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

MEETING NOTICE: The next meeting of the Administrative Regulation Review Subcommittee is tentatively scheduled on February 14-15, 1989. See tentative agenda on pages 1755-1756 of this Administrative Register.

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KENTUCKY ADMINISTRATIVE REGULATIONS are codified according to the following system and are to be cited by Title, Chapter and Regulation number, as follows:

Title		Chapter		Regulation
806	KAR	50	:	155
Cabinet, Department, Board or Agency		Bureau, Division, or Major Function		Specific Regulation

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ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
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(Rm. 107, Capitol Annex @ 1 p.m.)

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Board of Examiners of Psychologists
201 KAR 26:121. Scope of practice. (Repeals 201 KAR 26:010; 201 KAR 26:030; 201 KAR 26:050; 201 KAR 26:070; 201 KAR 26:080; 201 KAR 26:120, 201 KAR 26:240)
201 KAR 26:160. Fee schedule for applications for licensure as a psychologist, certification as a psychologist, certification as psychologist with autonomous functioning and certification as psychological associate.
201 KAR 26:171. Requirements for supervision of certified psychologists, psychological associates, and candidates for licensure.
201 KAR 26:190. Requirements for supervised professional experience.
201 KAR 26:200. Definitions of terms used by the Board of Examiners of Psychologists for meeting educational requirements for licensure as a licensed psychologist.
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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
501 KAR 6:020E

In order to continue to operate the Corrections Cabinet in accordance with KRS Chapter 196, the Corrections Cabinet needs to implement this emergency regulation. An ordinary administrative regulation cannot suffice because the effected cabinet policies must be revised immediately to establish operating policy and procedure for the cabinet's sex offender treatment program and to allow for the reclassification of the Roederer Farm from a minimum facility to a medium security correctional institution. This emergency regulation will be replaced by the ordinary administrative regulation filed with LRC on December 15, 1988 in accordance with KRS Chapter 13A.

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

CORRECTIONS CABINET

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

RELATES TO: KRS Chapters 196, 197, 439
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640
EFFECTIVE: December 22, 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 December 15 [September 13], 1988 and hereinafter should be referred to as Corrections Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

1.1 Legal Assistance for Corrections Staff
1.2 News Media [(Amended 9/13/88)]
1.4 The operation of Contracted Adult Correctional Facilities
1.6 Extraordinary Occurrence Reports
1.9 Institutional Duty Officer
1.11 Population Counts and Reporting Procedures
1.12 Operation of Motor Vehicles by Corrections Cabinet Employees
2.1 Inmate Canteen
2.2 Warden's Fund
2.10 Surplus Property
3.1 Code of Ethics
3.2 Inclement Weather and Emergency Conditions Policy
3.3 Holding of Second Jobs by Bureau Employees
3.10 Staff Clothing and Personal Appearance
3.12 Institutional Staff Housing
3.14 Corrections Cabinet Payroll Deduction Policy and Procedure
4.1 Attendance at Professional Meetings
4.2 Staff Training and Development
4.3 Firearms and Chemical Agents Training
4.4 Educational Assistance Program
6.1 Open Records Law
7.2 Asbestos Abatement
8.4 Emergency Preparedness
9.1 Use of Force
9.3 Transportation of Convicted Offenders
9.4 Transportation of Inmates to Funerals or Bedside Visits
9.6 Contraband
9.7 Storage, Issue and Use of Weapons Including Chemical Agents
9.8 Search Policy
9.9 Transportation of Inmates
9.10 Security Inspections
9.11 Tool Control
9.15 Institutional Entry and Exit Policy and Procedures
9.18 Informants
9.19 Found Lost or Abandoned Property
10.2 Special Management Inmates
10.3 Safekeepers
10.4 Special Needs Inmates
11.2 Nutritional Adequacy of the Diet for Inmates
11.3 Special Diet Procedures
13.1 Pharmacy Policy and Formulary
13.2 Health Maintenance Services
13.3 Medical Alert System
13.4 Health Program Audits
13.5 Acquired Immune Deficiency Syndrome
13.6 Sex Offender Treatment Program (Added 12/15/88)
14.2 Personal Hygiene Items
14.3 Marriage of Inmates
14.4 Legal Services Program
14.6 Inmate Grievance Procedures
15.1 Hair and Grooming Standards
15.2 Offenses and Penalties
15.3 Meritorious Good Time
15.5 Restoration of Forfeited Good Time
15.6 Adjustment Procedures and Programs
16.1 General Inmate Visiting Procedure
16.2 Inmate Correspondence
16.3 Telephone Calls
16.4 Inmate Packages
17.1 Inmate Personal Property
17.2 Assessment Center Operations
17.3 Controlled Intake of Inmates
18.4 Classification of the Inmate
18.5 Custody/Security Guidelines (Amended 12/15/88)
18.6 Classification Document (Amended 12/15/88)
18.7 Transfers
18.8 Guidelines for Transfers Between Institutions (Amended 12/15/88)
18.9 Out-of-State Transfers
18.10 Preparole Progress Reports
18.11 Kentucky Correctional Psychiatric Center Transfer Procedures
18.12 Referral Procedure for Inmates Adjudicated Guilty But Mentally Ill
18.13 Population Categories
18.15 Protective Custody
19.1 Government Services Projects
19.2 Community Services Projects
20.1 Study Release
20.6 Vocational Study Release

