied by written proof of motor vehicle insurance because of the need to have proof of motor vehicle insurance available for registration renewal following January 1, 1985.
(c) All motor vehicle insurance policies issued after insurers make the initial delivery of written proof of motor vehicle insurance shall be accompanied by written proof of motor vehicle insurance.
(3) Copies of the written proof of motor vehicle insurance.
(a) If the motor vehicle insurance policy covers four (4) or less vehicles, a single written proof of motor vehicle insurance shall be provided for each motor vehicle. Two (2) copies of the written proof of motor vehicle insurance shall be provided for each motor vehicle insured under a motor vehicle insurance policy.
(b) If the motor vehicle insurance policy covers five (5) or more vehicles, a copy [copies] of the written proof of motor vehicle insurance must [need not] be provided for each vehicle covered by the policy. Sufficient copies of the written proof of motor vehicle insurance shall be provided to the policyholder so that the policyholder will have a single written proof of motor vehicle insurance for the county clerk of each county in which the policyholder has motor vehicles registered. [However, at least one (1) set of duplicates as specified in paragraph (a) of this subsection shall be provided. Insurers shall cooperate with policyholders who have fleet coverage as

described in paragraph (b) of this subsection who wish to obtain proof of insurance to be kept in all covered motor vehicles. Proof of insurance provided under these circumstances need not meet all the formal requirements of written proof of motor vehicle insurance as set forth in this regulation.]

(4) Guidelines for size and format of the written proof of motor vehicle insurance. The written proof of motor vehicle insurance shall be of a size that allows it to be carried in a billfold or with the motor vehicle registration.

(a) The written proof of motor vehicle insurance shall take one of the following forms:

1. A two and one-fourth (2 1/4) inch by three and one-half (3 1/2) inch card;

2. A two and one-fourth (2 1/4) inch by seven (7) inch card with a vertical fold resulting in a two and one-fourth (2 1/4) inch by three and one-half (3 1/2) inch card; or

3. A four and one-half (4 1/2) inch by three and one-half (3 1/2) inch card with a horizontal fold resulting in a two and one-fourth (2 1/4) inch by three and one-half (3 1/2) inch card.

(b) Slight variations from the sizes listed in paragraph (a) of this subsection shall be permitted.

(c) The written proof of motor vehicle insurance shall be on white paper with black or blue ink.

(5) Mandatory contents of the written proof of motor vehicle insurance. The written proof of motor vehicle insurance shall prominently display on its face the following information, to appear in approximately the order listed:

(a) Title of the document: "COMMONWEALTH OF KENTUCKY PROOF OF INSURANCE."

(b) The name of the insurance company and its three (3) digit code number assigned by the Department of Insurance.

(c) The name of the named insured.

(d) The effective date of coverage.

(e) The policy number.

(f) The motor vehicle identification: year, make or model, and vehicle identification number of the motor vehicle. If the insurance contract covers five (5) or more motor vehicles, it will state "Fleet."

(6) Optional contents of the written proof of motor vehicle insurance.

(a) At the option of the insurer, the written proof of motor vehicle insurance may include the following information:

1. The insurer's logo.

2. A statement as to how to contact the insurer concerning claims.

3. The insurer's address.

4. The named insured's address.

(b) At the option of the insurer, the information listed in paragraph (a) of this subsection may also be contained on material separate from the written proof of motor vehicle insurance and mailed along with it.

(c) The optional information listed in paragraph (a) of his subsection shall not obscure the mandatory information listed in subsection (5) of this section.

(7) Instructions for use of the written proof of motor vehicle insurance. Insurers shall furnish with the written proof of motor vehicle insurance instructions to the effect that one (1) copy of the written proof of motor vehicle insurance must be given to the county clerk for registration renewal and that the other copy must [should] be kept in the vehicle it relates to and shown to peace officers on request. If the policy covers five (5) or more motor vehicles, the instructions shall state that written proof of motor vehicle insurance shall be kept in the motor vehicle covered by the policy and shown to peace officers on request and that an additional copy or copies of the written proof of the motor vehicle insurance must be retained and given to the county clerk of each county where the insured has motor vehicles registered for registration renewal. Motorcycle insurers shall advise policyholders that they must carry written proof of motor vehicle insurance on their persons or in an appropriate place on the motorcycle [or, in the case of a motor vehicle insurance policy covering five (5) or more motor vehicles, in the insurance records of the named insured]. The instructions shall state that if the VIN on the motor vehicle registration and the VIN on the motor vehicle do not match, the policyholder must contact the county clerk to have the VIN on the motor vehicle registration corrected. The instructions shall state that if the VIN on the written proof of motor vehicle insurance and the motor vehicle do not match, the policyholder must contact the insurance company to have the VIN on the written proof of motor vehicle insurance corrected. The insurer shall provide the name, address, and telephone number (preferably a toll-free number) of an insurer representative to contact concerning the discrepancy in numbers. The latter requirement is met if the insurer directs the insured to contact a local agent of the insurer.

(8) Optional filing and approval of the written proof of motor vehicle insurance with the commissioner; disapproval of the written proof of motor vehicle insurance by the commissioner.

(a) At the option of the insurer, the written proof of motor vehicle insurance may be filed with the commissioner for approval. No insurer shall be subject to disciplinary action by the commissioner as long as the approval provided for by this paragraph remains in effect.

(b) The commissioner may disapprove an insurer's written proof of motor vehicle insurance or its use if he finds that it violates this regulation, any provision of the Kentucky insurance code or regulations, or that the insurer's written proof of motor vehicle insurance or its use is unfair or deceptive.

(9) In light of the provisions of KRS 186A.040 and 304.39-085 requiring information on motor vehicle insurance cancellations and nonrenewals to be reported to the Transportation Cabinet and placed on the automated vehicle information system and further requiring the Transportation Cabinet to notify the named insured to obtain replacement motor vehicle insurance following cancellation or nonrenewal of a motor vehicle insurance contract, the fact that a person has in his or her possession a written proof of motor vehicle insurance for an insurance contract which has been terminated shall not be construed as meaning that the insurance contract is in effect.

Section 3. Alternative Methods of Proving Motor Vehicle Insurance. A person may use the following alternative methods to prove that motor vehicle insurance is in effect when registering a motor vehicle:

(1) A certificate of insurance issued by a

general lines insurance agent licensed by Kentucky. The certificate shall be on a form prescribed by the commissioner.

(2) The county clerk's review of the records contained in the automated vehicle information system.

(3) An insurance contract with a declaration page attached showing that the policy is in effect at the time the motor vehicle is being registered.

(4) A letter from the Kentucky Automobile Insurance Plan serving as prima facie evidence of insurance in force.

(5) When the owner of the motor vehicle is serving in the armed forces outside Kentucky, an affidavit by the provost marshal of the base where such person is stationed stating that the motor vehicle in question is covered by an automobile liability insurance policy.

Section 4. Information to be Submitted by Insurers on Cancellation and Nonrenewal of Motor Vehicle Insurance Policies. (1) Insurers shall submit information on motor vehicle insurance policy cancellations and nonrenewals on computer tape unless:

(a) The insurer submits notices on less than fifty (50) policies per accounting month;

(b) The use of computer tape will be an unreasonable burden on the insurer; or

(c) Other good cause not to use computer tape is shown.

(2) Any such information on computer tape shall be on computer tape compatible with standards prescribed by the Department of Vehicle Regulation and the Department of Information Systems.

(3) Any such information in writing shall be in the form prescribed by the Department of Vehicle Regulation.

(4) Information required upon cancellation and nonrenewal.

(a) If the motor vehicle insurance policy covers four (4) or less motor vehicles, insurers shall provide the following information:

1. Vehicle identification number(s).
2. Year(s) and make(s) or model(s) of the motor vehicle(s).
3. Name of the named insured.
4. Policy number.
5. Company code.
6. Effective date of the termination of the motor vehicle insurance policy.

(b) If the motor vehicle insurance policy covers five (5) or more motor vehicles, insurers shall provide the information required by paragraph (a) of this subsection, except that the vehicle identification numbers, years, and makes or models of the covered motor vehicles need not be given. In place of this information, the notice will state "Fleet."

(5) Insurers shall attempt to edit their lists of cancellations and nonrenewals prior to submitting them to the Department of Vehicle Regulation in order to eliminate policyholders whose policies were terminated and then reinstated or terminated and replaced by a policy issued by the same insurer. Both the Department of Insurance and the Department of Vehicle Regulation understand that the technology to accomplish this may not be available to all insurers, but an attempt should be made in order to determine the feasibility of such editing.

Section 5. Severability. If any provision of this regulation or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of this regulation and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 6. Effective Date. (1) This regulation shall become effective January 1, 1985.

(2) However, insurers should be aware that the requirements of this regulation contemplate considerable preparatory activities on their part prior to January 1, 1985, in order to comply by that date.

LEROY MORGAN, Commissioner
THEODORE T. COLLEY, Secretary
APPROVED BY AGENCY: April 11, 1988
FILED WITH LRC: April 12, 1988 at 10 a.m.

PUBLIC HEARING: Persons with an interest in the subject matter of the proposed regulation may appear and make comments at a public hearing scheduled for May 23, 1988 at 9 a.m., in the offices of the Kentucky Department of Insurance, 229 West Main Street, Frankfort, Kentucky 40601. Written comments may be submitted to Leroy Morgan, Commissioner, Kentucky Department of Insurance, P. O. Box 517, Frankfort, Kentucky 40602. Written comments will be given consideration equal to testimony at the public hearing if such written comments are received by the close of business on May 23, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Patrick Watts

Need for the Proposed Regulation: The proposed regulation is needed due to the provisions of HB 317 adopted by the 1988 General Assembly. KRS 186.021(2) requires motor vehicle owners to provide proof of insurance when motor vehicle registrations are renewed. KRS 304.39-085 requires the Commissioner of Insurance to prescribe the form used for proof of insurance. 806 KAR 39:070 prescribes the form of proof of insurance. When the regulation was adopted in 1984, it required duplicate identification cards to be provided for policies covering less than five motor vehicles and insurers were required to instruct policyholders that one copy must be retained and given to the county clerk upon renewal of motor vehicle registration and that the other copy "should" be kept in the motor vehicle.

As to fleet policies, that is, those covering five or more motor vehicles, the identification card does not identify the specific vehicles involved, but simply indicates that the policy covers all motor vehicles registered in the name of the policyholder. An insurer is required to instruct a fleet policyholder that at least one identification card must be provided to the county clerk in each county where the policyholder has motor vehicles registered in order to renew the registrations of those motor vehicles. Only one identification card per county is needed because the policy covers all motor vehicles registered in the name of the policyholder. Insurers are not required to provide identification cards for each motor vehicle in a fleet, but must cooperate with policyholders to provide proof of insurance for all motor vehicles covered by the policy, and such forms of proof need not meet the formal

requirements of the regulation.

HB 317 requires insurers issuing motor vehicle liability insurance to provide to the insured identification cards as proof that the insured has in effect insurance providing security which complies with KRS Chapter 304.39. The owner of the motor vehicle must keep the identification card in the motor vehicle as prima facie evidence that the required security is in effect. HB 317 requires the identification card to be shown to peace officers on request. The new provisions require amendment of the regulation to conform to the statute.

Under the amended regulation, insurers issuing policies covering less than five vehicles must continue to provide duplicate copies of identification cards for each vehicle to insureds. However, they must instruct insureds to keep one copy of the identification card in the vehicle and show it to peace officers on request.

Under the amended regulation, insurers issuing policies covering five or more vehicles must provide identification cards for all covered motor vehicles and at least one identification card for every county in which the policyholder has motor vehicles registered. These identification cards need not identify the covered motor vehicles specifically since a fleet policy will cover all motor vehicles registered in the name of the insured and due to the fact that it is common for the fleet to change with great frequency, making it impossible for the insurer to keep track of individual motor vehicles.

(1) Type and number of entities affected: The regulation applies to the approximately 2,782,000 motor vehicles registered in Kentucky. The regulation also applies to approximately 600 insurers authorized to transact motor vehicle liability insurance in Kentucky and the approximately 15,000 general lines insurance agents licensed in Kentucky.

(a) Direct and indirect costs or savings to those affected: The regulation itself imposes no costs because the costs involved are created by HB 317.

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: The regulation will require changes in the instructions provided concerning the use of identification cards given by insurers to insureds.

(2) Effects on the promulgating administrative body: There will be minimal expense in enforcing the new regulation and circulating information to the public, insurers, and agents. However, those expenses are created by HB 317, not the regulation.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: When 806 KAR 39:070 was adopted in 1984, it was envisioned that the legislature might subsequently require identification cards to be carried in vehicles, and, therefore, the regulation was drafted so that the only changes necessary would be to the instructions provided to insureds. Thus, this amendment merely carries out what was planned for several years ago.

(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? Tiering has been applied in recognizing the distinctions between policies which cover less than five motor vehicles and policies which cover five or more motor vehicles. The latter type of policies, commonly referred to in the insurance industry as fleet policies, present special problems when trying to identify a specific vehicle as insured. It is common for the makeup of a fleet to change with great frequency, often daily, as motor vehicles are added to or subtracted from the fleet. The proposed regulation recognizes this fact by not requiring identification cards provided to fleet policyholders to identify each motor vehicle covered. The intent of HB 317 is still carried out because fleet motor vehicles will have the identification cards in them and all the peace officer checking the identification card need do is compare the named insured shown on the identification card to the owner named in the registration to confirm that the motor vehicle is covered by the fleet policy.

CABINET FOR HUMAN RESOURCES
Department for Mental Health and Mental Retardation Services
(Proposed Amendment)

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

RELATES TO: KRS 222.210 to 222.310, HB 516 Part IIA #42 of the 1988 GA

PURSUANT TO: KRS 194.050, 222.230

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

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

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

(a) Group meetings organized among alcoholics, recovering alcoholics or alcohol abusers, families and others, held on a nonresidential

basis and without professional staff intervention, for the purpose of discussing problems related to use of alcohol where no fee is involved.

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

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

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

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

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

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

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

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

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

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

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

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

(10) Applications for a permit to operate a nonmedical alcohol treatment and education center shall be accompanied by a fee of $130 [100] and shall excepting conditional permits, be renewable annually upon expiration and reapplication when accompanied by a renewal fee of sixty-five (65) [fifty (50)] dollars. All licensure fees are to be forwarded to the Cabinet for Human Resources, Office of Inspector General, Division of Licensing and Regulation, 275 East Main Street, Frankfort, Kentucky 40621.

(11) Exception. An agency possessing a nonmedical alcohol treatment and education center license shall be exempt from paying licensure fees set forth in licensing procedures standards, subsection (11) of this section, when the specific nonmedical alcohol program such as detoxification, residential treatment, residential transitional treatment, outpatient, day/night intensive outpatient treatment and education has already paid licensure fees as a drug abuse treatment and education (DATE) center program in compliance with 902 KAR 3:210.

DENNIS D. BOYD, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: April 12, 1988
FILED WITH LRC: April 15, 1988 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Eric Friedlander
(1) Type and number of entities affected: Thirty-eight.
(a) Direct and indirect costs or savings to those affected:
1. First year: $15 per year facility.
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: None
(a) Direct and indirect costs or savings: None
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No additional requirements.
(3) Assessment of anticipated effect on state and local revenues: Increase state revenue approximately $500.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Mandated action under HB 516.42 of the 1988 General Assembly.
(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. This is a licensure regulation and all facilities must comply with the same standards.

CABINET FOR HUMAN RESOURCES
Department for Mental Health and Mental Retardation Services
(Proposed Amendment)

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

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

Section 1. Licensing and Approval Procedures. Applications for licensing, or waivers requesting exemptions from licensure standard(s) shall be obtained from and submitted to the Cabinet for Human Resources, Office of Inspector General, Division of Licensing and Regulation, 275 East Main Street, Frankfort, Kentucky 40601.
(1) Application for licensure shall be filed by all agencies operating a drug abuse treatment and education (DATE) center in the Commonwealth with the following exceptions:
(a) Group meetings organized among drug abusers, recovering addicts or drug abusers, families and others, held on a nonresidential basis and without professional staff intervention, for the purpose of discussing problems related to use of drugs where no fee is involved.
(b) Transportation Cabinet, Alcohol Driver Education, pursuant to: KRS Chapter 189A and 601 KAR 13:050.
(c) Programs conducted in a facility established and maintained by a licensed hospital; nursing homes; and department, agency or institution of the federal government or the Commonwealth.
(d) All chemical dependency treatment services and facilities licensed under 902 KAR 20:160.
(2) The Cabinet for Human Resources, Office of Inspector General, Division of Licensing and Regulation shall conduct all licensure surveys to determine whether an agency's drug abuse treatment and education (DATE) center is in compliance with the applicable licensure standards.
(3) The cabinet shall notify the applicant agency for a drug abuse treatment and education (DATE) center license of any pending licensure action taken, and shall provide written reports citing observed deficiencies as they relate to the standards. A copy of this report shall be forwarded to the applicant agency. Upon receipt of this report the applicant agency must submit an acceptable plan of correction for cited deficiencies to the cabinet within ten (10) days.
(4) Licensure is not transferable. Both the license holder and the new operator shall be responsible to notify the cabinet when the agency possessing the drug abuse treatment and education (DATE) center license changes ownership or control or undergoes a major change in its capacity or in the category(ies) of programs offered, with disclosure of all factors involved in the change. If it is the decision of the cabinet that a reapplication is in order the applicant shall apply within twenty (20) days of notification by the cabinet. Failure to comply with these provisions shall result in loss of license.
(5) The cabinet shall be notified in writing prior to the merger of the agency possessing a drug abuse treatment and education (DATE) center license with another agency and an immediate request for licensure be filed with the cabinet. The merged agency's drug abuse treatment and education (DATE) center shall be surveyed within one (1) year of such notification. For the purposes of licensure, a merged agency shall be a legal entity with a single governing body, a single administration, a single staff, and, where applicable, a single set of bylaws, rules and regulations.
(6) The cabinet shall publish on an annual basis a list of licensed drug abuse treatment and education (DATE) centers identifying types of programs and their locations and shall make it available to the public upon request.
(7) Licenses granted to agencies deemed responsible and suitable to carry out drug abuse treatment and education (DATE) center programs shall meet applicable standards and requirements for a period not exceeding one (1) year and renewable for a like period, and subject to revocation for cause.
(8)(a) A drug abuse treatment and education (DATE) center license shall be issued by the Cabinet for Human Resources, Office of Inspector General, Division of Licensing and Regulation to an agency that meets the required program standards. Such a license shall identify the location of the facility and the year of issuance of the license and the type of drug abuse treatment and education (DATE) center licensed such as: residential rehabilitation center, nonresidential day care center, educational information center or communication center for which they have been approved. Each

agency licensed shall receive a certificate of licensure indicating its approved status.

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

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

(10) Licensure fees per drug abuse treatment and education (DATE) center shall be paid in accordance with KRS 210.620, Section 4. This statute requires that applications for a permit to operate a drug abuse treatment and education (DATE) center shall be accompanied by a fee of $130 [100] and shall, excepting conditional permits, be renewable upon expiration and reapplication when accompanied by a renewal fee of sixty-five (65) [fifty (50)] dollars. All licensure fees are to be forwarded to the Cabinet for Human Resources, Office of Inspector General, Division of Licensing and Regulation, 275 East Main Street, Frankfort, Kentucky 40621.

DENNIS D. BOYD, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: April 12, 1988
FILED WITH LRC: April 15, 1988 at 10 a.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Eric Friedlander

(1) Type and number of entities affected: Thirty-seven.

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

1. First year: $15 per year per facility.
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: None

(a) Direct and indirect costs or savings: None

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No additional requirements.

(3) Assessment of anticipated effect on state and local revenues: Increase state revenue approximately $500.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Mandated action under HB 516.42 of the 1988 General Assembly.

(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. This is a licensure regulation and all facilities must comply with the same standards.

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Maternal and Child Health
(Proposed Amendment)

902 KAR 4:030. Tests for inborn errors of metabolism.

RELATES TO: KRS 214.155
PURSUANT TO: KRS 194.050, 211.090, 214.155, HB 516 Part IIA #42 of the 1988 GA

NECESSITY AND FUNCTION: The Cabinet for Human Resources is authorized by KRS 214.155 to require infants to be tested for inborn errors of metabolism, including but not limited to phenylketonuria (PKU), and to establish a schedule of fees to cover the actual costs to the cabinet for testing samples for errors of inborn metabolism. The purpose of this regulation is to require infants to be tested for phenylketonuria (PKU), galactosemia, and hypothyroidism, which are inborn errors of metabolism, and to establish the schedule of fees to cover actual costs of testing.

Section 1. Tests for Inborn Errors of Metabolism for Newborn Babies. (1) Except as otherwise provided in KRS 214.155(2), the administrative officer, or other person in charge of the hospital or other institution caring for infants twenty-eight (28) days or less of age and the attending physician or midwife shall cause to have administered to every such infant in its or his care a blood test to detect phenylketonuria, galactosemia, and hypothyroidism. In the event a baby is not born in a hospital or institution, the attending physician or midwife shall be solely responsible for causing such tests to be administered at no less than forty-eight (48) hours or more than seven (7) days of life.

(2) A capillary blood specimen shall be obtained from each infant before he or she leaves the hospital regardless of the age of the infant. All infants screened prior to forty-eight (48) hours of life shall be rescreened for phenylketonuria (PKU) and congenital hypothyroidism prior to three (3) weeks of life.

(3) When an infant is transferred from one hospital to another during the newborn hospital stay, the following rules shall apply. If the infant is forty-eight (48) hours of age or more at the time of transfer to another hospital, testing for phenylketonuria (PKU), galactosemia and congential hypothyroidism shall be the responsibility of the sending hospital. It shall be the responsibility of the receiving hospital to ensure testing for phenylketonuria (PKU), galactosemia and congential hypothyroidism if the infant is less than forty-eight (48) hours of age at the time of transfer.

(4) [(3)] A capillary blood specimen shall be

obtained on the seventh day of life from all ill, premature, or infants receiving parenteral feeding still hospitalized on that day, for the purpose of screening for phenylketonuria (PKU), galactosemia, and congenital hypothyroidism, unless the particular infant has already been tested in accordance with subsection (3) of this section.

(5) [(4)] A repeat capillary blood specimen shall be obtained from all infants who were being treated with antibiotics when the original specimen was obtained or within the previous five (5) days. This repeat specimen shall be obtained five (5) to seven (7) days after completing the antibiotic treatment for the purpose of screening for phenylketonuria (PKU) and galactosemia.

(6) [(5)] A repeat capillary blood specimen shall be obtained for the purpose of screening for phenylketonuria (PKU) from all infants who received parenteral feeding prior to the initial screening. For formula-fed infants, the specimen shall be obtained between forty-eight (48) and seventy-two (72) hours after initiation of feedings. For breast fed infants, the specimen shall be obtained between seven (7) and fourteen (14) days after initiation of feedings.

(7) [(6)] A repeat capillary blood specimen shall be obtained from all infants who received transfusions prior to the initial screening, according to the following schedule:

(a) Forty-eight (48) - seventy-two (72) hours after transfusion rescreen for phenylketonuria (PKU) and congenital hypothyroidism.

(b) Sixty (60) - sixty-five (65) days after transfusion rescreen for galactosemia.

(8) [(7)] The capillary blood specimens required in subsections (1) through (6) of this section shall be obtained by a heel stick and the blood from the heel stick shall be applied directly to filter paper.

(9) [(8)] All specimens obtained as directed in subsections (1) through (7) of this section shall be mailed or sent to the approved testing laboratory within twenty-four (24) hours of collection of the specimen.

(10) [(9)] Hospitals and institutions may submit blood samples to the Cabinet for Human Resources, Department for Health Services, Laboratory Services, 275 East Main Street, Frankfort, Kentucky 40621. The Department for Health Services, Laboratory Services, shall report positive results of tests for inborn errors of metabolism as required by KRS 214.155 on behalf of such hospitals and institutions. Hospitals and institutions may conduct their own testing program, within the institution or through a licensed medical laboratory, in which event the cabinet shall be notified and the laboratory procedures approved. A hospital or licensed medical laboratory may be required by the cabinet to demonstrate its proficiency in the performance of such tests. Hospitals and institutions which conduct their own testing program or contract with a licensed medical laboratory shall report positive test results within twenty-four (24) hours of testing to the attending physician and shall report positive test results to the Department for Health Services no later than two (2) working days after the date of testing.

(11) [(10)] All hospitals that conduct their own testing for congenital hypothyroidism within the institution or through a licensed medical laboratory must perform a TSH on the same blood samples whose initial T4 test resulted in a low value level.

(12) [(11)] All hospitals which do their own testing or send their blood specimens to a licensed medical laboratory for testing shall complete semiannual or other reports concerning such testing as requested by the Division of Laboratory Services or the Division of Maternal and Child Health.

(13) The Cabinet for Human Resources may share test results with physicians and practitioners other than the attending physician, who inform the cabinet that they are treating the infant who received the test, and with the local health department in the infant's county of residence.

(14) [(12)] Hospitals or other authorized institutions or individuals submitting blood samples to the Cabinet for Human Resources shall be assessed for each test according to the following schedule:

PKU only.....$ 2.50 [2.25] per test
Galactosemia only.....$ 2.50 [2.00] per test
Hypothyroidism.....$ 6.00 [5.75] per test
Combination test for all three...$11.00 [10.00]

All fees due the Cabinet for Human Resources shall be collected through a monthly billing system.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: April 12, 1988
FILED WITH LRC: April 15, 1988 at 10 a.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Cecil H. Webb, Jr.

(1) Type and number of entities affected: All hospitals, physicians, and midwives in the state that provide obstetrical services.

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

1. First year: Increase costs of tests by 25¢, 50¢ or $1.00 per test or group of tests.

2. Continuing costs or savings: Same as first year.

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

(b) Reporting and paperwork requirements: May reduce paperwork by reducing reporting between obstetricians and pediatricians.

(2) Effects on the promulgating administrative body: Reduces the risks of children having effects from metabolic diseases because they were untested and therefore untreated or tested at an improper time and not timely diagnosed.

(a) Direct and indirect costs or savings: Minimal

1. First year: Minimal

2. Continuing costs or savings: Minimal

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No

additional.
(3) Assessment of anticipated effect on state and local revenues: Expected increase in state revenue of approximately $55,000.
(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: KRS 333.150
(a) Necessity of proposed regulation if in conflict: Section 13 makes it possible for a laboratory to report results of neonatal screening for inborn errors of metabolism to a physician who will be treating a child in addition to the physician who is responsible for the delivery. This could reduce the time between birth and the beginning of treatment which is very important.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Yes
(6) Any additional information or comments: None
TIERING: Was tiering applied? N/A

CABINET FOR HUMAN RESOURCES
Department for Health Services
(Proposed Amendment)

902 KAR 4:060. Kentucky State Plan of Program Operations and Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC).

RELATES TO: KRS 194.050, 211.180
PURSUANT TO: KRS 194.050(1), 211.090, 211.180
NECESSITY AND FUNCTION: P.L. 95-627, the "Child Nutrition Act of 1966," as amended and 7 CFR, Part 246, authorizes grants for the Special Supplemental Food Program for Women, Infants and Children (WIC). The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the Kentucky Special Supplemental Food Program for Women, Infants and Children (WIC) in accordance with applicable federal laws and regulations.

Section 1. Kentucky State Plan of Program Operations and Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC). The Cabinet for Human Resources hereby adopts the "Kentucky State Plan of Program Operations and Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC) - Fiscal Year 1987-1988 [1986-1987]" by reference as the Kentucky WIC Program regulation covering all phases of program operation including but not limited to program eligibility for services, the provision of nutrition education and supplemental foods in accordance with federal regulations and guidelines, and other relevant components of the program. A copy of the Kentucky State Plan of Program Operations and Administration for the Special Supplemental Food Program for Women, Infants and Children (WIC) - Fiscal Year 1987-1988 [1986-1987] (two (2) volumes) has been filed with the United States Department of Agriculture, Southeast Region, 1100 Spring Street, N.W., Atlanta, Georgia 30367. A copy shall be on file and available for public inspection in the Office of the Commissioner for Health Services, 275 East Main Street, Frankfort, Kentucky 40621.

C. HERNANDEZ, M.D., M.P.H., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 9, 1988
FILED WITH LRC: March 29, 1988 at 3 p.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Peggy S. Kidd
(1) Type and number of entities affected: 72,000 clients per month in 120 counties.
(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): Services are ongoing, therefore there are no changes.
(b) Reporting and paperwork requirements: No additional paperwork requirements.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs: Services are ongoing therefore N/A.
(b) Reporting and paperwork requirements: No additional paperwork requirements.
(3) Assessment of anticipated effect on state and local revenues: Services already ongoing therefore no affect on state and local revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Only efficient alternative available.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: 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:
(6) Any additional information or comments:
TIERING: Was tiering applied? No. Tiering not applicable.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: State compliance standards in the WIC State Plan and Manual do not exceed the minimum uniform standards in the federal mandate for the Special Supplemental Food Program for Women, Infants and

Children (WIC), Child Nutrition Act of 1966, P.L. 95-627, as amended.

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: No

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Food and Sanitation
(Proposed Amendment)

902 KAR 10:030. Sanitarians.

RELATES TO: KRS 223.010 to 223.080, 223.990

PURSUANT TO: KRS 194.050, 211.090, HB 516 Part IIA #42 of the 1988 GA

NECESSITY AND FUNCTION: KRS 223.010 to 223.080, [and] 223.990 and HB 516 authorizes the Cabinet for Human Resources to establish minimum standards and qualifications for registered sanitarians. This regulation provides uniform standards for registered sanitarians and procedures for processing applications and to establish fees for examination and registration.

Section 1. Definitions. As used in this regulation:

(1) "Committee" means the Sanitarian Examining Committee consisting of five (5) members who are appointed in accordance with KRS 223.020.

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

(3) "Registered sanitarian" means a person trained in the field of public health sanitation who has qualified for registration in accordance with the provisions of KRS 223.010 to 223.080 and 223.990, and the regulations promulgated thereunder.

(4) "Secretary" means the Secretary of the Cabinet for Human Resources.

Section 2. Minimum Standards and Qualifications. In addition to the specific requirements provided by KRS 223.030, an applicant for registration as a sanitarian shall:

(1) Have graduated from an accredited college or university with a baccalaureate or higher degree, which shall include satisfactory completion of at least twenty-seven (27) quarter hours, or eighteen (18) semester hours, of academic training in the basic physical, chemical, biological, or sanitary sciences; [provided, however, that any sanitarian employed full-time in the field of public health sanitation on the effective date of this regulation who does not meet the requirements of this subsection, may be registered if he meets all other requirements of this regulation; and, provided further, that he files an application for registration within thirty (30) months after the effective date of this regulation;] and

(2) Be of good moral character.

Section 3. Applications for Registration. Applications for registration as a registered sanitarian shall be submitted to the committee on forms prepared and issued by them. Each application fee shall be remitted by a Post Office or express money order, bank draft, or check payable to the order of the cabinet. The committee may correspond with any references given on the applicant's application and may also contact any former employer of the applicant concerning his prior service in the field of public health sanitation.

Section 4. Examinations. The committee shall conduct examinations at least once a year at such time and place as it may deem expedient. The examination may be either oral, written, or both. A fee of twenty-five (25) dollars shall accompany the application for examination. All registration certificates issued under the provisions of this regulation shall expire June 30 following date of issue, unless renewed by the payment of a ten (10) dollar registration fee.

Section 5. Certificates of Registration. After the committee has approved an application and all the requirements provided by law are fulfilled, the committee shall certify such fact to the secretary, who in turn shall issue a small card to the approved applicant certifying that he holds a certificate of registration. The committee shall assign serial numbers to each certificate of registration.

Section 6. Renewals. It shall be the duty of the secretary-treasurer of the committee to notify all registered sanitarians at least thirty (30) days prior to the expiration date of their certificate that they renew their certificate of registration as provided by law.

Section 7. Revocation of Certificates of Registration. In any action involving the revocation of a certificate of registration, the secretary shall refer to matter to the committee. The committee is authorized to set the time and place of a hearing and the respondent shall be given at least thirty (30) days prior notice. At the conclusion of the hearing, the committee shall make a recommendation to the secretary in writing. The secretary is authorized to affirm, reverse, cancel, or modify the recommendation of the committee.

Section 8. Expenditure of Funds. Expenditures for examinations, clerical expenses, training and reference materials, including approved home study courses, and for affiliation with any national sanitarian registration organization, may be made out of the trust and agency fund created by KRS 223.050.

C. HERNANDEZ, MD, Commissioner
HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: April 12, 1988

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

PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Dudley J. Conner
(1) Type and number of entities affected: Renewal of registrations and @ 10 new registrants.
(a) Direct and indirect costs or savings to those affected:
1. First year: @ 1750 in additional cost to persons renewing registration and @ 250 additional for new registrants.
2. Continuing costs or savings: Approximately same cost each year to registrants.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: N/A
(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: N/A
(3) Assessment of anticipated effect on state and local revenues: @ increase of @ $2,000 in revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments: N/A
TIERING: Was tiering applied? No. No provision or need to tier.

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Food and Sanitation
(Proposed Amendment)

902 KAR 10:060. On-site sewage disposal.

RELATES TO: KRS 211.350
PURSUANT TO: KRS 194.050, 211.350, HB 516 Part IIA #42 of the 1988 GA
NECESSITY AND FUNCTION: KRS 211.350(5) and HB 516 authorizes the Cabinet for Human Resources to establish a schedule of reasonable fees to cover the costs of services performed by the cabinet with respect to on-site sewage disposal systems. The function of this regulation is to set forth the fee to be charged in order to cover the actual cost to the cabinet of the administration of the on-site sewage disposal system program.

Section 1. All applications for a permit to construct, install, or alter an on-site sewage disposal system filed with the cabinet or its agent shall be accompanied by a fee of twenty (20) [fifteen (15)] dollars.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: April 12, 1988
FILED WITH LRC: April 15, 1988 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Dudley J. Conner
(1) Type and number of entities affected: All applicants desiring to construct, alter or install an onsite sewage system.
(a) Direct and indirect costs or savings to those affected:
1. First year: Increase of $5 per application.
2. Continuing costs or savings: Minimal
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No additional.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: Replaces general fund dollars in budget and assist in off-setting program cost.
1. First year: No additional
2. Continuing costs or savings: Minimal
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No additional.
(3) Assessment of anticipated effect on state and local revenues: Expected increase in state revenue of approximately $25,300.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: None
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. A flat fee of $20 was applied due to program operational cost.

CABINET FOR HUMAN RESOURCES
Department for Health Services
(Proposed Amendment)

902 KAR 11:010. Application for licensure; fee.

RELATES TO: KRS Chapter 333, HB 516 Part IIA #42 of the 1988 GA
PURSUANT TO: KRS 194.050, 333.070
NECESSITY AND FUNCTION: KRS Chapter 333 empowers the Cabinet for Human Resources to license and regulate medical laboratories in Kentucky including applications for licenses and the setting of reasonable license fees. The function of this regulation is to establish application procedures for licensure and to establish reasonable licensure fees.

Section 1. Licenses. (1) Except as otherwise

provided by KRS 333.040 no person shall operate any medical laboratory in this Commonwealth without first obtaining the appropriate license therefor.

(2) All applications for licensure shall be filed with the Cabinet for Human Resources, Office of Inspector General, Division for Licensing and Regulation, Frankfort, Kentucky 40621 and shall be accompanied by a fee of $130.

(3) All applicants for licenses shall, as a condition precedent to licensure, be in compliance with the applicable regulations relating to the particular medical laboratory.

(4) All licenses shall expire on December 31 following the date of issuance.

(5) Licenses may be renewed upon payment of sixty-five (65) dollars [the prescribed fee provided the medical laboratory is in compliance with the applicable provisions of KRS Chapter 333 and the regulations of the cabinet.]

[Section 2. Fee Schedule. The initial application fee for a license shall be $100. The annual renewal thereof for each medical laboratory shall be fifty (50) dollars.]

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: April 13, 1988

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

PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Division of Licensing and Regulation

(1) Type and number of entities affected: 80

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

1. First year: $15 per laboratory per year.
2. Continuing costs or savings: Same as above.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: No additional requirements.

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings: None

1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: None

(3) Assessment of anticipated effect on state and local revenues: Increase in state revenue of approximately $500.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Mandated action under HB 516.42 of the 1988 General Assembly.

(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. This is a licensure regulation and all facilities are required to meet the same standards.

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 April 15, 1988 [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 April [March] 15, 1988, 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 April [March] 15, 1988, 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 April [March] 15, 1988, 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 April [March] 15, 1988, 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 February 15, 1988, 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 A - Oakwood Policy Manual

Vol II - DST - 1-5-11C Instructions to Follow in Case of Adverse Weather Conditions

This updates and clarifies procedures for adverse weather conditions

Section B - Hazelwood Policy Manual

F9 - Attach this list of abbreviations to policy F9

E 14.3 - a new Pastoral Services Fund policy to be added to specify how gifts and money are to be used.

Also attached is a new index for Section E.

Section D - Eastern State Hospital Policy Manual

D1, Sec 1, 22, 22A and 22B - Employee Health Screening Program - This replaces previous policy in Section 1. This policy has been revised to reflect the following changes:
a) The VDRL will no longer be included in the initial screening.
b) Hepatitis B Screening is being offered as an option to employees on both initial screening and annual screening. It will, however, be mandatory for Dental and Laboratory employees.
c) The annual screening will include an update of health questionnaire, PPD or Chest X-Ray, and hepatitis profile on any employee who has not undergone testing (optional except for Lab and Dental). If the employee requests blood and urine testing at time of annual screening, a CDC, Urinalysis, and Chem-12 with Triglycerides will be done.

D1, Sec 2, Pg. 46 - Handling and Disposal of Contaminated Wastes - This is a new policy on how contaminate waste is handled.

D1, Sec 2, Pg. 47 - Universal Blood and Body Fluid Precautions - This is a new policy to be given to all employees and included in the Orientation Program.

D6 - Security - a security manual is attached with the following revisions:

1) Change "Administrator" to "Director of Administrative Services" throughout.
2) Page 2 - Hospital Security - include: "24 hr. car and foot patrol". "Officers present to assist with quality care in a therapeutic environment". "Good public relations necessary". "Must present a positive image for patients, visitors, and employees especially at the facility entrances". "The officers shall be available and visible at all times, especially on the 2nd and 3rd shifts". "The officers shall be available for immediate response to all emergency codes and ready to offer necessary assistance". "All prospective officers; applications shall be reviewed by ESH Personnel and the Director of Administrative Services prior to employment".
3) Page 3 - Protection of Patients - add: "Security shall be responsible for monitoring pedestrian traffic on/off grounds. This is especially important for the protection of patients entering or leaving grounds and to insure that they have the proper permission in order to leave". "Security shall be available to offer immediate assistance to Admissions as required". Delete: "Security shall supervise the vending room next to the PBX switchboard when in use by patients".
4) Page 6 - Use of Restraints - Add: "Physical restraint is to be used only in a situation where it provides the least restrictive method of patient care".
5) Page 7 - Parking decals - Change to "Decal removed by owner and returned to Security, not Administration". Change to "Personnel Department will notify Security of termination", not "termination form signed by the officer who removes the Decal". Add: "Students, contractors, and other nonemployees may be issued a temporary parking decal".
6) Page 8 - Entrance Gates - Change: Newtown gate to be open 6 a.m. to 9 p.m. daily from 6 a.m to 6 p.m.
7) Page 9 - Visitors - Revise to conform to current ESH Visitor Policy. Add: "Security shall contact the appropriate department or area prior to allowing visitors or vendors access for official business".
8) Page 10A-B - Parking Regulations - Delete 2 paragraphs under parking heading. Add: "Visitor spaces in front of Wendell Building are enforced until 9 p.m. daily", and "Admission spaces are enforced 24 hrs. daily". "Hospital Director and Director of Administrative Services may authorize towing; Change: 30 minute zone to 2 hr. zone.
9) Page 11 - Taxicabs - Delete: "or glove compartment" for securing any weapon.
10) Page 12 - Pipe Gates - Change time from 9 p.m to 6 p.m. for closing, Monday through Friday and all hours Saturdays, Sundays and holidays for gate leading to CHR, Administration.
11) Page 18 - Training - Add: Other

in-services include: weather levels, Code Blue reaction/response, and dealing with psychiatric patients".

12) Page 21 - Dangerous Weapons - Delete: "A sign located at Admissions which shall alert any person that a search is possible using a metal detector".

Section E - Central State Hospital Policy Manual

E-5 Dietary Manual
Delete Sections 6, 7, 8 and 9 from the Dietary Manual as these policies are already detailed in Section X, Personnel Section of the hospital manual.

E-4 - Administrative Operational Services Manual
Behind Section 20 remove the outside security schedule, and add the revised schedules.

E-1 - Policy and Procedure Manual
Section B No. 5 - "Firearms" - Under procedure (1)a the word Switchboard has been changed to Security Office. Admission Officer is the officer responsible for placing a firearm in the safe and removing the firearm.

Section B No. 22 - Public Relations/Hospital Tours - changed to revise date and the hospital director's signature.

Section B No. 23 - Hospital Management Staff Meetings
Revised to change titles, to update the management staff list and delete "Laundry Manager" as this no longer exists, and add "Admissions Coordinator".

Section C No. 1 - General Safety, No. 2 - Emergency Preparedness, No. 3 - Fire Warning & Safety, No. 4 - Safety Devices & Practices, No. 5 - Safety Education, No. 6 - Disposal of Glass Waste, Needles & Syringes, No. 7 - Infectious Waste, No. 8 - Snow or Ice Emergency Plan - are new policies for Section C of the hospital manual. These policies supersede all policies in Section C except for the Fire & Safety Manual which follows Section C No. 1. These policies have been written and/or revised to comply with the 1988 JCAHO Standards.

Section H No. 2 - Activity Therapy Referral Procedures, No. 3 - Beauty Shop, No. 4 - Therapeutic Recreation, No. 5 - Occupational Therapy - These policies were deleted from the Treatment Section and revised to be added to Section H.

Section L No. 1 - Social Services, and No. 2 - Organizational Structure of Social Work Services - These revisions were made to have a more descriptive of the Social Work Services of CSH.

Section P No. 2 - Clinical Nutrition Services, No. 3 - Diet Orders, No. 4 - Dietary Referrals & Guidelines - these policies supersede policies now in Section P. These policies outline in general the mission, objectives and general procedures for Dietary Services.

Sections BB No. 1 - Security Services, No. 2 - Transportation Services, No. 3 - Communications Services - these policies supersede all policies now in sections BB (Security) DD (PBX) and EE (Transportation). These policies outline objectives & operating procedures for Administrative Operational services which carry out the Security, Transportation and Communications. Policies have been written to comply with the 1988 JCAHO Standards.

Section FF No. 1 - Page 1 was changed to read under "AUTHORITY" - to change Department for Health Services to read Department for Mental Health/Mental Retardation Services.

Section HH No. 6.20 - Manpower Emergency - policy revised to specify exactly what to do and how to call Manpower for emergency control of behavior.

Section HH No. 9.12 - Alcohol & Drug Information Class - revised to describe the existence of educational classes and the procedure referral of patients to the classes and keeping recordings of attendance at classes. Most of the personnel are already employed in the hospital and will not be paid extra for this teaching.

Section HH No. 9.48 - Patient Education - revised to provide educational programs as determined by accrediting the licensing agencies, and by current treatment philosophy to give patients maximum experience of learning about their illness and its management in the hospital.

Section HH No. 10.56 - Identification of Patients with Infectious disease - revised policy to update and change the Hospital Director's signature.

E-3 - Activities Therapy Department
Section VI No. D - Supplies Available for Loan from the Activity Therapy Department and Section VI No. E - Unit Recreational & Diversional Supplies are revised to maintain greater control and accountability of supplies.

E-4 - Administrative Operational Services Manual
Section 5 No. 2 - Is added to alert Security to the procedures to be followed when patients are incontinent while in the vehicles.

Section F - Western State Hospital Policy Manual

Vol 26 - Sec II Pharmacy Services Handbook
Revised and Approved Signatures for Handbook
Manual was reviewed and revised and updated. Remove and sheet and replace with new one.

Philosophy and Purpose
Philosophy and Purpose was rewritten to more closely follow the language of the guidelines set up by the JCAH.
Remove old Philosophy and replace with rewritten copy.
Organization - revised signature and page.

Governing Board Chart
Revised - New position of Director of Clinical Services has been added. This person is on the same level as the Director of Administrative Services and Chief of Medical Staff. The Department of Pharmacy is directly under the director of Clinical Services instead of the Chief of Medical Staff as in the old chart.
Remove old chart and replace with new chart.

Pharmaceutical Services Organization Chart

Revised - (1) Pharmacy is now under Director of Clinical services. (2) Pharmacists have changed positions.
Remove old chart and replace with new one.

Job Description - Chief Pharmacist

Rewritten (1) To include responsibility to the director of clinical services (2) To be worded more in accordance with the JCAH guideline. Remove old job description and replace with newone.

Western State Hospital Pharmacy Service Handbook
Job Description - Cheryl Steiner
Name of pharmacist changed in department - Cheryl Steiner replaces Ralph Hudgin. Replace old job description with new one.

Job Description - Charles Weimer
Title of position changed on Mr. Weimer - he is a staff pharmacist and no longer a supervisor. Replace old job description with new one.

Table of Contents
Revised - to include whatever new or deleted policies and procedures are being listed here. Remove old Table of Contents and replace with new one.

Section I - Pharmaceutical Service Organizational Policies
Policy No. 3 - Emergency and On-call Policy
Revised list of pharmacists on call: Cheryl Steiner replaces Ralph Hudgin. Remove old policy and insert new one.

Policy No. 7 - Quality Assurance Program
This policy was completely revised to encompass the QA guidelines set forth by both JCAH and WSH. There is also a form included which is WSH's Quality Assurance Work Report. This form is filled out quarterly by each department and sent to the QA Coordinator. Remove old policy and replace with new one.

Policy No. 11 - Orientation of Pharmacy Personnel
This is a completely new policy dealing with the orientation of pharmacy personnel. The checklist is also new. This simply states in policy form the functions of the pharmacy department which are taught to all new employees. Insert new policy and checklist.

Policy No. 12 - Infection Control
The Infection Control policy is a new policy in our manual. It identifies the procedures for the cleanest most aseptic way possible to practice pharmacy. Behind this policy is a copy of WSH's Employee Health Program. Insert new policy.

Policy No. 13 - Confidentiality of Patient Records and Information
This is a new policy stating what is expected of all pharmacy employees with respect to the confidentiality of patient records and information. Insert new policy.

Section II
Policy #4 - Pharmacy Transfer Cart Delivery Procedure
This policy has been revised. Procedure #5 is different because those wards listed are now exchanged twice a week instead of once a week. This allows for less cluttered drug drawers and easier administration of medications. Remove old policy and replace with new one.

Policy #5 - Unit Dose Packaging
This entire policy has been revised: (1) To more accurately describe the procedure of our unit dose packaging; (2) To explain packaging of 1/2 tabs; (3) To show our inventory control of in-house packaged unit dose. Remove old policy and replace with new one.

Policy No. 11 - Discharging the Patient
Procedure #1 and #2. This policy has been revised: (1) To bring our policy in line with KRS regulations (2) To more accurately show our procedure. Procedures #3 - #9 Remain the same. Remove old policy and replace with new one.

Policy No. 12 - Filling New Drug Orders
Procedure #5 has been revised to state "by the pharmacist or supervised pharmacy employee...." according to KRS regulations. Remove old policy and replace with new one.

Policy No. 14 - Filling a Patients' Drug Drawer
This policy has been revised to include the new Procedure #8 which deals with checking the date of and discarding opened injectable vials. Remove old policy and replace with new one.

Policy No. 15 - Checking the Patient's Drug Drawer
Procedure #5 was revised to state that both the filler's and checker's initial are recorded on the QA checklist for routine ward filling. Remove old policy and replace with new one.

Policy No. 17 - Consultation for Drug Usage and Information
The only revision in this policy is in Procedure #3. The committee once known as Infection and Epidemiology Committee is now referred to as Infection Control Committee. Remove old policy and replace with new one.

Policy No. 18 - Antidote Box (List following policy)
The Antidote Box list has been revised to include only and all those items currently recommended by the Poison Control Committee. Remove old list and replace with new one. Policy #18 remains the same.

Policy No. 19 - The Mini Drug Room (List following policy)
New list of drugs in the Mini Drug Room. This list was revised as per the P&T Committee recommendation and some drug names were deleted/added because of generic substitution. Remove old list and replace with new one. Leave Policy #19 as is.

Policy No. 24 - Development of a Facility Formulary
This complete policy has been revised to reflect the newly developed in-house formulary for WSH. Remove old policy and replace with new one.

Policy No. 25 - Formulary Drugs
This policy, reflects the use of our new formulary. Remove old policy and replace with new one.

Policy No. 26 - Emergency Drugs
This policy was revised to include Procedure

Nos. 3 and 4 Request forms for nonformulary drugs and the monitoring of use of nonformulary drugs. Remove old policy and replace with new one.

Policy No. 29A - Reporting of Errors in Medications and Treatments
This policy is a copy of nursing's policy on reporting medication and treatment errors which will now be included in our manual to show how an error is reported. Insert copy of policy.

Policy No. 30 - Authorized Personnel Permitted to Receive Medication
Procedure #1 has been revised to qualify the type of nursing personnel which may bring physicians' orders to the pharmacy. Remove old policy and replace with new one.

Policy No. 31 - Specifications of Persons Administering Medications
This is a completely new policy included in our manual to show responsibility of administration of medications. Also included in the current list of licensed nurses. Remove old policy and replace with new one.

Policy No. 35 - Use of Drug Samples
This is a new policy explaining the use of sample drugs in our institution. Insert new policy.

Sec III - IV Admixture
Policy No. 6 - Preparation of IV Admixture Labels. This policy has been revised. Procedure #1 now includes the words "or his/her designee". Pharmacy personnel other than a pharmacist may also prepare IV labels. Remove old policy an replace with new one. Add checklist following policy.

Policy No. 7 - Assembly and Preparation of IV Admixture
Procedure #3 in this policy has been revised to include the swabbing of the laminar desk with isopropyl alcohol. Also, delete the old Procedure Flow Sheet and insert the revised one. Remove old policy and replace with new one. Remove old Flow Sheet and insert new one.

Policy No. 8 - Checking and Labeling the Admixture Bottle
The Procedure #5 in this policy has been revised to include the statement referring to QA Checklist. Remove old policy and replace with new one.

Policy No. 13 - Hours for the Preparation of IV Admixture
The posted hours in Procedure #1 have been revised to say "7:00 AM to 6:00 PM". Remove old policy and replace with new one.

Policy No. 16 - Manufacture of Parenteral Medications
This is a new policy stating that we do not manufacture parenteral medications at WSH. Add new policy to manual.

Section IV - Routine Inspections made by Pharmacy Personnel
Policy No. 1 - Ward Inspection
1. Rational
Procedure #4 has been revised to delete the statement "and sharps being kept in a locked cabinet". Also,take out the old inspection sheet and insert the revised one. This was revised to more specifically show what we check the wards for and to show follow-up.
2. Remove old policy and replace with new one.

Policy No. 3 - Emergency Box Control
This policy has been revised to include Procedure #7 which states that we include inspection of the emergency box in our monthly ward inspections. Also, insert the list of drugs dated August, 1987. Remove old policy and replace with new one. Insert list of drugs following policy.

Policy No. 5 - Control of Schedule II Drugs on the Ward
Insert copies of our Schedule II Drug Requisition Form and Record of Narcotics after Policy No. 5.

Policy No. 6 - Identification, Storage and Disposition of Outdated Drugs
The policy name and the policy statement have been revised to more closely reflect the language of the JCAH guidelines. The procedures are the same. Remove old policy and insert new one.

Section V - Policies for Physicians' Drug Orders
Policy No. 1 - List of Authorized Prescribers.
These are the current lists for authorized prescribers and physicians' license numbers. Please remove the old ones and insert the ones dated January, 1988.

Policy No. 2 - Physicians' Orders for Schedule II Drugs
Procedure #3 on the old policy has been deleted. That statement does not apply in our institution. The rest of the policy is unchanged. Remove old policy and replace with new one.

Policy No. 5 - Accepted Abbreviations and Symbols on Medication Orders
Please remove old list of abbreviations and insert new one. This was revised by the Medical Staff.

Policy No. 6 - Automatic Stop Orders
1. Rationale
Please remove the old Automatic Stop Order Policy and insert the one revised September, 1987. The Pharmacy and Therapeutic Committee revised this by deleting the #4 statement because pharmacy does not do this - nursing notifies the physician when an order needs renewing.

Section VI Policies for Security and Storage of Drugs in the Pharmacy Policy No. 2 - Storage of Pharmaceuticals
1. Rationale
The Procedure #3 is new. It denotes the condition of our drug preparation area. This was included to fulfill a JCAH Standard.
2. Remove old policy and replace with new one.

Policy No. 4 - Storage and Disposal of Patients' Own Medications
This entire policy statement and procedure has been revised to better reflect the guidelines set up by JCAH for the handling of patients' own medication. Remove old policy and replace with

new one.

Policy No. 5 - policies for Security and Storage of Drugs in the Pharmacy Procedure #1b was revised to state "contact Wayne Taylor" instead of Jim Faulkner. Mr. Taylor is now Hospital Administrator. Remove old policy and replace with new one.

Section VII - Records and Inventories of Drug Use Policies
Policy No. 1 - Records and Inventories of Control Drugs
Procedure #6 on the revised copy is new. We now record receipts on the new log kept in the safe room called the Saferoom Inventory Sign Out Sheet. Also, place behind this policy the copies of the sign out sheets. Remove old policy and replace with new one. Add sign out sheet following policy.

Policy No. 5 - Pharmacy Inventory Control
Delete the list of Drugs Available in WSH. This is no longer used because we now have an in-house formulary. Delete list of drugs following Policy #5.

Section VIII - Policies for Pharmaceutical Reference Material
Policy No. 3 - Poison Control Center Number
Place the current Poison Center pamphlet behind this policy. Remove old one.

Section X - Policies for Drug Reimbursement Program
Policy No. 1 - Comprehensive Care Center Drug Replacement Program
Procedure #1 has been revised to state "Drug Distribution Program Policies and Procedures...". Also, replace the old Drug List with the list dated 4/10/87. Remove old policy and replace with new one. Replace old list with new following policy.

Section XI - Policies for Sterile Supplies and Equipment
Policy No. 2 - Packaging of supplies and Equipment
Procedure #5 and #6 have been added to show our policy on sterilizing reusable items and destroying outdated supplies. Behind this policy replace the old central supply list with the new ones.

Polices No. 4, 5, 6, and 7 are to replace old Polices No. 5, 9, 10 and 11 respectively. These policies were renumbered in order to maintain numerical sequence within the manual. There were no other revisions. Remove old policies and insert new ones.

Policy No. 6 - This is a General Hospital Policy on Patient's Visitors; add policy to manual.

VOL F 32 - Employee Health Program
Policy #8 - Infection Control in hospital personnel is added in here.

[Section 2 - Hazelwood Policy Manual

Volume B - Section E, 8, 2 - Automatic Stop Orders for Drugs - typos corrected on letter O

Section E, 8, 4 - Drug Samples - in #4 "surplus" is changed to "samples"

A-17 - Death of a Resident - first page, the name of a funeral home is deleted.

Section 4 - Eastern State Hospital Policy Manual

D-1, Page 71 - Verification of current Licensure/ Certification of Personnel.

A new policy outlining procedures to be followed by staff who must produce license or certification to practice.

D-1, Page 17 - Duplication of Personal Copies
Revised to increase cost of copying personal data to 10¢ a page.

Section 5 - Central State Policy Manual

Volume E1
Section A No. 1 - Governing Body - cover letter only revised to change the signature of the hospital director.

Section B No. 23 - Hospital Management Staff Meetings - revised policy to update all the management staff.

Section B No. 30 - Hospital Committees - remove the two-sided policy of page 7 and 8 and add the revised copy. A few changes were made in Section 7 - Infection and Epidemiology Committee to include in sentence No. 5. The Hospital Administrator is to be appointed by the Hospital Director.

Section D No. 1 - Medical Staff Bylaws - cover letter only revised to change the signature of the hospital director.

Section HH No. 6.80 - Seclusion - remove old policy and form, and add the revised policy on the seclusion of patients. It is written to comply with federal and state standards on documenting the use of seclusion and the correct indications for such a treatment procedure.

Section 6 - Western State Hospital Policy Manual

F13 - Dietary Policies and Procedures
The following new policies are being added in compliance with standards of the Joint Commission on Accreditation of Hospitals.
SS8 - Disposal of Waste
SS9 - Cracked or Damaged China and Glassware
SS10 - Prevention of Foodborne Illness
SS12 - Cleaning of Cutting Boards
OP15 - Utilizing leftovers
QA2 - Maintenance of Equipment]

DENNIS D. BOYD, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: April 12, 1988
FILED WITH LRC: April 15, 1988 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 23, 1988, at 9 a.m. in the Health Services Auditorium, 1st Floor, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by May 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 Health Services
(Proposed Amendment)

902 KAR 13:030. Fees.

RELATES TO: KRS 211.960 to 211.968, 211.990(5)
PURSUANT TO: KRS 211.964, 211.966, HB 516 Part IIA #42 of the 1988 GA
NECESSITY AND FUNCTION: KRS 211.964 directs the Cabinet for Human Resources to adopt rules and regulations relating to emergency medical technicians and KRS 211.966 permits the Cabinet for Human Resources to prescribe a schedule of fees and charges for services to Emergency medical technicians. The function of this regulation is to establish a fee schedule.

Section 1. Fees. The following schedule of fees is established pursuant to KRS 211.966:
(1) EMT certification, examination fee: sixteen (16) [fifteen (15)] dollars;
(2) EMT recertification fee: sixteen (16) [fifteen (15)] dollars;
(3) EMT-first responder certification, examination fee: eleven (11) [ten (10)] dollars;
(4) Fee for antishock trouser certification: eleven (11) [ten (10)] dollars.
(5) EMT-first responder recertification fee: eleven (11) [ten (10)] dollars.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: April 13, 1988
FILED WITH LRC: April 15, 1988 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Pat Loar Jones
(1) Type and number of entities affected: Approximately 4,500 EMT's who will certify or recertify each year.
(a) Direct and indirect costs or savings to those affected:
1. First year: Increase costs for EMT certification, recertification by $1 per year.
2. Continuing costs or savings: Same as first year.
3. Additional factors increasing or decreasing costs (note any effects upon competition): NA
(b) Reporting and paperwork requirements: No additional requirements.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: Minimal
2. Continuing costs or savings: Minimal
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No additional.
(3) Assessment of anticipated effect on state and local revenues: Expect increase in state revenue of approximately $4500.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? No.

CABINET FOR HUMAN RESOURCES
Certificate of Need and Licensure Board
(Proposed Amendment)

902 KAR 20:132. Certificate of need expenditure minimums.

RELATES TO: KRS 216B.010 to 216B.131, 216B.990(2)
PURSUANT TO: KRS 216B.040, 216B.130, Executive Order 86-366
NECESSITY AND FUNCTION: KRS 216B.040

authorizes the Certificate of Need and Licensure Board to promulgate administrative regulations. KRS 216B.130 requires the Certificate of Need and Licensure Board to annually adjust expenditure minimums provided in KRS Chapter 216B. This regulation provides for the adjustment of expenditure minimums for capital expenditures, operating costs, and major medical equipment for the period beginning July 15, 1988 [1987] and ending July 14, 1989 [1988]. Executive Order 86-366 provides for the replacement of the Certificate of Need and Licensure Board with the Commission for Health Economics Control in Kentucky.

Section 1. (1) Expenditure minimums or limits provided in KRS Chapter 216B and regulations promulgated pursuant thereto shall be adjusted for the twelve (12) month period beginning July 15, 1988 [1987] and ending July 14, 1989 [1988] to reflect the changes in the preceding twelve (12) month period.

(2) The Department of Commerce Composite Construction Cost Index shall be [has been] used in making these adjustments. The changes in the Index for the twelve (12) month period ending October 1987 [1986] represent a three and one-tenth (3.1) [one and one-tenth (1.1)] percent increase, subsequently rounded upward to the nearest thousand.

Section 2. The expenditure minimums provided in KRS Chapter 216B shall be increased for the twelve (12) month period from July 15, 1988 [1987] to July 14, 1989 [1988] as follows:

(1) The expenditure minimum of $663,000 [655,129] for capital expenditures shall be increased to $684,000 [663,000];

(2) The expenditure minimum of $276,000 [272,970] for operating costs shall be increased to $285,000 [276,000]; and

(3) The expenditure minimum of $442,000 [436,752] for major medical equipment shall be increased to $456,000 [442,000].

JACK S. LESSHAFFT, SR., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 28, 1988
FILED WITH LRC: March 29, 1988 at 3 p.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Jack S. Lesshafft, Sr.

(1) Type and number of entities affected: Applicants for certificates of need when proposals project expenditures in excess of specified minimums.

(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: Certificates of need will not be required for certain proposals when projected expenditures fall below the minimums.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: Minimal

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

(b) Reporting and paperwork requirements: Increased expenditure minimums have the potential for reducing the number of applications to be reviewed.

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: KRS 216B. requires the annual adjustment of expenditure minimums.

(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: No

TIERING: Was tiering applied? No. Certificate of need is required for all proposals which exceed expenditure minimums.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: These proposed amendments relate to KRS Chapter 216B., the Kentucky Certificate of Need and Licensure Law.

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
Certificate of Need and Licensure Board
(Proposed Amendment)

902 KAR 20:135. Certificate of need application fee schedule.

RELATES TO: KRS 216B.010 to 216B.131, 216B.990[(1),] (2)

PURSUANT TO: KRS 13A.350, 216B.040, Executive Order 86-366

NECESSITY AND FUNCTION: KRS 216B.040 authorizes the Certificate of Need and Licensure Board to establish, by administrative regulation, and collect reasonable application fees for certificates of need and licenses. This regulation provides a fee schedule for certificate of need applications. Executive Order 86-366 provides for the replacement of the Certificate of Need and Licensure Board with the Commission for Health Economics Control in Kentucky.

Section 1. (1) Certificate of need

applications not proposing a capital expenditure or proposing a capital expenditure of $150,000 or less shall be assessed an application fee of sixty (60) [fifty (50)] dollars.

(2) Certificate of need applications which propose a capital expenditure greater than $150,000 but not more than $5,000,000 shall be assessed an application fee at a rate of .06 [.05] of one (1) percent.

(3) Certificate of need applications which propose a capital expenditure greater than $5,000,000 but not more than $10,000,000 shall be assessed a base fee of $3,000 [2,500], plus an additional fee of .05 [.04] of one (1) percent of the amount in excess of $5,000,000.

(4) Certificate of need applications which propose a capital expenditure greater than $10,000,000 but not more than $30,000,000 shall be assessed a base fee of $5,500 [4,500] plus an additional fee of .04 [.03] of one (1) percent of the amount in excess of $10,000,000.

(5) Certificate of need applications which propose a capital expenditure greater than $30,000,000 shall be assessed a base fee of $13,500 [10,500] plus an additional fee of .01 of one (1) percent of the amount in excess of $30,000,000.

Section 2. All fees shall be computed to the nearest dollar. Application fees shall be submitted with the application. Applications shall not be deemed complete until the application fee has been paid. Application fees shall be refunded only if notice of withdrawal of the application is received by the executive director of the board within five (5) working days of the date the application is received by the executive director of the board [and the health systems agency. Application fees shall be assessed to all applications not deemed complete by April 14, 1982].

JACK S. LESSHAFFT, SR., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 28, 1988
FILED WITH LRC: March 29, 1988 at 3 p.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation has been scheduled for May 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 May 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: Jack S. Lesshafft, Sr.

(1) Type and number of entities affected: All applicants for certificates of need.

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

1. First year: Increased costs to all who apply for certificates of need will be approximately 20%.

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:

(3) Assessment of anticipated effect on state and local revenues: State revenues in the form of certificate of need application fees will increase approximately $20,000.

(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: 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. Fees are based on the amount of capital expenditure proposed by applicants for certificates of need.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The proposed amendments relate to KRS Chapter 216B, the Kentucky Certificate of Need and Licensure Law.

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
Department for Health Services
Division of Food and Sanitation
(Proposed Amendment)

902 KAR 45:110. Inspection fees; permit fees; food plants, markets, warehouses and distributors, vending machine companies and machines.

RELATES TO: KRS 217.025, 217.035, 217.037, 217.125, 217.811
PURSUANT TO: KRS 194.050, 217.125(2), 217.811, HB 516 Part IIA #42 of the 1988 GA
NECESSITY AND FUNCTION: KRS 217.125(2), 217.811, and HB 516 authorizes the Secretary of Human Resources to provide by regulation a schedule of reasonable fees to be paid by food manufacturing plants, food storage warehouses, retail food markets, salvage distributors, [and] salvage processing plants, and vending machine companies for inspectional activities carried out by the Cabinet for Human Resources. This regulation is to set forth the fee to be charged.

Section 1. Definitions. (1) "Cabinet" means Cabinet for Human Resources.

(2) "Department" means Department for Health Services and local health departments having jurisdiction.

Section 2. Fees for Inspections. (1) For inspections conducted by the department or its

representatives to determine compliance with regulations adopted by the cabinet for salvage distributors and salvage processing plants, and to determine compliance with KRS 217.025, 217.035 and 217.037 applicable to food manufacturing plants and food storage warehouses, a fee of twenty (20) [sixteen (16)] dollars per inspection hour not to exceed the total amount of $250 [200] per year shall be assessed.

(2) With respect to retail food markets, for inspections conducted by the department or its representative to determine compliance with regulations adopted by the cabinet pertaining to adulteration, misbranding, packaging and labeling of food products pursuant to KRS 217.025, 217.035, 217.037 and 217.125, a fee of twenty (20) [sixteen (16)] dollars per inspection hour shall be assessed. In no event shall the fee exceed in any year the sum of sixty (60) [fifty (50)] dollars.

(3) With respect to vending companies, each application for a permit shall be accompanied by a fee of fifteen (15) dollars for each vending commissary plus a fee for the total number of vending machines operated by the applicant as follows:

1-25 machines	Fee	$ 60
26-50 machines	Fee	$ 95
51-100 machines	Fee	$125
101-150 machines	Fee	$150
151 and over machines	Fee	$250

Section 3. Payment of Fees. (1) Payment of fees shall be made to the local health department having jurisdiction. Fees received by local health departments shall be deposited in the Kentucky State Treasury.

(2) Inspection fees shall be due thirty (30) days from the date of the billing.

Section 4. Exemptions. State and local government agencies shall be exempt from the payment of fees.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: April 13, 1988
FILED WITH LRC: April 15, 1988 at 10 a.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Dudley J. Conner

(1) Type and number of entities affected: All food manufacturing plants, retail food markets, food vending companies, warehouses and distributors.

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

1. First year: Increase of $4 per inspection hour for food manufacturing and retail food market facilities. Increase of $5 for vending commissaries and tiers a minimum increase of $10, to a maximum of $50 increase for vending machines based upon number owned.

2. Continuing costs or savings: Minimal

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

(b) Reporting and paperwork requirements: No additional.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: Replaces general fund dollars in budget and assist in offsetting program cost.

1. First year: Minimal

2. Continuing costs or savings: None

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: No additional.

(3) Assessment of anticipated effect on state and local revenues: Expected increase in state revenue of approximately $13,100.

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

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

(a) Necessity of proposed regulation if in conflict: None

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None

(6) Any additional information or comments: None

TIERING: Was tiering applied? Yes.

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Food and Sanitation
(Proposed Amendment)

902 KAR 45:120. Inspection fees; permit fees; food service establishments, hotels, mobile home and recreational vehicle parks.

RELATES TO: KRS 219.031, 219.041, 219.330, 219.350

PURSUANT TO: KRS 194.050, 219.041(4), 219.340, 219.350, HB 516 Part IIA #42 of the 1988 GA

NECESSITY AND FUNCTION: KRS 219.041(4) and HB 516 authorizes the Secretary for Human Resources to provide by regulation a schedule of reasonable fees to be paid by food service establishments and hotels, mobile home and recreational vehicle parks to cover the cost of inspection activities carried out by the Cabinet for Human Resources. This regulation is to set forth the fees to be charged.

Section 1. Definitions. (1) "Cabinet" means Cabinet for Human Resources.

(2) "Department" means Department for Health Services and local health departments having jurisdiction.

Section 2. Fees for Inspections. For inspections conducted by the department or its representative to determine compliance with regulations adopted by the cabinet pursuant to KRS 219.041, food service establishments and hotels shall be subject to the payment of the following fees:

(1) Hotels with twenty-five (25) rooms or less - thirty (30) [twenty-five (25)] dollars per year.

(2) Hotels with twenty-six (26) rooms or more - sixty (60) [fifty (50)] dollars per year.
(3) Permanent food service establishments with no seats or twenty-five (25) or less - thirty-five (35) [thirty (30)] dollars per year.
(4) Permanent food service establishments with twenty-six (26) to fifty (50) seats - fifty (50) [forty (40)] dollars per year.
(5) Permanent food service establishments with more than fifty (50) seats - sixty (60) [fifty (50)] dollars per year.

Section 3. Permit Fees for Hotels and Mobile Home and Recreational Vehicle Parks, and Food Service Establishments. (1) Each application for an annual permit to operate a food service establishment shall be accompanied by a fee of thirty (30) dollars.
(2) Applications for a permit to operate a temporary food service establishment shall be accompanied by a fee of fifteen (15) dollars.
(3) Each application for an annual permit to operate a hotel, shall be accompanied by a fee as follows:
(a) Hotels with twenty-five or less - thirty (30) dollars per year.
(b) Hotels with twenty-six (26) rooms or more - sixty (60) dollars per year.
(4) Each application for an annual permit to operate a mobile home or recreational vehicle park shall be accompanied by a fee as follows:
(a) Mobile home or recreational vehicle park with ten (10) spaces or less - sixty (60) dollars.
(b) Parks with more than ten (10) spaces - ninety-five (95) dollars.
(5) Each application for a permit to construct or alter a mobile home or recreational vehicle park shall be accompanied by a fee of thirty (30) dollars.

Section 4. [3.] Payment of Fees. (1) Fees shall be paid to the local health department having jurisdiction. Fees received by local health departments shall be deposited in the Kentucky State Treasury. Inspection fees shall be submitted with the application for a permit to operate as required by KRS 219.021 or 219.340 as applicable.

Section 5. [4.] Exemptions. Private, parochial, and public school cafeterias or lunchroom facilities through the 12th grade and all facilities operated by the cabinet or the Cabinet or Corrections shall be exempt from the payment of inspection fees.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: April 13, 1988
FILED WITH LRC: April 15, 1988 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Dudley J. Conner
(1) Type and number of entities affected: All food service establishments, hotels and mobile home and recreational vehicle parks.
(a) Direct and indirect costs or savings to those affected:
1. First year: Increase in inspection fees of $5-10 per establishment for service, hotels and mobile home parks. Increase in permit fees: $5 for food service and hotels, $10-20 for mobile home parks and $5 for mobile home construction permits.
2. Continuing costs or savings: Minimal
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No additional.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: Replaces general fund dollars in budget and assist in offsetting program cost.
1. First year: Minimal
2. Continuing costs or savings: Minimal
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No additional.
(3) Assessment of anticipated effect on state and local revenues: Expected increase in state revenue of approximately $186,300.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: None
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None
(6) Any additional information or comments: None
TIERING: Was tiering applied? Yes.

CABINET FOR HUMAN RESOURCES
Department for Health Services
(Proposed Amendment)

902 KAR 55:010. Licensing of manufacturers and wholesalers.

RELATES TO: KRS Chapter 218A
PURSUANT TO: KRS 194.050, 211.090, 218A.250, HB 516 Part IIA #42 of the 1988 GA
NECESSITY AND FUNCTION: KRS 218A.150, 218A.160 and 218A.170 authorizes the Cabinet for Human Resources to license manufacturers and wholesalers of controlled substances. It is the purpose of this regulation to establish uniform requirements for such licenses.

Section 1. State License Required of Manufacturers and Wholesalers. No person shall manufacture, wholesale, distribute, or repack any controlled substance in this state without having first obtained a license to do so from the Cabinet for Human Resources.

Section 2. Out-of-state Exemptions. Manufacturers, wholesalers, distributors, and repackers not located within the Commonwealth of

Kentucky, but who are registered with the appropriate federal agency pursuant to the provisions of the Federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (P.L. 91-513: 84 Stat. 1236) and the regulations promulgated thereunder, are hereby exempted from the licensure requirements of this regulation and are authorized to operate as such in this state by virtue of their federal registration.

Section 3. Joint Venture Exemptions. Two (2) or more pharmacies, who engage in a joint venture for the purpose of purchasing drugs in order to effectuate a savings in the purchase price thereof and in which no profit is realized in the transaction by any of the participating pharmacies, are exempt from the licensure requirements of this regulation provided proper records of the transaction are maintained.

Section 4. Qualifications for Licensing. (1) No license shall be issued pursuant to this regulation unless and until the applicant has furnished proof satisfactory to the Cabinet for Human Resources:

(a) That the applicant is in compliance with all applicable federal and state laws and regulations relating to controlled substances and is of good moral character or, if the applicant be an association or corporation, that the managing officers are of good moral character; and

(b) That the applicant is equipped as to land, buildings, and security to properly carry on the business described in his application.

(2) No license shall be granted to any person who has been convicted of a misdemeanor involving any controlled substance or who has been convicted of any felony.

(3) A license issued pursuant to this regulation may be suspended or revoked for cause.

Section 5. License Fees; Renewals. All applications for a license under the provisions of this regulation shall be submitted to the Cabinet for Human Resources on forms furnished by the department and shall be accompanied by a license fee of $\underline{\$200}$ [150]. All licenses shall expire on June 30th following date of issuance and be renewable annually thereafter upon payment of a renewal fee of $\underline{\$150}$ [100] and shall be nontransferable.

Section 6. Codeine Registry. All wholesalers and manufacturers (including distributors and repackers) shall keep a separate codeine registry showing the following: date, registration number of recipient, name of recipient, address, name of preparation, and quantity.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: April 13, 1988
FILED WITH LRC: April 15, 1988 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Edward Crews
(1) Type and number of entities affected: 19 manufacturers, wholesalers, distributors or repackers of controlled substances.
(a) Direct and indirect costs or savings to those affected:
1. First year: License fee will increase by $50.
2. Continuing costs or savings: Fee will be $150 annually.
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Application for renewal of license required annually.
(2) Effects on the promulgating administrative body: Increased revenue.
(a) Direct and indirect costs or savings: No change
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No change
(3) Assessment of anticipated effect on state and local revenues: Increase in revenue of $940 annually; total projected revenue $2850.
(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 Health Services
(Proposed Amendment)

902 KAR 100:012. Fee schedule.

RELATES TO: KRS 211.840 to 211.852, 211.990(4)
PURSUANT TO: KRS 194.050, 211.090, 211.848, $\underline{\text{HB 516 Part IIA \#42 of the 1988 GA}}$
NECESSITY AND FUNCTION: The Cabinet for Human Resources is empowered by KRS 211.848 to provide by regulation for a reasonable schedule of fees and charges to be paid by applicants for registration of radiation producing machines and radioactive material licenses and for the renewal thereof and for inspections and environmental surveillance activities conducted by the cabinet. The purpose of this regulation is to establish a fee schedule for registration, licensing and inspection services.

Section 1. Applicability. This regulation relating to fees applies to all applicants, registrants and licensees of radiation producing machines and radioactive materials, except governmental agencies.

Section 2. $\underline{\text{Radiation Producing Machine}}$

Schedule of Annual Fees and Charges. The following schedule of annual fees applies to radiation producing machine registrants [and radioactive material licensees]. All applications for registration [or licensing,] or annual renewals thereof, shall be accompanied by the appropriate fee set forth below:

(1) [X-ray tubes.

(a)] Each diagnostic x-ray tube; therapeutic x-ray tube capable of operating up to 150 kVp; or industrial x-ray tube - $35 [25].

(2) [(b)] Each therapeutic x-ray tube capable of operating at 150 kVp or above (including particle accelerators) - $35.

(3) [(c)] Any other x-ray tube not specified above - $35 [25].

[(d) The total registration fees charged for x-ray tubes at any institution, facility or office shall not exceed - $200.]

[(2) Radioactive material licenses.]

[(a) Human use of radioactive, source, or special nuclear material - $200.]

[(b) Use of radioactive material authorized by an in vitro or in vivo registration certificate - $30.]

[(c) Industrial radiography; wire line service; nuclear pharmacy (including distribution) - $200.]

[(d) Processing, manufacturing or distribution of radioactive, source, or special nuclear material or items containing radioactive, source or special nuclear material - $400.]

[(e) Industrial gauging, measuring, level detection, or similar use - $100.]

[(f) All other radioactive, source, or special nuclear material licenses not specified above - $100.]

[(g) The licensing fee charged for a radioactive material license at any institution, facility or office shall not exceed - $400.]

[(h) Application for distribution of a new sealed source and device, or the application for the use of a custom device in addition to fees specified in paragraphs (a) through (g) of this subsection - $400.]

[(i) Application for amendment to an existing license - $50.]

Section 3. Radioactive Material License Schedule of Annual Fees and Charges. The following schedule applies to radioactive material licenses. Initial and renewal applications shall be accompanied by the appropriate fee set forth in this section.

(1) Specific radioactive material licenses initial and annual fee.

(a) Human use.

1. Nuclear medicine - $300.

2. Teletherapy - $250.

3. Mobile scanning - $300.

4. Other - $300.

(b) Industrial radioagraphy - $300.

(c) Wireline service - $300.

(d) Broad scope - $400.

(e) Nuclear laundry - $600.

(f) Irradiator.

1. Self-contained - $150.

2. Unshielded during irradiation - $600.

(g) Manufacturing/processing/distribution.

1. Industrial gauging devices - $500.

2. Invitro/Invivo kits - $400.

3. Radiopharmaceuticals - $600.

4. Other - $600.

(h) Industrial gauging devices - $150.

(i) Invitro and clinical laboratory - $150.

(j) Veterinary use - $250.

(k) Services (e.g., leak testing) - $100.

(l) Other (nonspecified) - $150.

(2) General radioactive material licenses initial and annual fee.

(a) Invitro or medical use specified in 902 KAR 100:050, Sections 4 and 5 - $50.

(b) Measuring, gauging or controlling devices (except emergency exit signs) - $50.

(3) An application to amend an existing specific license - $50.

Section 4. [3.] General Requirements. (1) All general radioactive material licenses and registration certificates shall expire on July 31 following the date of issuance.

(2) All general radioactive material license and registration renewal [registration] fees shall be paid on or before July 31 of each year. Registration renewals postmarked after September 30 are subject to $100 late payment penalty which is in addition to the registration fee.

(3) All specific radioactive material licenses shall be renewed annually based on the expiration date stated in the license.

(4) Payment of fees and other charges shall be submitted to Radiation Control, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621, in the form of a check or money order payable to the Kentucky State Treasurer. The cabinet may designate the form of payment.

[(5) In the event a registration certificate has heretofore been issued prior to the effective date of this regulation, specifying an expiration date other than June 30, the cabinet shall upon renewal of the registration certificate specify an expiration date of June 30.]

(5) [(6)] Registration and licensing application fees are nonrefundable.

(6) [(7)] Failure to submit any applicable fee set forth in this regulation shall be deemed a violation and subject to the provisions of 902 KAR 100:170.