22.1 Privilege Trips
25.1 Gratuities
25.2 Public Official Notification of Release of an Inmate
25.3 Prerelease
25.4 Inmate Furloughs
25.6 Community Center Program
25.7 Expedient Release
25.8 Extended Furloughs
27-01-01 Probation and Parole Procedures
27-02-01 Duties of Probation and Parole Officers
27-03-01 Workload Formula Supervisor/Staff Ratio
27-05-01 Testimony, Court Demeanor and Availability of Legal Services
27-06-01 Availability of Supervision Services
27-06-02 Equal Access to Services
27-07-01 Cooperation with Law Enforcement Agencies
27-09-01 Kentucky Community Resources Directory
27-10-01 Advanced Supervision
27-11-01 Intensive Supervision
27-12-01 Supervision: Case Classification
27-12-02 Risk/Needs Assessment
27-12-03 Initial Interview
27-12-04 Conditions of Regular Supervision/Request for Modification
27-12-05 Releasee's Report
27-12-06 Grievance Procedures for Offenders
27-12-07 Employment, Education/Vocational Referral
27-12-08 Supervision Plan
27-12-09 Casebook
27-12-10 Guidelines for Monitoring Supervision Fee
27-12-11 Guidelines for Monitoring Financial Obligations Ordered by the Releasing Authority
27-12-12 Other Financial Obligations (Not Ordered by Releasing Authority)
27-12-13 Community Service Work
27-12-14 Client Travel Restrictions
27-13-02 Alcohol Detection
27-14-01 Interstate Compact Transfers
27-14-02 Interstate Compact Out-of-state Probation and Parole Violation
27-15-01 Supervision Report; Violations, Unusual Incidents
27-17-01 Absconder Procedures
27-18-01 Probation and Parole Issuance of Detainer/Warrant
27-19-01 Preliminary Revocation Hearing
27-20-01 Division of Probation and Parole Controlled Intake Program
27-20-02 Prisoner Intake Notification
27-20-03 Prisoner Status Change
27-21-01 Apprehension and Transportation of Probation and Parole Violators
27-22-01 Fugitive Unit - Apprehensions
27-22-02 Fugitive Unit - Transportation of Fugitives
27-23-01 In-state Transfer
27-24-01 Closing Supervision Report
27-24-02 Reinstatement of Clients to Active Supervision
27-25-01 Application for Final Discharge from Parole
27-26-01 Assistance to Former Clients and Dischargees
27-27-01 Restoration of Civil Rights
27-28-01 Firearms/Explosives: Application for Relief from Disability
27-29-01 Parole Review Dates Modification
28-01-01 Probation and Parole Investigation Reports (Introduction, Definitions, Confidentiality, Timing, and General Comments)
28-01-02 Probation and Parole Investigation Reports (Administrative Responsibilities)
28-01-03 Probation and Parole Investigation Reports (Presentence/Postsentence Investigation Interview Procedure)
28-01-04 Probation and Parole Investigation Reports (Presentence/Postsentence Verification, Composition, Case Material and Submission Schedules)
28-01-05 Probation and Parole Investigation Reports (Computation of Jail Custody Credit)
28-01-06 Probation and Parole Investigation Reports (Misdemeanant Presentence Investigation Reports for the Circuit and District Courts)
28-01-07 Probation and Parole Investigation Reports (Supplemental Postsentence Investigation Report, Case Material, and Submission Schedule)
28-01-08 Probation Parole Investigation Reports (Partial Investigation Reports and Submission Schedule)
28-01-09 Release of Information of Factual Content on Presentence/Postsentence Investigation Reports
28-02-01 Expedient Release Program
28-03-01 Parole Plans/Halfway Houses/Extended Furlough/Sponsorship/Gradual Release
28-04-01 Furlough Verifications
28-05-01 Out-of-state Investigations

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: December 15, 1988
FILED WITH LRC: December 22, 1988 at 2 p.m.

STATEMENT OF EMERGENCY
601 KAR 1:005E

This emergency regulation removes the exemption from the motor carrier safety regulations enjoyed by motor carriers operating exclusively in urban areas. The changes to the Federal Regulations repealing this exemption were effective on November 15, 1988 (Title 49 CFR 390-397). In addition, Congress passed HR 5210, the Anti-Drug Bill on October 22, 1988 as their last action before adjournment of the 100th Congress. This bill, subsequently signed by President Reagan, also eliminated exemptions from safety rules for trucks and buses operating in certain metropolitan areas. In order that the three Kentucky urban areas affected can be treated the same as the rest of the country, it is necessary to promulgate this emergency administrative regulation. An emergency regulation was filed on this topic on August 15, 1988. However, that emergency related to the placement of identification numbers on trucks. This change is needed to adopt or incorporate the federal regulation changes which were effective November 15, 1988. This emergency administrative regulation will be replaced by an ordinary regulation which was filed on December 13, 1988.

WALLACE G. WILKINSON, Governor
MILO D. BRYANT, Secretary

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Motor Carriers

601 KAR 1:005E. Safety regulations.

RELATES TO: KRS Chapters 138, 281, Title 49, Code of Federal Regulations, Part 390-397

STATUTORY AUTHORITY: KRS 138.665, 281.600, 281.726, 281.730, 281.750, Title 49, Code of Federal Regulations, Part 390-397

EFFECTIVE: December 20, 1988

NECESSITY AND FUNCTION: This regulation sets out safety procedures to be followed by motor carriers operating in the Commonwealth of Kentucky. [It further sets forth the requirement for a unique identifier on the sides of each vehicle subject to the taxes of KRS 138.660.]