Section 5. [4.] Exemptions. State and local governmental agencies shall be exempt from the payment of fees but shall comply with the other applicable provisions of these regulations.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: April 13, 1988

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

PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Donald R. Hughes, Sr.

(1) Type and number of entities affected: Approximately 2,750 registrants possessing 4,938 x-ray tubes, and approximately 350 specific and 200 general radioactive material licensees.

(a) Direct and indirect costs or savings to

those affected:
1. First year: Would increase fees by $79,380.
2. Continuing costs or savings: Same as first year.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: None
1. First year: Increase fees by $79,380.
2. Continuing costs or savings: Same as first year.
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods exist.
(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? N/A

CABINET FOR HUMAN RESOURCES
Department for Health Services
(Proposed Amendment)

902 KAR 105:020. General requirements.

RELATES TO: KRS 211.870, 211.890, 211.993
PURSUANT TO: KRS 194.050, 211.090, HB 516 Part IIA #42 of the 1988 GA
NECESSITY AND FUNCTION: The Cabinet for Human Resources is empowered by KRS 211.870, 211.890 and 211.993 to regulate operators of sources of radiation other than licensed practitioners of the healing arts, including but not limited to: the classification and certification of operators; examinations; standards of training and experience; curricula standards for institutions teaching persons to operate sources of radiation; issuance, renewal, and revocation of certificates; the fixing of a reasonable schedule of fees and charges to be paid by applicants for examinations, certificates, and renewal certificates; and to set such other standards as may be appropriate for the protection of health and safety. The purpose of this regulation is to establish uniform general requirements for the certification of operators of sources of radiation.

Section 1. General Applicability. The Cabinet for Human Resources' regulations relating to radiation operators require the certification of all operators of sources of radiation, other than licensed practitioners of the healing arts, for which a specific regulation has been adopted requiring certification within a particular field of practice or operation. The regulation of sources of ionizing or electronic product radiation and the handling and disposal of radioactive waste are not covered by these regulations. Nothing contained in these regulations shall be deemed to require the certification of students enrolled in an approved course of instruction in relation to the healing arts or allied health sciences and employees of the federal government, while engaged in the performance, within this state, of their official duties.

Section 2. Application for Certification. (1) All applications for certification as an operator of sources of radiation shall be filed with the Cabinet for Human Resources, Radiation Control, 275 East Main Street, Frankfort, Kentucky 40621. All applications shall be submitted on forms provided by the cabinet.
(2) All applicants for certification shall, as a condition precedent to certification, be in compliance with the applicable regulations of the cabinet relating to their particular field of practice or operation.
(3) General and limited certificates shall expire on the last day of the month, two (2) years after the date of issuance.
(4) Temporary and provisional certificates shall expire on the last day of the month, one (1) year after the date of issuance and are not renewable.

Section 3. Examinations. (1) A general or limited certificate shall be issued upon successful passage of an appropriate examination, approved by the cabinet, in the field of practice or operation for which certification is sought. All examinations shall be divided into appropriate sections and a minimum grade of seventy-five (75) percent is required for the passage of each respective section. An individual who fails a particular section shall be required to retake that section; provided, however, individuals who fail two (2) or more sections shall be required to retake the entire examination. An individual shall be allowed to retake the limited examination no more than three (3) times within a calendar quarter.
(2) The cabinet may accept, in lieu of an examination conducted by the cabinet, a valid certificate from a national organization acceptable to the cabinet, provided that the holder is otherwise qualified for certification and has earned his certificate by passing an appropriate examination.
(3) The cabinet may accept, in lieu of an examination conducted by the cabinet, a valid certificate from another state or political subdivision acceptable to the cabinet, provided that the holder is otherwise qualified for certification and has earned his certificate by passing an appropriate examination.
(4) Acceptance of an examination from a national organization shall be contingent [upon the annual submission of a current examination] together with an outline by subject and an item analysis of each examination section relative to individuals graduating from teaching institutions within this state. Acceptance of an examination from a state or political subdivision shall be contingent together with an outline by subject and an item analysis of each examination section. The cabinet shall hold such examination information confidential and only make its contents available to authorized representatives of the cabinet.
(5) The cabinet may accept, in lieu of the examination requirements for a general

certificate, an individual's current certificate from a national organization acceptable to the cabinet that was issued prior to the effective date of these regulations.

Section 4. Fee Schedule. The following fees shall be paid in connection with the certification of operators of sources of radiation other than licensed practitioners of the healing arts:

(1) Application for Certification (nonrefundable) - $15.

(2) Issuance of a General or Limited Certificate - $25 [20].

(3) Issuance of a Temporary or Provisional Certificate - $15 [10].

(4) Renewal of a General or Limited Certificate - $25 [20].

(5) Duplicate Certificate - $10 [5].

Section 5. Continuing Education Requirements for Renewal. (1) The continuing education requirements of this section shall be a condition precedent to the renewal of a general or limited certificate.

(2) A general certificate holder shall, during each twenty-four (24) month period that he holds his certificate, obtain a minimum of eighteen (18) clock hours of continuing education approved by the cabinet.

(3) A limited certificate holder shall, during each twenty-four (24) month period that he holds his certificate, obtain a minimum of twelve (12) clock hours of continuing education approved by the cabinet.

(4) Certificate holders attending or participating in continuing education related to their field of practice or operation shall send documented evidence of attendance or participation to the cabinet within a reasonable time frame, not to exceed forty-five (45) days. Such evidence shall include the certificate holder's name, certificate number, subject title, date(s) attended, clock hours of instruction and the instructor's name and title.

(5) Operators of sources of radiation may receive up to six (6) clock hours credit, on an hour-for-hour basis, toward certificate renewal for continuing education lectures if they are the instructor.

(6) Continuing education clock hours may be accrued by attending seminars, lectures, or courses relating to the individual's field of practice or operation.

Section 6. General Requirements. (1) It shall be the responsibility of each employer to insure that all of his employees operating sources of radiation are certified as set forth in these regulations.

(2) The cabinet may impose upon any operator of sources of radiation or institutions teaching individuals to operate or use sources of radiation such requirements, in addition to those established in these regulations, as it deems appropriate or necessary to minimize danger to public health or safety.

(3) Only individuals holding a general certificate shall be employed as an operator of sources of radiation at facilities where contrast studies are performed.

(4) It shall be the responsibility of a certified operator to notify the cabinet within sixty (60) days regarding any change of name or address.

(5) An individual certified as an operator of sources of radiation shall display or have available his certificate or a photocopy at his place of employment.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: April 13, 1988
FILED WITH LRC: April 15, 1988 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Donald R. Hughes, Sr.
(1) Type and number of entities affected: All 2,900 certified radiation operators.
(a) Direct and indirect costs or savings to those affected:
1. First year: Would increase total fees by $7,250.
2. Continuing costs or savings: Same as first year.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings:
1. First year: Increase fees by $7,250.
2. Continuing costs or savings: Same as first year.
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods exist.
(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? N/A

CABINET FOR HUMAN RESOURCES
Department for Employment Services
(Proposed Amendment)

903 KAR 1:010. Private employment agencies.

RELATES TO: KRS Chapter 340, HB 516 Part IIA #42 of the 1988 GA
PURSUANT TO: KRS 194.050, 340.070
NECESSITY AND FUNCTION: The Cabinet for Human Resources is empowered by KRS Chapter 340 to regulate employment agencies in Kentucky. The purpose of this regulation is to establish

uniform standards and requirements for employment agencies in order to protect the welfare, personal dignity, integrity and sufficiency of the individual citizens of the Commonwealth.

Section 1. Applicability. The provisions of this regulation apply to all "employment agencies," as defined by KRS 340.010(3), that operate in Kentucky.

Section 2. Application for Permit. Applications for a permit to operate an employment agency shall be submitted to the Cabinet for Human Resources, Office of Inspector General [Bureau for Administration and Operations], Division for Licensing and Regulation. Initial applications for licensure shall be accompanied by a fee of $315. Licenses may be renewed upon payment of $160.

Section 3. Fee Schedules. (1) Every person conducting an employment agency shall file with the department a schedule of fees to be charged and collected in the conduct of its business. In the schedule, the salary ranges by which the fee is to be computed or determined shall be clearly shown and the maximum fee shall be indicated and shall include charges of every kind rendered by the agency in each case or transaction on behalf of the prospective employer or employee. Changes in the schedule may be made, but no change shall become effective until seven (7) days after the date of filing thereof with the cabinet and until posted for not less than seven (7) days in a conspicuous place in the agency.

(2) A copy of the schedule in effect with changes noted thereon shall be kept posted in the employment agency in a conspicuous place, and the posted schedule and changes therein shall be in lettering or printed of not less than standard pica capitals. The effective date of the original schedule and of each change thereto shall appear on the posted copies. No fee charged or collected shall be in excess of the fee as scheduled.

Section 4. Records. Employment agencies shall keep a record of jobs advertised correlated to show date and publication in which the ad appeared for a period of one (1) year. Each agency shall file for review by the cabinet its system for maintaining such records. Copies of all job orders and agency agreements shall be retained by the agency for not less than three (3) years.

JAMES P. DANIELS, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: April 13, 1988
FILED WITH LRC: April 15, 1988 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Eric Friedlander
(1) Type and number of entities affected: 86
(a) Direct and indirect costs or savings to those affected:
1. First year: $35 per year.
2. Continuing costs or savings: Same as above.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No additional requirements.
(2) Effects on the promulgating administrative body: None
(a) Direct and indirect costs or savings: None
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No additional requirements.
(3) Assessment of anticipated effect on state and local revenues: Increase in state revenue of approximately $2000.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Mandated action under HB 516.42 of the 1988 General Assembly.
(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. This is a licensure regulation and all facilities must comply with the same standards.

CABINET FOR HUMAN RESOURCES
Department for Employment Services
Division of Unemployment Insurance
(Proposed Amendment)

903 KAR 5:260. Unemployment insurance procedures.

RELATES TO: KRS 341.005 through 341.990
PURSUANT TO: KRS 13A.100, 194.050(1), 341.115
NECESSITY AND FUNCTION: Title III of the Social Security Act authorizes the states to implement an unemployment insurance program. The Cabinet for Human Resources is authorized by KRS 194.050 to adopt such rules and regulations as are necessary to implement programs mandated by federal law or to qualify for receipt of federal funds and as are necessary to cooperate with federal agencies for the proper administration of the cabinet and its programs. The function of this regulation is to implement the procedures required to administer the unemployment insurance program in accordance with applicable state and federal laws and regulations.

Section 1. In order to facilitate the administration of the unemployment insurance program as authorized by Title III of the Social Security Act and KRS Chapter 341, the following operating manuals are adopted by reference:
(1) Unemployment Insurance Local Office Manual as issued February, 1984 and last revised April 15, 1987. This manual includes procedures: for requiring proper identification of persons

filing claims for benefits; for taking and processing initial, additional, reactivated and continued claims for benefits; for assigning claimants to the appropriate group for the eligibility review program; for conducting the eligibility review program; for stopping and releasing payment of benefits; for entering claim history and benefit payment information into the data base; for taking and processing interstate claims, combined wage claims, claims by former federal employees and ex-servicemembers, and claims for extended benefits and federal supplemental compensation benefits; for conducting investigations and issuing determinations regarding a claimant's separation, ability to work, availability for work, active search for work, benefit entitlement, and deductions from benefits; for processing employers' protests to claims; for taking requests for reconsideration of monetary eligibility; for establishing benefit overpayments and initiating recovery or recoupment by processing partial payment agreements or issuing liens; for initiating action on lost or returned checks; for detecting and initiating recovery of fraudulent overpayments; for filing appeals to eligibility determinations; for reporting workload time spent; for compiling claims and nonmonetary determination statistics; and for ranking of local offices based on performance criteria.

(2) Unemployment Insurance Benefit Branch Procedures Manual issued May, 1982 and last revised June 15, 1988 [March 7, 1986]. This manual includes procedures for administering the payment of unemployment insurance benefits; for maintaining accounts for all benefit income and expenditures; for detecting, establishing and initiating recovery of benefit overpayments; for assigning benefit charges to employer accounts; for conducting a quality review of nonmonetary determinations affecting the payment of benefits; for processing unemployment claims for former federal employees, ex-servicemembers, combined wage claimants, interstate claims, claims for Disaster Unemployment Assistance, claims under the Trade Readjustment Act and claims under the Work Incentive Program; for reconsidering monetary rate determinations; for processing payment for lost or returned benefit checks; and for investigating potential fraud and recommendation of recovery action or criminal prosecution.

(3) Unemployment Insurance Tax Collection and Accounting Branch Manual issued November, 1982 and last revised July 1, 1986. This manual includes procedures: for setting up, transferring and cancelling employer contribution and reimbursement accounts; for collecting quarterly taxes from contributory employers and for billing reimbursing employers for benefits paid; for auditing quarterly wages and tax reports by making adjustments, assessing additional payment and penalties and crediting tax overpayments; for adjusting wages if required when a reconsideration of monetary benefit eligibility is filed; and for collecting delinquent taxes by filing tax liens, recommending suits and temporary restraining orders, garnishing wages, filing claims in bankruptcy or against monies due to delinquent employers from state agencies.

(4) Unemployment Insurance Administrative Support Branch Manual issued December, 1983 and last revised November 9, 1984. This manual includes procedures: for maintaining files of benefit claims, employer records, appeals, and unemployment insurance commission orders; for maintaining mail security operations for all checks received by the division; for gathering statistics and conducting statistical studies; for verifying workload items for the budget process; for publishing statistical reports for the division and for general publication; for maintaining and distributing federal and state-released procedures; for maintaining all procedures manuals; for conducting the unemployment insurance quality appraisal; for training division personnel; for retaining and disposing of records; for providing data processing liaison services; for preparing state and federal budgets; for operating the Cost Model Management System; for maintaining the Cost Information System; for controlling forms control; and for monitoring purchases, expenditures and repairs.

(5) Unemployment Insurance Field Audit Manual reissued September 15, 1987 and last revised June 15, 1988. This manual includes procedures for handling matters which cannot be handled directly or expediently by the central office tax branch, such as procedures: for locating employers; for conducting investigations of employers, and their payrolls and employment records; for determining an employer's status under the law; for assessing contributions and collecting delinquent contributions; for serving legal papers; for conducting property investigations; for auditing employer records; and for furnishing technical assistance to employers.

(6) Unemployment Insurance Director's Office Manual issued November 18, 1983, and last revised December 12, 1984. This manual includes procedures for operating the Fraud Investigations and Internal Security Unit such as procedures for: administering the unit; detecting fraud; prosecuting fraud cases; closing out fraud cases; preventing fraud; maintaining internal security; and conducting other investigations.

(7) Kentucky Unemployment Insurance Commission Administrative Branch Manual issued September 1, 1985. This manual includes procedures for the daily operations of the branch. Such procedures include staff duties and responsibilities, the review of cases, the conduct of hearings, the preparation of decisions and the proper handling of records and reports.

(8) Unemployment Insurance Appeals Branch Manual issued November 7, 1986. This manual includes procedures for the daily operations of the branch. Such procedures include staff duties and responsibilities, prehearing procedures, conduct of hearings and the decision process.

Section 2. All documents incorporated by reference herein are on file for public inspection in the Office of the Commissioner for Employment Services, 275 East Main Street, Frankfort, Kentucky 40621 and in local unemployment insurance offices located throughout the state.

Section 3. Summary of Amendment. Unemployment Insurance Field Audit Manual. (1) Chapter 3000, Interpretations of the Law, strike pages (3640-3665) - (3670-3710) dated 9-15-87, [entire chapters 1000, 2000, 3000, 4000, 5000 and 6000] and insert in lieu thereof pages (3640-3665) -

(3670-3710) dated June 15, 1988, which provides a comprehensive overview of the levy and distraint provisions set forth in KRS 341.800 through KRS 341.835. [chapters 1000, 2000, 3000, 4000, 5000 and 6000 reissued 9-15-87, which provide better continuity of related subjects and sequence, reflects the 1986 law amendments and which incorporate a recent legal opinion allowing a successor employer to use wages paid by the predecessor in determining excess wages.]

(2) Chapter 5000, Auditor Information and Procedures, strike contents (3) dated 9-15-87, pages (5650-5680) - (5710-5721) dated 9-15-87, and pages (5750-5811) - (5811-5820) dated 9-15-87, and insert in lieu thereof contents (3) dated 6-15-88, pages (5650-5680) - (5710-5721) dated 6-15-88, and pages (5750-5811) - (5811-5820) dated 6-15-88, which provides procedures for implementation of the levy and distraint process.

(3) Appendix, insert Apendix dated 6-15-88, which provides more indepth procedures for implementation of the levy and distraint process including samples of required forms.

Section 4. Summary of Amendment. Unemployment Insurance Benefit Branch Procedures Manual, Chapter 2000, State and Federal Claims Section, strike entire Chapter 2000 dated 10-15-85, and insert in lieu thereof Chapter 2000 dated 6-15-88, which provides clarification and updates procedures for handling UCFE Claims, UCX claims and combined wage claims, provides in-house procedures for reporting waived overpayments established due to referee and commission reversals of benefit payments and distribution procedures for quality control reports.

JAMES P. DANIELS, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: April 1, 1988
FILED WITH LRC: April 15, 1988 at 10 a.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 23, 1988 at 9 a.m. in the Vital Statistics Conference Room, 1st Floor, CHR Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by May 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 P. Daniels
(1) Type and number of entities affected: Approximately 70,000 Kentucky employers.
(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: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:
(a) Necessity of proposed regulation if in conflict: N/A
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: N/A
(6) Any additional information or comments: N/A
TIERING: Was tiering applied? No. All regulated persons or entities treated equally.

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

904 KAR 2:020. Child support.

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

Section 1. Compliance with Federal Regulations. The cabinet shall administer the Kentucky Child Support Program in accordance with Title IV-D of the Social Security Act and Title 45 CFR Sections 301, 302, 303, 304, 305, 306 and 307.

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

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

Section 4. Definitions. (1) "Cabinet" shall mean the Cabinet for Human Resources.
(2) "Secretary" shall mean Secretary of the Cabinet for Human Resources or his designee.
(3) "Court order" shall mean any judgment, decree, or order of the courts of this or any other state.
(4) "Dependent child" or "needy dependent child" shall mean any person under age eighteen (18) who is not otherwise emancipated, self-supporting, married or a member of the

Armed Forces of the United States and is a recipient of or an applicant for public assistance or who has applied for child support services in accordance with Title IV-D of the Social Security Act.

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

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

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

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

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

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

(11) "Responsible local official" shall mean the elected or appointed official in a political subdivision who is legally responsible for law enforcement activities and has entered into a written agreement with the IV-D agency.

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

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

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

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

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

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

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

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

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

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

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

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

(c) Within twenty (20) calendar days of receipt of such request, the cabinet shall notify the parent owing the support of the proposed release of information. The notification must inform the parent of the methods available to contest the accuracy of the information.

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

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

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

Section 9. Assignment of Support to IV-D Agency. (1) By accepting public assistance for or on behalf of a needy dependent child, a public assistance recipient assigns to the cabinet the right to all past due and future

child support including any voluntary contributions made by the absent parent. Any support income received by AFDC recipients must be forwarded to the cabinet no later than the tenth day of the month following receipt.

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

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

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

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

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

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

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

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

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

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

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

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

MIKE ROBINSON, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 23, 1988
FILED WITH LRC: April 4, 1988 at 1 p.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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 E. Randall
(1) Type and number of entities affected: Approximately 225,000 IV-D cases.
(a) Direct and indirect costs or savings to those affected: N/A
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing

costs (note any effects upon competition):
(b) Reporting and paperwork requirements:
(2) Effects on the promulgating administrative body: N/A
(a) Direct and indirect costs or savings:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: 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: N/A
TIERING: Was tiering applied? No. Not applicable to program.

CABINET FOR HUMAN RESOURCES
Department for Social Services
(Proposed Amendment)

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

RELATES TO: KRS 199.011, 199.640, 199.650, 199.660, 199.670, HB 516 Part IIA #42 of the 1988 GA
PURSUANT TO: KRS 194.050
NECESSITY AND FUNCTION: This regulation is necessary to carry out the provisions of KRS 199.640. It serves to provide minimum standards for the operation of all child caring facilities and child placing agencies.

Section 1. Definitions. The following definitions shall apply to all regulations and standards for child caring and child placing facilities and agencies.
(1) "Secretary" means the Secretary for Human Resources.
(2) "Cabinet" means the Cabinet for Human Resources.
(3) "Child" means any person who has not reached his 18th birthday.
(4) "Preschool child" means a child under six (6) years of age.
(5) "Child caring facility" means any institution or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption, or marriage to the person maintaining the facility.
(6) "Child placing agency" means any agency other than a state agency which supervises the placement of children in foster family homes or child caring facilities, or which places children for adoption.
(7) "Institution" means a child caring facility providing care and/or maintenance for nine (9) or more children.
(8) "Group home" means a homelike facility for not more than eight (8) foster children, not adjacent to or part of an institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources.
(9) "Executive director" means the agency and/or facility administrator who may be entitled, "administrator," "manager," "superintendent," and the like.
(10) "Infant" shall mean a child under two (2) years of age.
(11) "Emergency shelter" is a group home, private residence or similar homelike facility which provides temporary or emergency care of children and adequate staff and service consistent with the needs of each child.
(12) "Advisory committee" means a group, association or committee who counsels or recommends regarding the institution's or agency's services and programs.
(13) "Board of directors" means that group which is by law or charter delegated with the responsibility for governing and overall supervision of the agency or facility.
(14) "Adoption" means the legal process by which a child becomes the child of a person or persons other than his or her biological parents.
(15) "Foster care" means substitute family care for a child under supervision of the cabinet or a licensed child placing agency when his or her own family cannot care for the child.
(16) "Social services" means a planned program of assistance including individual and group counseling to help an individual move toward a mutual adjustment of the individual and his or her social environment.
(17) "Juvenile delinquent" means a child who has been adjudicated by the juvenile session of a county court, or a district court after January 1, 1978, as a result of a delinquency action.

Section 2. Administration. (1) Every child caring facility or child placing agency shall provide the following information when applying for a license, and annually thereafter as a part of the annual required inspection:
(a) The name, address, and telephone number of the agency or facility.
(b) The geographic area to be served.
(c) The maximum number of children for whom care will be provided.
(d) A copy of the articles of incorporation for all private agencies or copy of statute authorizing creation of any public agency.
(e) A copy of the constitution and bylaws.
(f) A statement of the purposes, objectives, scope of services to be provided, and intake policy specifying kinds of children to be accepted for care.
(g) A list of officers, board members, and advisory board members if any, including addresses and professions.
(h) A financial statement for previous fiscal year plus budget for coming year.
(i) A list of all staff including positions or title, qualifications and salary scale.
(j) Architect or engineer's drawings of any building to be constructed or substantially remodeled.
(k) The service or services the facility or agency plans to provide for licensing purposes.
(2) Every facility or agency shall comply with all applicable federal and state regulations in regard to program operations.
(3) The number for which the child caring facility is licensed shall be based on available

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

(4) Each license shall specify the type(s) of care and service which the agency or facility is authorized to provide based upon the application and inspection. The types of care and service include group home child care, institutional child care, child placing and child treatment.

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

(6) All initial applications for licensure shall be accompanied by a fee of $130. Licenses shall be renewed upon payment of a sixty-five (65) dollar renewal fee.

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

(8) [(7)] Licenses are not transferable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(24) [(23)] The executive director of a child caring facility or child placing agency shall be a full-time employee and have at least an undergraduate degree in social work, or a related field, and three (3) years experience in a social agency serving children. Three (3) years of administrative experience in institutions serving children may be substituted for the three (3) years in a social agency serving children. The executive director shall be of good moral character attested to by three (3) written references at the time of employment.

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

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

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

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

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

(e) Keep the board informed of financial needs;

(f) Operate within the established budget;

(g) Attend board meetings;

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

(i) Delegate appropriate duties to other staff.

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

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

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

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

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

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

(c) Willingness to work with others and to

share responsibility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Visual and auditory tests.

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

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

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

(a) Each child on admission shall have a medical screening, including communicable disease screening, using a form approved by a physician and administered by staff persons trained in its use.

(b) No child known to have, or suspected of having, a communicable disease shall be placed with other children unless there has been consultation with a physician who has determined that this can be done without hazard to the other children.

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

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

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

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

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

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

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

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

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

(b) Donated home processed foods shall be

prohibited.

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

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

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

(4) In the event pictures, slides, recordings, or other private and personal effects of children are utilized in fund raising or promotional efforts of facilities or agencies, written parental permission shall be obtained.

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

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

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

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

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

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

(b) A family history;

(c) Developmental history from birth to present;

(d) A medical history;

(e) Immunization record; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) Any report required by the cabinet or any information necessary to compile reports by the cabinet shall be kept and the information made available to the cabinet upon request.

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

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

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

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

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

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

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

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

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

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

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

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

LARRY MICHALCZYK, Acting Commissioner
HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: April 13, 1988

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

PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Larry Michalczyk
(1) Type and number of entities affected: 75
(a) Direct and indirect costs or savings to those affected:
1. First year: $15 per facility per year.
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: None
(a) Direct and indirect costs or savings: None
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No additional requirements.
(3) Assessment of anticipated effect on state and local revenues: Increase in state revenue of approximately $1200.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Mandated action under HB 516.42 of the 1988 General Assembly.
(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. This is a licensure regulation and all facilities are required to meet the same standards.

CABINET FOR HUMAN RESOURCES
Department for Social Services
(Proposed Amendment)

905 KAR 2:010. Standards for all child day care facilities.

RELATES TO: KRS 199.892 to 199.896, HB 516 Part IIA #42 of the 1988 GA
PURSUANT TO: KRS 194.050
NECESSITY AND FUNCTION: KRS 199.896 grants authority to establish regulations and standards for day care of children. The function of this regulation is to set minimum standards for all child day care facilities.

Section 1. Definitions. The following definitions shall apply to all child day care regulations and standards:
(1) "Day care" means care of a child in any child care facility, which provides full- or part-time care, day or night, to at least four (4) children not related to the operator of the child day care facility by blood, marriage, or adoption away from his own home and is designed to supplement, but not substitute for, the parent's responsibility for the child's protection, development and supervision, when it is necessary or desirable for the parent or child to be out of the home for all or part of the day or night. The term shall not include child care facilities operated by religious organizations while religious services are being conducted, or kindergarten programs that are part of a public or private educational school system. Child day care includes:
(a) "Type I day care facility" means any facility other than a dwelling unit which regularly receives four (4) or more children for day care; or any facility, including a dwelling unit, which regularly provides day care for thirteen (13) or more children. If preschool children of any day care staff receive care in the facility, they shall be included in the number for which the facility is licensed.
(b) "Type II child day care facility" means any home or dwelling unit which regularly provides care apart from parents for four (4), but not more than twelve (12) children. The director's own preschool children shall be included in the number for which the home is licensed.
(2) "Cabinet" means the Kentucky Cabinet for Human Resources.
(3) "Secretary" means the Secretary of the Cabinet for Human Resources.
(4) "Child" means a person under eighteen (18) years of age.
(5) "Director" means the person responsible for the day-to-day operation of a facility or program for the care of children.
(6) "Child day care staff" means all persons, including volunteers, who work in a Type I or Type II child day care facility.
(7) "Facility" shall include both Type I and Type II child day care facilities.
(8) "Regularly" means the provision of child day care services at a facility on more than one (1) day in any one (1) week or more than ten (10) hours per week.
(9) "School-age child" shall be considered as one attending kindergarten or above.
(10) "Infant/toddler" shall be considered to be under two (2) years of age.
(11) "Nighttime care facilities" are defined as facilities in which children are received for regular, full-, or part-time care during the night. The hours of facilities providing nighttime care shall conform to the hours established by the state fire marshal for nighttime care, which pertain to day care facilities that are open after 6 p.m.

Section 2. Responsibilities of the Cabinet Licensing Authority. The cabinet shall be responsible for the licensing and supervision of any agency, association, organization, group, or individual who regularly provides full or part-time care during any part of the day or night for four (4) or more children not related to the licensee by blood, marriage or adoption. Authorized representatives of the cabinet shall at all times have the authority to inspect premises, records required by this regulation, and programs of child day care facilities. Inspection by the cabinet shall be unannounced.

Section 3. Licensing Issuance. (1) The license shall be issued for a specified physical location and for operation by a designated sponsor or owner, for specific hours of operation, and for a specified maximum number of

children on the premises at any one time. The number of children for which the facility is licensed shall be determined by available space, as determined by the state fire marshal's office; adequacy of program, equipment, and staff as defined in these regulations.

(2) Types of licenses.

(a) A regular license shall be issued when the facility has met all requirements provided for by the regulations of the cabinet under KRS 199.892 to 199.896.

(b) A provisional license shall be issued when, in the opinion of the cabinet, the facility has met all requirements for a regular license, except the required liability insurance and other requirements that require the presence of children in order to monitor. A provisional license may also be issued when the facility does not meet the requirements for a regular license but there is sufficient reason for belief that the facility will comply with minimum regulations within the time period designated by the licensing authority. A provisional license shall be issued for a period not to exceed six (6) months and shall not be renewable.

(3) A license shall not be transferable. A change in ownership of a facility shall require a new application and fee. When circumstances covered by the license change (i.e., number of children to be served, location, hours of operation when the difference is over one (1) hour or changes the facility from day care to night care or vice versa), notification shall be made in writing to the Division for Licensing and Regulation. Notification shall be made within the time established under Section 11 of this regulation. This does not require an additional fee.

(4) The license shall be posted in a conspicuous place.

Section 4. (1) Licensing fees shall be:

(a) Sixty-five (65) [Fifty (50)] dollars for all new Type I facilities.

(b) Thirty-five (35) [Twenty-five (25)] dollars for all new Type II facilities.

(c) Thirty-five (35) [Twenty-five (25)] dollars annual renewal fee for all facilities.

(2) A check or money order payable to the Kentucky State Treasurer shall be attached to the license application. Initial application fees shall not be refundable. Renewal fees shall be refunded if relicensure is denied but not if a license is revoked.

Section 5. Licensing Procedure. (1) To qualify for a license, a child day care facility shall comply with regulations and standards established by the cabinet.

(2) An applicant for licensure shall:

(a) Complete three (3) copies of the application, which may be obtained from the Cabinet for Human Resources, Division for Licensing and Regulation, Frankfort, Kentucky 40621.

(b) Comply with local zoning requirements.

(c) Secure approval of the office of the state fire marshal or his designee.

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

(e) Keep one (1) copy on file.

(3) To obtain the license to open, a child day care facility shall have:

(a) A current report (within the last year) of negative TB test on all child day care personnel and adults who reside on the premises.

(b) Approved sewage system in accordance with local, county and state laws.

(c) Been surveyed by a representative of the Cabinet for Human Resources to determine if the facility qualifies for licensing, based on the regulations.

(d) Adequate equipment, supplies, and staff to serve initial enrollment of children.

(4) No facility subject to licensing shall begin operation without a license to operate from the Cabinet for Human Resources.

(5) A facility operating without having a license shall be subject to legal action.

Section 6. License Renewal Procedure. (1) Facilities shall be relicensed annually from the date of issuance of the original license.

(2) To be eligible for relicensure, a child day care facility shall:

(a) Submit a renewal application and fee prior to the expiration date of the current license.

(b) Comply with the applicable provisions of the child day care licensure regulations. Compliance will be verified through on-site inspection by representatives of the Cabinet for Human Resources.

Section 7. Basis for Revocation or Denial. The secretary may deny or revoke a license for failure to meet the standards set by the secretary after the expiration of a period not to exceed to six (6) months from the date of the first official notice that standards have not been met. When a license is revoked the applicant/licensee shall not reapply for a period of at least six (6) months.

Section 8. Right of Appeal. (1) When a regular license has been denied or revoked, the licensee shall be notified in writing of the right to appeal. The request for a hearing shall be made in writing within fifteen (15) days after receiving the notice of the action of the secretary.

(2) Upon receipt of the request for a hearing, the secretary or his representative shall notify the licensee in writing within fifteen (15) days of the time and place of the hearing. The secretary shall appoint a hearing officer to review the record, take additional evidence, and make recommendations upon the matter appealed.

(3) Based upon the record and upon the information obtained at the hearing, the hearing officer shall affirm or overturn the initial decision of negative action. Such decision shall be considered final. The licensee shall be notified in writing of the decision of the hearing officer. Where regular license denials or revocations are upheld, the cabinet's notification shall specify the date by which the facility shall close.

(4) A child day care facility continuing to have children in attendance after the closing date established by the secretary, shall be subject to legal action by the cabinet as provided by law.

Section 9. Administrative Responsibilities. (1) General.

(a) The licensee shall have primary responsibility to the cabinet for maintaining

adequate standards of operation in accordance with the child day care regulations.

(b) Staff shall be instructed in the requirements for operation and a copy of the minimum standards shall be available for their use.

(c) Liability insurance shall be carried by the facility.

(d) All information concerning children, their parents, relatives, or guardian shall be kept in strict confidence by the staff, except for sharing information with individuals who are personally or professionally responsible for the well-being of the child.

(e) Volunteers must abide by the policies and procedures of the center.

(f) Program policies and procedures shall be in writing and shall include personnel policies, job descriptions, organization charts, chain of command, and other rules and regulations pertaining to the operation of the facility.

(2) Services. The services to be provided within the child day care facility shall be clearly stated at the time of the application. A written statement of services and policies shall be given to parents.

(3) Staff-child ratios.

(a) Minimum staff-child ratios for all facilities shall be maintained throughout the times that a facility is in operation, as follows:

Age of Children	Ratio
Under one year	1 staff for 6 children
1 to 2 years	1 staff for 6 children
2 to 3 years	1 staff for 10 children
3 to 4 years	1 staff for 12 children
4 to 5 years	1 staff for 14 children
5 to 7 years	1 staff for 15 children
7 and older	1 staff for 25 children (for before and after school)
	1 staff for 20 children (for full day of care)

(b) When only one (1) staff member is present in the facility, the age of the youngest child determines the staff-child ratio. In no case may one (1) adult alone provide care for more than ten (10) preschool children, or for more than fifteen (15) school-age children.

(c) Children under care shall never be left without adult supervision. Additional staff shall be employed during cooking and cleaning periods if necessary to insure adequate supervision of the children.

(d) In facilities where more than one (1) staff member is present, the age of the youngest child in the group shall determine the staff/child ratio as set forth in paragraph (a) of this subsection

(4) Director.

(a) The director shall assume responsibility for supervision and conduct of staff.

(b) The director shall provide a child care program which meets the regulations herein set forth.

(c) The director shall have the ability to supervise personnel and carry out personnel policies, including scheduling of daily activities, conducting staff meetings, and visiting classrooms to guide teaching staff.

(d) The director shall be able to develop center plans, policies, procedures and budgets in compliance with state regulations.

(e) The director shall have the ability to provide for health, safety and comfort of children, including fire drills, regulating heating, lighting and carrying out emergency measures in case of illness, accident or fire, and reporting suspected child abuse or neglect.

(f) The director shall be able to evaluate the teaching activities of staff and identify any problems with emotional development, including identifying children's problems with vision, speech and hearing, and assist in obtaining appropriate treatment or necessary services.

(g) The director shall assure that additional staff is available during cooking or cleaning hours if necessary, to maintain supervision of the children.

(5) Staff.

(a) At all times a staff person shall be on duty who is trained in pediatric first aid including CPR.

(b) At all times one (1) adult shall be designated as being in charge. In the event that the director is not present in the center, the adult left in charge shall be capable of carrying out the duties of the director.

(c) A minimum of two (2) qualified substitutes with current negative tuberculin test reports at the time of employment, shall be available in case of need.

(d) The minimum of adult workers in a center shall be sufficient to ensure that minors under eighteen (18) years of age and student trainers are at all times under direct supervision. No person under age of sixteen (16) shall be counted as part of the staff/child ratio.

(e) No controlled substance or alcohol use, or staff under the influence shall be permitted on the premises.

(f) Smoking by staff shall be permitted only in designated areas away from the children.

(g) Staff members shall remain awake while on duty.

Section 10. Records. The following records shall be maintained at the facility:

(1) Sufficient records to identify the individual children and to enable the person in charge to communicate with the parents or persons designated as being responsible for the child either at their home or place of employment, and in a medical emergency, with the family physician.

(2) Each child's medical history, along with authorization for emergency medical care, signed by the parent or guardian and left with the center director at the time of enrollment.

(3) Except as provided in KRS 214.036 immunization records for preschool children shall be on file within thirty (30) days of admission. The facility shall have ninety (90) days to obtain evidence that immunizations are current in accordance with 902 KAR 2:060 as revised.

(4) Permission for trips off the premises, signed by the parent or guardian.

(5) Daily attendance records of children.

(6) For each employee, a copy of the results of a TB skin test administered within the last year of the date of his/her employment.

(7) A written schedule of staff working hours.

(8) A written record of staff training.

(9) A written plan for staff development.

(10) A written record of monthly fire drills and quarterly disaster drills.

(11) A written plan and/or diagram outlining the course of action in the event of natural or manmade disaster.

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

Section 11. Reports of the following shall be made to the cabinet:

(1) Any serious occurrences involving children including accident or injury requiring extensive medical care and/or hospitalization; or death; or any form of child abuse; or fire or other emergency situations; or any incident which results in legal action by or against the center which affects any child or children or personnel; within twenty-four (24) hours.

(2) Change of director, within one (1) week.

(3) Notification of the following shall be made to the cabinet sufficiently in advance to allow for approval before implementation:

(a) Change of ownership/sponsorship.

(b) Change of location.

(c) Increase in capacity.

(d) Change of hours of operation.

(e) Change of services.

Section 12. Child Abuse or Neglect. (1) Each licensed facility shall maintain a child care program which assures affirmative steps are taken to protect children from abuse or neglect while said children are under the supervision of employees of the facility. Such a program is to include procedures to inform employees of the licensee of the laws of the Commonwealth pertaining to child abuse or neglect.

(2) No day care facility may employ any person convicted of child abuse or neglect.

Section 13. Staff Requirements. (1) Type I facility. After the effective date of this regulation, a director hired in a Type I facility shall have a minimum educational requirement of a child development associate credential (CDA), based on national competency standards, or associate of arts with an emphasis in child development or bachelor's degree in a related field from an accredited college or university or competency-based vocational training. This educational requirement shall be supplemented by a minimum of two (2) years of satisfactory full-time paid experience in working with young children in a group. Three (3) years of full-time paid experience in a child care facility may be substituted for the required education, making a total of five (5) years experience necessary. All experience must be verified. The director shall be at least twenty-one (21) years of age and have at least two (2) character references from nonrelatives. This provision does not apply to directors employed prior to the effective date of this regulation.

(2) Type II facility. A child care director in a Type II facility, after the effective date of this regulation, shall have as a minimum educational requirement of a general equivalency diploma (GED) or a high school diploma and have completed at least twelve (12) hours of child development training during the first six (6) months of operation. The director must be at least twenty-one (21) years of age.

Section 14. Staff Training. (1) Directors employed after the effective date of this regulation, unless qualified by a bachelor's degree in early childhood education/development or a bachelor's degree in a related field supplemented by a minimum of two (2) years of full-day experience in a child care setting, shall complete twelve (12) hours of specialized training prior to receiving a regular license. This training must be completed before or within the first six (6) months of operation while the facility operates on a provisional license.

(2) The director and all child care staff shall participate in at least six (6) hours of training annually beginning January 1, 1988. This training shall be designed to improve the quality of child care.

(3) Staff shall be trained in pediatric first aid, including CPR, to permit a staff member with this training to be on duty at all times.

(4) All training shall have prior approval of the cabinet according to guidelines developed by cabinet staff.

(5) Training shall be documented in writing by the provider.

Section 15. Physical Facilities. (1) Building.

(a) The building shall be suitable for the purpose intended and should maintain a minimum of thirty-five (35) square feet of space per child used for play, exclusive of the kitchen, bathroom, and storage areas. It shall be kept clean and in good repair.

(b) If all or any portion of the building is used for purposes other than day care, necessary provisions shall be made to avoid interference with the day care program.

(c) The building shall be so constructed that it is dry, adequately heated, ventilated, lighted, that windows, doors, stoves, heaters, furnaces, pipes, and stairs are protected; that screening is provided on windows and doors which are left open.

(d) There shall be a minimum of one (1) toilet and wash basin for each twenty (20) children. In boy's bathrooms if urinals are used, urinals may be substituted for up to one-half (1/2) of the number of toilets required. Toilet facilities shall be cleaned and sanitized daily.

(e) The kitchen shall be clean and equipped for the proper preservation, storage, preparation, and serving of food, and shall not be used for any other activities of the center.

(f) The center shall be equipped with a telephone accessible to the rooms used by the children.

(g) If care is provided school-age children, a separate area or room shall be provided.

(h) Separate toilet facilities for males and females, or a plan whereby the same facilities are used at separate times, shall be provided for school-age children.

(i) No child shall return from the toilet to activities without first washing hands. Children shall wash their hands with soap and warm, running water prior to eating and after toileting.

(j) If the only food served by the center is an afternoon snack for the school-age children, a kitchen is not required if adequate refrigeration is available.

(k) Indoor areas for infants/toddlers shall be provided separated from areas used by older children. The infants/toddlers may participate in activities with older children for short

periods of time.

(l) There shall be adequate crawling space for infants/toddlers protected from older children away from general traffic patterns of the center.

(m) Each area used for infants/toddlers shall have direct access to hand-washing facilities.

(n) If a facility provides an outdoor play area and cares for infants and toddlers, a protected outdoor area, with sun and shade and out of the traffic pattern of older children, shall be provided.

(o) Plans and specifications for new buildings and/or additions which are to be constructed for day care facilities shall be approved prior to construction by health and fire safety officials having jurisdiction.

(2) Grounds.

(a) Any outdoor play area shall be fenced unless a fence is determined unnecessary for the safety of the children and waived by the Office of Inspector General, Division of Licensing and Regulation in writing. The outdoor play area shall be free from litter, glass, rubbish, and inflammable materials and adequate in size to accommodate the number of children using the area at a particular time. The outdoor area shall be safe and drained.

(b) If a facility does not have an outdoor play area, the indoor space to be used as a play area has to be a minimum of sixty (60) square feet per child using the area at any one time separate from and in addition to the thirty-five (35) square feet minimum as described in subsection (1)(a) of this section, and include gross motor equipment and be well-ventilated and heated.

(c) If a facility does not have a fenced outdoor play area or an indoor play area, a bus may be used to transport children to a fenced playground. Transportation guidelines shall be in accordance with Section 18 of this regulation.

(3) Equipment.

(a) All equipment and furnishings shall be in good repair. There shall be safe play equipment in good repair, both indoors and outdoors, to meet the physical and other developmental needs and interests of children of different age groups.

(b) Each center shall have enough toys, play apparatus, and age-appropriate developmental materials to provide each child with a variety of activities during the day as specified in Section 16 of this regulation.

(c) Tables and chairs shall be of a suitable size for children.

(d) There shall be storage space in the form of low open shelves accessible to the children.

(e) Individual space for children's clothing shall be provided.

(f) An individual cot, crib, baby bed or two (2) inch thick mat shall be provided for each child in attendance for more than three and one-half (3 1/2) hours per day. Cribs shall have a firm, comfortable waterproof mattress. For sanitary reasons, individual sheets and covers shall be provided for each child and shall be laundered as needed. Where mats are used, floors shall be warm and free from drafts and dampness. Cots and all other equipment and furnishings shall be properly spaced so as to allow free and safe movement by children and adults.

(g) Tiered cribs shall not be allowed.

(h) Supplies shall be stored so that the adult may reach them without leaving the child unattended.

(i) There shall be a variety of safe, clean, washable toys, appropriate to the age levels and number of children present. Toys shall be too large to swallow, durable, and without sharp points or edges.

(j) Chairs shall be provided for staff to use when feeding, holding or playing with children.

(k) There shall be safe equipment that encourages crawling, walking, and climbing.

Section 16. Care of the Children. (1) Program. The day care center shall provide a planned program of activities geared to the individual needs and developmental levels of the children served. These activities shall provide experiences which promote the individual child's physical, emotional, social and intellectual growth and well-being. Activities of anyone living in the facility shall not interfere with the day care program. The daily program shall be under adult supervision and shall provide:

(a) A variety of creative activities which may include the following: art, music, dramatic play, stories and books, science, and block building.

(b) Indoor and outdoor play in which the children make use of both small and large muscles.

(c) A balance of active and quiet play, including group and individual activities, both indoors and outdoors.

(d) Opportunities for a child to have some free choice of activities and to play alone, if he/she desires, or with others.

(e) Opportunities to practice self-help procedures in respect to clothing, toileting, hand-washing, and feeding.

(f) Activity areas, equipment, and materials so arranged that the child's activities are visible to the supervising staff.

(g) Regularity of routines to afford the child the security of knowing what is coming next.

(h) Sufficient time for activities and routines so that children can progress at their own developmental rate.

(i) No long waiting periods between activities or prolonged periods during which children must stand or sit.

(2) Discipline. Disciplinary methods shall be in writing and implemented through positive guidance to help the individual child develop self-control and assume responsibility for his acts. The center shall:

(a) Establish simple and consistent rules both for children and staff that set the limits of behavior.

(b) Not subject children to harsh or physical discipline; loud, profane, threatening, frightening or abusive language shall not be used by staff or any other person on the premises.

(c) Not associate discipline with rest, toileting, or food.

(3) Health.

(a) Sufficient first aid supplies shall be available to provide prompt and proper first aid treatment. Written provisions shall be made for obtaining emergency medical care.

(b) Any child showing any signs of communicable illness may not be admitted. If a child becomes ill during the day, he/she shall be placed in a supervised area isolated from the rest of the children. In a situation where a child becomes ill, the parent or authorized

person shall be contacted immediately and arrangements will be made to remove the child from the center.

(c) No medication shall be given to a child except as prescribed by a duly licensed physician and/or on written daily request of the parent or guardian. The center shall keep a written record of the administration of each medication, including time, date and amount. Medication shall be properly labeled and stored in a separate place out of reach of children. Prescriptions shall be in the original bottle and properly labeled. At no time will medication be given to a child if the expiration date on the bottle has passed.

(d) Good personal hygiene shall be practiced by all persons in the center and children shall be helped with their personal care and cleanliness.

(e) Diapering and toilet training shall be a relaxed, pleasant activity. Toilet training shall be coordinated with parent or guardian.

(f) Adequate quantities of freshly laundered or disposable diapers and clean clothing shall be always on hand.

(g) The infants/toddlers shall be kept clean, dry and comfortable throughout the day. Diapers and/or wet clothing shall be changed promptly.

(h) Soiled diapers shall be stored in covered containers temporarily and shall be washed or disposed of at least once a day.

(i) When a child is diapered, the child shall be placed on a fresh washable surface or disposable covering.

(j) Individual washcloths and towels shall be used to thoroughly clean and dry the child's buttocks.

(k) When training chairs are used, they shall be emptied promptly and sanitized after each use.

(l) Caregivers shall wash hands with soap and running water after diapering or toileting each child.

(m) The infant's formula shall be prepared and provided by the parent. An exception may be made for facilities that qualify for the child-care food program, or provide formula as a fringe benefit to the parent.

(n) Bottles shall be individually labeled and promptly refrigerated.

(o) Caregivers shall wash hands with soap and running water immediately before feeding children.

(p) At no time shall a child be placed in bed with a propped bottle.

(q) All children's shoes and restrictive clothing shall be removed for sleep periods.

(r) The children in attendance shall have sufficient supervised rest not to exceed two (2) hours at any one time except in nighttime care, for their ages and for the number of hours spent at the facility.

(s) The water supply shall be approved by the local health department. Drinking water shall be freely available and individual drinking cups provided where no fountains are provided.

(t) Toilet articles such as combs, brushes, toothbrushes, towels and washcloths used by children shall be individual and plainly marked.

(u) The facility shall provide all children present at meal times with a meal which includes a food from each of the four (4) basic food groups except for breakfast, which shall be from the three (3) groups of bread and cereal, milk, fruit juices or vegetables. Adequate amounts of food shall be available. The center shall provide a midmorning and midafternoon snack. All school-age children shall be provided a snack after school. Snacks shall include one (1) or more of the following foods: milk, fruit, vegetables, juice, enriched grain products, protein rich foods such as peanut butter or cheese.

(v) Children shall be seated at eating time with sufficient room to manage food and tableware.

(w) Individual eating utensils shall be of size and design that children can handle easily.

(x) Weekly menus shall be prepared, dated and posted in advance in a conspicuous place. Menus shall be kept on file for thirty (30) days.

(4) Nighttime care.

(a) No child in care is permitted to spend more than sixteen (16) hours in the facility during one (1) twenty-four (24) hour period or day. Where school-age children are served, time spent in school shall be included in the sixteen (16) hour limit.

(b) At least one (1) staff member shall be stationed in an area on the same floor with children, either in or adjacent to each sleeping room.

(c) A nighttime care facility, if children are present for extended periods of time during their waking hours, shall provide a program of well-balanced and constructive activities geared to the age levels and developmental needs of the children served.

(d) Children sleeping three (3) hours or more shall sleep in pajamas or nightgowns. School children shall be offered breakfast if they go to school from the center.

Section 17. Health and Sanitation. (1) All facilities that serve a meal are to have a three (3) compartment sink or such other equipment and procedures approved by the cabinet for the purpose of washing and sanitizing all dishes, silverware, eating and cooking utensils after use.

(2) Type I and Type II facilities shall conform to the following minimum food service and sanitation guidelines for day care homes and centers:

(a) Food supplies. All food shall be from sources approved or considered satisfactory by the health authority and shall be clean, free from spoilage, free from adulteration and misbranding and safe for human consumption. No hermetically sealed, nonacid and low-acid food which has been processed in a place other than a commercial food-processing establishment shall be used. Food served shall be from a source which is in compliance with applicable state and local laws and regulations. Established commercial food stores may be assumed to be an acceptable source.

(b) Food protection.

1. All food, while being stored, prepared and displayed or served shall be protected against contamination from dust, flies, rodents and other vermin; unclean utensils and work surfaces; unnecessary handling; coughs and sneezes, flooding, drainage and overhead leakage.

2. All potentially hazardous food shall, except when being prepared and served, be kept in a safe environment for preservation.

3. Frozen food shall be kept at such temperatures as to remain frozen, except when being thawed for preparation or use. Potentially hazardous frozen food shall be thawed at

refrigerator temperatures or under cool, potable running water, or quick-thawed as part of the cooking process, or by any other method satisfactory to the health authority.

4. Each cold-storage facility used for storage of perishable food in nonfrozen state shall be provided with an indicating thermometer or other appropriate temperature measuring device.

5. Convenient and suitable utensils, such as forks, knives, tongs, spoons or scoops, shall be provided and used to minimize handling of food at all points where food is prepared.

6. Poultry, pork and their products which have not been specially treated to destroy bacteria, including trichinae, shall be thoroughly cooked. Fruits and vegetables shall be washed before cooking or serving.

7. Meat salads, poultry salads, potato salads, and cream filled pastries shall be prepared with utensils which are clean and shall, unless served immediately, be refrigerated pending service.

8. All food shall be stored in clean racks, shelves or other clean surfaces. Food in nonabsorbent type containers may be stored on the floor when it is maintained in an acceptable sanitary condition.

9. Individual portions of food once served to a child shall not be served again; provided, however, that wrapped food, which is still wholesome and has not been unwrapped, other than potentially hazardous food, may be reserved.

10. All poisonous and toxic material shall be properly identified and stored in cabinets which are used for no other purpose, or stored in a place outside food storage, food preparation, and utensil storage areas.

(c) Personnel.

1. Health and disease controls: No person while infected with any disease in a communicable form, or while a carrier of such disease, or while afflicted with boils, infected wounds, sores, or an acute respiratory infection, shall work in any area of a facility in any capacity in which there is a likelihood of such person contaminating food or food contact surfaces with pathogenic organisms or transmitting disease to other individuals. If the manager or person in charge of the facility has reason to believe any employee has contracted a disease, he shall advise that employee to seek appropriate treatment.

2. Cleanliness. All employees shall maintain personal cleanliness and conform to hygienic practices while on duty. They shall wash their hands thoroughly before starting work, and as often as may be necessary to remove soil and contamination. No employee shall resume work after visiting the toilet room without first washing his/her hands.

(d) Food equipment and utensils.

1. All food contact surfaces of equipment and utensils used in a facility shall be smooth, free of breaks, open seams, cracks, chips, and also be accessible for cleaning, and nontoxic.

2. Cleanliness of equipment and utensils. All eating and drinking utensils shall be cleaned after each usage. All kitchenware and food contact surfaces of equipment, exclusive of cooking surfaces of equipment, used in preparation or serving of food or drink, and all food storage utensils, shall be cleaned after each use. Cooking surfaces of equipment shall be cleaned at least once a day. All utensils and food contact surfaces of equipment used in preparation, service, display, or storage of potentially hazardous food shall be cleaned prior to such use. Nonfood contact surfaces of equipment shall be cleaned at such intervals as to keep them in a clean and sanitary condition. After cleaning and until use, all food contact surfaces of equipment and utensils shall be stored and handled as to be protected from contamination. All single-service articles shall be stored, handled, and dispensed in a sanitary manner, and shall be used only once.

(e) Sanitary facilities and controls. All facilities shall have lavatories located in or immediately adjacent to all toilet rooms.

(f) Vermin control.

1. Effective control measures shall be utilized to minimize the presence of rodents, flies, roaches, and other vermin on the premises.

2. Unless flies and other flying insects are absent from the immediate vicinity of the establishment, all openings to the outer air shall be effectively protected against the entrance of such insects by self-closing doors, closed windows, screening, controlled air current, or other effective means.

(g) Other facilities and operations (floors, walls and ceilings). Walls and ceilings shall be smooth and constructed to be easily cleanable. All walls and ceilings shall be kept clean and in good repair.

(h) Ventilation. The kitchen in a facility shall be adequately ventilated to the outside air.

(i) Water supply. The water supply for the facility shall be properly located, protected and operated, and shall be adequate and of an approved source.

1. The water supply is favorably located away from all possible sources of contamination and is easily accessible to encourage its use. The approved distance from toilets, septic tanks, etc., may vary, depending upon type of soil, topography, etc. The source of water supply is a public water supply, approved by the Cabinet for Natural Resources and Environmental Protection, or a spring, or well, or cistern which complies with the specifications for construction and protection required by the Cabinet for Natural Resources and Environmental Protection.

2. The water supply is adequate in quantity and pressure to permit unlimited use.

3. All ground water supplies for facilities caring for more than twenty-five (25) children shall meet the specifications of the Cabinet for Natural Resources and Environmental Protection. Facilities caring for twenty-five (25) children or less may secure approval from the local health department.

4. Individual drinking cups or paper cups are required.

(j) Sewage and solid waste disposal. All sewage and solid waste shall be properly disposed of and solid waste shall be kept in suitable receptacles in accordance with local, county and state laws.

1. All sewage and liquid wastes are disposed of in a public sewer or, in the absence of a public sewer, by a method approved by the Cabinet for Natural Resources and Environmental Protection. Consultation will be sought from the Cabinet for Natural Resources and Environmental Protection or the local sanitarian having jurisdiction on facilities in which the adequacy of the plumbing is questioned.

2. All waste paper and solid waste is disposed

of in a manner approved by the state and local health regulations. Easily cleanable containers shall be provided for storage of waste materials. All garbage and rubbish containing food waste shall be stored in containers and kept covered.

(k) Toilet and hand-washing facilities. Each facility shall be provided with adequate and conveniently located toilet and hand-washing facilities. Toilets shall be kept in clean condition, in good repair, lighted and ventilated. In case privies are permitted and used, they shall be of sanitary type, constructed and operated in conformity with the standards of the Cabinet for Human Resources. Hot and cold water under pressure, soap and approved towels shall be provided at lavatories. Covered waste receptacles shall be provided in each toilet room.

1. Adequate toilet facilities, in desirable locations are provided. Hand-washing facilities shall be adequate and conveniently located. Privies shall be constructed and operated in accordance with the standards of the Cabinet for Human Resources.

2. Each toilet room shall be lighted, ventilated to the outside air, and kept in good repair.

3. A supply of toilet paper is to be on hand at all times. Soap and individual cloth or paper towels are provided. Most new commercial soap dispensers are satisfactory.

4. Easily cleanable receptacles shall be provided for waste materials.

5. Hand-washing facilities are of such type that the washing of hands under warm running water may be accomplished.

6. All openings to the outer air in the toilet rooms are effectively screened.

Section 18. Transportation. (1) When transportation is provided directly, contracted for or arranged by a day care facility, these requirements shall apply:

(a) There shall be conformance to state laws pertaining to vehicles, drivers and insurance.

(b) The staff-child ratio set in this regulation in Section 9(3) of this regulation, shall apply when not inconsistent with special requirements or exceptions in this section.

(c) Any center providing transportation service shall have an individualized written plan and statement of transportation policies and procedures.

(d) Each child shall have a seat and remain seated while the vehicle is in motion.

(e) On any vehicle equipped with seat belts, these shall be used to secure individual children.

(f) All vehicles used to transport children shall be designed and offered with seats for each passenger as manufactured standard equipment.

(g) A vehicle containing children shall never be left unattended.

(h) The maximum number of children under the age of six (6) a driver shall supervise alone is five (5). The staff/child ratios shall apply after this number. No children under two (2) years of age shall be transported unless restrained in an approved safety seat or accompanied by another adult.

(i) A child under age six (6) shall not be left unattended at the time of delivery.

(j) If the parent, or a person authorized by the parent to accept the child, is not present upon delivery of the child, a note shall be left explaining where the child can be picked up.

(k) If anyone other than the authorized person is to receive the child, such arrangements shall be made by the parent or guardian.

(2) The vehicle shall not pick up and deliver children to a location which would require the child to cross the street or highway unless accompanied by an adult.

(3) The following standards shall be met when transportation is provided by any means other than licensed public transportation:

(a) The vehicle shall be maintained in good mechanical/operable condition at all times.

(b) A thorough inspection of the vehicle shall be made and documented by a qualified mechanic at least every six (6) months.

(c) Vehicles used to transport children, which require other traffic to stop while loading and unloading children at their various homes along public roads, shall be equipped with a system of signal lamps, identifying color and words.

(d) The motor shall be turned off, keys removed, and brake set any time the driver is not in the driver's seat.

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

LARRY MICHALCZYK, Acting Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: April 13, 1988
FILED WITH LRC: April 15, 1988 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Thyra Witford
(1) Type and number of entities affected: 1147
(a) Direct and indirect costs or savings to those affected:
1. First year: $10 per facility per year.
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: None
(a) Direct and indirect costs or savings: None
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No additional requirements.
(3) Assessment of anticipated effect on state and local revenues: Increase in state revenue of approximately $10,000.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Mandated action under HB 516.42 of the 1988 General Assembly.
(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. This is a licensure regulation and all facilities are required to meet the same standards.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

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

RELATES TO: KRS 205.520
PURSUANT TO: KRS 194.050
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with requirements of Title XIX of the Social Security Act. KRS 205.520(3) empowers the cabinet, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provisions of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the resource and income standards by which eligibility of the medically needy is determined.

Section 1. Resource Limitations and Exclusions of the Medically Needy. The following provisions are applicable with regard to computation of allowable resources:
(1) The upper limit for resources for family size of one (1) and for family size of two (2) is set at $1,700 and $3,400 respectively, effective January 1, 1986; at $1,800 and $3,600 respectively, effective January 1, 1987; at $1,900 and $3,800 respectively, effective January 1, 1988; and at $2,000 and $4,000 respectively, effective January 1, 1989, with fifty (50) dollars for each additional member.
(2) A homestead, occupied or abandoned, household equipment, and farm equipment without limitation on value are excluded from consideration.
(3) Equity of $6,000 in income-producing, nonhomestead real property, business or nonbusiness, essential for self-support, is excluded from consideration. In addition, for AFDC related MA only cases the value of otherwise countable real property (whether income producing or nonincome producing) may be excluded from consideration for six (6) months if a good faith effort is being made to dispose of the property properly; an additional three (3) months may be allowed for the disposal at the request of the recipient if efforts to dispose of the property within the six (6) month period have been unsuccessful.
(4) Equity of $4,500 in automobiles is excluded from consideration; however, if an automobile is used for employment, to obtain medical treatment of a specific or regulation medical problem, of if specially equipped (e.g., as for use by the handicapped) the total value of such automobile is excluded.
(5) Burial reserves of up to $1,500 per individual, which may be in the form of burial agreement(s) (prepaid burials or similar arrangements), trust fund(s), life insurance policies, or other identifiable funds are excluded from consideration. The cash surrender value of life insurance is considered when determining the total value of burial reserves. When burial funds are commingled with other funds, the applicant has up to thirty (30) days to separately identify the burial reserve amount. Interest or other appreciation of value of an excluded burial reserve is excluded so long as such amount is left to accumulate as a part of the burial reserve.
(6) Burial spaces, plots, vaults, crypts, mausoleums, urns, caskets, and other repositories which are customarily and traditionally used for the remains of deceased persons are excluded from consideration as a countable resource without regard to value.
(7) Resources determined in accordance with subsections (3), (4), and (5) of this section to be in excess of excluded amounts must be considered countable resources when determining whether the individual or family group exceeds the upper limits specified in subsection (1) of this section. If resources exceed the upper limits, the individual or family group is ineligible.
(8) The following exclusions are also applicable as stated:
(a) Proceeds from the sale of a home are excluded from consideration for three (3) months from date of receipt if used to purchase another home.
(b) Resources of a blind or disabled person necessary to fulfill an approved plan for achieving self-support are excluded from consideration.
(c) Payments or benefits from federal statutes, other than Title XVI (Supplemental Security Income), are excluded from consideration (as either a resource or income) if precluded from consideration in Title XVI determinations of eligibility by the specific terms of the statute.
(d) Disaster relief assistance is excluded from consideration.
(e) Cash or in-kind replacement for repair or replacement of an excluded resource is excluded from consideration if used to repair or replace the excluded resource within nine (9) months of the date of receipt.
(f) Effective with regard to determinations of eligibility made on or after April 16, 1988, and applicable with regard to the usual three (3) month period for retroactive eligibility, the life interest that Medicaid applicants or recipients may have in real estate or other property shall be excluded from consideration as an available resource.

Section 2. Income and Resource Exemptions. Income and resources which are exempted from consideration for purposes of computing eligibility for the comparable money payment program (Aid to Families With Dependent Children and Supplemental Security Income) shall be exempted from consideration by the cabinet, except that the AFDC earned income disregard (first thirty (30) dollars and one-third (1/3) of the remainder) may not be allowed in determining eligibility for medical assistance only.

Section 3. Income Limitations of the Medically

Needy. Eligibility from the standpoint of income is determined by comparing adjusted income as defined in Section 4 of this regulation, of the applicant, applicant and spouse, or applicant, spouse and minor dependent children with the following scale of income protected for basic maintenance:

Size of Family	Annual	Monthly
1	$2,400	$200
2	2,900	242
3	3,400	284
4	4,100	342
5	4,800	400
6	5,500	459

For each additional member, $600 annually or fifty (50) dollars monthly is added to the scale. The change shown in this section of the regulation shall be effective with regard to determinations of eligibility made on or after December 1, 1987.

Section 4. Additional Income Considerations. (1) In comparing income with the scale as contained in Section 3 of this regulation, gross income is adjusted as follows in all cases with exceptions as contained in Section 5 of this regulation:

(a) In cases of adults and children, the standard work related expenses of adult members and out-of-school youth are deducted from gross earnings. For those with either full-time or part-time employment the standard work expense deduction is seventy-five (75) dollars per month. All earnings of an in-school child are disregarded. Full-time and part-time employment, and school attendance, shall be as defined in 904 KAR 2:016, Standards for need and amount; AFDC.

(b) In cases of adults and children, dependent care as a work expense is allowed not to exceed $160 per child or incapacitated adult per month for full-time employment (as defined in subsection (1) of this section) or $110 per child or incapacitated adult per month for part-time employment (as defined in subsection (1) of this section). A dependent care work expense deduction is allowed only when the dependent is included in the assistance unit.

(2) The following special factors are applicable for pregnant women, infants and children eligible pursuant to Section 9401 of the Omnibus Budget Reconciliation Act of 1986 (OBRA 86):

(a) Such pregnant women and children may have family income up to, but not to exceed, 100 percent of the nonfarm income official poverty guidelines as promulgated by the Department of Health and Human Services, United States Government, and revised annually, and the updated official poverty guidelines to be used for a year will be the latest poverty guidelines available as of July 1 of the particular state fiscal year;

(b) Pregnant women, infants and children who would be eligible under the provisions of OBRA 86 except for income in excess of the allowable standard may not become eligible by spending down to the official poverty guidelines;

(c) Available liquid assets for the family may not exceed the usual upper limits specified for the medically needy, and all other resources shall be disregarded; [and]

(d) The Aid to Families with Dependent Children (AFDC) budgeting methodology (except for application of the AFDC earned income disregard of the first thirty (30) dollars and one-third (1/3) of the remainder) shall be used; and

(e) Changes of income that occur after the determination of eligibility of a pregnant woman shall not affect such pregnant woman's eligibility through the remainder of the pregnancy including the usual post partum period which ends at the end of the month containing the 60th day of a period beginning on the last day of her pregnancy.

Section 5. Individuals in Chronic Care Institutions. For aged, blind or disabled individuals in chronic care facilities, the following requirements with respect to income limitations and treatment of income shall be applicable.

(1) In determining eligibility, the appropriate medically needy standard is used as are appropriate disregards and exclusions from income. In determining patient liability for the cost of institutional care, gross income is used as shown in subsections (2) and (3) of this section.

(2) Income protected for basic maintenance, effective July 1, 1986, is forty (40) dollars monthly in lieu of the figure shown in Section 3 of this regulation. All income in excess of forty (40) dollars is applied to the cost of care except as follows:

(a) Available income in excess of forty (40) dollars is first conserved as needed to provide for needs of the spouse and minor children up to the appropriate family size amount from the scale as shown in Section 3 of this regulation.

(b) Remaining available income is then applied to the incurred costs of medical and remedial care that are not subject to payment by a third party, including Medicare and health insurance premiums and medical care recognized under state law but not covered under the state's Medicaid plan.

(3) The basic maintenance standard allowed the individual during the month of entrance into or exit from the long term care facility shall reasonably take into account home maintenance costs.

(4) When an individual loses eligibility for a supplementary payment due to entrance into a participating long term care facility, and the supplementary payment is not discontinued on a timely basis, the amount of any overpayment is considered as available income to offset the cost of care (to the Medical Assistance Program) if actually available for payment to the provider.

Section 6. Spend-down Provisions. No technically eligible individual or family is required to utilize protected income for medical expenses before qualifying for medical assistance. Individuals with income in excess of the basic maintenance scale as contained in Section 3 of this regulation may qualify for any part of a three (3) month period in which medical expenses incurred have utilized all excess income anticipated to be in hand during that period.

Section 7. Consideration of State Supplementary Payments. For an individual receiving state supplementary payments, that portion of the individual's income which is in

excess of the basic maintenance standard is applied to the special need which results in the supplementary payment.

Section 8. Special Needs Contributions for Institutionalized Individuals. Voluntary payments made by a relative or other party on behalf of a long term care facility resident or patient shall not be considered as available income if made to obtain a special privilege, service, or item not covered by the Medical Assistance Program. Examples of such special services or items include television and telephone service, private room and/or bath, private duty nursing services, etc.

Section 9. Pass-through Cases. Increases in social security payments due to cost of living increases but for which the individual would be eligible for supplemental security income benefits or state supplementary payments, and which are received after April 1, 1977, shall be disregarded in determining eligibility for medical assistance benefits; such individuals shall remain eligible for the full scope of program benefits with no spend-down requirements. Beginning on November 1, 1986, the additional amount specified in Section 12202 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA) shall be disregarded, i.e., that amount of social security benefits to which certain widows or widowers were entitled as a result of the recomputation of benefits effective January 1, 1984, and except for which (and subsequent cost of living increases) such individuals would be eligible for federal supplemental security income benefits; eligibility as a result of such disregard shall not exist prior to July 1, 1986. To be eligible, applicants must apply within fifteen (15) months of the date of the Act, i.e., by July 1, 1987.

Section 10. Relative Responsibility. For purposes of the Medical Assistance Program, spouses are considered responsible for spouses and parents are considered responsible for dependent minor children. Effective for determinations of eligibility made on or after December 1, 1987, children under age twenty-one (21) living with parents (but not including children age eighteen (18) and above who are blind or disabled) are considered dependent minor children for purposes of deeming of income and resources under the Medicaid Program even if such children are emancipated under state law. Stepparents are responsible for their stepchildren as shown in this section and Section 11 of this regulation. This responsibility, with regard to income and resources, is determined as follows:

(1) "Living with" is defined as sharing a common living arrangement or household, but not including living in the same room in a long term care facility. "Living apart" is defined as not sharing a common household, whether due to estrangement, disability, or illness. Effective July 1, 1987, a husband and wife sharing a room or comparable accommodation in a long term care facility may be considered to be "living with" each other after they have continuously shared such a room or accommodation for six (6) months, if treating such husband and wife as living apart would prevent either of them from receiving medical assistance.

(2) In cases of aged, blind, or disabled applicants or recipients living with their eligible spouse, total resources and adjusted income of the couple is considered in relation to the resource and income limitations for a family size of two (2), or if other dependents live with the couple, the appropriate family size including the dependents.

(3) In cases of aged, blind or disabled applicants or recipients living with an ineligible spouse, income from the ineligible spouse shall be deemed as available to the eligible spouse as outlined below.

(a) Determine the potential spend-down amount of the eligible individual by comparing the countable income to the Medically Needy Income Level (MNIL) for one (1) as shown in Section 3 of this regulation.

(b) Allocate to other dependents in the household from the ineligible spouse income in an amount equal to one-half (1/2) of the MNIL for a family size of one (1) for each dependent.

(c) If the ineligible spouse's income is more than one-half (1/2) of the MNIL for a family size of one (1), combine the income of the ineligible spouse with that of the eligible individual and compare that figure with the MNIL for a couple to determine the spend-down amount.

(d) Compare the amount resulting from paragraph (a) of this subsection with the result of paragraph (c) of this subsection and determine eligibility using the spend-down amount, if any, which is greater.

(e) Resources shall be considered in the same manner as for an eligible spouse.

(4) In cases of aged, blind, or disabled couples, living apart for any reason other than institutionalization, both of whom are concurrently applying for or receiving MA only, income and resources are considered in relation to resource and income limitations for a family size of two (2), or if other dependents live with either spouse, the family size including such dependents, but only for the first six (6) months after the month of separation, that such couple lives apart; however, if mutual consideration of income and resources causes the individuals to lose eligibility as a couple, eligibility for the individuals is determined in accordance with subsection (4) of this section. If the separation is due to the institutionalization of a spouse, mutual consideration of income ceases in the month after the month of separation but resources are considered mutually available to each other the month of separation, and <u>for</u> the six (6) months following that month <u>unless such would act to preclude eligibility of the individual in long-term care</u>.

(5) In cases of an aged, blind, or disabled individual living apart from a spouse (for a reason other than institutionalization) who is not a recipient of MA only, eligibility is determined on a couple basis for the month of separation and as a single individual after the month of separation.

(6) For an individual whose case is being worked as if he/she were a single individual due to living apart from his/her spouse, as shown in Section 10(3) and (4) of this regulation, who has jointly held resources with his/her spouse, one-half (1/2) of the jointly held resource would be considered a resource; except that the entire amount of a jointly held checking or savings account is considered a resource if the resource may be accessed independently of the

spouse.

(7) Total resources and adjusted income of parent(s) and children for whom application is made is considered in relation to limitations for family size. Excluded, however, is the income and/or resources of an SSI parent and the SSI essential person spouse whose medical assistance eligibility is based on inclusion in the SSI case. Resources and income of an SSI essential person, spouse or nonspouse, whose medical assistance eligibility is not based on inclusion in the SSI case must be considered.

(8) In cases of a blind or disabled child under eighteen (18) living with his/her parent(s) (including stepparent, if applicable), total resources and adjusted income of the parent(s) is related to limitations for family size, including the applicant or recipient child and other dependent children of parent using the adult scale. The income and resources of the parent(s) shall also be considered available to such child who is aged eighteen (18) through twenty-one (21), if in school, when to do so will work to the child's benefit and the individual was aged eighteen (18) through twenty-one (21) in September, 1980, and was MA eligible at that time.

(9) Income and resources of parent(s) are not considered available to a child living apart from the parent(s), but any continuing contribution actually made is considered as income. Living apart may mean living in a medical institution, special school or in foster care and such status continues even if the child makes visits to the parent(s) home. For comparison with the resource and income limitations, the child's individual resources and/or income are considered in relation to family size of one (1).

(10) When a recipient (but not including a child) in a family case has income and resources considered in relation to family size and enters a long term care facility, his/her income and resources are considered in the same manner as previously for up to one (1) year with, effective with regard to determinations of eligibility made on or after February 1, 1988, the individual allowed forty (40) dollars as his/her basic maintenance standard. [For such an individual, the forty (40) dollars maintenance standard is not applicable since his/her needs are considered with that of other family members.] When a child in a family case is in the long term care facility, eligibility of the child is determined in the same manner for up to a year but his/her liability for the cost of care is determined by allowing to the child from his/her own income forty (40) dollars and considering the remainder available for the cost of care. (Note: in this situation any welfare payment made to the child is disregarded when determining liability for cost of care.) The eligibility of the individual, with regard to income and resources, must be determined on the basis of living apart from the other family members whenever it becomes apparent that the separation will last for more than one (1) year.

Section 11. Treatment of Income of the Stepparent or Parent/Legal Guardian of a Minor Parent/Legal Guardian (hereinafter referred to as a "Grandparent") and Effect on Eligibility of the Assistance Group. An incapacitated (as determined by the department) stepparent's income, or a grandparent's income, is considered in the same manner as for a parent if the stepparent or grandparent is included in the family case. When the stepparent or grandparent living in the home is not being included in the family case the stepparent's or grandparent's gross income is considered available to the spouse or minor parent in accordance with the policies set forth in this section.

(1) Disregards/exclusions from income. The following disregards/exclusions from income shall be applied:

(a) The first seventy-five (75) dollars of the gross earned income of the stepparent or grandparent who is employed full time or part time (with full-time and part-time employment as defined in Section 4(1) of this regulation).

(b) An amount equal to the medically needy income limitations scale as shown in Section 3 of this regulation for the appropriate family size, for the support of the stepparent or grandparent and any other individuals living in the home but whose needs are not taken into consideration in the medical assistance eligibility determination and are claimed by the stepparent or grandparent as dependents for purposes of determining his/her federal personal income tax liability.

(c) Any amount actually paid by the stepparent or grandparent to individuals not living in the home who are claimed by him/her as dependents for purposes of determining his/her personal income tax liability.

(d) Payments by the stepparent or grandparent for alimony or child support with respect to individuals not living in the household.

(e) Income of a stepparent or grandparent receiving supplemental security income.

(f) Verified medical expenses for the stepparent or grandparent and his/her dependents in the home.

(2) Determining eligibility of the children. When a stepparent or grandparent has available income remaining after disregards/exclusions are applied, such income may be deemed to the spouse (of the stepparent) or minor parent (child of the grandparent) but not to the stepchild(ren) or grandchild(ren). Eligibility of the stepchild(ren) or grandchild(ren) is determined in the following manner in order to take this requirement into consideration.

(a) The available income deemed to the spouse or minor parent shall be the lesser of the amount available or the medically needy income level for one (1), as shown in Section 3 of this regulation.

(b) The income of the spouse or minor parent (including the amount deemed) shall be combined with that of the child(ren) and the total compared against the medically needy income level for the appropriate family size. If there is no excess income, the child is eligible. If there is an excess, the excess amount may be spent down in the usual manner.

(3) Determining eligibility of the spouse or minor parent. Available income of the stepparent or grandparent remaining after exclusions/disregards are applied must be considered fully available to the spouse or minor parent. The eligibility of the spouse or minor parent is therefore determined in the same manner as shown in subsection (2) of this section, except that the full amount available (including that portion of the available income, if any, which is in excess of the medically needy income level for one (1)) is deemed to the

spouse or minor parent.

(4) When the spouse or minor parent, or both the spouse or minor parent and child(ren) has a spend-down case(s), uncovered incurred medical expenses of all members of the budget unit may be used to meet the spend-down amount(s).

Section 12. Companion Cases. When spouses or parent(s) and children living in the same household apply separately for assistance, relative responsibility must be taken into consideration.

(1) In the case of an application for assistance for a dependent child(ren), the income, resources and needs of the parent(s) must be included in the determination of need of the child(ren) even when the parent(s) applies for assistance for himself/herself on the basis of age, blindness, or disability (except as shown in subsection (3) of this section).

(2) In the case of a spouse, income and resources of both spouses are combined and compared against the medically needy income and resources limits for a family size of two (2) even though a separate determination of eligibility must be made for each individual.

(3) In the case of families with children with a parent eligible for supplemental security income (SSI), neither the income, resources, nor needs of the SSI eligible individual are to be included in the determination of eligibility of the children.

Section 13. Treatment of Lump-sum Income. The following policy is effective January 1, 1986: for adult related cases, lump-sum income is prorated over the three (3) month period following the agency's notice of receipt by the client, with any amount spent by the client prior to notification of the agency deducted from the total considered available; any portion of the income remaining available after the three (3) month period is considered in relation to resource limitations; for AFDC related cases, lump sum income is divided by the medically needy income level and prorated over the resultant number of months.

Section 14. Transferred Resources. When an applicant or recipient transfers a nonexcluded resource(s) for the purpose of becoming eligible for medical assistance, the value of the transferred resource(s) will be considered a resource to the extent provided for by this section. The provisions of this section are applicable to both family related cases and medical assistance only cases based on age, blindness, or disability.

(1) The disposal of a resource, including liquid assets, at less than fair market value shall be presumed to be for the purpose of establishing eligibility unless the individual presents convincing evidence that the disposal was exclusively for some other purpose. If the purpose of the transfer is for some other reason or if the transferred resource was considered an excluded resource at the time it was transferred, the value of the transferred resource is disregarded. If the resource was transferred for an amount equal to at least the assessed value for tax purposes, the resource will be considered as being disposed of for fair market value. Notwithstanding the preceding, if the assessed agricultural value is used for tax purposes the transfer must be for an amount equal to the fair market value.

(2) After determining that the purpose of the transfer was to become or remain eligible, the cabinet shall first add the uncompensated equity value of the transferred resource to other currently held resources to determine if retention of the property would have resulted in ineligibility. For this purpose, the resource considered available shall be the type of resource it was prior to transfer, e.g., if nonhomestead property was transferred, the uncompensated equity value of the transferred property would be counted against the permissible amount for nonhomestead property. If retention of the resource would not have resulted in ineligibility, the value of the transferred resource would thereafter be disregarded.

(3) If retention would result in ineligibility, the cabinet will consider the excess transferred resource available for up to twenty-four (24) months, subject to the following conditions:

(a) The value of the total excess resources considered available (including the uncompensated equity value of the transferred resource) shall be reduced by $500 for each month that has elapsed since the transfer, beginning with the month of transfer; except

(b) The reduction provided for in paragraph (a) shall not be applicable with regard to any month in which the individual received medical assistance but was actually ineligible due to the provisions of this section.

(4) For those recipients who were receiving assistance on February 28, 1981, this section is applicable only with respect to resources transferred subsequent to that date.