Section 1. Definitions. (1) "Farm-to-market agricultural transportation" means the operation of a motor vehicle that is controlled and operated by a farmer who, as a private motor carrier is using the vehicle to transport agricultural products from his farm or to transport farm machinery or farm supplies to his farm. The transportation of hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with 601 KAR 1:025, Transporting hazardous materials, permit, is not included in this definition.

(2) "Daylight hours" means that period of time one-half (1/2) hour before sunrise through one-half (1/2) hour after sunset.

(3) "Load limit" means the rated seating capacity for which a vehicle is licensed plus twenty-five (25) percent of the rated seating capacity.

Section 2. [1.] (1) All commercial motor vehicles operated for-hire or in private carriage, interstate or intrastate, except those listed in subsection (2) of this section shall be governed by the Motor Carrier Safety Regulations adopted and issued by the United States Department of Transportation relating to the following subjects: Title 49, Code of Federal Regulations Part 390, General, excluding Part 390.5, effective November 15, 1988; Title 49, Code of Federal Regulations, Part 391, [dated October 1, 1983 as amended through June 12, 1986,] Qualifications of Drivers, effective November 15, 1988 except that Part 391.15(c) is adopted as effective on June 12, 1986; Title 49, Code of Federal Regulations, Part 392, [dated October 1, 1983 as amended through August 19, 1987,] Driving of Motor Vehicles, effective November 15, 1988 except that Part 392.5(a)(2) is as adopted as effective on August 19, 1987; Title 49 Code of Federal Regulations, Part 393, [dated October 1, 1983 as amended through February 26, 1987,] Parts and Accessories Necessary for Safe Operation, effective November 15, 1988; Title 49, Code of Federal Regulations, Part 394, [dated October 1, 1983 as amended through March 10, 1987,] Notification, Recording and Reporting of Accidents, effective November 15, 1988; Title 49, Code of Federal Regulations, Part 395, [dated October 1, 1983 as amended through November 23, 1984,] Hours of Service of Drivers, effective November 15, 1988; Title 49, Code of Federal Regulations, Part 396, [dated October 1, 1983 as amended through September 28, 1984,] Inspection, Repair and Maintenance, effective November 15, 1988; Title 49, Code of Federal Regulations, Part 397, [dated October 1, 1983 as amended through September 28, 1984,] Transportation of Hazardous Materials; Driving and Parking Rules, effective November 15, 1988; Title 49, CFR Parts 391 and 392 are incorporated by reference as amended. Title 49, CFR Parts 390 excluding 390.5 and 393-397 are adopted without change. [; are hereby adopted and incorporated herein by reference, and all commercial motor vehicles operated for-hire or in private carriage, intrastate and interstate, shall comply therewith. These regulations are not applicable to motor vehicles primarily designed for carrying passengers and having provisions for not more than eight (8) passengers and the driver, motorcycles, side car attachments and motor vehicles owned by the federal government, a state, a county, a city, or a board of education.]

(2) [Subject to] The following exemptions and exceptions to compliance with the provisions of subsection (1) of this section are adopted:

(a) City buses, suburban buses, taxicabs, motorcycles and motor vehicles primarily designed for carrying passengers and having provisions for not more than eight (8) passengers and the driver [(except those motor vehicles transporting hazardous materials, Part 397) operated exclusively in a residential or business district of a city] are not required to comply with the federal regulations adopted by or incorporated by reference in this administrative regulation [the aforesaid safety regulations].

(b) Vehicles owned by the federal government, a state government, a county government, a city government, or a board of education and vehicles operating in interstate commerce which are specifically excluded by Title 49, Code of Federal Regulations, Part 390 are not required to comply with the federal regulations adopted by or incorporated by reference in this administrative regulation.

(c) Motor vehicles which are used [(b) Private carriers engaged] exclusively in farm-to-market agricultural transportation [operation] when operated during daylight hours by a private motor carrier are not required to comply with Title 49, Code of Federal Regulations, Part 393, Subpart B, [the above safety regulations] relative to lighting device [fixture] requirements. They are, however, required to have two (2) stop lamps [brake lights] and mechanical turn signals as set forth in 49 CFR 393, Subpart B. [The term "farm-to-market agricultural transportation" means the operation of a motor vehicle that is controlled and operated by a farmer who, as a private carrier is using the vehicle to transport agricultural products from his farm or to transport farm machinery, farm supplies, or both to his farm. However, the term "farm-to-market agricultural transportation" does not include the operation of a motor vehicle transporting hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with 49 CFR 177. The term "daylight hours" means that period of time one-half (1/2) hour before sunrise through one-half (1/2) hour after sunset.]

(d) [(c)] Motor vehicles which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility which is located at a point not more than fifty (50) air miles from

the harvest area when operated during daylight hours are not required to comply with Title 49, Code of Federal Regulations, Part 393, Subpart B [the above safety requirements] relative to lighting devices requirements [fixtures when operated during daylight hours]. They are, however, required to have two (2) stop lamps [brake lights] and mechanical turn signals as set forth in 49 CFR 393, Subpart B.

Section 3. [2.] Title 49, Code of Federal Regulations, Part 390.5, Definitions, effective November 15, 1988, except that the definitions of "alcohol concentration," "conviction," and "driving a commercial motor vehicle while under the influence of alcohol" are excluded, [dated October 1, 1983 as amended through April 14, 1986, General,] is incorporated by reference [hereby adopted] for the purposes of application to 49 Code Federal Regulations Sections 391-397.

Section 4. [3.] A summary of the content of each federal regulation governing motor carrier safety [herein incorporated by reference] follows:

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

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

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

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

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

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

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

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

Section 5. [4.] Buses. Buses shall [must] be maintained in a clean and sanitary condition so that the health of passengers will not be impaired. Seats shall [must] be comfortable in order that passengers will not be subjected to unreasonable discomfort which might be detrimental to their health and welfare. Employees in charge of buses shall be courteous and helpful to passengers, properly caring for baggage so that it will not be damaged, and shall [should] be acquainted with the routes traveled and schedules maintained, so that the passengers will not be subjected to unnecessary delays. All operators shall [must] take into consideration the health and welfare of their passengers and control their operations in the public interest. Express and freight, mail bags, newspapers and baggage shall [must] be so placed as not to interfere with the driver or with the safety and comfort of passengers. These [Such] items shall [must] be protected from the weather but shall not be carried in the aisles or in such position as to block exits or doorways on the bus. [No aisle seat shall be permitted in any bus and the driver's seat must be separated from every other seat.]

Section 6. [5.] Overcrowding of Passenger Vehicles. No bus operated by an authorized carrier, except city or suburban buses, shall transport passengers in excess of its [the] load limit [hereinafter set forth. The load limit shall be the rated seating capacity for which the vehicle is licensed plus twenty-five (25) percent of said rated seating capacity. This load limit is subject to the provision that in no event shall any authorized carrier, including city or suburban bus operators, permit standees to occupy that space forward of a plane drawn through the rear of the driver's seat perpendicular to the longitudinal axis of the bus. This forward space shall be plainly marked with a line, or otherwise equipped with identification, so as to indicate to standees that they are prohibited from occupying it]. No passenger shall be permitted to occupy the rear door-well of any bus vehicle that is equipped with [such] a rear door-well. [Taxicabs shall not carry a number of passengers greater than the rated seating capacity of the vehicle, and in no event more than fifteen (15) passengers exclusive of the driver.]

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

[Section 7. Tax Identification Number. (1) Every commercial motor vehicle having a declared gross weight above 26,000 pounds with three (3) or more axles, which is subject to those taxes in KRS 138.660, shall when operating upon the public highways of the Commonwealth of Kentucky, display on the vehicle the control number of the motor carrier under whose authority the vehicle is being operated and a unique vehicle identification number for the vehicle. The motor carrier control number required by this regulation shall only be accepted by the Department of Vehicle Regulation for the purpose of exterior display on the vehicle, and shall not be accepted for any other purpose. These numbers may be permanently affixed to the vehicle or displayed by use of a removable

device. The term commercial motor vehicle as used in this section of the administrative regulation shall not include farm vehicles properly registered under KRS 186.050(4).]

[(2) The control number of a motor carrier for the purposes of this regulation shall mean either an Interstate Commerce Commission motor carrier (ICC MC) number as required by 49 CFR 1058.2; a U.S. Department of Transportation (DOT) number as required by 49 CFR 290.21; or a Kentucky highway motor fuel use license number (KYU) as required by KRS 138.665. All ICC MC or DOT numbers shall be validated with the Department of Vehicle Regulation prior to their being accepted as a control number. This number shall be placed on both sides of the main body of the cab directly under the name or name and address, of the motor carrier. The numbers shall be immediately preceded by an alpha prefix indicating that the number is an ICC, MC, DOT, or KYU number. The figures shall be in sharp color contrast to the background of the vehicle and of such size, shape and color as to be readily legible during daylight hours from a distance of fifty (50) feet when the vehicle is not in motion. These numbers shall be placed on the vehicle no higher than the top of the side window, and no lower than the bottom of the cab door.]

[(3) The unique vehicle identification number, for the purpose of this regulation, shall mean a company unit number assigned to the vehicle. This number shall be displayed on the front of the vehicle readily visible in daylight hours from a distance of 100 feet when the vehicle is not in motion. The number shall be in sharp color contrast to the background of the vehicle, and be placed no higher than the windshield and no lower than the front bumper.]

[(4) If a KYU number and the unique vehicle identification number was permanently affixed on the exterior of both cab doors or affixed to a panel directly adjacent to the cab doors of the vehicle prior to August 1, 1988, it shall be considered in compliance with this section of the administrative regulation provided the number complies with all visibility, height, and prefix requirements.]

Section 7. [8.] Out of Service Sticker. If [In the event] a commercial vehicle is determined to be operating either improperly registered or without registration or in violation of any safety regulation or requirement, officers of the Division of Motor Vehicle Enforcement are authorized to affix to the vehicle [thereto] a notice indicating the nature of the violation, requiring its correction before the motor vehicle is further operated. Refusal of the vehicle operator to grant permission for an officer of the Division of Motor Vehicle Enforcement to conduct a safety inspection of either the vehicle or its operator shall be cause for the officer to place the vehicle out of service until such permission is granted. Operation of [such] a vehicle in violation of the out of service notice affixed to it [thereto] shall constitute a separate violation of these regulations.

Section 8. [9.] Copies of all incorporated material may be viewed in the Transportation Cabinet, Department of Vehicle Regulation, Division of Motor Vehicle Enforcement, State Office Building, Frankfort, Kentucky 40601, or obtained by writing the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

MILO D. BRYANT, Secretary
JEROME L. LENTZ, Acting Commissioner
APPROVED BY AGENCY: December 6, 1988
FILED WITH LRC: December 20, 1988 at 10 a.m.