(5) The uncompensated value may be excluded from consideration when good cause exists. A waiver of consideration of the uncompensated amount will be granted subject to the following criteria:

(a) "Good cause" means that an expense (or loss) was incurred by the individual or family group due to a natural disaster, fire, flood, storm or earthquake; or illness resulting from accident or disease; or hospitalization or death a member of the immediate family; or civil disorder or other disruption resulting in vandalism, home explosions, or theft of essential household items.

(b) The exclusion may not exceed the amount of the incurred expense or loss.

(6) If the individual is in a long term care facility, the actual cost of long term care (rather than the $500) may be deducted from the uncompensated value excess on a monthly basis.

Section 15. Special Provisions for AIS/MR Recipients. [Effective April 1, 1983,] Medical assistance eligibility for participants in the program of alternative intermediate services for the mentally retarded (AIS/MR) shall be determined taking into consideration the special provisions contained in this section.

(1) Usual institutional deeming rules shall be applicable with regard to the categorically needy including all participants eligible on the basis of the special income level of 300 percent of the SSI standard. Community deeming procedures are used for all medically needy individuals not eligible under the special income level. [The income and resources of the parent(s) and/or spouse shall not be considered

available to the AIS/MR participant.]

(2) AIS/MR services program participants who participate in the AIS/MR program for thirty (30) consecutive days (including any actual days of institutionalization within that period) and who have income not in excess of 300 percent of the SSI standard for an individual shall be determined to be eligible as categorically needy under a special income level (i.e., the special income level is 300 percent of the SSI standards). Income protected for basic maintenance of the AIS/MR participant in the posteligibility determination of patient liability for individuals eligible on the basis of the special income level of 300 percent of the federal SSI standard shall be the standard for the federal supplemental security income program in addition to the SSI general exclusion.

(3) When eligibility is determined using community deeming rules [for a spend-down case], the attributed cost of care against which monthly available income of the AIS/MR participant shall be applied shall be the projected annual average cost of care for all participants divided by twelve (12) and rounded to the nearest dollar. The amount protected for basic maintenance is the usual medically needy standard for the appropriate family size as shown in Section 3 of this regulation plus the SSI general exclusion.

(4) Eligibility shall continue on the same [monthly] basis as for an institutionalized individual when the cost of care is greater than the recipient's adjusted monthly income or the recipient is eligible based on the special income level of 300 percent of the SSI level as specified in 907 KAR 1:011, Technical eligibility requirements.

[(5) Determinations of eligibility for medical assistance of the AIS/MR participant's parent(s), spouse, and/or dependent children shall be made on the same basis as if the participant was institutionalized.]

Section 16. Special Provisions for Hospice Recipients. [Effective October 1, 1986,] Medical assistance eligibility for participants under the Medicaid hospice benefit shall be determined (when necessary to establish eligibility for medical assistance benefits for cases with income in excess of the usual basic maintenance standard) taking into consideration the special provisions contained in this section.

(1) Income protected for basic maintenance of the hospice participant in the posteligibility determination of patient liability for noninstitutionalized individuals eligible on the basis of the special income level of 300 percent of the federal SSI standard shall be the standard for the federal supplemental security income (SSI) program in addition to the SSI general exclusion. For the noninstitutionalized medically needy participants (all of whom must spend-down on a quarterly basis), the amount protected for basic maintenance is the usual medically needy standard as shown in Section 3 of this regulation plus the SSI general exclusion. For the institutionalized medically needy the amount protected for basic maintenance in the eligibility determination is the medically needy standard for the appropriate family size plus the SSI general exclusion. If a hospice participant is institutionalized in a long-term care facility, the basic maintenance amount is forty (40) dollars per month.

(2) When eligibility is determined for an institutionalized monthly [a] spend-down case, the attributed cost of care against which monthly available income of the hospice participant shall be applied shall be the hospice routine home care per diem (for the hospice providing care) as established by the Medicare program plus the room and board rate for the appropriate level of care (i.e., skilled nursing or intermediate care).

(3) Eligibility shall continue on the same monthly basis as for an institutionalized individual when [the cost of care is greater than the recipient's monthly income or] the recipient is eligible based on the special income level of 300 percent of the SSI level as specified in 907 KAR 1:011, Technical eligibility requirements.

(4) A hospice participant may be eligible for benefits based on this section only if he/she has elected coverage under the Medicaid hospice benefit rather than the regular Medicaid program.

(5) Usual institutional deeming rules shall be applicable with regard to the categorically needy including all participants eligible on the basis of the special income level of 300 percent of the SSI standard. Community deeming procedures are used for all medically needy individuals not eligible under the special income level.

Section 17. Special Provisions for Recipients Participating in the Home and Community Based Services Waiver Program. [Effective January 1, 1987,] Medical assistance eligibility for participants under the home and community based (HCB) services waiver program shall be determined (when necessary to establish eligibility for medical assistance benefits for cases with income in excess of the usual basic maintenance standard) taking into consideration the special provisions contained in this section.

(1) Income protected for basic maintenance of HCB services program participants who are eligible under the special income level shown in this section shall be the standard used for an individual in the federal supplemental security income (SSI) program in addition to the SSI general exclusion.

(2) HCB services program participants who participate in the HCB program for thirty (30) consecutive days (including any actual days of institutionalization within that period) and who have [with] income not in excess of 300 percent of the SSI standard for an individual shall be determined to be eligible as categorically needy under a special income level (i.e., the special income level is 300 percent of the SSI standard).

[(3) Patient liability and relative responsibility is determined in the same manner as if the HCB services program participant was institutionalized except that excess income of responsible relatives will be considered available to the HCB participant with the cost of HCB services projected.]

(3) [(4)] If an HCB services program participant has income in excess of 300 percent of the SSI standard, eligibility of the participant is determined in the usual manner for an individual who is institutionalized, with the cost of HCB services projected if eligibility is determined on a monthly basis, except that the amount protected for basic maintenance is the usual medically needy standard for the appropriate family size [an

individual in his own home] as shown in Section 3 of this regulation plus the SSI general exclusion.

(4) Usual institutional deeming rules shall be applicable with regard to all participants eligible on the basis of the special income level of 300 percent of the SSI standard. Community deeming procedures are used for all medically needy individuals not eligible under the special income level.

Section 18. Treatment of Potential Payments from Medicaid Qualifying Trusts. When an individual (or his/her spouse for the individual's benefit) creates (other than by will) a trust (or similar legal device) with amounts payable to the same individual, such trust shall be considered a "Medicaid qualifying trust" if the trustee(s) of the trust are permitted to exercise discretion as to the amount of the payments from the trust to be paid to the individual. In this circumstance the amount considered available to the trust beneficiary shall be the maximum amount the trustee(s) may (using the trustee's discretion) pay in accordance with the terms of the trust, regardless of the amount actually paid. The cabinet may, however, consider as available only that amount actually paid if to do otherwise would create an undue hardship upon the individual; the criteria for determining "undue hardship" shall be established by the cabinet.

Section 19. Implementation. The amendments to this regulation will be effective with regard to determinations of eligibility made on or after April 1, 1988 [October 1, 1987] except as otherwise specified herein.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 29, 1988
FILED WITH LRC: April 4, 1988 at 1 p.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Roy Butler
(1) Type and number of entities affected: Approximately 100 additional aged, blind or disabled individuals may be eligible for Medicaid due to participation in hospice or the HCB Services Program, or the change with regard to exclusion from consideration of life interests.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: $300,000 (costs)
2. Continuing costs or savings: $300,000 (costs)
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Not applicable for Medicaid regulations.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:011. Technical eligibility requirements.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 194.050
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet by regulation to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of Medical Assistance, hereinafter referred to as MA, to Kentucky's indigent citizenry. This regulation sets forth the technical eligibility requirements of the MA Program.

Section 1. The Categorically Needy. All individuals receiving Aid to Families with Dependent Children, Title IV-E benefits, Supplemental Security Income or Optional or Mandatory State Supplementation are eligible for MA as categorically needy individuals. In addition, the following classifications of needy persons are included in the program as categorically needy and thus eligible for MA participation.
(1) Children in foster family care or private nonprofit child caring institutions dependent in whole or in part on a governmental or private agency;
(2) Children in psychiatric hospitals or medical institutions for the mentally retarded;
(3) Pregnant women;
(4) Children of unemployed parents;
(5) Children in subsidized adoptions dependent in whole or in part on a governmental agency;
(6) Families terminated from the Aid to Families with Dependent Children (AFDC) program because of increased earnings or hours of employment;
(7) Children (but not their parents) who meet the income and resource requirements of the Aid to Families with Dependent Children program, who were born after September 30, 1983 and who are under the age of five (5); and effective July 1,

1987, children (but not their parents) who meet the income and resource requirements of the Aid to Families with Dependent Children Program, who are under eighteen (18) years of age (or under age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before age nineteen (19));

(8) A child(ren) born to a woman eligible for and receiving medical assistance, so long as the child(ren) has not reached his/her first birthday, resides in the household of the woman, and the woman remains eligible for such assistance. In this situation, an application is deemed to have been made and the child found eligible for MA as of the date of birth;

(9) Effective June 1, 1987, individuals in institutions meeting appropriate patient status criteria who (if not institutionalized) would not be eligible for supplemental security income (SSI) or optional state supplementation benefits due to income, may be eligible under a special income level which is set at 300 percent of the SSI benefit amount payable for an individual with no income. Eligibility for similar hospice participants and similar participants in the waiver projects of home and community based services for the mentally retarded and the aged, blind or disabled may also be determined under this provision. Eligibility of an individual whose gross income exceeds 300 percent of the previously specified SSI benefit amount may not be determined in accordance with this provision;

(10) Effective July 1, 1987, qualified severely impaired individuals as specified in Section 9404 of P.L. 99-509 and Sections 2, 3 and 4 of P.L. 99-643 (to the extent such coverage is mandatory in this state);

(11) Effective July 1, 1987, individuals who lose SSI eligibility but would be eligible for SSI benefits except for entitlement to or an increase in child's insurance benefits based on disability as specified in Section 6 of P.L. 99-643; and

(12) Effective October 1, 1987, women during pregnancy (and as though pregnant through the end of the month containing the 60th day of a period beginning on the last day of pregnancy), and infants and children under two (2) years of age, as permitted by Section 9401 of the Omnibus Budget Reconciliation Act of 1986, subject to the following:

(a) Such pregnant women, infants and children are required to meet the income and resource requirements for this eligibility group as specified in 907 KAR 1:004, Resource and income standard of medically needy; and

(b) When an infant or child eligible under this provision is receiving covered inpatient services on a birthday which will make him/her ineligible due to age, the infant or child will remain eligible until the end of the stay for which the covered inpatient services are furnished so long as the infant or child remains otherwise eligible except for age.

Section 2. The Medically Needy. Other individuals (including children as shown in Section 1(7) of this regulation), and pregnant women meeting income and resource standards of the medically needy program), meeting technical requirements comparable to the categorically needy group, but with sufficient income to meet their basic maintenance needs may apply for MA with need determined in accordance with income and resource standards prescribed by regulation of the Cabinet for Human Resources. Included within the medically needy eligible groups are pregnant women during the course of their pregnancy; a woman who, while pregnant, is eligible for, has applied for, and has received medical assistance, shall continue to be eligible as though she were pregnant until the end of the month containing the 60th day of a period beginning on the last day of her pregnancy (i.e., the day on which her child is born or the pregnancy is otherwise terminated). For individuals covered on January 1, 1985 pursuant to this section, the usual three (3) month rule on retroactivity (as shown in Section 3(15)) will apply.

Section 3. Technical Eligibility Requirements. Technical eligibility factors of families and individuals included as categorically needy under Section 1(1) through (6) of this regulation, or as medically needy under Section 2 of this regulation are:

(1) Children in foster care, private institutions, psychiatric hospitals or mental retardation institutions must be under eighteen (18) years of age (or under age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before age nineteen (19));

(2) Pregnant women are eligible only upon medical proof of pregnancy, except as otherwise specified in Section 2 of this regulation;

(3) Unemployment relating to eligibility of both parents and children is defined as:

(a) Employment of less than 100 hours per month, except that the hours may exceed that standard for a particular month if the work is intermittent and the excess is of a temporary nature as evidenced by the fact that the individual was under the 100 hour standard for the prior two (2) months and is expected to be under the standard during the next month;

(b) The individual has prior labor market attachment consisting of earned income of at least fifty (50) dollars during six (6) or more calendar quarters ending on March 31, June 30, September 30, or December 31, within any thirteen (13) calendar quarter period ending within one (1) year of application, or the individual within twelve (12) months prior to application received unemployment compensation;

(c) The individual is currently receiving or has been found ineligible for unemployment compensation;

(d) The individual is currently registered for employment at the state employment office, and available for full-time employment;

(e) The unemployed parent must not have refused suitable employment without good cause as determined in accordance with 45 CFR Section 233.100(a)(3)(ii);

(f) The unemployed parent must meet the requirements for independent employment search as specified herein. That is:

1. The unemployed parent must make not less than twenty-four (24) contacts with prospective employers in each three (3) month period following an approval, reinvestigation or reapproval.

2. The unemployed parent may not contact the same prospective employer more than once in each calendar month.

3. If the unemployed parent does not meet the requirement for the minimum number of employment contacts during the three (3) month period, the parent may, prior to or upon receipt of the advance notice of proposed discontinuance, meet the requirement for the number of contacts for the prior three (3) month period. These contacts shall not offset the requirement for employer contacts during the three (3) month period following the next approval, reinvestigation or reapproval.

(4) Under the definition contained in subsection (3) of this section, a parent shall not be considered as unemployed if he is:

(a) Temporarily unemployed due to weather conditions or lack of work when it is anticipated he can return to work within thirty (30) days; or

(b) On strike, or unemployed as a result of involvement in a labor dispute when such involvement would disqualify the individual from eligibility for unemployment insurance in accordance with KRS 341.360; or

(c) Unemployed because he voluntarily quit his most recent work for the purpose of attending school; or

(d) A farm owner or tenant farmer, unless he has previously habitually required and secured outside employment and currently is unable to secure outside employment; or

(e) Self-employed and not available for full-time employment.

(5) An aged individual must be at least sixty-five (65) years of age.

(6) A blind individual must meet the definition of blindness as contained in Titles II and XVI of the Social Security Act relating to RSDI and SSI.

(7) A disabled individual must meet the definition of permanent and total disability as contained in Titles II and XVI of the Social Security Act relating to RSDI and SSI.

(8) For families losing AFDC eligibility solely because of increased earnings or hours of employment, medical assistance shall continue for four (4) months to all such family members as were included in the family grant (and children born during the four (4) month period) if the family was eligible for and received AFDC in any three (3) or more months during the six (6) month period immediately preceding the month in which it became ineligible for AFDC. The four (4) month period begins on the date AFDC is terminated. If AFDC benefits are paid erroneously for one (1) or more months in such a situation, the four (4) month period begins with the first month in which AFDC was erroneously paid, i.e., the month in which the AFDC should have been terminated.

(9) Families losing AFDC eligibility solely due to loss of the thirty (30) dollars disregard or the one-third (1/3) disregard from earnings shall be deemed AFDC eligible for nine (9) months after the termination of the disregard, and shall as a result be eligible for continued medical assistance for the nine (9) month period. The nine (9) month period begins on the date the AFDC should have been terminated. Coverage for medical assistance is extended to all family members who were included in the grant (and children born during the nine (9) month period).

(10) Families losing AFDC eligibility as a result (wholly or partly) of the collection or increased collection of child or spousal support, and who were eligible for and received AFDC in at least three (3) of the six (6) months immediately preceding the month in which such ineligibility begins, shall be deemed AFDC eligible for Title XIX purposes for four (4) months beginning with the month in which ineligibility begins. If AFDC benefits are paid erroneously for one (1) or more months in such a situation, the four (4) month period begins with the first month in which AFDC was erroneously paid, i.e., the month in which the AFDC should have been terminated. Coverage for medical assistance is extended to all family members losing eligibility as a result of the receipt of the child or spousal support. The extended eligibility provision contained herein is applicable only with respect to families discontinued on or after July 18, 1984 and before October 1, 1988.

(11) Parents may be included for assistance in the cases of families with children including natural and adoptive parents. Other relatives who may be included in the case (one (1) only) are caretaker relatives to the same extent they may be eligible in the Aid to Families with Dependent Children Program.

(12) An applicant who is deceased may have eligibility determined in the same manner as if he was alive, in order to pay medical bills during the terminal illness.

(13) Children of the same parent, i.e., a "common" parent, residing in the same household shall be included in the same case unless this acts to preclude eligibility of an otherwise eligible household member. Effective April 1, 1986, for new approvals and at time of reinvestigation for other cases, the family unit must be determined in the same manner as is required for AFDC cases, except that if a family member(s) is pregnant the unborn child(ren) will be considered as a family member(s) for budgeting purposes.

(14) The following citizenship and/or residency requirements will be applicable:

(a) 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 (except as specified in paragraph (b) of this subsection). An alien must have been admitted for permanent residence except as shown in paragraphs (b), (c) and (d) of this subsection. 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 recipients of a state supplementary payment and institutionalized individuals. The conditions for determining state residency are specified in federal regulations at 42 CFR 435.403, which are hereby incorporated by reference.

(b) Effective January 1, 1987, an alien not legally admitted to this country or residing in this country under color of law may be eligible for medical assistance under the following circumstances and conditions:

1. The alien must meet all other requirements for receipt of medical assistance, however, an alien qualifying as a categorically needy recipient need not actually receive an AFDC or federal supplemental security income (SSI) cash payment so long as the alien meets the income resource and categorical requirements of the applicable cash assistance program;

2. The alien must have (or have had within the usual period for retroactive eligibility) an emergency medical condition, defined as a medical condition (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy, serious impairment to bodily functions or serious dysfunction of any bodily organ or part;

3. Approval of eligibility shall be for a time limited period, with such period to include the month in which the medical emergency began and the next following month, with the added provision that the eligibility period may be extended for an appropriate period of time upon presentation to the cabinet of acceptable documentation that the medical emergency will exist for a more extended period of time than is allowed for in the time limited eligibility period; and

4. The medical assistance to which the alien shall be entitled is limited to the medical care and services (including limited follow-up) necessary for the treatment of the emergency medical condition of the alien.

(c) Effective May 5, 1987, select groups of aliens who are illegally residing in this country may qualify for legalization of residence status under Section 201 of P.L. 99-603. Such aliens are prohibited from Medicaid eligibility for a period of five (5) years (beginning on the date temporary resident status is granted) except as follows:

1. The aged, blind or disabled may be eligible;

2. Children under age eighteen (18) may be eligible;

3. Pregnant women may be eligible for pregnancy related services only; and

4. All such aliens may qualify for emergency services to the extent specified in paragraph (b) of this subsection and with the limitations shown therein.

(d) Effective June 1, 1987, aliens qualifying for legalization of status as seasonal agricultural workers under Section 302 of P.L. 99-603 are subject to the same coverage limitations as shown in paragraph (c) of this subsection.

(15) An individual may be determined eligible for medical assistance for up to three (3) months prior to the month of application if all conditions of eligibility are met. The effective date of medical assistance is generally the first day of the month of eligibility. For individuals eligible on the basis of unemployment, eligibility may not exist for the thirty (30) day period following the starting date of the unemployment. In these cases, the effective date of eligibility may be as early as the first day following the end of the thirty (30) day period if all other conditions of eligibility are met. For individuals eligible on the basis of desertion, a period of desertion must have existed for thirty (30) days, and the effective date of eligibility may not precede the first day of the month in which the thirty (30) day period ends. For individuals eligible on the basis of utilizing their excess income for incurred medical expenses, the effective date of eligibility is the day the spend-down liability is met.

(16) "Child" means a needy dependent child under the age of eighteen (18) (or under age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before the age nineteen (19)), who is not otherwise emancipated, self-supporting, married, or a member of the armed forces of the United States, and who is a recipient of or applicant for public assistance. Included within this definition is an individual(s) meeting the age requirement specified above, previously emancipated, who has returned to the home of his parents, or to the home of another relative, so long as such individual is not thereby residing with his spouse.

(17) Benefits shall be denied to any family for any month in which any legally liable caretaker relative with whom the child is living is, on the last day of such month, participating in a strike, and no individual's needs shall be considered in determining eligibility for medical assistance for the family if, on the last day of the month, such individual is participating in a strike. The definition of a strike includes a strike or other concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees.

(18) Effective May 1, 1987, an individual sanctioned (removed) from an AFDC case due to failure to meet an AFDC technical eligibility requirement may not be eligible for medical assistance as a medically needy individual unless such individual is separately eligible for medical assistance without regard to eligibility as a member of the group from which such individual has been sanctioned.

Section 4. Institutional Status. No individual shall be eligible for MA if a resident or inmate of a nonmedical public institution. No individual shall be eligible for MA while a patient in a state tuberculosis hospital unless he has reached age sixty-five (65). No individual shall be eligible for MA while a patient in a mental hospital or psychiatric facility [state institution for mental illness] unless he is under age twenty-one (21) or age twenty-two (22) if receiving such inpatient services on his/her 21st birthday [eighteen (18) (or under age nineteen (19) if a full-time student in a secondary school or the equivalent level of vocational or technical training and if expected to complete the program before age nineteen (19))] or is sixty-five (65) years of age or over. No individual shall be eligible for MA while a patient in a skilled nursing facility or intermediate care facility classified by the Medicaid program as an institution for mental diseases unless such individual has reached age sixty-five (65).

Section 5. Emergency Shelters. Effective July 1, 1985, an individual (or family group) who is in an emergency shelter for a temporary period of time may be eligible for medical assistance even though the shelter is considered a public institution under certain conditions. These conditions are as follows:

(1) The individual (or family group) must be a resident of an emergency shelter no more than three (3) months in any twelve (12) month period.

(2) The individual (or family group) must not be in the facility serving a sentence imposed by

the court, or awaiting trial.

(3) The individual (or family group) must be otherwise eligible when outside the emergency shelter; that is, eligibility must have existed immediately prior to admittance to the shelter, or it must exist immediately after leaving the shelter.

Section 6. Application for other Benefits. As a condition of eligibility for medical assistance, applicants and recipients must apply for all annuities, pensions, retirement and disability benefits to which they are entitled, unless they can show good cause for not doing so. Good cause is considered to exist when such benefits have previously been denied with no change of circumstances, or the individual does not meet all eligibility conditions. Annuities, pensions, retirement and disability benefits include, but are not limited to, veterans' compensations and pensions, retirement and survivors disability insurance benefits, railroad retirement benefits, and unemployment compensation. Notwithstanding the preceding, no applicant or recipient shall be required to apply for federal benefits when the federal law providing for such benefits shows the benefit to be optional and that the potential applicant or recipient for such benefit need not apply for such benefit when to do so would, in his opinion, act to his disadvantage.

Section 7. Assignment of Rights to Medical Support. By accepting assistance for or on behalf of a child, a recipient is deemed to have made an assignment to the Cabinet for Human Resources of any medical support owed for the child not to exceed the amount of medical assistance payments made on behalf of the recipient.

Section 8. Third Party Liability as a Condition of Eligibility. Any individual applying for or receiving medical assistance shall be required as a condition of eligibility to cooperate with the Cabinet for Human Resources in identifying, and providing information to assist the cabinet in pursuing, any third party who may be liable to pay for care or services available under the Medicaid Program unless such individual has good cause for refusing to cooperate as determined by the cabinet taking into consideration the best interests of the individuals involved. A failure of the individual to cooperate without good cause shall result in ineligibility of the individual.

Section 9. Provision of Social Security Numbers. Beginning May 1, 1985, each applicant for or recipient of medical assistance shall be required to provide a social security number as a condition of eligibility. However, no one shall be denied eligibility or discontinued from eligibility due to a delay in receipt of a social security number from the Social Security Administration when appropriate application for such number has been made. For recipients, the requirement shall be effective with the first full reinvestigation occurring on or after May 1, 1985.

Section 10. Effective Date. The amendment to this regulation will be effective with regard to determinations of eligibility made on or after May 1, 1988.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 29, 1988
FILED WITH LRC: April 4, 1988 at 1 p.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Roy Butler
(1) Type and number of entities affected: 90 to 95 recipients in 2 state operated intermediate care facilities.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: $250,000 (savings)
2. Continuing costs or savings: $250,000 (savings)
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Not applicable for Medicaid regulations.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:013. Payments for [acute care and mental] hospital inpatient services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 194.050
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented by federal law for the provision of medical assistance to Kentucky's

indigent citizenry. This regulation sets forth the method for determining amounts payable by the cabinet for [acute care and mental] hospital inpatient services.

Section 1. Acute Care Hospital, Rehabilitation Hospital and Mental Hospital (Including Psychiatric Facility) Inpatient Services. The state agency will pay for inpatient hospital services provided to eligible recipients of Medical Assistance through the use of rates that are reasonable and adequate to meet the costs that must be incurred by efficiently and economically operated hospitals to provide services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

Section 2. Establishment of Payment Rates. The policies, methods, and standards to be used by the cabinet in setting payment rates are specified in the cabinet's "Inpatient Hospital Reimbursement Manual" revised April 1, 1988 [January 1, 1987], which is incorporated herein by reference. For any reimbursement issue or area not specified in the manual, the cabinet will apply the Medicare standards and principles described in 20 CFR Sections 405.402 through 405.488 (excluding the Medicare inpatient routine nursing salary differential).

Section 3. Compliance with Federal Medicaid Requirements. The cabinet will comply with the requirements shown in 42 CFR 447.250 through 447.280.

Section 4. General Description of the Payment System. (1) Use of prospective rates. Each hospital will be paid using a prospective payment rate based on allowable Medicaid costs and Medicaid inpatient days. The prospective rate will be all inclusive in that both routine and ancillary cost will be reimbursed through the rate. For universal rate years prior to January 1, 1985 the prospective rate will not be subject to retroactive adjustment except to the extent that an audited cost report alters the basis for the prospective rate and/or the projected inflation index utilized in setting the individual rate is different from actual inflation as determined by the index being used. For universal rate years beginning on or after January 1, 1985, the prospective rate will not be subject to retroactive adjustment except to the extent that facilities with a rate based on unaudited data will have their rate appropriately revised for the rate year when the audited cost report is received from the fiscal intermediary. However, total prospective payments shall not exceed the total customary charges in the prospective year. Overpayments will be recouped by payment from the provider to the cabinet of the amount of the overpayment, or alternatively, by the withholding of the overpayment amount by the cabinet from future payments otherwise due the provider.

(2) Use of a uniform rate year. A uniform rate year will be set for all facilities, with the rate year established as January 1 through December 31 of each year. The first uniform rate year for mental hospitals shall be July 1, 1985 through June 30, 1986; however, effective January 1, 1986 the mental hospital rate year shall be reestablished and shall be January 1 through December 31 of each year thereafter. Changes of rates throughout the rate year as a result of policy changes shall not change the rate year, although the facility rates may change. Hospitals are not required to change their fiscal years.

(3) Trending of cost reports. Allowable Medicaid cost as shown in cost reports on file in the cabinet, both audited and unaudited, will be trended to the beginning of the rate year so as to update Medicaid costs. When trending, capital costs and return on equity capital are excluded. The trending factor to be used will be the Data Resources, Inc. rate of inflation for the period being trended.

(4) Indexing for inflation. After allowable costs have been trended to the beginning of the rate year, an indexing factor is applied so as to project inflationary cost in the uniform rate year. The forecasting index currently in use is prepared by Data Resources, Inc. This policy shall be effective August 3, 1985.

(5) Peer grouping. Acute care hospitals (but not including those considered to be primarily rehabilitative in nature) will be peer grouped according to bed size. The peer groupings for the payment system will be: 0-50 beds, 51-100 beds, 101-200 beds, 201-400 beds, and 401 beds and up (except that the designated state teaching hospitals affiliated with or a part of the University of Kentucky and the University of Louisville shall not be included in the array for facilities with 401 beds and up unless such facility's primary characteristics are considered essentially the same as the peer group's, and the facility, although not a university teaching hospital as such, is treated in such a manner as to recognize the presence of the major pediatric teaching component existing outside the state university hospitals). No facility in the 201-400 peer group shall have its operational per diem reduced below that amount in effect in the 1982 rate year as a result of the establishment of a peer grouping of 401 beds and up. Mental hospitals will not be peer grouped but will have a separate array of mental hospitals only. Rehabilitation hospitals and acute care hospitals considered to be primarily rehabilitative in nature will not be peer grouped or arrayed.

(6) Use of a minimum occupancy factor. A minimum occupancy factor will be applied to capital costs attributable to the Medicaid program. A sixty (60) percent occupancy factor will apply to hospitals with 100 or fewer beds. A seventy-five (75) percent occupancy factor will apply to facilities with 101 or more beds. Capital costs are interest and depreciation related to plant and equipment.

(7) Use of a reduced depreciation allowance. The allowable amount for depreciation on building and fixtures (not including major movable equipment) shall be sixty-five (65) percent of the reported depreciation amount as shown in the hospital's cost reports. The use of a reduced depreciation allowance is not applicable with regard to mental hospitals.

(8) Use of upper limits. For acute care hospitals, an upper limit will be established on all costs (except Medicaid capital cost) at the weighted median per diem cost for hospitals in each peer group, using the most recent medicaid cost report available as of December 1 of each year. For mental hospitals, an upper limit will be established on all costs (except Medicaid capital cost) at the weighted median per diem

cost for hospitals in the array. Upon being set, the arrays and upper limits will not be altered due to revisions or corrections of data; however the arrays and/or upper limits may be changed as a result of changes of agency policy. The upper limit is established at 120 percent for those acute care hospitals serving a disproportionate number of poor patients (defined as twenty (20) percent or more Medicaid clients as compared to the total number of clients served) and the upper limit is established at 115 [105] percent for those mental hospitals serving a disproportionate number of poor patients (defined as thirty-five (35) percent or more Medicaid clients as compared to the total number of clients served). For the designated state teaching hospitals affiliated with or a part of the University of Kentucky and the University of Louisville, and major pediatric teaching hospitals affiliated thereto, their upper limit shall recognize their status as teaching hospitals traditionally serving a disproportionate number of poor patients, and shall be set at 126 percent of the median of the array for all other hospitals of comparable size (401 beds and up). Such major pediatric teaching hospitals shall also be paid, in addition to the facilities' base rate, an amount which is equal to two (2) percent of the base for each one (1) percent of Medicaid occupancy.

(9) Operating costs shall not include professional (physician) costs for purposes of establishing the median based upper limits. Professional costs shall be trended separately.

(10) Hospitals whose general characteristics are not those of an acute care or mental hospital (i.e., because they are rehabilitation hospitals or acute care hospitals considered to be primarily rehabilitative in nature) are not subject to the operating cost upper limits.

(11) Rate appeals. As specified in the Inpatient Hospital Reimbursement Manual, hospitals may request an adjustment to the prospective rate with the submittal of supporting documentation. The established appeal procedure allows a representative of the hospital group to participate as a member of the rate review panel.

Section 5. Payments to Participating Out-of-state Hospitals. Participating out-of-state hospitals, except those where the other state's Medicaid Program pays on the basis of diagnosis related groupings, shall be reimbursed for covered services rendered eligible Kentucky Medicaid recipients at the lower of the rate paid by the other state's Medicaid Program or the upper limit for Kentucky hospitals in a peer group for hospitals of comparable size (or total array, in the instance of mental hospitals), except that payments shall not exceed charges. For those participating out-of-state hospitals where the other state's Medicaid Program pays on the basis of diagnosis related groupings, reimbursement for covered services rendered eligible Kentucky Medicaid recipients shall be at the lower of eight (80) percent of the hospital's covered charges or the upper limit for Kentucky hospitals in a peer group for hospitals of comparable size. The operating cost upper limits shall be appropriately adjusted to include capital costs. The appropriate amount to include for capital costs shall be the average allowable per diem capital cost for the peer group (not adjusted for occupancy). Professional costs (i.e., physician fees) shall be paid on the basis of the usual and customary charges of the provider.

Section 6. The amendments shown herein shall be effective with regard to payments for services rendered April 1, 1988 [January 1, 1987], and thereafter.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 29, 1988
FILED WITH LRC: April 4, 1988 at 1 p.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Roy Butler
(1) Type and number of entities affected: One mental hospital.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: $200,000 (costs)
2. Continuing costs or savings: $200,000 (costs)
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Not applicable for Medicaid regulations.

*COMPILER'S NOTE: The postmark deadline for the request referred to in Section 5(2) was amended from fifteen (15) to twenty (20) days in 1984. However, at that time the compiler failed to make that amendment and it has been changed accordingly in this version of the regulation.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:036. Amounts payable for skilled nursing and intermediate care facility services.

RELATES TO: KRS 205.520
PURSUANT TO: KRS 194.050
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed, or opportunity presented, by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the method for determining amounts payable by the cabinet for skilled nursing care facility services and intermediate care facility services.

Section 1. Reimbursement for Skilled Nursing and Intermediate Care Facilities. All skilled nursing or intermediate care facilities participating in the Title XIX program shall be reimbursed in accordance with this regulation. Payments made shall be in accordance with the requirements set forth in 42 CFR 447.250 through 42 CFR 447.280. A skilled nursing facility desiring to participate in Title XIX shall be required to participate in Title XVIII-A.

Section 2. Basic Principles of Reimbursement. (1) Payment shall be on the basis of rates which are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable state and federal laws, regulations, and quality and safety standards.

(2) Payment amounts shall be arrived at by application of the reimbursement principles developed by the cabinet (Kentucky Medical Assistance Program Intermediate Care/Skilled Nursing Facility Reimbursement Manual, revised <u>May 1, 1988</u> [July 1, 1987]) and supplemented by the use of the Title XVIII-A reimbursement principles.

Section 3. Implementation of the Payment System. The cabinet's reimbursement system is supported by the Title XVIII-A Principles of Reimbursement, with the system utilizing such principles as guidelines in unaddressed policy areas. The cabinet's reimbursement system includes the following specific policies, components or principles:

(1) Prospective payment rates for routine services shall be set by the cabinet on a facility by facility basis, and shall not be subject to retroactive adjustment. Prospective rates shall be set annually, and may be revised on an interim basis in accordance with procedures set by the cabinet. An adjustment to the prospective rate (subject to the maximum payment for that type of facility) will be considered only if a facility's increased costs are attributable to one (1) of the following reasons: governmentally imposed minimum wage increases; the direct effect of new licensure requirements or new interpretations of existing requirements by the appropriate governmental agency as issued in regulation or written policy which affects all facilities within the class; or other governmental actions that result in an unforeseen cost increase. The amount of any prospective rate adjustment may not exceed that amount by which the cost increase resulting directly from the governmental action exceeds on an annualized basis the inflation allowance amount included in the prospective rate for the general cost area in which the increase occurs. For purposes of this determination, costs will be classified into two (2) general areas, salaries and other. The effective date of interim rate adjustment shall be the first day of the month in which the adjustment is requested or in which the cost increase occurred, whichever is later.

(2) The prospective rate shall not exceed, on a facility by facility basis, an administratively established maximum payment for that type of facility. The state will set a uniform rate year for SNFs and ICFs (July 1 - June 30) by taking the latest audited cost data available as of May 16 of each year and trending the facility costs to July 1 of the rate year. (Unaudited, partial year, and/or budgeted cost data may be used if a full year's audited data is unavailable. Unaudited reports are subject to adjustment to the audited amount, and will be used when an audited cost report ending within twenty-four (24) months of the 30th of April preceding the rate year is not available. Facilities paid on the basis of partial year or budgeted cost reports shall have their reimbursement settled back to allowable cost, with usual upper limits applied. Facilities beginning program participation on or after July 1, 1984 whose rates are subject to settlement back to cost will not be included in the arrays until such time as the facilities are no longer subject to cost settlement.) After allowable costs are indexed for inflation for the rate year, freestanding (nonhospital based) facilities will be arrayed and the maximum set at 102 percent of the median for the class (SNF or ICF). <u>Publicly operated skilled nursing and intermediate care facilities classified as institutions for mental diseases will not be subject to the administratively set upper limit and component limitations, although such facilities will be included in the arrays for purposes of establishing the applicable upper limits.</u> In recognition of the higher costs of hospital based SNFs, their upper limit shall be set at 135 percent of 102 percent of the median of allowable trended and indexed costs of all other SNFs, however, such upper limit shall not exceed 102 percent of the median of the array of allowable trended and indexed costs of hospital based SNFs. The maximum payment amounts will be adjusted each July 1, beginning with July 1, 1985, so that the maximum payment amount for the prospective uniform rate year will be at 102 percent of the median per diem allowable costs for the class (SNF or ICF) on July 1 of that year. For purposes of administrative ease in computations normal rounding may be used in establishing the maximum payment amount, with the maximum payment amount rounded to the nearest five (5) cents. Upon being set, the

arrays and upper limits will not be altered due to revisions or corrections of data. For ICF-MRs, there is no administratively established upper limit. Effective January 1, 1987, and continuing through the rate years beginning July 1, 1987, and July 1, 1988, the allowable cost for each facility shall include a patient care labor intensity factor of two and six-tenths (2.6) percent applied to that portion of the facilities' operating costs attributable (based on averages for the class of facility) to labor costs. This allowance is generally intended for the purpose of direct service staff improvements to enhance patient care. Effective with the rate year beginning on July 1, 1987, that portion of the facilities' operating costs attributable (based on averages for the class of facility) to labor costs shall be indexed for the rate year by a labor cost intensity factor based on the state employee annual salary increment; this indexing shall be in lieu of the usual indexing for inflation of such labor costs, however, the labor cost intensity factor shall be not less than the usual indexing factor and, if necessary, shall be increased to an amount equal to the usual indexing factor. This adjustment is designed to allow for salary and staffing improvements to improve patient care.

(3) The reasonable direct cost of ancillary services provided by the facility as a part of total care shall be compensated on a reimbursement cost basis as an addition to the prospective rate except for ventilator therapy services which shall be paid on a prospective rate basis. Ancillary services reimbursement shall be subject to a year-end audit, retroactive adjustment and final settlement. Ancillary costs may be subject to maximum allowable cost limits under federal regulations. Any percentage reduction made in payment of current billed charges shall not exceed twenty-five (25) percent, except in the instance of individual facilities where the actual retroactive adjustment for a facility for the previous year reveals an overpayment by the cabinet exceeding twenty-five (25) percent of billed charges, or where an evaluation by the cabinet of an individual facility's current billed charges shows the charges to be in excess of average billed charges for other comparable facilities serving the same area by more than twenty-five (25) percent. A refund will be requested from a facility if the amount paid to the facility for legend drugs, covered legend devices and nonlegend drugs, if applicable, exceeds the program's computed maximum allowable cost. The amount of refund will be determined by conducting a statistically accurate sample of the Medicaid patients for the facility's fiscal year. The percentage that a facility is over the computed maximum allowable cost will be multiplied by the amount paid by the program for drugs for the fiscal year under review.

(4) Interest expense used in setting the prospective rate is an allowable cost if permitted under Title XVIII-A principles and if it meets these additional criteria:

(a) It represents interest on long-term debt existing at the time the vendor enters the program or represents interest on any new long-term debt, the proceeds of which are used to purchase fixed assets relating to the provision of the appropriate level of care. If the debt is subject to variable interest rates found in balloon-type financing, renegotiated interest rates will be allowable. The form of indebtedness may include mortgages, bonds, notes and debentures when the principal is to be repaid over a period in excess of one (1) year; or

(b) It is other interest for working capital and operating needs that directly relates to providing patient care. The form of such indebtedness may include, but is not limited to, notes, advances and various types of receivable financing; however, short-term interest expense on a principal amount in excess of program payments made under the prospective rate equivalent to two (2) months experience based on ninety (90) percent occupancy or actual program receivables will be disallowed in determining cost;

(c) For both paragraphs (a) and (b) of this subsection, interest on a principal amount used to purchase goodwill or other intangible assets will not be considered an allowable cost.