STATEMENT OF EMERGENCY
603 KAR 5:072E

This emergency administrative regulation establishes that proof of having passed its mandatory annual safety inspection is required prior to the renewal of registration. This is one of the best enforcement methods available. In order that the provision regarding registration renewal be in place with the beginning of the 1989 registration year, it is necessary to promulgate this emergency administrative regulation. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation was filed with the Regulations Compiler on January 6, 1989.

WALLACE G. WILKINSON, Governor
MILO D. BRYANT, Secretary/Commissioner

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Vehicle Enforcement

603 KAR 5:072E. Mandatory annual bus inspection.

RELATES TO: KRS 189.231, Chapter 281 [281.600]
STATUTORY AUTHORITY: KRS 189.231, 281.600
EFFECTIVE: January 10, 1989
NECESSITY AND FUNCTION: KRS 189.231 authorizes the Secretary of Transportation to restrict or regulate traffic on state-maintained highways in such manner as is reasonably necessary to promote the safety and convenience of the traveling public. KRS 281.600 authorizes the Department of Vehicle Regulation to promulgate regulations regarding safety requirements for [motor vehicles] and method of operation of motor vehicles.

Section 1. Definition. [and Scope. As used in this regulation, the term] "Bus" shall mean all motor vehicles that are required to be registered under the terms of KRS 186.050, designed and used for carrying passengers and having provisions for more than nine (9) passengers including the driver. [The term] "Bus" shall not include motor vehicles operated by any common school system, motor vehicles operated under a city bus certificate required by KRS Chapter 281 when operating within the corporate limits of a city, and regular route bus operators operating under a certificate required by KRS Chapter 281.

Section 2. Annual Inspections. The Transportation Cabinet shall require that all buses [within the scope of this regulation] be inspected annually by Transportation Cabinet personnel for compliance with the [such] minimum vehicle safety equipment standards established [as are currently required] under Federal Motor Carrier Safety Regulations adopted by the United

States Department of Transportation as 49 Code of Federal Regulations, Part 393, and adopted by Kentucky Administrative Regulation 601 KAR 1:005. When a bus passes an inspection, the Transportation Cabinet shall issue to the bus owner a document showing that the bus has passed.

Section 3. Proof of Inspection. Proof of a passed inspection shall be shown to the appropriate county clerk before first-time or renewal of any bus registration.

Section 4. Random Inspections. In addition to the mandatory annual inspection, buses are subject to the provisions of 601 KAR 1:005 including random safety inspections.

Section 5. [3.] Out-of-service Sticker. If [In the event] a bus is determined to be out of compliance with the minimum safety requirements, employees of the Transportation Cabinet may [are authorized to] affix to it [thereto] a notice [identifying] that the bus does not comply. Correction of the noncompliance item shall be required [and require correction] before the bus [it] is further operated.

JEROME LENTZ, Acting Commissioner
MILO D. BRYANT, Secretary/Commissioner
APPROVED BY AGENCY: December 22, 1988
FILED WITH LRC: January 10, 1989 at 3 p.m.

STATEMENT OF EMERGENCY
904 KAR 3:020E

This emergency administrative regulation revises the consideration of income and deductions for student assistance programs under the Bureau of Indian Affairs, provides an income exclusion for certain irregular income received from nonprofit charitable organizations and allows a deduction for the Standard Utility Allowance for LIHEAP recipients. Monies received under Section 3507 of the Internal Revenue Code are excluded as income. Effective February 1, 1980, this regulation provides an income and resource exclusion for Aleuts and individuals of Japanese ancestry for payments made by the U.S. to compensate for hardships experienced during World War II. Also effective February 1, 1989, foster care payments made for foster children are excluded. This emergency administrative regulation shall be replaced by an ordinary administrative regulation.

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

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

904 KAR 3:020E. Eligibility requirements.

RELATES TO: KRS 194.050
STATUTORY AUTHORITY: KRS 194.050
EFFECTIVE: December 22, 1988
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer a Food Stamp Program as prescribed by the Food Stamp Act of 1977, as amended, and 7 CFR [Part] 270 through 280. KRS 194.050 provides that the secretary shall, by regulation, develop policies and operate programs concerned with the welfare of the citizens of the Commonwealth. This regulation sets forth the eligibility requirements used by the cabinet in the administration of the Food Stamp Program.

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

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

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

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

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

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

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

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

(7) Annuities; pensions; retirement; veteran's or disability benefits; worker's or unemployment compensation; strike pay; old-age, survivors, or social security benefits; foster care payments for children or adults; gross income minus the cost of doing business derived from rental property in which a household member is not actively engaged in the management of the property at least twenty (20) hours a week.

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

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

(10) Such portion of scholarships, educational grants, fellowships, deferred payment loans for

education, veterans educational benefits and the like which are not excludable under Section 3(6) of this regulation.

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

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

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

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

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

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

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

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

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

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

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

(6) As defined in 7 CFR 273.9(c), educational loans on which payment is deferred, grants, scholarships, fellowships, veteran educational benefits, and the like to the extent that they are made available [used] for tuition and mandatory fees at an institution of post secondary education, including correspondence schools at that level, or a school at any level for the physically or mentally handicapped. Origination fees and insurance premiums on student loans are excludable charges. For federal education assistance programs funded under Title IV of the Higher Education Act or effective December 1, 1988, Student Assistance Programs under the Bureau of Indian Affairs, additional income exclusions include costs of books, travel, routine supplies, and cost for rental or purchase of equipment used for educational purposes. Portions of nonfederal (state, local, or private) deferred payment educational loans are excluded based on provisions contained in 7 CFR 273.9(c)(4).

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

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

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

(10) The earned income of children who are members of the household, who are students at least half time and who have not attained their 18th birthday.

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

(12) The cost of producing self-employment income. If the cost of producing farm self-employment income exceeds the income derived from self-employment farming as defined in 7 CFR [Part] 273.11(a), such losses shall be offset against any other countable income in the household.

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

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

(15) Any cash donations based on need received on or after February 1, 1988 from nonprofit charitable organizations, not to exceed $300 in a federal fiscal quarter in accordance with 7 CFR 273.9(iv)(2).

(16) Foster care payments for foster children. This provision applies only when the household requests that the foster children be excluded from the household in determining eligibility (effective February 1, 1989).

(17) Up to $12,000 to Aleuts and $20,000 to individuals of Japanese ancestry for payments made by the U.S. to compensate for hardships experienced during World War II (effective February 1, 1989).

(18) Monies received under Section 3507 of the Internal Revenue Code (advanced payment of earned income credit).

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

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

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

(3) All other households shall have their

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

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

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

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

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

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

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

(a) Medical and dental care;

(b) Hospitalization or outpatient treatment and nursing care;

(c) Medication and medical supplies;

(d) Health and hospitalization premiums; and

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

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

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

(2) $2000: for all other households.

(3) Households which are categorically eligible as defined in 7 CFR 273.2 shall be considered as having met the food stamp resource requirement.

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

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

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

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

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

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

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

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

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

(9) Resources which have been prorated as income.

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

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

(12) Up to $12,000 to Aleuts and $20,000 to individuals of Japanese ancestry for payments made by the U.S. to compensate for hardships experienced during World War II (effective February 1, 1989).

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

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

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

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

(3) Citizenship and alien status. Program

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

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

(5) Students. Persons aged eighteen (18) to sixty (60) who are physically and mentally fit and enrolled at least half time in an institution of higher education are ineligible to participate unless they meet criteria specified in 7 CFR [Part] 273.5.

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

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

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

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

Section 10. Provisions contained in this regulation shall become effective January 1, 1989 [September 1, 1987] unless otherwise specified.

MIKE ROBINSON, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: December 13, 1988
FILED WITH LRC: December 22, 1988 at 2 p.m.

STATEMENT OF EMERGENCY
905 KAR 1:230E

This proposed regulation has been drafted due to the need for more concise guidelines regarding the protective action of the removal of children due to their being in danger of serious physical or sexual abuse/injury. If approved, this emergency regulation will enable the Department for Social Services, as well as law enforcement officials, to make more consistent decisions concerning the emergency removal of children. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation will be filed with the Regulations Compiler in January 1989.

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

CABINET FOR HUMAN RESOURCES
Department for Social Services

905 KAR 1:230E. Emergency custody orders.

RELATES TO: KRS 620.010, 620.040, 620.050, 620.060
STATUTORY AUTHORITY: KRS 194.050, 620.180
EFFECTIVE: December 28, 1988
NECESSITY AND FUNCTION: The purpose of this regulation is to establish guidelines for protective action required by KRS 620.040 and 620.050. If a child is in danger of serious physical injury due to abuse, neglect or dependency, the Cabinet for Human Resources is under an obligation to take protective action under KRS 620.050(3). However, police are authorized to take children into protective custody under KRS 620.040(4) only if there exists reasonable grounds to believe the child is in danger of imminent death, serious physical injury, or sexual abuse. The emergency that exists is that these children are in danger of serious injury everyday and the Commonwealth cannot wait until the "danger of" becomes serious in fact. This regulation is intended to establish guidelines that will protect children from the danger of serious harm while permitting custodians to establish their willingness and ability to provide the child a secure, stable home as guaranteed by KRS 620.010.

Section 1. Guidelines for Determining Danger of Serious Physical Injury. The following circumstances shall be considered reasonable grounds to believe that the child is in danger of serious physical injury:

(1) If the child has recently suffered substantial physical pain or any impairment and the custodian is unable or unwilling to protect the child from additional pain or impairment of physical condition.

(2) The child is not attended by a responsible person and the child, due to age, physical or mental condition or other circumstances, is unable to protect himself from serious physical injury.

Section 2. Cabinet for Human Resources and Law Enforcement Actions Related to Protective Services. If there exists reasonable grounds to believe a child is in danger of serious physical injury, any appropriate law enforcement officer may take the child into protective custody.

(1) The officer shall make a reasonable effort to locate a responsible parent or relative to whom the child may be entrusted; and if no parent or relative is available, the officer shall request the Cabinet for Human Resources to provide necessary protective services, which may include immediate placement of the child in an emergency shelter or other suitable home. The officer, or the person or agency to whom the officer entrusts the child, shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.

(2) If the child is taken into protective custody by a law enforcement officer between the hours of 5 p.m. and 8 a.m., the Cabinet for Human Resources may, upon determination that there exists reasonable grounds to believe a

child is in danger of imminent death, serious physical injury, or sexual abuse, authorize the officer to take the child to an emergency shelter for protective services.

(3) If the child is taken into protective custody between the hours of 8 a.m and 5 p.m., the child shall be released to the Cabinet for Human Resources or its designee for appropriate protective action. If the circumstances indicate the necessity of retaining the child in custody, the Cabinet for Human Resources or the law enforcement office shall request the court to issue an emergency custody order.