(5) Compensation to owner/administrators will be considered an allowable cost provided that it is reasonable, and that the services actually performed are a necessary function. Compensation includes the total benefit received by the owner for the services he renders to the institution, excluding fringe benefits routinely provided to all employees and the owner/administrator. Payment for services requiring a licensed or certified professional performed on an intermittent basis will not be considered a part of compensation. "Necessary function" means that had the owner not rendered services pertinent to the operation of the institution, the institution would have had to employ another person to perform the service. Reasonableness of compensation will be based on total licensed beds (all levels).

(6) The allowable cost for services or goods purchased by the facility from related organizations shall be the cost to the related organization, except when it can be demonstrated that the related organization is in fact equivalent to any other second party supplier, i.e., a relationship for purposes of this payment system is not considered to exist. A relationship will be considered to exist when an individual or individuals possess five (5) percent or more of ownership or equity in the facility and the supplying business; however, an exception to the relationship will be determined to exist when fifty-one (51) percent or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(7) The amount allowable for leasing costs shall not exceed the amount which would be allowable based on the computation of historical costs, except that for general intermediate care facilities entering into lease/rent arrangements prior to April 22, 1976, intermediate care facilities for the mentally retarded entering into lease/rent arrangements prior to February 23, 1977, and skilled nursing facilities entering into lease/rent arrangements prior to December 1, 1979, the cabinet will determine the allowable costs of such arrangements based on the general reasonableness of such costs.

(8) The following provisions are applicable with regard to median per diem cost center upper limits:

(a) For facilities (except ICF-MRs) beginning participation in the Medicaid program on or

after April 1, 1981, (and classified as newly participating facilities for purposes of this subsection), the following upper limits (within the class) shall be applicable with regard to otherwise allowable per diem costs, by cost center: for nursing services, 125 percent of the median; for dietary services, 125 percent of the median; for capital costs, 105 percent of the median; and for all other costs, 105 percent of the median.

(b) Facilities participating in the Medicaid program prior to April 1, 1981, shall be classified as newly participating facilities (solely for purposes of this subsection) when either of the following occurs on or after April 1, 1981: first, when the facility expands its bed capacity by expansion of its currently existing plant or, second, when a multilevel facility (one providing more than one (1) type of care) converts existing personal care beds in the facility to either skilled nursing or intermediate care beds, and the number of additional or converted personal care beds equals or exceeds (in the cumulative) twenty-five (25) percent of the Medicaid certified beds in the facility as of March 31, 1981; however, as an exception to the conditions specified in this subsection a facility will not be considered as newly participating if it increases its certified bed capacity by no more than a cumulative total of thirty-five (35) beds (on or after April 1, 1981) so long as its new total certified bed capacity does not exceed sixty-five (65) beds. Facilities participating in the Medicaid program prior to April 1, 1981 shall not be classified as newly participating facilities solely because of changes of ownership.

(c) For purposes of application of this subsection the facility classes are basic intermediate care and skilled nursing care. The "median per diem cost" is the midpoint of the range of all facilities' costs (for the class) which are attributable to the specific cost center, which are otherwise allowable costs for the facilities' prior fiscal year, and which are adjusted by trending, indexing and the occupancy factor. The median for each cost center for each class shall be determined annually using the same cost data for the class which was used in setting the maximum payment amount. The Department for Medicaid Services shall notify all participating facilities of the median per diem cost center upper limits currently in effect.

(d) A facility may request that the Reimbursement Review Panel grant a waiver of its status as a newly participating facility based upon a presentation of facts showing that the provider had already incurred a substantial material financial obligation or binding commitment toward building or expanding a facility prior to April 1, 1981. The obtaining of a certificate of need shall not be construed, in itself, to be sufficient to justify approval of a waiver request, and a waiver, if granted, shall be applicable only with regard to that building or expansion for which the waiver was requested and approved.

(e) Intermediate care facilities for the mentally retarded (ICF-MRs) are not subject to the median per diem cost center upper limits shown in this subsection.

(9) Certain costs not directly associated with patient care will not be considered allowable costs. Costs which are not allowable include political contributions, travel and related costs for trips outside the state (for purposes of conventions, meetings, assemblies, conferences, or any related activities), specified vehicle costs as shown in the Reimbursement Manual, and legal fees for unsuccessful lawsuits against the cabinet. However, costs (excluding transportation costs) for training or educational purposes outside the state are allowable costs unless such costs are incurred by administrators or owners.

(10) To determine the gain or loss on the sale of a facility for purposes of determining a purchaser's cost basis in relation to depreciation and interest costs, the following methods will be used for changes of ownership occurring before July 18, 1984:

(a) Determine the actual gain on the sale of the facility.

(b) Add to the seller's depreciated basis two-thirds (2/3) of one (1) percent of the gain for each month of ownership since the date of acquisition of the facility by the seller to arrive at the purchaser's cost basis.

(c) Gain is defined as any amount in excess of the seller's depreciated basis as computed under program policies at the time of the sale, excluding the value of goodwill included in the purchase price.

(d) A sale is any bona fide transfer of legal ownership from an owner(s) to a new owner(s) for reasonable compensation, which is usually fair market value. Lease-purchase agreements and/or other similar arrangements which do not result in transfer of legal ownership from the original owner to the new owner are not considered sales until such time as legal ownership of the property is transferred.

(e) If an enforceable agreement for a change of ownership was entered into prior to July 18, 1984, the purchaser's cost basis will be determined in the manner set forth in paragraphs (a) through (d) of this subsection.

(11) Notwithstanding the provisions contained in subsection (10) of this section, or in any other section or subsection of this regulation or the "Kentucky Medical Assistance Program Intermediate Care/Skilled Nursing Facility Reimbursement Manual," the cost basis for any facility changing ownership on or after July 18, 1984 (but not including changes of ownership pursuant to an enforceable agreement entered into prior to July 18, 1984 as specified in subsection (10)(e) of this section) shall be determined in accordance with the methodology set forth herein for the reevaluation of assets of skilled nursing and intermediate care facilities.

(a) No increase will be allowed in capital costs.

(b) The allowable historical base for depreciation for the purchaser will be the lesser of the allowable historical cost of the seller less any depreciation allowed to the seller in prior periods, or the actual purchase price.

(c) The amount of interest expense allowable to the purchaser is limited to the amount that was allowable to the seller at the time of the sale.

(12) Each facility shall maintain and make available such records (in a form acceptable to the cabinet) as the cabinet may require to justify and document all costs to and services

performed by the facility. The cabinet shall have access to all fiscal and service records and data maintained by the provider, including unlimited on-site access for accounting, auditing, medical review, utilization control and program planning purposes.

(13) The following shall apply with regard to the annual cost report required of the facility:

(a) The year-end cost report shall contain information relating to prior year cost, and will be used in establishing prospective rates and setting ancillary reimbursement amounts.

(b) New items or expansions representing a departure from current service levels for which the facility requests prior approval by the program are to be so indicated with a description and rationale as a supplement to the cost report.

(c) Cabinet approval or rejection of projections and/or expansions will be made on a prospective basis in the context that if such expansions and related costs are approved they will be considered when actually incurred as an allowable cost. Rejection of items or costs will represent notice that such costs will not be considered as part of the cost basis for reimbursement. Unless otherwise specified, approval will relate to the substance and intent rather than the cost projection.

(d) When a request for prior approval of projections and/or expansions is made, absence of a response by the cabinet shall not be construed as approval of the item or expansion.

(14) The cabinet shall review each year-end cost report to determine the necessity for and scope of an [a field] audit in relation to routine and ancillary service cost. If an audit is not performed, the report will be settled without audit. If an audit is indicated, it will be either a limited-scope audit or a full field audit. An [A field] audit may be conducted for purposes of verifying cost to be used in setting the prospective rate or for purposes of adjusting prospective rates which have been set based on unaudited data; [field] audits may be conducted annually or at less frequent intervals. An [A field] audit of ancillary cost will be conducted as needed.

(15) Year-end adjustments of the prospective rate and a retroactive cost settlement will be made when:

(a) Incorrect payments have been made due to computational errors (other than the omission of cost data) discovered in the cost basis or establishment of the prospective rate.

(b) Incorrect payments have been made due to misrepresentation on the part of the facility (whether intentional or unintentional).

(c) A facility is sold and the funded depreciation account is not transferred to the purchaser.

(16) Reimbursement paid may not exceed the facility's customary charges to the general public for such services, except in the case of public facilities rendering inpatient services at a nominal charge (which may be reimbursed at the prospective rate established by the cabinet).

(17) The cabinet may develop and/or utilize methodology to assure an adequate level of care. Facilities determined by the cabinet to be providing less than adequate care may have penalties imposed against them in the form of reduced payment rates.

(18) Each facility shall submit the required data for determination of the prospective rate no later than sixty (60) days following the close of the facility's fiscal year. This time limit may be extended at the specific request of the facility (with the cabinet's concurrence).

(19) Each ICF which admits a recipient from an SNF during the period of September 1, 1985 through January 31, 1986 shall receive an incentive payment of seven (7) dollars and fifty (50) cents for each day of covered care rendered such recipient, subject to the following conditions:

(a) The recipient must meet SNF patient status criteria as of August 31, 1985 only because of nonavailability of an ICF bed, where the recipient is on the waiting list of an ICF; and

(b) The incentive payment may be paid for more than ninety (90) covered days of care only if all such days are prior to February 1, 1986.

(20) When a recipient in a SNF changes patient status (from SNF to ICF) on or after February 1, 1986 and is admitted to an ICF within the permitted transfer period for the recipient (i.e., while the recipient still qualifies for coverage at the skilled rate), the ICF shall receive an incentive payment of seven (7) dollars and fifty (50) cents for each day of covered care rendered the recipient; such incentive payment shall be paid for no more than ninety (90) days of care.

(21) The incentive payment referenced in subsections (19) and (20) of this section shall be paid without regard to maximum payment limitations shown elsewhere in this regulation.

(22) Effective September 26, 1985 (for services provided on or after September 1, 1985), a participating skilled nursing facility may be paid for care provided to Medicaid eligible patients who meet intermediate care patient status criteria subject to the following criteria or conditions:

(a) The payment will be made at the upper limit for payments to intermediate care facilities, or the skilled nursing rate for the facility if lower;

(b) The patient must be in the skilled nursing facility bed awaiting placement to an intermediate care bed; and

(c) The patient must have been reclassified from SNF patient status to ICF patient status; or, alternatively, the patient must meet ICF patient status criteria, and the appropriate representative of the Department for Social Services must certify that no ICF bed is available and that an emergency exists so that placement in the SNF bed offers the best alternative in the circumstances. Payment made based on the certification that no ICF bed is available and that an emergency exists may be made for no more than thirty (30) days; however, the certification and declaration of emergency may be renewed by the Department for Social Services as appropriate and payment may be made pursuant to such renewal.

(23) SNF's which on February 1, 1986 continued to care for recipients who were classified as meeting SNF patient status criteria as of August 31, 1985 only because of nonavailability of an ICF bed, where the recipient is on the waiting list of an ICF, may receive the usual SNF rate for those recipients subject to the following transitional reimbursement standards and criteria:

(a) The facility must file a letter of intent with the Cabinet for Human Resources, Office of the Secretary, 275 East Main Street, Fourth

Floor, Frankfort, Kentucky 40621 by January 31, 1986 (receipt in the cabinet is required) for downward conversion of the bed(s) in which the recipient(s) is residing.

(b) Any facility which files a letter of intent must submit to the Commission for Health Economics Control in Kentucky (CHECK) an appropriate certificate of need application for downward conversion of the skilled bed(s), no later than February 14, 1986, in order for the transitional reimbursement payments to continue.

(c) Payment under this transitional reimbursement provision shall continue only until such time as the Commission for Health Economics Control in Kentucky (CHECK) has acted on the application and any appropriate licensure action has been effected.

Section 4. Prospective Rate Computation. The prospective rate for each facility will be set in accordance with the following:

(1) Determine allowable prior year cost for routine services.

(2) The allowable prior year cost, not including fixed or capital costs, will then be trended to the beginning of the uniform rate year and increased by a percentage so as to reasonably take into account economic conditions and trends. Such percentage increase shall be known as an inflation factor.

(3) The unadjusted basic per diem cost (defined as the unadjusted allowable cost per patient per day for routine services) will then be determined by comparison of costs with the facility's occupancy rate (i.e., the occupancy factor) as determined in accordance with procedures set by the cabinet. The occupancy rate shall not be less than actual bed occupancy, except that it shall not exceed ninety-eight (98) percent of certified bed days (or ninety-eight (98) percent of actual bed usage days, if more, based on prior year utilization rates). The minimum occupancy rate shall be ninety (90) percent of certified bed days for facilities with less than ninety (90) percent certified bed occupancy. The cabinet may impose a lower occupancy rate for newly constructed or newly participating facilities, or for existing facilities suffering a patient census decline as a result of a competing facility newly constructed or opened serving the same area. The cabinet may impose a lower occupancy rate during the first two (2) full facility fiscal years an existing skilled nursing facility participates in the program under this payment system.

(4) Cost center median related per diem upper limits will then be applied as appropriate to the unadjusted basic per diem cost. The resultant adjusted amounts (and unadjusted amounts, as applicable) will be combined (or recombined) to arrive at the basic per diem cost (defined as the adjusted allowable cost per patient per day for routine services).

(5) To the basic per diem cost shall be added a specified dollar amount for investment risk and an incentive for cost containment in lieu of a return on equity capital, except that no return for investment risk shall be made to nonprofit facilities, and publicly owned and operated facilities shall not receive the investment or incentive return.

(a) Cost incentive and investment schedule for general intermediate care facilities:

(Effective 7-1-87)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$31.99 & below	$.92	$.58
32.00 - 32.99	$.86	$.50
33.00 - 33.99	$.78	$.41
34.00 - 34.99	$.70	$.32
35.00 - 35.99	$.61	$.21
36.00 - 36.99	$.51	$.09
37.00 - 37.87	$.35	-

Maximum Payment $37.87

(b) Cost incentive and investment schedule for intermediate care facilities for the mentally retarded:

(Effective 7-1-87)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$86.99 & below	$1.38	$.87
87.00 - 92.99	$1.29	$.75
93.00 - 98.99	$1.18	$.62
99.00 -104.99	$1.06	$.47
105.00 -110.99	$ .92	$.31
111.00 -116.99	$ .76	$.13
117.00 -123.49	$ .53	-

(c) Cost incentive and investment schedule for skilled nursing facilities:

(Effective 7-1-87)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$41.99 & below	$.92	$.58
42.00 - 43.99	.86	.50
44.00 - 45.99	.78	.41
46.00 - 47.99	.70	.32
48.00 - 49.99	.61	.21
50.00 - 51.99	.51	.09
52.00 - 54.00	.35	-

Maximum Payment $54.00*

*The maximum payment for hospital based skilled nursing facilities is set at $72.90.

(6) The prospective rate is then compared, as appropriate, with the maximum payment. If in excess of the program maximum, the prospective rate shall be reduced to the appropriate maximum payment amount. The maximum payment amounts have been set to be at or about 102 percent of the median of adjusted basic per diem costs for the class, recognizing that hospital based skilled nursing facilities have special requirements that must be considered. The cabinet has determined that the maximum payment rates shall be reviewed annually against the criteria of 102 percent of the median for the class and that adjustments to the payment maximums will be made effective July 1, 1985 and each July 1 thereafter. This policy shall allow, but does not require lowering of the maximum payments below the current levels if application of the criteria against available cost data should show

that 102 percent of the median is a lower dollar amount than has been currently set.

Section 5. Reimbursement Review and Appeal. Participating facilities may appeal cabinet decisions as to application of the general policies and procedures in accordance with the following:

(1) First recourse shall be for the facility to request in writing to the Director, Division of Reimbursement and Contracts, a reevaluation of the point at issue. This request must be received within forty-five (45) days following notification of the prospective rate or forwarding of the audited cost report by the program. The director shall review the matter and notify the facility of any action to be taken by the cabinet (including the retention of the original application of policy) within twenty (20) days of receipt of the request for review or the date of the program/vendor conference, if one is held, except that additional time may be taken as necessary to secure further information or clarification pertinent to the resolution of the issue.

(2) Second recourse shall be for the facility to request in writing to the Commissioner, Department for Medicaid Services, a review by a standing review panel to be established by the commissioner. This request must be postmarked within twenty (20) days following notification of the decision of the Director, Division of Reimbursement and Contracts. Such panel shall consist of three (3) members: one (1) member from the Division of Reimbursement and Contracts, one (1) member from the Kentucky Association of Health Care Facilities, and one (1) member from the Department for Medicaid Services (but not within the Division of Reimbursement and Contracts) as designated by the Commissioner, Department for Medicaid Services, with such designated member to act as chairperson of the review panel. A date for the reimbursement review panel to convene will be established within twenty (20) days after receipt of the written request. The panel shall issue a binding decision on the issue within thirty (30) days of the hearing of the issue, except that additional time may be taken as necessary to secure further information or clarification pertinent to the resolution of the issue. In carrying out the intent and purposes of the program the panel may take into consideration extenuating circumstances which must be considered in order to provide for equitable treatment and reimbursement of the provider. The attendance of the representative of the Kentucky Association of Health Care Facilities at review panel meetings shall be at the cabinet's expense.

Section 6. Definitions. For purposes of Sections 1 through 6 of this regulation, the following definitions shall prevail unless the specific context dictates otherwise.

(1) "Allowable cost" means that portion of the facility's cost which may be allowed by the cabinet in establishing the reimbursement rate. Generally, cost is considered allowable if the item of supply or service is necessary for the provision of the appropriate level of patient care and the cost incurred by the facility is within cost limits established by the cabinet, i.e., the allowable cost is "reasonable."

(2) "Ancillary services" means those direct services for which a separate charge is customarily made, and which except for ventilator therapy services are retrospectively settled on the basis of reasonable allowable cost at the end of the facilities' fiscal year. Ancillary services are limited to the following:

(a) Legend and nonlegend drugs, including indwelling catheters and syringes, and irrigation supplies and solutions utilized with those catheters regardless of how those supplies and solutions are utilized. Coverage and allowable cost payment limitations are specified in the cabinet's regulation on payment for drugs.

(b) Physical, occupational and speech therapy.

(c) Laboratory procedures.

(d) X-ray.

(e) Oxygen and other related oxygen supplies and inhalation therapy.

(f) Psychological and psychiatric therapy (for ICF/MR only).

(g) Ventilator therapy services, subject to the coverage limitations shown in the Reimbursement Manual.

(3) "Hospital based skilled nursing facilities" means those skilled nursing facilities so classified by Title XVIII-A.

(4) The "basic per diem cost" is the computed rate arrived at when otherwise allowable costs are trended and adjusted in accordance with the inflation factor, the occupancy factor, and the median cost center per diem upper limits.

(5) "Inflation factor" means the comparison of allowable routine service costs, not including fixed or capital costs, with an inflation rate to arrive at projected current year cost increases, which when added to allowable costs, including fixed or capital costs, yields projected current year allowable costs. The inflation factor shall be included for rates computed on August 3, 1985 and thereafter.

(6) "Incentive factor" means the comparison of the basic per diem cost with the incentive return schedule to arrive at the actual dollar amount of cost containment incentive return to be added to the basic per diem cost.

(7) "Investment factor" means the comparison of the basic per diem cost with the investment return schedule to arrive at the actual dollar amount of investment return to be added to the basic per diem cost.

(8) "Maximum allowable cost" means the maximum amount which may be allowed to a facility as reasonable cost for provision of an item of supply or service while complying with limitations expressed in related federal or state regulations.

(9) "Maximum payment" means the maximum amount the cabinet will reimburse, on a facility by facility basis, for routine services.

(10) "Occupancy factor" means the imposition of an assumed level of occupancy used in computing unadjusted basic per diem rates.

(11) "Prospective rate" means a payment rate of return for routine services based on allowable costs and other factors, and includes the understanding that except as specified such prospective rate shall not be retroactively adjusted, either in favor of the facility or the cabinet.

(12) "Routine services" means the regular room, dietary, medical social services, nursing services, minor medical and surgical supplies, and the use of equipment and facilities. Routine services include but are not limited to the following:

(a) All general nursing services, including administration of oxygen and related medications, handfeeding, incontinency care and tray services.

(b) Items which are furnished routinely and relatively uniformly to all patients, such as patient gowns, water pitchers, basins, and bed pans. Personal items such as paper tissues, deodorants, and mouthwashes are allowable as routine services if generally furnished to all patients.

(c) Items stocked at nursing stations or on the floor in gross supply and distributed or utilized individually in small quantities, such as alcohol, applicators, cotton balls, bandaids and tongue depressors.

(d) Items which are utilized by individual patients but which are reusable and expected to be available in an institution providing a skilled nursing or intermediate care facility level of care, such as ice bags, bed rails, canes, crutches, walkers, wheelchairs, traction equipment, and other durable medical equipment.

(e) Laundry services, including personal clothing to the extent it is the normal attire for everyday facility use, but excluding dry cleaning costs.

(f) Other items or services generally available or needed within a facility unless specifically identified as ancillary services. (Items excluded from reimbursement include private duty nursing services and ambulance services costs.)

(13) The first twenty (20) cents of cost of each disposable incontinent brief shall be considered to be ancillary costs when such briefs are provided upon a physician's orders, with the balance of the cost of such briefs considered to be routine costs.

Section 7. Implementation Date. The amendments to this regulation shall be effective on May 1, 1988 [July 1, 1987].

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 29, 1988
FILED WITH LRC: April 4, 1988 at 1 p.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Roy Butler
(1) Type and number of entities affected: Two intermediate care facilities will be directly impacted; any impact on other participating skilled nursing or intermediate care facilities is considered negligible.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: $430,000 (costs)
2. Continuing costs or savings: $430,000 (costs)
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Not applicable for Medicaid regulations.

PROPOSED REGULATIONS RECEIVED THROUGH APRIL 15, 1988

REVENUE CABINET
Department of Professional and Support Services

103 KAR 18:141. Current month payment of individual income tax withheld by larger withholders.

RELATES TO: KRS 141.330, 141.990
PURSUANT TO: KRS Chapter 13A
NECESSITY AND FUNCTION: Under authority of KRS 141.330, this regulation prescribes a procedure whereby employers, whose average monthly withholding of individual income tax for the previous calendar year exceeds $60,000, are required to remit on or before the 25th day of each month, all tax withheld but not remitted, through pay periods ending before the 18th day of that month.

Section 1. Taxpayers whose average monthly withholding of individual income tax exceeds $60,000, are required to remit with each monthly return to be filed on or before the 25th day of the month, the total amount of income tax withheld through the last pay period which ends prior to the 18th day of that month.

Section 2. This change in filing requirements is effective for the tax return that normally would be due fifteen (15) days after the end of August, 1988. Instead, those taxpayers identified in Section 1 of this regulation must file the August, 1988 return no later than September 25, 1988 and remit all taxes withheld from the time of the last remittance through the last pay period ending prior to the 18th day of September, 1988. After the initial return is filed under this procedure, returns will be due on or before the 25th day of each month and shall include payment of all taxes withheld since the last remittance through the last pay period ending prior to the 18th day of that month.

Section 3. The Revenue Cabinet shall review all employer accounts for the 1987 calendar year and all subsequent years and identify those employers who meet the $60,000 test based on the average monthly tax liability for that period. In determining the amount of tax due from a taxpayer for a reporting period, the cabinet shall consider the total amount due based on current tax reporting procedure. Changes in reporting procedure for the prupose of circumventing the requirements of this regulation will not be permitted. The cabinet shall notify such employers in writing of their obligation to start making payments as set out in Section 1 of this regulation at least forty (40) days in advance of the date that the first such payment is to be forwarded to the cabinet.

Section 4. Employers required to make payments as provided in Section 1 of this regulation shall continue such practice until notified otherwise in writing by the cabinet. Employers will be relieved of such responsibility only if their average monthly withholding liability is less than $55,000 for two (2) consecutive calendar years.

Section 5. The Revenue Cabinet shall develop procedures for implementing and administering this filing and payment program.

Section 6. Employers failing to comply with the provisions of this regulation shall be subject to penalties as provided in KRS 141.990(6)(a) and interest as provided in KRS 131.183.

C. EMMETT CALVERT, Secretary
APPROVED BY AGENCY: April 14, 1988
FILED WITH LRC: April 14, 1988 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation will be held on May 23, 1988, at 11 a.m. in Room 406 of the Capital Annex, Frankfort, Kentucky. If no written notice of intent to attend the public hearing is received within five (5) days before the scheduled hearing, the hearing will be cancelled. Those interested in attending shall notify in writing: Scott Akers, Revenue Cabinet, Division of Tax Policy and Legal Services, New Capital Annex Building, Frankfort, Kentucky 40620.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Scott Akers
(1) Type and number of entities affected: This income tax withholding regulation affects those employers whose monthly income tax withholding for 12 months exceeds $60,000. There are approximately 100 employers in this classification and they currently file withholding returns on a calendar basis.
(a) Direct and indirect costs or savings to those affected:
1. First year: Employers currently file withholding returns by the 15th of each month to report and pay tax withheld during the previous month. Thus, they have retained tax withheld for varying periods of time prior to filing returns by the 15th of the following month. The regulation does not increase taxpayer liability for tax withheld. This moves the filing date back from the 15th of the month to the 25th, and requires payment of tax withheld through the 17th of the month in which the report is filed. The costs associated with this change should not be significant.
2. Continuing costs or savings: Minimal
3. Additional factors increasing or decreasing costs (note any effects upon competition): A small amount of interest may be lost by taxpayers because of the speedup in remitting tax collected.
(b) Reporting and paperwork requirements: No significant change.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: Minimal
2. Continuing costs or savings: Minimal
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: Minimal
(3) Assessment of anticipated effect on state and local revenues: This regulation results in an increase in state revenue in the initial month of $8,000,000 which reflects an additional one-half month collection. There is no effect on local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Since statutory authority exists to revise filing and payment requirements by regulation, alternatives were not considered.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None known.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments:
TIERING: Was tiering applied? Yes

REVENUE CABINET
Department of Professional and Support Services

103 KAR 25:131. Current month payment of sales and use taxes by larger taxpayers.

RELATES TO: KRS 139.590, 139.980, 139.990
PURSUANT TO: KRS Chapter 13A
NECESSITY AND FUNCTION: In order to facilitate payment of the sales and use taxes levied in KRS Chapter 139, KRS 139.590 permits the Revenue Cabinet, within its discretion, to require tax payments for periods other than monthly. This regulation prescribes a procedure whereby any taxpayer whose average monthly sales and use tax liability exceeds $10,000 is required to remit by the 25th of each month, taxes applicable to the period commencing on the 16th of the previous month and extending through the 15th of the current month.

Section 1. Any taxpayer whose average monthly sales and use tax liability exceeds $10,000 must report and remit by the 25th of each month, sales and use taxes applicable to the period beginning on the 16th of the previous month and extending through the 15th of the current month.

Section 2. This change in filing requirements shall be effective for the tax return that normally would be filed on or before September 20, 1988. Instead, those taxpayers identified in Section 1 of this regulation must file the August, 1988 return no later than September 25, 1988, and remit tax for both the full month of August, 1988 and for the first fifteen (15) calendar days of September, 1988. The tax due for the first fifteen (15) days of September may be computed either on an actual basis or an estimated basis. If the taxpayer elects to use the estimated basis, the tax paid for the first fifteen (15) days of September cannot be less than one-half (1/2) of the total tax liability for the month of August, 1988. After the initial return is filed under this procedure, subsequent returns shall be due on or before the 25th of each month and shall include payment of tax covering the period from the 16th of the previous month through the 15th of the current month, with the fifteen (15) days of the current month reported on either an actual or estimated basis. The estimated amount cannot be less than one-half (1/2) the total tax computed for the previous calendar month before applying any credit for prepayment.

Section 3. Taxpayers shall make the election referred to in Section 2 of this regulation at the time of filing the initial return under this regulation, and shall continue to file on that basis unless a change is authorized in writing by the cabinet.

Section 4. The Revenue Cabinet shall review all taxpayer payments for the 1987 calendar year and all subsequent years and identify those taxpayers who meet the $10,000 test based on the average monthly tax liability for that period. In determining the amount of tax due from a taxpayer for a reporting period, the cabinet shall consider the total amount due based on current tax reporting procedure. Changes in reporting procedure for the purpose of circumventing the requirements of this regulation will not be permitted. The cabinet shall notify such taxpayers in writing of their obligation to begin remitting tax as set out in this regulation at least forty (40) days in advance of the date that the first such payment is to be forwarded to the cabinet.

Section 5. The Revenue Cabinet shall develop procedures for implementing and administering the payment program set out in this regulation. Taxpayers electing to "estimate" tax due shall be permitted to continue to report gross receipts, deductions, and purchases subject to use tax, on a calendar month basis with appropriate credit given for the tax already remitted for the first fifteen (15) days.

Section 6. Taxpayers required to remit tax as described in this regulation shall continue such practice until notified otherwise in writing by the cabinet. Taxpayers will be relieved of such responsibility only if their average monthly tax liability is less than $8,000 for two (2) consecutive calendar years.

Section 7. Taxpayers failing to comply with the provisions of this regulation shall be subject to penalties as provided in KRS 139.980 and interest as provided in KRS 131.183.

C. EMMETT CALVERT, Secretary
APPROVED BY AGENCY: April 14, 1988
FILED WITH LRC: April 14, 1988 at 10 a.m.
PUBLIC HEARING SCHEDULED: A public hearing on this regulation will be held on May 23, 1988, at 9:30 a.m. in Room 406 of the Capital Annex, Frankfort, Kentucky. If no written notice of intent to attend the public hearing is received within five (5) days before the scheduled hearing, the hearing will be cancelled. Those interested in attending shall notify in writing: Scott Akers, Revenue Cabinet, Division of Tax Policy and Legal Services, New Capital Annex Building, Frankfort, Kentucky 40620.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Scott Akers
(1) Type and number of entities affected: This sales and use tax regulation affects those taxpayers whose average monthly tax liability for 12 months exceeds $10,000. There are approximately 1,000 sales and use taxpayers in this classification and they currently file sales and use tax returns on a calendar month basis.
(a) Direct and indirect costs or savings to those affected:

1. First year: Taxpayers currently file sales and use tax returns by the 20th of each month for tax collected or the transactions occurring in the previous month. Thus, they have retained sales tax collected for varying periods of time. The regulation does not increase taxpayer sales and use tax liability, but will require reporting and payment of tax within ten days from the close of the reporting period instead of the current 20 days. Returns will be filed on the 25th of the month but will cover the period from the 16th of the previous month through the 15th of the current month. In the month of implementation, taxpayers electing to estimate tax for the first 15 days of the month as provided in the regulation would incur no additional expense. Those electing to report on an actual basis would incur some additional expense in determining taxable receipts, deductions, etc.

2. Continuing costs or savings: After implementation, there would be little or no additional administrative costs to the taxpayer.

3. Additional factors increasing or decreasing costs (note any effects upon competition): A small amount of interest may be lost by taxpayers because of the speedup in remitting tax collecting.

(b) Reporting and paperwork requirements: Only those taxpayers electing to report for the first 15 days on an "actual" basis would experience additional reporting and paperwork requirements - and then only in the month of implementation.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Minor additional administrative costs for form design and processing modifications.

2. Continuing costs or savings: Minimal

3. Additional factors increasing or decreasing costs: None

(b) Reporting and paperwork requirements: Minimal

(3) Assessment of anticipated effect on state and local revenues: The regulation results in an increase in state revenue in the initial month of $22,000,000 which reflects an additional one-half month collection. There is no effect on local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Since statutory authority exists to revise filing and payment requirements by regulation, alternatives were not considered.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? Yes

GENERAL GOVERNMENT CABINET
Board of Examiners of Psychologists

201 KAR 26:240. Requirements for temporary licensure and certification.

RELATES TO: KRS 319.032

PURSUANT TO: KRS 319.032

NECESSITY AND FUNCTION: This regulation permits psychologists to practice under conditions of temporary licensure and certification.

Section 1. (1) Upon acceptance of the application to sit for the examination in psychology, the applicant may practice psychology under the supervision of a licensed psychologist under conditions of temporary licensure established by the board. No applicant shall supervise certified psychologists or psychological assistants until he successfully completes all licensure requirements.

(2) Upon acceptance of the application to sit for the examination in psychology, the applicant may practice psychology under the supervision of a licensed psychologist under conditions of temporary certification established by the board.

KIM R. JONASON, Chair

APPROVED: April 11, 1988

FILED WITH LRC: April 13, 1988 at 2 p.m.

PUBLIC HEARING: A public hearing on this regulation will be held on May 24, 1988 at 10 a.m. local prevailing time at the offices of the Kentucky Board of Examiners of Psychologists, Berry Hill Annex, Frankfort, Kentucky 40601. Any person interested in commenting on this regulation at that hearing should contact Mr. David Nicholas, Executive Director, Division of Occupations and Professions, P.O. Box 456, Frankfort, Kentucky 40602, in writing by May 19, 1988.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: David Nicholas

(1) Type and number of entities affected: Approximately 900 licensees.

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: Minimal

(2) Effects on the promulgating administrative body: No significant effect.

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

(3) Assessment of anticipated effect on state and local revenues: N/A

(4) Assessment of alternative methods; reasons why alternatives were rejected: N/A

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: N/A

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments:

TIERING: Was tiering applied? N/A

DEPARTMENT OF AGRICULTURE

302 KAR 20:058. Brucellosis eradication.

RELATES TO: KRS Chapter 257
PURSUANT TO: KRS 257.110, 257.120, 257.480, 257.030
NECESSITY AND FUNCTION: To provide the procedure for enabling the Board of Agriculture to eliminate brucellosis by ordering the slaughtering or destruction of a bovine herd upon a determination of infection of or exposure to brucellosis within the herd. Such methods are necessary in order to achieve status of brucellosis free state.

Section 1. Definitions. As used in this regulation unless the context clearly requires: "Bovine herd" shall mean all cattle (genus Bos), bison, including calves maintained on common ground for any purpose of two (2) or more groups of cattle (genus Bos), bison under common ownership or supervision, geographically separated but which have an interchange or movement of animals without regard to health status.

Section 2. Procedures. (1) Whenever the State Board of Agriculture or its authorized agents determine that any bovine animal or herd is found to be infected with brucellosis, on the farm of origin, the board or its authorized agents shall order that the bovine animals or herd be slaughtered or destroyed within thirty (30) days of notification of the order to the owner with the exception of an infected herd which has had 100 percent of eligible bovine animals vaccinated as provided in 302 KAR 20:055, and has an infection rate of less than twenty (20) percent. In such event, a quarantine as set forth in 302 KAR 20:057 shall be placed upon the entire herd. If the infected herd has been 100% calfhood vaccinated and has a twenty (20) percent or greater rate of infection, the entire herd shall be slaughtered or destroyed.
(2) The board or its authorized agents shall order destruction of the animals described in Section 1 of this regulation as provided in KRS 257.110. This shall be done by notification to the owner of the order of destruction delivered to the owner or mailed to the owner's business address by certified mail.
(3) Indemnity for destroyed animals shall be paid per KRS 257.120(2) as availability of funds permits. Determination of payment shall be made by the state veterinarian in accordance with 302 KAR 20:056.
(4) In the event, an owner of an infected herd designated for slaughter feels the brucellosis testing is inaccurate, a request for retesting of the animals may be submitted. Said request must be made to the state veterinarian within ten (10) days of the date notification of the first test results were received by the owner as provided in KRS 257.115. Original notice to owners of cattle shall be sent by certified mail.

Section 3. Extension of Time. An additional thirty (30) days may be requested before destruction of the animals is completed upon written request and for good cause shown. The granting of the extension shall be done by the state veterinarian and under no circumstances shall more than one (1) extension be granted.

WARD "BUTCH" BURNETTE, Commissioner
APPROVED BY AGENCY: April 5, 1988
FILED WITH LRC: April 5, 1988 at 8 a.m.
PUBLIC HEARING: A public hearing on this regulation will be held on May 25, 1988, at 9:30 a.m. in the Seventh Floor Conference Room, Capital Plaza Tower, Frankfort, Kentucky. Those interested in attending this hearing shall contact: J. Michael Noyes, General Counsel, Department of Agriculture, Room 719, Capital Plaza Tower, Frankfort, Kentucky 40601. Unless written notification of intent to attend a public hearing is received by the promulgating agency at least five days before the hearing date, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Dr. Donald Notter, State Veterinarian
(1) Type and number of entities affected: Department of Agriculture
(a) Direct and indirect costs or savings to those affected:
1. First year: During the first year, direct costs for indemnity payment to the owners of the infected herds designated for slaughter or destruction has the potential of being sizeable. This direct cost should be immediately decreasing down to a very small cost which would actually be smaller than the anticipated cost for the depopulation program. For the balance of several years, the over-all costs will probably be lower than if the current program is continued, especially in view of decreasing federal money for indemnity payment which will necessitate the state picking up a larger portion of the payment. However, the immediate cost will almost certainly increase.
2. Continuing costs or savings: See above.
3. Additional factors increasing or decreasing costs (note any effects upon competition): The amount of federal dollars available for assisting in making indemnity payments will decrease in October, 1988 but some federal money is available at this time for assisting in indemnity payments. The harsh reality of the urgent need for Kentucky to eradicate brucellosis immediately before the economic sanction of total withdrawal of federal money as well as federal quarantine both of which occur in October, 1990.
(b) Reporting and paperwork requirements: The reporting/paperwork requirement of this proposed regulation would be slight. There would be an order to the owner of the herd ordering the destruction or quarantine. Also, there would be the paperwork for requests for retesting and for extension of time. All of the other paperwork requirements which will be utilized are already in place in other regulations.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: See discussion above.
2. Continuing costs or savings: See discussion above.
3. Additional factors increasing or decreasing costs: See discussion above.
(b) Reporting and paperwork requirements: See discussion above.
(3) Assessment of anticipated effect on state and local revenues: This regulation would have no direct impact as such upon state and local revenue but indirectly would have considerable

impact upon both. The vitality of the cattle industry has an impact upon the economic condition of the entire state. The better the beef market, the better the economy for local and state revenue. Conversely, should there be a severe negative impact upon the cattle industry, such as a federal quarantine, the effect would be felt throughout the entire state.

(4) Assessment of alternative methods; reasons why alternatives were rejected: A variety of alternative methods, (depopulation, quarantine, calfhood vaccination), have been tried to eradicate brucellosis in Kentucky, as well as expending a sizeable amount of money, without being able to lick the problem. We are faced with the need for decisive steps which will have an immediate positive impact. The time constraint under which Kentucky is now operating has given great urgency to the handling of the brucellosis problem.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Statutes and other regulations which are overlapping are: 302 KAR 20:055, 302 KAR 20:056, 302 KAR 20:057, KRS 257.110, KRS 257.115, KRS 257.120.

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

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

(6) Any additional information or comments:

TIERING: Was tiering applied? No. The regulation will apply evenly to the entire related industries.

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: The Kentucky Department of Agriculture has for a considerable length of time been party to a cooperative agreement with the United States Department of Agriculture aimed at the eradication of brucellosis. The cooperative agreement includes terms regarding federal assistance for funding the Kentucky program through October 1990. The withdrawal of federal funds as of that date gives great emphasis to the need to eradicate the disease but is not a mandate. 9 CFR 1, through 9 CFR 199 to apply to the movement of livestock but deals primarily with interstate movement. State regulations deal primarily with intrastate movement. Since standards for state brucellosis eradication are left primarily to state enforcement authorities, a comparison of state and federal standards cannot readily be made.

2. Does the proposed regulation impose stricter requirements or other responsibilities on the regulated entities than those required by the federal mandate: The regulation does not impose stricter standards than those required by a federal mandate. The standards for brucellosis eradication in Kentucky are matters of state law primarily and are not matters of fiducial law.