Section 3. Temporary Removal Guidelines. If the court declines to issue an ex parte emergency custody order, the Cabinet for Human Resources shall file a dependency petition and request a temporary removal hearing to be held within seventy-two (72) hours in order to protect the child. The Cabinet for Human Resources shall continue to provide necessary protective services on behalf of the child pending a hearing.

LARRY MICHALCZYK, MSSW, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: December 20, 1988
FILED WITH LRC: December 28, 1988 at 11 a.m.

STATEMENT OF EMERGENCY
907 KAR 1:004E

This emergency administrative regulation provides for the income and resource standard of the new group of Medicaid eligible individuals known as "qualified Medicare beneficiaries" and a clarification with regard to budgeting not using the standard filing unit; other minor changes relating to consideration of income or resources are made. This regulation must be promulgated on an emergency basis to comply with federal mandates regarding coverage of "QMB" eligibles.

This emergency administrative regulation differs from the emergency administrative regulation on the same subject matter that was filed on October 7, 1988 as follows: material on "QMBs" was added; material relating to the use of nonstandard filing unit was added; other minor changes not shown in the previous emergency regulation relating to treatment of income and resources were made.

This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation will be filed with the Regulations Compiler on or about Janurary 1, 1989.

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
STATUTORY AUTHORITY: KRS 194.050
EFFECTIVE: January 4, 1989
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.

(g) Effective with regard to determinations of eligibility for periods beginning on or after December 1, 1988 real property is excluded from consideration for adult medical assistance and state supplementation recipients if:

1. Such property is jointly owned and its sale would cause undue hardship due to loss of housing for the other owner or owners; or

2. Its sale is barred by a legal impediment; or

3. The owner's reasonable efforts to sell have been unsuccessful.

(h) Cash payments intended specifically to enable applicants or recipients to pay for medical or social services are not considered as available income or as a resource in the month of receipt or for one (1) calendar month following the month of receipt. If the cash is still being held at the beginning of the second month following its receipt, it will be considered a 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	$2,500	$208
2	3,000	250
3	3,500	292
4	4,400	367
5	5,100	425
6	5,800	483

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 July 1, 1988.

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 official poverty income 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;

(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 and, effective for

determinations of eligibility made on or after August 1, 1988, changes of resources 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.

(3) Effective with regard to determinations of eligibility for Medical Assistance furnished on or after October 1, 1988, pregnant women and children eligible pursuant to Section 4101 of the Omnibus Budget Reconciliation Act of 1987 (OBRA 87) shall be subject to the same special factors applicable to pregnant women, infants, and children as specified in Section 4(2)(b), (c), (d) and (e) of this regulation, and this additional special factor: such pregnant women and children under age one (1) may have family income up to, but not to exceed, 125 percent of the official poverty income 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.

(4) The following special income and resource limits and provisions are applicable for determinations of eligibility of qualified Medicare beneficiaries for the special Title XVIII benefits described in 907 KAR 1:006, effective for determinations of eligibility made on or after January 1, 1989.

(a) The following income upper limits, shown as a percentage of the official poverty income level, shall be effective on the specified dates: January 1, 1989, eighty-five (85) percent; January 1, 1990, ninety (90) percent; January 1, 1991, ninety-five (95) percent; and January 1, 1992, 100 percent.

(b) The official poverty income guidelines will be those 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.

(c) The income disregards to be used will be those applicable in the federal Supplemental Security Income (SSI) program.

(d) Resources shall be limited to no more than twice the allowable amount for the federal Supplemental Security Income (SSI) program.

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 (except that, effective for determinations of eligibility for periods beginning on or after December 1, 1988, the incurred costs may be reimbursed under another public program of the state or political subdivision of the state), 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 medical assistance in 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; effective October 1, 1988, medical expenses incurred in periods prior to the quarter for which spend-down eligibility is being determined may be used to offset excess income so long as such medical expenses remain unpaid at the beginning of the quarter and have not previously been used as spend-down expenses. Effective for determinations of eligibility for periods beginning on or after February 1, 1989, the incurred costs may be reimbursed under another public program of the state or political subdivision of the state and still be considered incurred costs of the applicant or recipient.

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 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 by July 1, 1988.

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 for the six (6) months following that month unless such would act to preclude eligibility of the individual in long-term care.

(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 were a single individual due to living apart from his spouse, as shown in Section 10(3) and (4) of this regulation, who has jointly held resources with his 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 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 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 income are considered in relation to family size of one (1). Effective with regard to determinations of eligibility for periods beginning on or after December 1, 1988, the following criteria should be used to determine whether a child who has been living with his parents and is institutionalized in a psychiatric facility is to be considered as living apart from [with] his parents: a child is to be considered as living with his parents unless he has been in the facility for thirty (30) or more days or a physician specifies that it is anticipated he will remain in the facility for thirty (30) or more days (regardless of whether the child actually does so); a child who is institutionalized in a psychiatric facility but is legally committed to or in the custody of the Cabinet for Human Services is not to be considered as living with his parents.

(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 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 basic maintenance standard. 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 liability for the cost of care is determined by allowing to the child from his 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, shall 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 (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 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 as dependents for purposes of determining his 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 dependents in the home.

(2) Determining eligibility of the children. When a stepparent or grandparent has available income remaining after disregards/exclusions are applied, the 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 shall 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 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 shall 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.