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

LABOR CABINET
Department of Workers' Claims
Workers' Compensation Board

803 KAR 25:011. Procedure in applications for adjustments of claims.

RELATES TO: KRS Chapter 342
PURSUANT TO: KRS Chapter 13A, 342.260
NECESSITY AND FUNCTION: KRS 342.260 requires the Workers' Compensation Board to prepare such rules and regulations as it considers necessary to carry on its own work and the work of the administrative law judges and for carrying out the provisions of KRS Chapter 342. The function of this proposed administrative regulation is to regulate practice and procedure before the administrative law judge.

Section 1. Definitions. (1) "Board" means the Workers' Compensation Board created pursuant to KRS 342.215(1).

(2) "Commissioner" means the individual employed by the board pursuant to KRS 342.230(2).

(3) "Administrative law judge" means an individual appointed pursuant to KRS 342.230(3).

(4) "Employer" means and includes individuals, partnerships, voluntary associations and corporations.

(5) "An employer who has not secured payment of compensation" means any employer who employs covered employees as defined by KRS 342.640, but has not complied with KRS 342.340.

(6) "Date of filing" means the date a pleading, motion or other document is received by the board at its office in Frankfort, Kentucky.

Section 2. Parties. (1) The parties to any application for adjustment of claim filed with the board pursuant to KRS 342.270 shall be designated as "plaintiff" and "defendant." The party filing the original application in such proceedings shall be designated as the "plaintiff" and the adverse party (parties) as "defendant" ("defendants").

(2) All parties shall join as plaintiffs in whom any right to any relief pursuant to KRS Chapter 342, arising out of the same transaction or occurrence, is alleged to exist. If any such person should refuse to join as a plaintiff, he shall then be joined as a defendant, and the fact of his refusal to join as a plaintiff shall be pleaded.

(3) All persons shall be joined as defendants against whom the ultimate right to any relief pursuant to KRS Chapter 342 may exist, whether jointly, severally, or in the alternative. The administrative law judge to whom the matter is assigned may order upon a proper showing that any additional party be joined when the administrative law judge deems the presence of the party necessary or that any party be dismissed when the administrative law judge deems the presence of the party unnecessary.

Section 3. Pleadings. (1) Any application for adjustment of claim for compensation, answer, and other pleading shall be typewritten and the printed forms prescribed by the board shall be used whenever applicable. All forms shall be furnished by the commissioner to any person who requests them, without charge.

(2) The original application for adjustment of claim shall be fully completed and filed in

triplicate with the commissioner. The original and sufficient copies for serving all named parties and the administrative law judge shall be furnished. The commissioner shall serve the application upon all named parties other than the plaintiff by certified mail. The commissioner shall return unfiled to the plaintiff or his attorney any application which is not fully completed or which does not have attached all forms required to be filed with the application. If the application is resubmitted in proper form within ten (10) days of the date it was returned by the commissioner, the filing date shall relate back to the date the application was first received by the commissioner. Otherwise the second date of receipt shall be the filing date.

(3) All pleadings filed with the commissioner subsequent to the original application shall include the certificate of the party or attorney who filed the pleading stating the date and manner of service of a copy of the pleading upon the other parties. Service of these pleadings shall be made in one of the ways provided by Rule 5.02, Kentucky Rules of Civil Procedure. Copies of all pleadings filed after the application has been assigned to an administrative law judge and the parties have received notice of the assignment shall also be served upon the administrative law judge at his office address and the certificate of service shall so show. Service of all pleadings and transcripts of proof by deposition upon the administrative law judge and the commissioner is required.

Section 4. Motions. (1) Every application for an order of the administrative law judge shall be by typewritten motion, served and filed in the manner prescribed by Section 3(3) of this regulation.

(2) When a motion is filed, the party may file with it a short memorandum supporting the motion and the opposing party may file a short memorandum in reply. No further memoranda in support of a motion may be filed.

(3) Every motion, the grounds of which depend upon the existence of facts not appearing in evidence at the time of the filing of the motion, shall be supported by affidavits evidencing such facts, which shall be served and filed with the motion. Contrary affidavits may likewise be served and filed by the opposing party.

(4) Every motion, the grounds of which depend upon the existence of one (1) or more facts which the movant contends are shown in evidence or are admitted by the pleading of the adverse party, shall contain a reference to the hearing transcript of deposition transcript containing the evidence, and to the page where it is to be found, or to the pleading containing the admission.

(5) A motion be considered by an administrative law judge ten (10) days after the date of filing of the motion. A response to a motion will be considered if filed prior to the tenth day after the date of filing of the motion.

(6) Every motion for the allowance of an attorney's fee shall be served upon the adverse party and also upon the attorney's client and the fact of such service certified as provided in Section 3(3) of this regulation. Every motion for the allowance of an attorney's fee shall set forth the amount of money requested and the percentage of the award represented by the fee. Every motion shall be accompanied by an affidavit of the attorney setting forth in detail the services rendered and the amount of time expended. Every motion shall also be accompanied by a completed Form 109 signed by the attorney and his client, and notarized, as required by KRS 342.320(3). Every motion for allowance of an attorney fee shall be submitted within thirty (30) days following finality of the last appealable order of the administrative law judge.

Section 5. Application for Adjustment of an Injury Claim. (1) The original application for adjustment of injury claim (Form 101) shall be filed with the following attachments:

(a) A complete work history of the plaintiff (Form 104);

(b) A complete medical history of the plaintiff (Form 105);

(c) One (1) medical report describing the injury which is the basis of the claim; and

(d) A signed waiver and consent to release medical information in compliance with KRS 342.020(4) (Form 106).

The medical report required to be filed under paragraph (c) of this subsection may consist of the notes of a treating physician and other materials provided by the physician so long as the notes and materials are legible. Medical reports presented in this form and not on Form 107 shall not be considered as the direct testimony of a physician through a medical report pursuant to KRS 342.033.

(2) A defendant may file an answer to the plaintiff's application for adjustment of an injury claim (Form 101) within twenty (20) days after the date of service upon him of the application, but no such answer is required and if none is filed, all of the allegations of the application will be deemed to be denied. If, however, an answer other than a special answer under subsection (3) of this section is filed, only those allegations which are specifically denied by the answer shall be deemed to be in disagreement.

(3) If any defendant in an application for adjustment of injury claim relies upon an affirmative special defense, he shall plead the defense in a special answer filed within twenty (20) days after the date of service upon him of the application, or within ten (10) days after the defense is discovered if the defense could not have been discovered earlier in the exercise of reasonable diligence. If in the exercise of reasonable diligence, the defense could not have been discovered until the introduction of proof, the pleading shall be filed to conform with the proof within ten (10) days after the proof is taken.

(4) Upon the filing of an application for adjustment of an injury claim (Form 101) all parties may begin discovery and proof. All parties may take discovery and proof for sixty (60) days from the filing date of the application; the defendants may then take discovery and proof for an additional thirty (30) days; following the defendant's discovery and proof time the plaintiffs may take rebuttal discovery and proof for an additional fifteen (15) days.

All parties shall be furnished with copies of all medical reports and vocational evaluation reports resulting from medical examinations and

evaluations by vocational experts within thirty (30) days of the examination or evaluation by the party requesting the examination or evaluation.

(5) Within thirty (30) days after an application for adjustment of an injury claim is filed the commissioner shall assign the case to an administrative law judge, and schedule the time and place for the prehearing conference. The prehearing conference shall be scheduled at least fifteen (15) days after the last day of discovery and proof time in order for transcripts of proof by deposition to be filed prior to the prehearing conference. All parties shall be notified of the assignment and schedule by the commissioner.

Section 6. Application for Adjustment of an Occupational Disease Claim. (1) The original application for adjustment of an occupational disease claim (Form 102) shall be filed with the following attachments:

(a) A complete work history of the plaintiff (Form 104);

(b) A complete medical history of the plaintiff (Form 105);

(c) A signed waiver and consent to release of medical information (Form 106);

(d) Two (2) written medical reports supporting the claim (Form 108) in compliance with KRS 342.316(2)(b)1.

An application for an adjustment of an occupational disease claim (Form 102) may be used to apply for retraining incentive benefits if the plaintiff does not wish to use the expedited procedure described in KRS 342.732 and this section. Retraining incentive benefits may be awarded as an adjustment of an occupational disease claim if the evidence supports such an award, even though this benefit was not requested.

(2) Within sixty (60) days after the date of service upon him of an application for adjustment of an occupational disease claim (Form 102) each defendant shall file a notice of election to resist the application pursuant to KRS 342.316(2)(c)3 or eligibility of the plaintiff for benefits shall be deemed to be conceded.

(3) If any defendant in an application for adjustment of an occupational disease claim relies upon an affirmative special defense, he shall plead the defense in a special answer filed within sixty (60) days after the date of service upon him of the application, or within ten (10) days after the defense is discovered if the defense could not have been discovered earlier in the exercise of reasonable diligence. If the affirmative special defense is not so pled, it is waived. If, in the exercise of reasonable diligence, the defense could not have been discovered until the introduction of proof, the pleading shall be filed to conform with the proof within ten (10) days after the proof is taken.

(4) Upon being served with an application for adjustment of an occupational disease claim pursuant to KRS 342.316(2)(6)1a or KRS 342.732 (Form 102) a defendant may have the plaintiff examined by medical experts and evaluated by vocational experts, at the defendant's expense. All parties shall be furnished with copies of the resulting medical reports and vocational evaluations within thirty (30) days of the date of the examination or evaluation and within the sixty (60) day discovery time. During this sixty (60) day discovery time, the defendants may depose the plaintiff for discovery purposes. If at the end of the sixty (60) day discovery time the commissioner has received one (1) or more notices of election to resist an application, the commissioner shall assign the case to an administrative law judge, shall schedule the time and place for the prehearing conference and at the same time issue a schedule for the taking of discovery and of proof by deposition prior to the prehearing conference. All parties shall be notified of this assignment and schedule by the commissioner. The schedule for taking discovery and proof by deposition shall provide that all parties may take discovery and proof for sixty (60) days from the date of filing of the scheduling order; the defendants may then take discovery and proof for an additional thirty (30) days; following the defendants' discovery and proof time the plaintiffs may take discovery and proof for an additional fifteen (15) days. The prehearing conference shall be scheduled at least fifteen (15) days after the last day of discovery and proof time in order for transcripts of proof by deposition to be filed prior to the prehearing conference.

(5) When an application for adjustment of an occupational disease claim (Form 102) is filed, and one (1) or more of the medical reports filed with the application pursuant to KRS 342.316 contains the findings of more than one (1) physician, the findings of one (1) physician concerning the x-ray examination, one (1) physician concerning the spirometric testing and one (1) physician concerning the comprehensive clinical examination shall together constitute one (1) "written medical report" and cross-examination by deposition may be taken of all the three (3) physicians contributing to any "written medical report" and be introduced as the "direct testimony" of one (1) physician for the purposes of KRS 342.033. Up to three (3) "written medical reports" may be introduced by any party to an occupational disease claim or application for retraining incentive benefits without prior consent from the administrative law judge, as required by KRS 342.033.

Section 7. Application for Retraining Incentive Benefits. (1) The original application for retraining incentive benefits (expedited procedure) (Form 103) shall be filed with the following attachments:

(a) A complete work history of the plaintiff (Form 104);

(b) A complete medical history of the plaintiff (Form 105);

(c) A signed waiver and consent to release of medical information (Form 106) in compliance with KRS 342.020(4).

(2) Within sixty (60) days after the date of service upon him of an application for retraining incentive benefits (expedited procedure) (Form 103) each defendant shall file a notice of election to resist the application pursuant to KRS 342.316(2)(c)3 or eligibility of the plaintiff for benefits shall be deemed to be conceded.

(3) If any defendant in an application for retraining incentive benefits (expedited procedure) relies upon an affirmative special defense, he shall plead the defense in a special answer filed within sixty (60) days after the date of service upon him of the application or

within ten (10) days after the defense is discovered if the defense could not have been discovered earlier in the exercise of reasonable diligence. If the affirmative special defense is not so pled, it is waived. If, in the exercise of reasonable diligence, the defense could not have been discovered until the introduction of proof, the pleading shall be filed to conform with the proof within ten (10) days after the proof is taken. Failure of the plaintiff to file and pursue in good faith a claim under the federal Coal Mine Health and Safety Act as required by KRS 342.800 when pneumoconiosis or silicosis benefits are sought shall not be an affirmative special defense when rehabilitation incentive benefits are sought in an expedited procedure.

(4) When an application for retraining incentive benefits (expedited procedure) (Form 103) has been filed, the commissioner shall appoint a physician to conduct a comprehensive clinical examination, radiographic testing and spirometric testing of the plaintiff, or may appoint up to three (3) physicians if any one (1) physician is not qualified to conduct all these procedures. The findings of this physician or these physicians shall constitute a report of the "examination" which the claimant may elect pursuant to KRS 342.732(b)(a). The examination shall be conducted and the findings filed and served on all parties within fifty (50) days of the appointment. No other medical examination shall be conducted.

(5) If at the end of the sixty (60) days discovery time, the commissioner has received one (1) or more notices of election to resist the application the commissioner shall assign the case to an administrative law judge, shall schedule the time and place for the hearing and at the same time shall issue a schedule for the taking of proof. During this proof-taking time, direct testimony may be taken from the physicians who conducted the examination, and proof may be taken by deposition concerning any special defenses pleaded by the employer at the time of filing of the Notice of Resistance. All parties shall be notified of this assignment and schedule by the commissioner. The schedule for taking discovery and proof by deposition shall provide that all parties may take discovery and proof for sixty (60) days from the date of filing of the scheduling order; the defendants may then take discovery and proof for an additional thirty (30) days; following the defendants' discovery and proof time the plaintiff may take discovery and proof for an additional fifteen (15) days. The hearing shall be scheduled at least fifteen (15) days after the last day of discovery and proof time in order for transcripts of proof by deposition to be filed prior to the hearing. There shall be no prehearing conference in a claim which is initiated by an application for retraining benefits (expedited procedure).

Section 8. Prehearing Conference. (1) The purposes of the prehearing conference are to expedite the processing of contested cases and to avoid whenever possible the need for a formal hearing. The conference is an informal procedure, presided over by the administrative law judge. No transcript of the proceedings of the conference shall be made. At the conference every effort shall be made by all parties to dispose of controversies whenever possible, to narrow and define issues, and to facilitate prompt settlement of the claim.

(2) The plaintiff and his representative, the defendant employer/insurer or its representative, and the representatives of all other parties shall attend the prehearing conference. The representative of any party must have authority to resolve disputed issues and settle the claim at the conference. The administrative law judge may upon motion waive the requirement that the plaintiff shall attend the conference, but only for good cause shown in the motion and with a showing that the plaintiff's representative will attend the conference with full authority to settle the claim.

(3) The representative of a party may seek rescheduling or postponement of a prehearing conference by motion filed at least fifteen (15) days prior to the schedule date of the conference, stating the reason for the request. A motion to postpone or reschedule shall be sustained only upon good cause shown at the discretion of the administrative law judge.

(4) If all parties agree upon a settlement prior to the prehearing conference, the settlement agreement shall be filed for the approval of the administrative law judge. If the agreement is approved by the administrative law judge, the prehearing conference shall be cancelled and notice of the cancellation served on all parties.

(5) If the parties reach agreement on all issues at the prehearing conference and the claim is settled, the administrative law judge shall summarize the terms of the agreement using a Form 110. This record of the terms of the agreement shall be signed by the parties. The administrative law judge may approve the agreement at the conference or retain it for review for up to ten (10) days prior to approval. The administrative law judge shall cause copies of the agreement form to be served on all parties, and the claim will thereafter be closed.

(6) If at the conclusion of the conference the parties have not reached agreement on all the issues, the administrative law judge shall prepare a stipulated summary of all contested and uncontested issues, which shall be signed by representatives of the parties and by the administrative law judge. This stipulation shall be filed and only the contested issues shall be the subject of further proceedings before the administrative law judge.

(7) In the sole discretion of the administrative law judge upon motion of a party with good cause shown, the administrative law judge may order that additional discovery or proof by deposition be taken on a contested issue between the prehearing conference and the hearing. Taking of this proof shall not be a valid reason for continuing the date for the hearing.

(8) If the claim is not settled, the administrative law judge shall schedule a date for the hearing on the claim at the prehearing conference. The date for the hearing shall be within sixty (60) days from the date of the prehearing conference. Representatives of the parties shall come to the prehearing conference prepared to schedule a hearing during the conference. The hearing date will not be changed except for good cause shown on motion of the representative requesting the change.

(9) If the parties agree upon a settlement after the prehearing conference but before the hearing, the settlement agreement shall be filed for the approval of the administrative law judge. The administrative law judge shall approve or disapprove the settlement agreement within ten (10) days of filing. If the agreement is approved by the administrative law judge, the hearing shall be cancelled and notice of the cancellation served on all parties.

Section 9. Interlocutory Relief. (1) The plaintiff may seek three (3) forms of interlocutory relief while his claim is in process of consideration for adjustment.

(a) If the plaintiff is totally disabled he may seek to have income benefits paid pursuant to KRS 342.730 while the claim is pending.

(b) He may seek to have medical and hospital bills paid pursuant to 342.020 while the claim is pending.

(c) He may seek provision of rehabilitation services pursuant to KRS 342.710 while the claim is pending. The defendants may also request rehabilitation services for the plaintiff while the claim is pending.

(2) The plaintiff may seek one (1) or more forms of interlocutory relief by completing the appropriate section of the application for adjustment of claim. The plaintiff or defendants may seek interlocutory relief by motion if the need for interlocutory relief arises after the application is filed.

(3) If the plaintiff seeks interlocutory relief in his application for adjustment of claim or by motion at least twenty (20) days prior to the prehearing conference, or if there is agreement of all parties, the request for interlocutory relief may be considered at or before the prehearing conference. If the motion is filed within twenty (20) days of the prehearing conference or after the prehearing conference but before the hearing, it may be considered at or before the hearing.

(4) One (1) or more of the forms of interlocutory relief described in Section 7(1) of this regulation may be granted by the administrative law judge if the plaintiff shows by means of affidavits, or his own deposition or other evidence of record that he is eligible for the interlocutory remedies being sought under KRS Chapter 342 and that if he does not receive the interlocutory relief sought he will suffer immediate and irreparable injury, loss, or damage pending a final decision on the application. A defendant may be granted the right to provide rehabilitation services to the plaintiff while the claim is pending upon a showing that the plaintiff will benefit from the services and have a better chance of returning to work as a result.

(5) When the plaintiff seeks interlocutory relief by either of the two (2) ways authorized in Section 7(2) of this regulation the defendant shall file his response, if any, and supporting affidavits as appropriate within twenty (20) days of filing of the application or twenty (20) days of the filing of the motion of the plaintiff or defendant.

(6) When the plaintiff seeks interlocutory relief, the administrative law judge shall review all pleadings, affidavits, and other evidence in the record and at the prehearing conference or hearing may in his discretion hear oral arguments in support of each party's position. The administrative law judge shall render his decision, file it in the record, and serve it on all parties.

(7) When the administrative law judge awards to the plaintiff interlocutory relief in the form of income benefits while he is totally disabled, the application shall be placed in abeyance, unless the plaintiff shows that he will be irreparably harmed thereby. While the application is in abeyance, the parties shall submit in writing to the administrative law judge a report on the plaintiff's continued total disability every sixty (60) days. If in the administrative law judge's discretion new evidence shows that the plaintiff is no longer totally disabled, the administrative law judge may revoke the interlocutory payment of income benefits based on total disability, and remove the claim from abeyance.

(8) If the claim remains in abeyance for one (1) year and the plaintiff continues to be totally disabled, the administrative law judge shall on his own motion order the claim to be removed from abeyance and scheduled for hearing, unless in response to the motion a party shows good cause for the claim to remain in abeyance.

(9) No interlocutory relief may be sought or granted when the claim is an application for retraining incentive benefits (expedited procedure).

(10) When the administrative law judge awards to the plaintiff interlocutory relief in the form of income benefits while he is totally disabled, an attorney fee in the amounts authorized by KRS 342.320 but in no case to exceed twenty (20) percent of the weekly income benefit awarded may be ordered by the administrative law judge upon motion of the attorney. The administrative law judge may award the fee on a sixty (60) day basis, renewable for additional sixty (60) day periods if the interlocutory benefit is renewed pursuant to Section 7(7) of this regulation. All provisions of KRS 342.320 and Section 4(7) of this regulation must be complied with. The fee awarded shall be deducted in equal amounts from the weekly income benefits awarded and paid directly to the attorney awarded the fee at the beginning of each sixty (60) day period.

Section 10. Hearings. (1) If the parties have not arrived at a settlement prior to the scheduled hearing date, a hearing shall be held to complete proof on all contested issues set forth in the stipulated summary filed pursuant to Section 6(6) of this regulation.

(2) The administrative law judge to whom the case has been assigned shall conduct the hearing. No proof shall be taken following the hearing.

(3) The plaintiff shall appear at the hearing and shall present his testimony concerning the contested issues still before the administrative law judge, even if the plaintiff's testimony has previously been taken by deposition. Defendants may cross-examine. Other proof may be taken at the hearing only if it has not previously been taken by deposition.

(4) If the plaintiff fails to appear at the hearing of his claim and no good cause is shown for his failure to appear, the administrative law judge may dismiss the case for want of prosecution. If good cause is shown, the case may be continued until the plaintiff is able to appear.

(5) When a defendant or his representative fails to appear at the hearing, the hearing may proceed as scheduled.

(6) At the conclusion of the hearing the administrative law judge may take the application under submission immediately or request briefs from the parties, to be filed according to a schedule announced by the administrative law judge at the hearing. Upon filing of the last brief scheduled or passage of the due date for that brief the case shall stand submitted. The administrative law judge may announce his decision at the conclusion of the hearing and subsequently file his written opinion, serving it on the parties when filed, or the administrative law judge may defer his decision until he files the written opinion. In either case, the time for filing a petition for reconsideration shall not begin to run until the date of filing of the written opinion.

Section 11. Petitions for Reconsideration. (1) Within fourteen (14) days from the date the written opinion announcing an order, award, or decision is filed, any party may file a petition for reconsideration of the award, order or decision. The petition shall clearly identify the error "patently appearing upon the face" of the award, order or decision which the petitioner seeks to have corrected, and set forth arguments and authorities supporting the correction sought.

(2) Any party may file a response to the petition within ten (10) days after the date of filing of the petition.

(3) The administrative law judge shall by order overrule or sustain the petition for reconsideration within ten (10) days after the date the responses are due.

(4) If the administrative law judge finds that the petition is frivolous, he may assess costs and attorney fees against the petitioner or his attorney.

Section 12. Appeals to the Workers' Compensation Board. (1) Within thirty (30) days after the date of filing of a written opinion, order or decision finally adjudicating a case, a party aggrieved by the opinion, order or decision may appeal the opinion, order, or decision to the Workers' Compensation Board. Opinions, orders or decisions of administrative law judges and of the (old) Workers' Compensation Board established pursuant to KRS 342.215(5) shall be appealed in this manner.

(2) The appeal shall be initiated by the filing of a notice of appeal. The notice of appeal shall style the appealing party first as the "petitioner" and all other parties against whom the appeal is being taken as the "respondents." The Workers' Compensation Board case number shall be retained in the petition and in all other pleadings related to the appeal to the board. The administrative law judge who rendered the opinion, order or decision appealed from or the (old) Workers' Compensation Board shall be named as a "respondent." If appropriate, the Director of the Special Fund shall be named as a "respondent" pursuant to KRS 342.316(10)(6).

(3) Any party other than the petitioner in the appeal may file a cross-appeal against a party who has taken an appeal against him. All cross-appeals shall be filed by notice of cross-appeal within ten (10) days after notice of appeal is filed. If a cross-appeal is filed, the style of the appealed and cross-appealed case shall designate the parties as appropriate (i.e., petitioner-cross-respondent). The Workers' Compensation Board number shall remain the same.

(4) The notice of appeal or cross-appeal, and enough copies for service on all respondents shall be filed with the commissioner. The commissioner shall cause all respondents to be served by certified mail with a copy of the notice of appeal or cross-appeal. All subsequent pleadings shall be served on the respondents as provided in Section 3(3) of this regulation.

(5) When a notice of appeal is filed, the record in the case shall be transferred to the Workers' Compensation Board in its entirety, unpaginated. All references to specific evidence in the record shall be by the title of the evidence referenced and the page number at which the specific entry occurs (i.e., Deposition of Dr. A. B., p. 17.)

(6) If a ground for the appeal is fraud or misconduct pursuant to KRS 342.285(3), the board shall immediately schedule a hearing on that issue before the board. All testimony concerning the issue shall be transcribed and placed in the record and notice of filing of the transcript shall be given to all parties by the commissioner. All subsequent time in such a case shall be calculated from the date the transcript is filed instead of the date of filing of the notice of appeal.

(7) The petitioner's brief shall be filed with the board within thirty (30) days of filing of the notice of appeal. The organization and contents of the petitioner's brief shall be as provided in Rule 76.12(4)(c) of the Kentucky Rules of Civil Procedure except that no index or contents page shall be required and the only appendix shall be a copy of the decision appealed from, including the decision of the administrative law judge, all petitions for reconsideration of the opinion and all rulings on petitions for reconsideration.

(8) The respondent's brief shall be filed with the board within thirty (30) days of the date the petitioner's brief was filed. The organization and contents of the respondent's brief shall be as provided in Rule 76.12(4)(d) of the Kentucky Rules of Civil Procedure, except that no index or contents page shall be required and the only appendix shall be a copy of any response filed to a petition for reconsideration. If a respondent is also a cross-petitioner, a combined brief shall be filed addressing issues raised by the petitioner's brief and by the cross-appeal.

(9) The petitioner's reply brief shall be filed within fifteen (15) days after the date on which the last respondent's brief was filed or due. The organization and contents of the petitioner's reply brief shall be as provided in Rule 76.12(4)(e) except that no appendix, index or contents page shall be required. If the petitioner is also a cross-respondent, a combined brief shall be filed addressing issues raised by the response, and issues raised by the cross-petitioner's brief.

(10) If a cross-appeal has been filed, the cross-petitioner's reply brief shall be filed within fifteen (15) days after the date on which the last cross-respondent's brief was filed or due. The organization and contents of the cross-petitioner's reply brief shall be as

provided in Rule 76.12(4)(e) except that no appendix, index or contents page shall be required.

(11) The petitioner's brief and the respondent's brief shall be limited to fifteen (15) pages each in overall length. Reply briefs shall be limited to five (5) pages in overall length. Combined briefs shall be limited to twenty (20) pages each in overall length. The requirements of this rule with respect to a "statement of points and authorities" shall not apply to any brief of five (5) pages or less. Permission to increase the length of a brief shall be sought by motion. Cause must be shown for the increase. All pleadings shall be typewritten and conform to the requirements set forth in Rule 7.02(4) of the Kentucky Rules of Civil Procedure. Pleadings shall be filed without covers, but the style of the case, including the board number, and the title of the pleading shall appear on the first page of the pleading.

(12) When all briefs have been filed or the due date is past on the last brief due, any party shall by motion move for submission of the appeal to the board for decision. Upon issuance of the board's order, the case shall stand submitted.

(13) Within thirty (30) days of the filing of the board's order of submission, the board shall enter its decision affirming, modifying or setting aside the decision, order or award appealed from, or in its discretion remanding the claim to the administrative law judge for further proceedings in conformity with the direction of the board.

(14) The decision of the board may be appealed to the Kentucky Court of Appeals as provided in Rule 76.25, Kentucky Rules of Civil Procedure.

Section 13. Medical Reports. (1) As provided in KRS 342.033, any party may introduce direct testimony (proof) from a physician through a written medical report, subject to the limitations of KRS 342.033, Section 5(3) of this regulation and the scheduling order issued by the administrative law judge pursuant to Section 5 of this regulation.

(2) Any written medical report sought to be introduced as evidence shall be submitted on a Form 107 (injury) or Form 108 (occupational disease) whichever is appropriate.

(3) Any written medical report sought to be introduced as evidence shall be signed by the physician making the report, bearing an original signature. A photocopied or reproduced medical report which is not originally signed is not admissible as evidence unless accompanied by an originally signed affidavit from the physician verifying the contents of the report.

(4) Any written medical report sought to be introduced into evidence shall include within the body of the report or as an attachment a statement of qualifications of the person making the report.

(5) Any narrative in a written medical report on a Form 107 or Form 108 sought to be introduced into evidence shall be typewritten. Any written medical report or any attachment to a written medical report, such as spirometric tracings, shall be clearly legible in the original and on the copies served on other parties.

(6) The written medical reports required by KRS 342.316(2)(b)1a shall be filed with the application for adjustment of an occupational disease claim as required by that section.

(7) All other written medical reports shall be introduced by motion for admission. The written medical report shall be attached to the motion. The party seeking admission of the report may also file a memorandum in support of the motion.

(8) Any objection to the filing of a written medical report shall be filed within ten (10) days of the filing of the motion for admission. Grounds for the objection shall be stated with particularity. The objecting party may file a memorandum in support of his objection.

(9) The administrative law judge shall rule on the motion for admission within fifteen (15) days of the filing of the motion.

(10) If a written medical report is admitted as direct testimony, any adverse party may depose the physician making the written report as cross-examination concerning it and the deposition shall be filed as proof without a motion.

Section 14. Continuances, Extensions and Motions to Hold in Abeyance. (1) Continuances of hearings and prehearing conferences may be granted by the administrative law judge upon motion supported by affidavits stating facts making a proper showing of good cause for a continuance. A motion for a continuance must be filed no later than twenty (20) days prior to the conference or hearing unless there is a showing of personal emergency or circumstances beyond the control of the requesting party which prohibited timely filing of the motion. The opposing parties may have ten (10) days from the filing date of the motion to respond, with a brief memorandum with affidavits in support of his position.

(2) Extensions of time for the taking of discovery or proof by deposition shall not be granted except upon a good cause showing of extraordinary circumstances preventing the party moving for an extension from timely taking discovery or proof by deposition. The motion for extension of time must be filed no later than five (5) days before the deadline sought to be extended. The motion for extension of time and supporting affidavits must clearly set forth the following:

(a) A showing of timely and diligent efforts by counsel to take the discovery or proof by deposition in question must be detailed.

(b) The facts which prevent taking of the needed discovery or proof by deposition must be detailed.

(c) The date of availability of the evidence needed and the probability of its production must be detailed.

(d) Where possible, supporting documentation giving rise to the need for the extension should be filed with the motion.

(3) In the absence of unusual circumstances, only one (1) thirty (30) day extension shall be granted to each side for completion of discovery or proof by deposition.

(4) The granting of an extension of time for completion of discovery or proof shall enlarge the time to all plaintiffs, if the extension is granted to a plaintiff, or to all defendants should an extension be granted to a defendant.

(5) The provisions of this section shall apply to motions requesting that a claim be held in abeyance pending settlement or for any other reason.

Section 15. Stipulation of Facts and Judicial Notice. (1) Stipulation of facts which are not in issue is mandatory and the refusal without good cause to stipulate facts which are not at issue, within the sound discretion of the administrative law judge, may result in assessment of the costs of the hearing against the party who without good cause has refused to stipulate to routine matters not in issue. The assertion of the fact that a party has not had sufficient time or opportunity to ascertain the facts will not be necessarily considered "good cause" within the meaning of this regulation.

(2) Every party to a stipulation shall be considered bound to the same. For good cause shown, however, any party may be relieved of a stipulation he has made provided that the motion for relief is filed at least ten (10) days prior to the date of the hearing. Upon granting relief from a stipulation, the administrative law judge shall grant a continuation of the hearing and shall schedule additional discovery or proof time for the opposing party or parties to complete their discovery or proof so as to prevent prejudice or surprise.

(3) At the prehearing conference, the administrative law judge shall ask the appropriate questions in order to determine the reasons for an inability or unwillingness to stipulate. The plaintiff and the defendants have the joint responsibility of resolving jurisdictional issues and preaward payment of compensation and explaining why these cannot be stipulated.

(4) The administrative law judge will take judicial notice that the Act is mandatory except for those employers exempted by KRS 342.650 and those employees rejecting the Act pursuant to KRS 342.395 and 342.400.

(5) Upon the filing of a claim, the commissioner shall ascertain whether the employer or any other person against whom a claim is filed and who is not exempted by KRS 342.650, has secured payment of compensation by obtaining insurance coverage or qualifying as a self-insurer pursuant to KRS 342.340. Should the employer or any other person against whom a claim is filed not have insurance coverage or qualify as a self-insurer, the commissioner within twenty (20) days after the filing of the claim shall certify to the file that the defendant or any other person against whom a claim has been filed has failed to secure payment of compensation as required by KRS Chapter 342, and shall notify the administrative law judge and all parties by service of a copy of the certification of no coverage.

Section 16. Evidence: Rules Applicable. (1) The same rules of evidence that apply in judicial proceedings and that are governed by the common law and the statutes in effect in this Commonwealth, apply in all hearings and depositions taken to be used in cases before the administrative law judges.

(2) An exception to the above rule applies in medical reports submitted by and depositions taken of evaluating physicians who are nontreating physicians. In those instances the nontreating physician is permitted to use the case history related to him by the patient and the subjective symptomatology related to him by the patient in arriving at and formulating his opinion as to causation and disability.

Section 17. Discovery and Depositions. The parties may obtain discovery and take depositions in accordance with the provisions of Rules 26 to 37, inclusive, of the Kentucky Rules of Civil Procedure, except for Rules 27.33 and 36, which are not adopted by the board and which shall not apply to practice before the administrative law judges or the board.

Section 18. Depositions of Physicians Appointed under KRS 342.121. (1) An examining physician appointed by an administrative law judge pursuant to KRS 342.121(1) shall make his report to the administrative law judge on either Form 107 or Form 108 as appropriate, and his report shall be filed as direct testimony. An examining physician appointed by the administrative law judge shall not be examined by deposition on his report except by permission of the administrative law judge.

(2) Motions to join the special fund shall include a designation of the area of medical specialty for appointment of the physician designated pursuant to KRS 342.121.

Section 19. Examinations by Disinterested Physicians. When a disinterested physician or surgeon has been appointed by an administrative law judge pursuant to KRS 342.315, no party shall furnish to the physician or surgeon any copies of reports previously made or depositions given by any physicians or surgeons who have examined the claimant in the case. Either party, however, may transmit to the appointed physician or surgeon, through the administrative law judge, properly identified x-ray photographs made by another person. The transmittal shall be accompanied by certification of service upon all parties.

Section 20. Appearances. (1) Only attorneys-at-law duly licensed in Kentucky may appear or practice before the administrative law judges or the board, except that any natural person who is a party to any proceeding may represent himself only but shall not, either directly or indirectly, represent or appear in behalf of any legal entity other than himself.

(2) Any party who elects to represent himself without the aid of counsel shall be held accountable in the same manner, and to the same degree, as qualified counsel.

Section 21. Withdrawal of Records. (1) No paper, or other portion of any original record of the board shall be withdrawn except on order of the administrative law judge.

(2) All physical exhibits, including x-rays, will be disposed of sixty (60) days after the case is finally closed, unless the filing party makes arrangements to claim the exhibit prior to that time. If the unclaimed exhibit has no money value, it will be destroyed; if the unclaimed exhibit has a value of more than $100, it will be sold as surplus property; the unclaimed exhibit will be donated to an appropriate state agency if it has a value of less than $100; if the unclaimed exhibit has historic or museum value it will be sent to the state archives.

Section 22. Routine Records Admission. Any party may file in the record of a case any routine hospital, armed forces and Social Security records. These shall be made part of the record and considered for their statistical

content only and any opinion contained therein shall be stricken and not considered. A party, however, may depose the proper agent in the manner provided in these regulation in order to have these records admitted as to any opinion contained therein.

Section 23. Exceptions. Formal exceptions to rulings or orders of the administrative law judges or the board are unnecessary.

Section 24. Frivolous Filings. All provisions of Rule 11 and Rule 73.02(4), Kentucky Rules of Civil Procedure, are incorporated into this rule by reference.

Section 25. Retraining Incentive Benefits. If an applicant for retraining incentive benefits is working in the coal industry at the time his application is filed, the insurance company responsible is the one insuring the applicant's employer on the date of the filing. Otherwise, the insurance company responsible is the one insuring the applicant's employer on the date of his last exposure.

Section 26. Forms. Forms 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, and 111 are hereby adopted by reference.

Section 27. Repeal of 803 KAR 25:010. 803 KAR 25:010 is hereby repealed.

ARMAND ANGELUCCI, Chairman
APPROVED BY AGENCY: April 15, 1988
FILED WITH LRC: April 15, 1988 at 11:30 a.m.
PUBLIC HEARING: The public hearing in regard to administrative regulation 803 KAR 25:011 has been scheduled for May 27, 1988 at 10 a.m. It will take place in the Kentucky Room, A, B, and C, Farnham Dudgeon Civic Center, 405 Mero Street, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Commissioner Glenn Schilling
Summary of Proposed Regulation: 803 KAR 25:011 will determine procedures to be used in contested claims before the administrative law judges and the Workers' Compensation Board of the Department of Workers' Claims. It replaces 803 KAR 25:010.
(1) Type and number of entities affected: If this rule has any effect, it will be on parties to the contested workers' compensation claims, who are employers, employees, insurers, the Special Fund and Uninsured Employers' Fund and attorneys representing these entities. Since the new rule replaces an existing rule on the same subject, there will probably be no or very little quantitative or qualitative change.
(a) Direct and indirect costs or savings to those affected:
1. First year: As the procedures set forth in this new regulation are tested, attorney costs may increase. This should be of brief duration. The amount of the increase cannot be estimated.
2. Continuing costs or savings: Long term, it is anticipated that the new system will lower the costs of adjudicating contested claims, since it is designed to encourage settlements.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None known.
(b) Reporting and paperwork requirements: The new system may result in more paperwork for attorneys. Efforts to combat this have resulted in use of more forms, which are furnished free by the department.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: As mandated by statute, the new system is more costly than the old; however, the administrative regulation does not result in greater costs over and above those mandated by statute.
2. Continuing costs or savings: The new administrative regulation is not responsible for the continued higher cost of the program.
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Reporting will not be affected. The department's paperwork will increase but it is impossible to estimate by how much.
(3) Assessment of anticipated effect on state and local revenues: There should be no effect on state and local revenues.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Since the new procedures were required by statute, no alternatives were possible.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No such statute, administrative regulation or governmental policy is known.
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Tiering is not appropriate since there are no multiple classes involved. Each employee and employer is equally entitled to due process protections and so deserves all of the protections and freedoms included in the regulation.

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Food and Sanitation

902 KAR 10:021. License fees for frozen food locker plants.

RELATES TO: KRS 221.020, HB 516
PURSUANT TO: KRS 194.050, 221.020, HB 516 Part IIA #42 of the 1988 GA
NECESSITY AND FUNCTION: KRS 194.050 and HB 516 authorizes the Secretary for Human Resources to adopt a reasonable schedule after covering all charges for health services provided by the Cabinet for Human Resources and any local health department. This regulation is to set forth a licensing fee relative to frozen food locker plants.

Section 1. All applications for a license to operate a frozen food locker plant or branch frozen food locker plant shall be accompanied by a license fee of fifteen (15) dollars.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: April 12, 1988
FILED WITH LRC: April 15, 1988 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Dudley J. Conner
(1) Type and number of entities affected: All frozen food locker plants.
(a) Direct and indirect costs or savings to those affected:
1. First year: Increase of $5 annually to owners.
2. Continuing costs or savings: Minimal
3. Additional factors increasing or decreasing costs (note any effects upon competition): No change
(b) Reporting and paperwork requirements: No additional
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: Replaces general fund dollars in budget and assist in off-setting program cost.
1. First year: Minimal
2. Continuing costs or savings: Minimal
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No additional.
(3) Assessment of anticipated effect on state and local revenues: Expected increase in state revenue of approximately $25.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict: None
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Mandate of law does not allow. Tiering was not applied due to the number and size of such facilities in the Commonwealth.

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Food and Sanitation

902 KAR 10:121. Inspection fees for public swimming and bathing facilities.

RELATES TO: HB 492, HB 516
PURSUANT TO: KRS 194.050, HB 492, HB 516 Part IIA #42 of the 1988 GA
NECESSITY AND FUNCTION: KRS 194.050 and HB 516 authorizes the Secretary for Human Resources to adopt a schedule of reasonable fees covering the cost of annual inspections provided by the Cabinet for Human Resources and any local health department. This regulation sets forth a schedule of fees for inspectional services related to public swimming and bathing facilities.

Section 1. Fees for Inspections. For inspections conducted by the department or its representatives to determine compliance with regulation 902 KAR 10:120 adopted by the cabinet pursuant to KRS 194.050, HB 492 and HB 516, public swimming and bathing facilities shall be subject to the payment of the following fees:
(1) Swimming and bathing facilities with a total water surface area of less than 1,000 square feet; or beach fronts of less than 150 linear feet - fifty (50) dollars per year.
(2) Swimming and bathing facilities with a total water surface area of 1,000 square feet or greater; or beach fronts of 150 linear feet or greater - $100 per year.

Section 2. Payment of Fees. (1) Fees shall be paid to the local health department having jurisdiction. Fees received by local health department shall be deposited in the Kentucky State Treasury in a trust and agency account for use solely in administering the program. Inspection fees shall be submitted annually prior to July 1. For newly constructed facilities such fees shall be initially submitted at the preopening inspection and at each July 1 date thereafter.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: April 12, 1988
FILED WITH LRC: April 15, 1988 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Dudley J. Conner
(1) Type and number of entities affected: All public swimming pool and bathing area owners.
(a) Direct and indirect costs or savings to those affected:
1. First year: Small pool or beach = $50; large pool or beach = $100.
2. Continuing costs or savings: Minimal
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: Signature on annual permit renewal application. Renewal applications would be computer generated and transmitted to owners prior to permit application date.
(2) Effects on the promulgating administrative body: Replaces general fund dollars in budget and establishes a fee schedule to assist in off-setting program cost.
(a) Direct and indirect costs or savings: Minimal
1. First year: Minimal
2. Continuing costs or savings: Minimal

3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: No additional.
(3) Assessment of anticipated effect on state and local revenues: Expected increase in state revenue of approximately $126,500.
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? Yes.

CABINET FOR HUMAN RESOURCES
Department for Health Services
Division of Food and Sanitation

902 KAR 10:130. Licensing fee for septic tank servicing.

RELATES TO: KRS 211.972, HB 516
PURSUANT TO: KRS 194.050, 211.972, HB 516 Part IIA #42 of the 1988 GA
NECESSITY AND FUNCTION: KRS 194.050 and HB 516 authorizes the Secretary for Human Resources to adopt a reasonable schedule of fees to cover all charges for health services provided by the Cabinet for Human Resources with respect to the servicing of septic tanks. The function of this regulation is to set forth the fees to be charged in order to cover the cost to the cabinet of the administration of the septic tank servicing program.

Section 1. All applications for a business license to service or maintain a septic tank, seepage pits, or cesspools shall be accompanied by a license fee of ninety (90) dollars.

Section 2. All applications for a vehicle license to service or maintain septic tanks, seepage pits, or cesspools shall be accompanied by a license fee of thirty (30) dollars for each vehicle.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: April 12, 1988
FILED WITH LRC: April 15, 1988 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Dudley J. Conner
(1) Type and number of entities affected: All septic tank servicing companies.
(a) Direct and indirect costs or savings to those affected:
1. First year: Average increase of $45 per company and $20 per vehicle.
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: No additional
(2) Effects on the promulgating administrative body: Replaces general fund dollars in budget and assist in off-setting program cost.
(a) Direct and indirect costs or savings: Minimal
1. First year: Minimal
2. Continuing costs or savings: Minimal
3. Additional factors increasing or decreasing costs: No additional
(b) Reporting and paperwork requirements:
(3) Assessment of anticipated effect on state and local revenues: Expected increase in state revenue of approximately $13,300.
(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: The license fee for septic tank servicing companies has not increased since 1973. The proposed adjustment reflects a charge more in line with cost.
TIERING: Was tiering applied? No. Tiering was not applied due to the nature and size of septic tank.

CABINET FOR HUMAN RESOURCES
Commission for Health Economics Control

902 KAR 25:011. Repeal of 902 KAR 25:010, Section 1122 Review.

RELATES TO: KRS 194.025(3), 194.050(1)
PURSUANT TO: KRS 194.050
NECESSITY AND FUNCTION: KRS 194.050 requires the Secretary for Human Resources to adopt, administer and enforce all rules and regulations necessary to operate the programs and fulfill the responsibilities vested in the Cabinet for Human Resources. This regulation implements the agreement between the Cabinet and the Secretary of the Department of Health and Human Services to carry out the provisions of Section 1122 of the Social Security Act. The federal government has terminated the agreement and the program is inoperative at the federal level. Therefore, the regulation is unnecessary.

Section 1. Purpose. 902 KAR 25:010 is hereby repealed.

JACK S. LESSHAFFT, SR., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: March 29, 1988
FILED WITH LRC: April 4, 1988 at 1 p.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Jack S. Lesshafft, Sr.
(1) Type and number of entities affected: All health care providers application for approval of projects subject to Section 1122 Review.
(a) Direct and indirect costs or savings to those affected:
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: Nominal
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? N/A

FEDERAL MANDATE COMPARISON

1. Compare proposed state compliance standards with minimum uniform standards suggested or contained in the federal mandate: This regulation was promulgated to implement an agreement between the Secretary of the Cabinet for Human Resources and the Department of Health and Human Services to carry out the provisions of Section 1122 of the Social Security Act. The federal government has terminated the agreement and the program is inoperable at the federal level. Therefore, the regulation is unnecessary.
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
Department for Social Services
Division of Children's Residential Services

905 KAR 7:230. Education of youth in the children's residential services programs.

RELATES TO: KRS Chapters 605, 610, 630, 635, 640, 645
PURSUANT TO: KRS 194.050, 605.110
NECESSITY AND FUNCTION: KRS 605.110 requires that children maintained in any facility or program operated by the Cabinet for Human Resources shall so far as possible maintain a common school education. This regulation sets forth procedures for complying with this statute in Department for Social Services (DSS), children's residential services, residential, clinical, day treatment, and group home programs. All references to DSS programs shall include both state operated and state contracted programs.

Section 1. Department for Social Services. (1) DSS shall work in cooperation with the Kentucky Department of Education (KDE) to provide educational services for all youth placed in residential, clinical, and day treatment programs. The manager of DSS Education Branch shall have the option of belonging to the State Teachers Retirement System or the Kentucky Retirement System.
(2) DSS shall cooperatively plan programs and state agency children's fund budgets with the Superintendent of Public Instruction and the local education agency (LEA) providing DSS education programs.

Section 2. Instructional Services. Recognizing the diversity of ages and abilities of youth in CRS programs and mainly the recognition of the large number of youth with serious academic deficits a variety of instructional delivery systems shall be used for each youth through the individual education plan (IEP). The IEP components will include the youth's strengths and weaknesses, specific educational goals and objectives, specific criteria for the measurement of goals and objectives, listing of persons responsible for carrying out the objectives and suggested teaching materials and/or strategies for use in carrying out the objectives. The IEP shall be planned and coordinated with the individual treatment plan (ITP) developed for all youth in CRS programs.
(1) Evaluation of youth. All DSS youth will be administered assessments, which include medical, visual, auditory, intellectual, academic, vocational (for youth fourteen (14) and older) and social. Assessments and reports will be uniform for all DSS youth. Any other assessments necessary will be designated by the Exceptional Children's Admissions and Release Committees as described in 707 KAR 1:051, Section 3. All procedures for child evaluation described in 707 KAR 1:051, Section 4 shall be followed.
(2) Instructional options. The following opportunities shall be made available to CRS youth by the beginning of the 1989-90 school year.
(a) Fifty (50) percent of the academic instructional units provided for each program shall be secondary education minimum foundation units.
(b) The other fifty (50) percent of academic

instructional units provided shall be special education units.

(c) Chapter I funds shall be utilized for supplementary instruction.

(3) A curriculum shall be developed and coordinated by the DSS by the beginning of the 1989-90 school year and revised annually as needed. This curriculum shall recognize the wide range of academic abilities of DSS youth and be in keeping with 704 KAR 3:304 and 704 KAR 10:050.

(a) A minimum of two (2) hours a day of direct reading instruction shall be planned for youth with reading levels below grade six (6). This instruction shall include listening skills.

(b) An independent living course shall be developed which will include but not be limited to economics, every day living skills, law related education, family life education, drug and alcohol education, prevention of family violence, parenting and social skills. This course will be developed in modules to accommodate DSS open entry/open exit youth attendance.

(c) Provision shall be made for a program of instruction in preparation for the General Education Development (GED) test which leads to the attainment of the high school equivalency certificate as described in 709 KAR 1:030. An agreement shall be developed between the Superintendent of Public Instruction and the Department for Social Services regarding the GED testing of youth age sixteen (16) and above when appropriate to the youth. Youthful offenders shall be provided the GED exam at the maximum security DSS facility.

(d) Learning strategies to help youth improve their approach to new instructional materials shall be included.

(e) Vocational curriculum shall emphasize incremental job ready skills as well as total vocational certification (e.g., completion of skills for front end alignment of cars, tire changing, etc. for youth who may not complete a total auto mechanics course).

(f) A tutoring approach shall be utilized using state adopted textbooks for the variety of grade 9-12 courses needed for Carnegie Unit Credits. The tutoring shall be provided by a secondary certified teacher, certified in areas of English, math, science, or social studies or who has satisfactorily taught DSS youth for two (2) years prior to school year 1989-90.

(g) Computer literacy shall be included.

(h) Correspondence courses will be utilized for youth completing the GED or graduation requirements.

(i) Drivers training (preparation for written driving test).

(4) The LEA shall develop an annual education plan for each DSS program it serves. This plan shall be submitted to the Superintendent of Public Instruction, the DSS facility program director and the DSS education branch. These plans shall include but not be limited to annual education goals and objectives, for the coming school year and evaluation of the effectiveness of the goals and objectives for the previous calendar year. These plans shall include all components of the education programming including staffing, curriculum, vocational education, accomplishments of youth, etc.

(5) A uniform system for awarding credits shall be developed for the residential and clinical branches. Day treatment programs shall have credit application compatible with the local education agency providing their teachers.

Section 3. Programs for Exceptional Children in Department for Social Services State Agency Facilities. Programs for exceptional youth in DSS clinical facilities shall follow 707 KAR 1:051 and 707 KAR 1:060 as well as 707 KAR 1:054, programs for the emotionally disturbed. Programs for exceptional children operated in DSS residential and day treatment programs shall follow regulations set forth in 707 KAR 1:051 and 707 KAR 1:060. A new unit titled special education, state agency exceptional children shall be developed for residential and day treatment programs and shall serve, in a noncategorical manner, youth with handicapping conditions of learning disabilities, mentally handicapped and/or emotionally disturbed.

(1) General provisions. Follow procedures described in 707 KAR 1:054, 707 KAR 1:056 and 707 KAR 1:057, Section 1.

(2) Eligibility criteria. Follow procedures described in 707 KAR 1:054, 707 KAR 1:056 and 707 KAR 1:057, Section 2.

(3) Admissions and release committee. Follow procedures described in 707 KAR 1:054, 707 KAR 1:056 and 707 KAR 1:057, Section 3.

(4) Child evaluation. Shall be in accordance with evaluations stated in Kentucky administrative regulations for exceptional children.

(5) Individual education program (IEP). Follow procedures described in 707 KAR 1:054, 707 KAR 1:056 and 707 KAR 1:057, Section 5.

(6) Placement. Placement in the state agency educational handicapped program will be determined by the admissions and release committee pursuant to procedures as described in 707 KAR 1:051, Section 6.

(7) Classroom plan. This classroom will operate as a noncategorical unit. Both identified and nonidentified exceptional youth shall be served together to promote least restrictive environment. The membership may be ten (10) pupils per teacher without a classroom teacher aide or fifteen (15) pupils per classroom with a teacher aide.

(8) Membership and age range. The age range will be that of the facility not to exceed four (4) years in any one (1) unit.

(9) Teachers for these units in residential and day treatment programs will be certified in learning disabilities, emotionally disturbed, educable mentally handicapped or learning and behavior disorders. Teachers in clinical programs shall be certified as teachers of emotionally disturbed children.

(10) After appropriate procedures are followed for the identification, evaluation, and placement of a referred DSS youth, if the committee determines that the youth needs special educational services other than provided at the DSS facility the LEA providing the DSS education program will be asked to provide the needed service.

Section 4. Staffing by School Year 1989-90. (1) The academic teacher pupil ratio for residential and day treatment programs shall be ten (10) pupils per teacher without a classroom teacher aide and fifteen (15) pupils per teacher with a classroom aide. Each program shall have one (1) classroom aide regardless of ratio. All aides shall have clerical and instructional support duties. In clinical programs the ratio

shall be eight (8) pupils per teacher with a classroom aide. This is in addition to Chapter I and vocational teachers.

(2) The number of summer school or extended employment teachers in day treatment programs shall be based on the previous summer's average daily attendance (ADA) except as agreed upon by the Superintendent of Public Instruction and the Department for Social Services. In the case of new programs without a previous summer ADA staffing shall be agreed upon by the Superintendent of Public Instruction and the Department for Social Services. Clinical and residential programs shall be staffed with the same ratio year around.

(3) By the beginning of the 1989-90 school year, the academic instructional portion of residential and day treatment programs shall be staffed with fifty (50) percent special education certified teachers or a one (1) year endorsement for teaching special education if a fully certified special education teacher is unavailable and the other fifty (50) percent of teachers shall be secondary certified in the areas of English, math, science, and/or social studies or accepted by DSS as meeting the needs of youth in the program. Priority will be given to teachers who have expertise in reading instruction.

(4) Administrative personnel shall be provided as follows: clinical, residential and/or day treatment programs shall have a head teacher included in the teacher pupil ratio who teaches 900 minutes per week and performs administrative duties for 900 minutes per week or a head teacher who teaches a full day and receives extra duty pay for administrative duties. Head teacher duties shall include administering educational assessments, IEP development, coordinate exceptional children's due process procedures, provide support to teachers in behavior management, provide the on-site education decisions as designated by the local school district, attend treatment team meetings to facilitate a coordinated effort between education staff and DSS program staff and other duties as assigned by their employer, the LEA.

(5) One (1) school psychologist shall be provided for the youthful offender programs.

Section 5. Hiring, Retention and Evaluation of Education Personnel by School Year 1988-89. (1) When filling a teacher vacancy in a DSS program the local superintendent will provide the DSS program director an opportunity to interview the candidate. The DSS program director will interview the potential teacher candidate regarding youth treatment issues. The LEA superintendent will consider the program director's input about the potential candidate's success in the treatment program prior to hiring that teacher for the DSS facility. Priority will be given to teachers who want 230 day employment.

(2) If a teacher's job performance is counterproductive to the treatment of youth, the DSS program director and the DSS education branch manager shall provide specific objective reasons why the teacher is unsuitable to the promotion of DSS goals for youth. A copy of this report shall be given to the LEA superintendent and the State Superintendent of Public Instruction. The LEA Superintendent shall give serious consideration to this information in assigning teachers to the DSS program. In addition teachers will be evaluated by local education agency administrative personnel as established in 704 KAR 3:345.

Section 6. Calendar. (1) By school year 1989-90 the regular calendar year shall be followed as established in 702 KAR 7:020. In addition to the number of days provided in the local education agency calendar all DSS programs shall be provided with additional instructional days which when added to the regular calendar year will total 230 days, except as provided in KRS 158.135.

(2) By school year 1989-90 in addition to attending local education agency in-service programs appropriate to teaching duties in DSS facilities, the third week in September will be set aside for state, regional and/or individual program in-service designed particularly for teachers assigned to DSS programs. These in-service programs will be planned jointly between the DSS education branch personnel, representative teachers and local education agency personnel.

(3) Teachers are required to participate in DSS in-service training on the following topics:

(a) DSS policies and procedures;

(b) Safe physical management or other topics regarding health and safety of DSS youth; and

(c) Other pertinent topics as negotiated between DSS and local school district personnel.

Section 7. Textbooks. State adopted textbooks shall be provided for all state agency youth in grades 1-8, by the local education agency providing educational services. State agency funds shall be utilized to purchase state adopted textbooks for youth in grades 9-12.

Section 8. Transitions. (1) DSS shall be recognized as a receiver or sender of individual youth school records prior to and after placement in DSS programs.

(2) The worker assigned to a committed youth shall, with parental permission, obtain a copy of the school records of a committed youth prior to the youth's placement in a DSS residential, clinical, group home or day treatment program. School records will include class schedule and grades at withdrawal, credits earned, attendance data and health records. The DSS social worker will immediately forward the records to the facility where the youth is placed.

(3) DSS facility teachers shall forward credit and other school information to the local education agency where youth will attend upon release from the facility. This shall be at time of release or no more than one (1) week later.

Section 9. Policy Application. Teachers and or teachers aides shall follow all DSS policies for the care and treatment of youth. In the case of conflicting policies (e.g. the use of corporal punishment), the DSS policies shall be followed.

Section 10. Eligibility. If a specific activity (e.g. football, debate, etc.) is not provided to youth in a DSS facility, the youth will not lose eligibility to participate based on the requirements in 702 KAR 7:070. This will be figured on a month per month basis (e.g., nine (9) months in a DSS facility without a formal football program leaves nine (9) months of eligibility in local education agency). This shall not exceed one (1) additional year eligibility. All other eligibility criteria

however, shall be met by the youth.

Section 11. Facilities. The DSS shall ensure that clean, safe classrooms which are sufficient in size to carry out the individualized curriculum are provided. If any of the day treatment students are identified as handicapped set forth in KRS 157.200(1) the district shall apply regulation 702 KAR 5:100 for travel reimbursement.

Section 12. Instructional Equipment and/or Supplies. An equitable system of distributing instructional equipment and/or supply money shall be established by the Superintendent of Public Instruction. This system shall consider new program start-up costs and the need for individualized instructional materials. The system shall be consistently applied to all DSS programs covered under KRS 158.135.

Section 13. State Agency Funds. State agency funds as described in KRS 158.135 shall be allocated for use by all local education agencies in an equitable manner using teacher pupil ratio and other requirements outlined in this regulation, 905 KAR 7:110. Priority should first be given to staffing, adequate instructional materials and in-service training. LEA's should receive the percentage of indirect costs established for them by the Kentucky Department of Education. After those priorities are met, funds may be considered for clerical support, etc. The Kentucky Department of Education shall request the budget state agency children's funds sufficient to meet the needs.

Section 14. Youth Funds. Funds generated by youth in vocational and/or other programs shall be first utilized for expenditures to enhance the instructional program and second shall be placed in the youth activity fund of the DSS program and be subject to use as designated in the activity fund charter.

Section 15. Annual Education Plans. Meetings shall be conducted annually in each LEA providing DSS services and shall include representatives from the Kentucky Department of Education, the DSS education branch, the LEA and the DSS program director. These meetings shall be designed to review the program's educational annual plan and to resolve any difficulties that pertain to treatment of youth, policy conflicts, exchange of information, personnel performance, student performance and budget negotiations. The meetings shall be recorded and minutes distributed to those participating in the meetings.

Section 16. Services for Group Home Youth. Home instruction as outlined in 707 KAR 1:051, Section 1(1)(b), shall be provided for group home youth who have been expelled or suspended from school immediately after five (5) school days have passed or if requested by the DSS program director as the best alternative education plan for a youth as designated by the treatment team. The home instruction will be provided for those youth who will not be able to attend the regular school setting for a minimum of twenty (20) school days. If fewer than twenty (20) days instruction is needed the LEA teachers shall provide the DSS program director with school assignments which can be carried out by group home staff.

Section 17. Accreditation. By school year 1989-90, an accreditation supplement shall be developed with standards and indicators of educational program expectancies for LEA's providing education to state agency youth. This supplement will be used in DSS programs at the same time the LEA is having other programs accredited.

LARRY MICHALCZYK, Acting Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: April 12, 1988
FILED WITH LRC: April 15, 1988 at 10 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for May 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 May 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: Alice Martinson
(1) Type and number of entities affected: All children's residential facilities.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: Minimal indirect cost 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: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Applies statewide.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of the April 14, 1988 Meeting

The April meeting of the Administrative Regulation Review Subcommittee was held on Thursday, April 14, 1988 at 3 p.m. in Room 107. Representative Mark D. O'Brien, Chairman, called the meeting to order, and the secretary called the roll. The minutes of the March 10, 1988 meeting were approved without objection.

Present April 14, 1988 were:

Members: Representative Mark D. O'Brien, Chairman; Representatives Jim Bruce, Ronny Layman and Joe Meyer.

Guests: Nathan Goldman, Patricia Todd Thomas, Board of Occupational Therapy; Martha L. Hall, Kenneth Hines, Hisham Saaid, Natural Resources & Environmental Protection Cabinet; Michael Bradley, Corrections Cabinet; Sam Apollos, Sandy Pullen, Transportation Cabinet; Mike Fulkerson, State Racing Commission; Barbara Coleman, Ruth Friedheim, Eric Friedlander, N. Clifton Howard, Eugenia Jump, Bill Robinson, Cabinet for Human Resources; Nancy Galvagni, Sarah S. Nicholson, KY Hospital Association; Teri Kneer-Brokamp, Jim Young, Booth Memorial Hospital (Turfway Wellness); Katie Nienaber.

LRC Staff: Susan Wunderlich, Joe Hood, Gregory Karambellas, Donna Pierce, Ann Gordon & Carla Arnold.

The Administrative Regulation Review Subcommittee met on April 14, 1988, and submits this report:

The Subcommittee determined that the following regulations, as amended, complied with KRS Chapter 13A:

Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Division for Air Quality: General Administrative Procedures

401 KAR 50:010 (Definitions and abbreviations.) This regulation was amended to define "particulate matter" as it was originally set out.

Corrections Cabinet: Office of the Secretary

501 KAR 6:020 (Corrections policies and procedures.) Agency personnel agreed to amend this regulation to correct the inadvertent assignment of a quota of female underwear to male inmates.

Cabinet for Human Resources: Department for Health Services: Certificate of Need and Licensure

902 KAR 20:008 (License procedures and fee schedule.) The agency amended this regulation to provide that inspectors would have access to facilities during their hours of operation. Representative Meyer asked whether the agency would be able to enter and inspect at any time without prior notice. Agency personnel stated that this procedure would be followed if a complaint had been received, but that generally inspections were announced. He added that the amendment was necessary because of a question raised over the agency's rights to inspect during certain hours.

902 KAR 20:260 (Special health clinics.) This regulation was amended to provide more information regarding services at a wellness center.

The Subcommittee determined that the following regulations complied with KRS Chapter 13A:

General Government Cabinet: Board of Occupational Therapy

201 KAR 28:010 (Definitions and abbreviations.) Chairman O'Brien pointed out that an objection had been raised to this regulation. He stated that since the definition section defined what was prohibited, and since the regulation did not permit the conduct of prohibited activities, the regulation conformed to KRS Chapter 319A.

201 KAR 28:120 (Applications by foreign trained O.T.R.s and O.T.A.s.)

Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Division for Air Quality: General Administrative Procedures

401 KAR 50:015 (Documents incorporated by reference.)

401 KAR 50:035 (Permits.)

New Source Requirements; Nonattainment Areas

401 KAR 51:010 (Attainment status designations.)

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

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

Ambient Air Quality

401 KAR 53:005 (General provisions.)

401 KAR 53:010 (Ambient air quality standards.)

Emergency Episodes

401 KAR 55:005 (Significant harm criteria.)

401 KAR 55:010 (Episode criteria.)

New Source Standards

401 KAR 59:010 (New process operations.)

401 KAR 59:050 (New storage vessels for petroleum liquids.)

401 KAR 59:052 (New volatile organic liquid storage vessels.)

401 KAR 59:236 (New rubber tire manufacturing industry.)

Existing Source Standards

401 KAR 61:020 (Existing process operations.)

401 KAR 61:170 (Existing blast furnace casthouses.)

Corrections Cabinet: Office of the Secretary

501 KAR 6:030 (Kentucky State Reformatory.)

501 KAR 6:040 (Kentucky State Penitentiary.)

501 KAR 6:050 (Luther Luckett Correctional Complex.)

501 KAR 6:060 (Northpoint Training Center.)

501 KAR 6:080 (Corrections Cabinet manuals.)

501 KAR 6:120 (Blackburn Correctional Complex.)

501 KAR 6:130 (Western Kentucky Farm Center.)

501 KAR 6:140 (Bell County Forestry Camp.)

Transportation Cabinet: Department of Highways: Traffic

603 KAR 5:120 (Access control of highways.)

Public Protection & Regulation Cabinet: State Racing Commission: Thoroughbred Racing Rules

810 KAR 1:018 (Medication; testing procedures.) Several questions were raised concerning the type of medication and requirements for medication provided for by this regulation. Representative Meyer asked agency personnel why only two laboratories were involved in the testing of blood samples for traces of certain medications. Agency personnel explained that a certain medication, commonly referred to as elephant juice, could "pop" or stimulate a horse if only 1/300,000 of the drug was administered. He stated that while UK's laboratory was one of the few that could test for this drug, the other laboratories were used when a second testing to confirm was requested or required. Representative Meyer asked whether the only labs that could be chosen were those in California and Colorado. Representative Meyer voted no.

Cabinet for Human Resources: Department for Health Services: Hospitalization of Mentally Ill and Mentally Retarded

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

Certificate of Need and Licensure

902 KAR 20:250 (Specialized medical technology services.)

902 KAR 20:270 (Mobile health services.)

Department for Social Insurance: Public Assistance

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

Department for Social Services: Child Welfare

905 KAR 1:180 (DSS policy and procedures manual.)

The Subcommittee deferred the following regulations at the agencies' request:

Education and Humanities Cabinet: Department of Education: Office of Local Services: School Terms, Attendance and Operation

702 KAR 7:090 (Requirements for coaches and other personnel staffing interscholastic athletic programs.)

Office of Instruction: Elementary and Secondary Education Act

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

Teacher Education

704 KAR 15:080 (Paraprofessional employees and volunteer personnel.)

The Subcommittee had no objections to emergency regulations which had been filed.

The Subcommittee adjourned at 3:30 p.m. until May 9, 1988.

CUMULATIVE SUPPLEMENT

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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 Amended	2107	8-5-87
806 KAR 38:060 Amended	2109	8-5-87
806 KAR 38:080 Amended	2111	8-5-87
902 KAR 13:010 Amended	2121	8-5-87
902 KAR 13:030 Amended	2122	8-5-87
902 KAR 13:050 Amended	2123	8-5-87
902 KAR 13:080 Amended	2125	8-5-87
902 KAR 13:090 Amended	2126	8-5-87

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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
Replaced	597	12-11-87
201 KAR 25:012E	545	8-24-87
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201 KAR 26:240E	2005	4-14-88
201 KAR 27:017E Replaced		8-5-87
201 KAR 27:018E	545	8-27-87
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201 KAR 27:019E	546	8-27-87
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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 2:230E	691	9-25-87
Replaced	841	12-11-87
301 KAR 3:021E	692	9-25-87
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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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302 KAR 20:070E	702	10-8-87
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302 KAR 20:210E	706	10-8-87
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401 KAR 34:159E	712	10-15-87
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401 KAR 34:162E	713	10-15-87
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603 KAR 5:230E	755	10-15-87
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904 KAR 2:020E	1062	10-23-87
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904 KAR 2:116E	804	9-16-87
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904 KAR 3:010E	807	10-2-87
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103 KAR 25:130 Withdrawn	1880	3-24-88
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201 KAR 1:062 Amended	161	7-2-87
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201 KAR 8:390 Amended	1196	12-11-87
201 KAR 9:101 Amended	1577	3-10-88
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201 KAR 18:050 Amended	571	11-6-87
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201 KAR 28:090 Amended	233	9-10-87
201 KAR 28:110 Amended	33	8-5-87
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301 KAR 1:055 Repealed	1170	1-4-88
301 KAR 1:075 Amended	1080	1-4-88
301 KAR 1:085 Amended	1288	2-8-88
301 KAR 1:120 Amended	1081	1-4-88
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301 KAR 1:145 Amended	1082	1-4-88
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301 KAR 1:191	1542	2-8-88
301 KAR 1:200	1170	1-4-88

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301 KAR 1:210	1996	
301 KAR 2:044		
Amended	463	10-2-87
301 KAR 2:045		
Amended	2036	
301 KAR 2:047		
Amended	2038	
301 KAR 2:050		
Amended	33	8-5-87
301 KAR 2:110		
Amended	35	8-5-87
301 KAR 2:111		
Amended	2042	
301 KAR 2:140		
Amended	839	12-11-87
301 KAR 2:170		
Amended	2045	
301 KAR 2:220		
Amended	598	11-6-87
301 KAR 2:230		
Amended	841	12-11-87
Amended	2050	
301 KAR 2:240	87	8-5-87
301 KAR 3:021		
Amended	842	12-11-87
Amended	2051	
301 KAR 3:030		
Amended	36	8-5-87
Amended	2053	
301 KAR 4:050		
Amended	604	11-6-87
302 KAR 16:040		
Amended	234	9-10-87
302 KAR 20:040		
Amended	844	12-11-87
302 KAR 20:055		
Amended	850	12-11-87
Amended	1936	
302 KAR 20:058	2129	
302 KAR 20:065		
Amended	854	12-11-87
Amended	1939	
302 KAR 20:070		
Amended	858	12-11-87
Amended	1942	
302 KAR 20:210	1023	12-11-87
Amended	1947	
302 KAR 34:050	315	
Amended	1746	2-8-88
302 KAR 36:010	1542	2-8-88
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	2-8-88
401 KAR 6:040		
Amended	1292	2-8-88
401 KAR 30:010		
Amended	1297	
Amended	1756	3-10-88
401 KAR 30:020		
Amended	1309	
Amended	1767	3-10-88
401 KAR 30:070		
Amended	1311	
Amended	1768	3-10-88
401 KAR 30:080		
Amended	1313	3-10-88
401 KAR 31:010		
Amended	1316	
Amended	1769	3-10-88

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401 KAR 31:030		
Amended	1325	3-10-88
401 KAR 31:040		
Amended	1327	
Amended	1779	3-10-88
401 KAR 31:060		
Amended	1340	3-10-88
401 KAR 31:120		
Amended	1343	3-10-88
401 KAR 31:160		
Amended	1347	3-10-88
401 KAR 31:170		
Amended	1350	3-10-88
401 KAR 32:010		
Amended	1360	3-10-88
401 KAR 32:030		
Amended	1362	
Amended	1790	3-10-88
401 KAR 32:040		
Amended	1363	3-10-88
401 KAR 32:050		
Amended	1365	
Amended	1791	3-10-88
401 KAR 32:100		
Amended	1369	3-10-88
401 KAR 33:010		
Amended	1376	
Amended	1794	3-10-88
401 KAR 33:020		
Amended	1377	3-10-88
401 KAR 34:010		
Amended	1380	3-10-88
401 KAR 34:020		
Amended	1381	
Amended	1795	3-10-88
401 KAR 34:050		
Amended	1386	
Amended	1798	3-10-88
401 KAR 34:070		
Amended	1389	
Amended	1800	3-10-88
401 KAR 34:080		
Amended	1395	3-10-88
401 KAR 34:090		
Amended	1397	
Amended	1806	3-10-88
401 KAR 34:100		
Amended	1406	3-10-88
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	
Amended	1813	3-10-88
401 KAR 34:200		
Amended	1424	3-10-88
401 KAR 35:010		
Amended	1428	3-10-88
401 KAR 35:020		
Amended	1430	3-10-88
401 KAR 35:050		
Amended	1433	
Amended	1821	3-10-88

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401 KAR 35:070		
Amended	1437	
Amended	1823	3-10-88
401 KAR 35:080		
Amended	1444	
Amended	1829	3-10-88
401 KAR 35:090		
Amended	1446	3-10-88
401 KAR 35:100		
Amended	1454	3-10-88
401 KAR 35:120		
Amended	879	
Amended	1201	1-4-88
401 KAR 35:190		
Amended	1462	
Amended	1831	3-10-88
401 KAR 35:200		
Amended	1470	3-10-88
401 KAR 36:030		
Amended	1473	3-10-88
401 KAR 36:040		
Amended	1474	3-10-88
401 KAR 36:050	1543	3-10-88
401 KAR 37:010	1546	
Amended	1838	3-10-88
401 KAR 37:030	1551	3-10-88
401 KAR 37:040	1553	3-10-88
401 KAR 37:050	1555	3-10-88
401 KAR 37:100	1557	3-10-88
401 KAR 38:010		
Amended	1479	3-10-88
401 KAR 38:020		
Amended	1482	3-10-88
401 KAR 38:030		
Amended	1485	3-10-88
401 KAR 38:040		
Amended	1489	
Amended	1842	3-10-88
401 KAR 38:070		
Amended	1493	3-10-88
401 KAR 38:090		
Amended	1496	3-10-88
401 KAR 38:100		
Amended	1501	3-10-88
401 KAR 38:160		
Amended	1503	
Amended	1845	3-10-88
401 KAR 39:010		
Amended	1504	3-10-88
401 KAR 39:080		
Amended	1506	3-10-88
401 KAR 39:090	1559	3-10-88
401 KAR 39:100	1560	3-10-88
401 KAR 42:010		
Amended	1507	3-10-88
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	
Amended	1906	
Amended	2028	4-14-88
401 KAR 50:015		
Amended	1589	4-14-88
401 KAR 50:035		
Amended	1593	4-14-88
401 KAR 51:010		
Amended	1598	4-14-88
401 KAR 51:017		
Amended	883	12-11-87
Amended	1601	4-14-88
401 KAR 51:052		
Amended	892	12-11-87
Amended	1612	
Amended	1909	4-14-88
401 KAR 53:005		
Amended	1619	4-14-88
401 KAR 53:010		
Amended	1621	4-14-88
401 KAR 55:005		
Amended	1624	4-14-88
401 KAR 55:010		
Amended	1625	4-14-88
401 KAR 57:045		
Amended	900	12-11-87
401 KAR 59:010		
Amended	1627	4-14-88
401 KAR 59:050		
Amended	1629	4-14-88
401 KAR 59:052	1706	4-14-88
401 KAR 59:221		
Amended	902	12-11-87
401 KAR 59:235		
Repealed	1707	4-14-88
401 KAR 59:236	1707	4-14-88
401 KAR 59:305		
Amended	903	12-11-87
401 KAR 59:310	1025	12-11-87
401 KAR 61:020		
Amended	1633	4-14-88
401 KAR 61:170		
Amended	1636	
Amended	1916	4-14-88
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

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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)
*Since Statement of Consideration was not received by 15th day following hearing, proposed regulation must be refiled. (KRS 13A.280(2))		
500 KAR 6:200	1171	1-4-88
501 KAR 6:020		
Amended	45	8-5-87
Amended	235	9-10-87
Amended	1509	
Amended	1746	2-8-88
Amended	1850	4-14-88
Amended	1949	
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	2-8-88
Amended	1638	3-10-88
Amended	1852	4-14-88
Amended	1951	
Amended	2054	
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	3-10-88
Amended	1854	4-14-88
Amended	1953	
Amended	2056	
501 KAR 6:050		
Amended	480	10-2-87
Amended	908	12-11-87
Amended	1513	2-8-88
Amended	1855	4-14-88
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	3-10-88
Amended	1857	4-14-88
Amended	1955	
Amended	2057	
501 KAR 6:070		
Amended	1515	2-8-88
Amended	1643	3-10-88
Amended	2059	
501 KAR 6:080		
Amended	52	8-5-87
Amended	1858	4-14-88
501 KAR 6:110		
Amended	1957	
501 KAR 6:120		
Amended	52	8-5-87
Amended	911	12-11-87
Amended	1088	1-4-88
Amended	1859	4-14-88
Amended	1958	
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	3-10-88
Amended	1861	4-14-88
Amended	1961	
501 KAR 6:140	533	10-2-87
Amended	1092	1-4-88
Amended	1862	4-14-88
Amended	1962	
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		
Amended	1094	1-4-88
601 KAR 1:020		
Amended	484	
Amended	830	11-6-87
601 KAR 1:025		
Amended	1097	
Amended	1576	3-10-88
601 KAR 1:115		
Amended	246	
Amended	560	
Withdrawn		4-12-88
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 9:050		
Repealed	1709	3-10-88
601 KAR 9:060		
Amended	255	9-10-87

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601 KAR 9:074		
Amended	256	*(No eff. date)
Amended	1098	1-4-88
*Since Statement of Consideration was not received by 15th day following hearing, proposed regulation must be refiled. (KRS 13A.280(2))		
601 KAR 9:080		
Amended	260	9-10-87
601 KAR 9:085		
Amended	261	9-10-87
601 KAR 9:125	91	8-5-87
Amended	614	11-6-87
601 KAR 9:130	1709	3-10-88
601 KAR 9:135	1710	3-10-88
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	3-10-88
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
Amended	2061	
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	
Amended	1917	4-14-88
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
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701 KAR 5:070		
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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 3:340		
Amended	1965	
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
Amended	1966	
704 KAR 20:215		
Amended	1105	1-4-88
704 KAR 20:280		
Amended	617	11-6-87
704 KAR 20:305		
Amended	1967	
704 KAR 20:330		
Amended	1654	3-10-88
704 KAR 20:450	350	9-10-87
704 KAR 20:460	1174	1-4-88
704 KAR 20:470	1996	
704 KAR 20:480	1999	
705 KAR 1:010		
Amended	1970	
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
Amended	1971	
707 KAR 1:003		
Amended	279	9-10-87
709 KAR 1:070		
Amended	1108	1-4-88
Amended	1655	3-10-88
720 KAR 1:010		
Amended	1516	2-8-88
803 KAR 2:020		
Amended	59	8-5-87
Amended	1518	2-8-88
Amended	1972	
803 KAR 2:027		
Amended	1523	2-8-88
Amended	1977	
803 KAR 2:030		
Amended	65	8-5-87
Amended	1524	2-8-88
Amended	1979	
803 KAR 2:032		
Amended	1530	2-8-88
Amended	1985	

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803 KAR 25:011	2130	
804 KAR 4:245	534	10-2-87
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Amended	1986	
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
806 KAR 39:070		
Amended	2063	
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
810 KAR 1:018		
Amended	1864	4-14-88
811 KAR 1:090		
Amended	1531	2-8-88
811 KAR 1:105		
Amended	628	11-6-87
811 KAR 1:125		
Amended	1656	3-10-88
811 KAR 1:215		
Amended	630	11-6-87
811 KAR 1:225		
Amended	1663	3-10-88
811 KAR 2:035		
Amended	1666	3-10-88
811 KAR 2:040		
Amended	1670	3-10-88
811 KAR 2:045		
Amended	1673	3-10-88
811 KAR 2:050		
Amended	1674	3-10-88
811 KAR 2:060		
Amended	1533	2-8-88
Amended	1676	3-10-88
811 KAR 2:070		
Amended	1683	3-10-88
811 KAR 2:080		
Amended	1686	3-10-88
811 KAR 2:085		
Amended	1687	3-10-88
811 KAR 2:096	535	10-2-87
Amended	1689	3-10-88
811 KAR 2:110	1713	3-10-88
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
Amended	1986	
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
902 KAR 3:020		
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
Amended	2066	
902 KAR 3:065	357	10-2-87
902 KAR 3:070	359	10-2-87
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
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Amended	566	10-2-87
Amended	2068	
902 KAR 3:215	375	10-2-87

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902 KAR 3:230	379	10-2-87
902 KAR 3:235	380	10-2-87
902 KAR 3:240	381	10-2-87
902 KAR 3:245	382	
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