(4) A parent in a family case may request that one (1) or more children be technically excluded from the determination of eligibilty due to income while a regular application for Medicaid eligibility is processed for other children in the family group. In this circumstance, the income and resources of the technically excluded child(ren) and the technically excluded child(ren)'s needs are excluded in the budgeting process when determining eligibility of the family group. A separate spend-down case(s) may then be established for the technically excluded child(ren); the income, resources and needs of the responsible relative or parent are included in the budget in accordance with usual criteria, and income/resources and needs of siblings in the other case may also be included in budgeting for the spend-down case if that works to the advantage of the technically excluded child(ren) for whom eligibility is being determined in the spend-down case. Excess income in the spend-down case may be spent-down using uncovered incurred medical care costs of any member of the family included in the budgeting process for the spend-down case.

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. Effective February 1, 1989, lump sum income for individuals eligible under the federal poverty level standards specified in Section 4(2) and (3) of this regulation would be divided by the appropriate standard for the eligibile group and prorated over the resultant number of months.

Section 14. Transferred Resources. The policy relating to transferred resources shown in this section is effective for determinations of eligibility for periods of time beginning on or after July 1, 1988 and transfers of property occurring on or after that date.

(1) When an institutionalized individual (defined as an individual in a skilled nursing facility, general intermediate care facility, psychiatric facility, mental hospital, or a participant in a hospice program who is in a skilled nursing or intermediate care facility, or a participant in the home and community based services waiver program or the alternate intermediate services program for the mentally retarded so long as eligibility is being determined using the special income level) applies for medical assistance a period of ineligibility must be computed if at any time during the thirty (30) month period immediately preceding the application the individual disposed of property for less than fair market value. The period of ineligibility (beginning with the month in which the resources were transferred) shall be equal to the lesser of thirty (30) months or the number of months derived by dividing the total uncompensated value of the resources so transferred by the average cost, to a private patient at the time of the application, of nursing facility services in the state (either intermediate care or skilled nursing care as appropriate for the level of care).

(2) An individual shall not be ineligible for medical assistance by virtue of subsection (1) of this section to the extent that the conditions specified in Section 1917(c)(2)(B), (C) and (D) of the Social Security Act are met, nor shall an individual be ineligible for medical assistance due to transfer of resources for less than fair market value except in accordance with this section. Transfers of resources for less than fair market value occurring prior to July 1, 1988 shall not be considered in determinations of eligibility for periods beginning on or after July 1, 1988.

(3) 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 shows the transfer was in accordance with Section 1917(c)(2)(B) or (C)(i) of the Social Security Act or presents convincing evidence that the disposal was exclusively for some other purpose. If the purpose of the transfer is in accordance with Section 1917(c)(2)(B) or (C)(i) or is for some reason other than to qualify for medical assistance 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 is required to be for an amount equal to the fair market value.

(4) 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.

(5) If retention would result in ineligibility, the cabinet will compute a period of ineligibility as provided for in subsection (1) of this section.

(6) 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; the amount of the uncompensated value to be excluded cannot include any amount which is payable by Medicaid, Medicare, or other insurance.

Section 15. Special Provisions for AIS/MR Recipients. 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.

(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 standard). 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, 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 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.

Section 16. Special Provisions for Hospice Recipients. 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 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 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 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. 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 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) 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 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 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.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: December 22, 1988
FILED WITH LRC: January 4, 1989 at 9 a.m.

STATEMENT OF EMERGENCY
907 KAR 1:006E

This emergency administrative regulation is being promulgated to comply with the Medicare Catastrophic Coverage Act of 1988 which mandates that effective January 1, 1989 state Medicaid agencies must pay the Medicare Part A and Part B premium, Medicare coinsurance, and Medicare deductibles for Medicare services for a new group known as Qualified Medicare Beneficiaries. This action must be taken on an emergency basis to comply with the statutory requirement. This emergency administrative regulation shall be replaced by an ordinary administrative regulation to be filed on or about January 1, 1989.

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

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services

907 KAR 1:006E. Coverage for persons eligible for Title XVIII benefits.

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: KRS 194.050
EFFECTIVE: January 4, 1989
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[(3)] 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 special coverage factors applicable to both categorically needy and medically needy individuals eligible for benefits under Title XVIII, Part A, Hospital Insurance Benefits[, hereinafter referred to as] (HIB); [and] Title XVIII, Part B, Supplementary Medical Insurance[, hereinafter referred to as] (SMI); and Title XVIII Qualified Medicare Beneficiaries (QMB).

Section 1. Purchase of Coverage under SMI. The cabinet shall pay the SMI premium for all recipients eligible for such coverage who are receiving a money payment under either the Supplemental Security Income program or the state program of optional or mandatory supplementation.

Section 2. Deductibles and Coinsurance. The cabinet shall pay the deductible [and/]or coinsurance amount for any medical service covered under the Kentucky Medical Assistance Program and also available under HIB or SMI to an individual eligible for such coverage. The actual amount paid for coinsurance shall be the uncovered percentage of the total permissible cost for the service as determined by the cabinet.

Section 3. Limitations Applicable to Nonmoney Payment Recipients. Any HIB/SMI eligible categorically needy or medically needy individual, for whom the cabinet does not purchase SMI coverage, is expected to retain HIB/SMI coverage, with premium payments considered as an income deduction. Failure to

retain such coverage does not obligate the cabinet for any payment in excess of deductible and coinsurance amounts.

Section 4. Coverage for Qualified Medicare Beneficiaries. Effective January 1, 1989, qualified Medicare beneficiaries as defined in 907 KAR 1:011 shall be entitled to the following coverage, regardless of whether the medical service is covered under the medical assistance program as a regularly covered service: payment of Part A and Part B Medicare premiums, deductibles and coinsurance. For providers not regularly participating in the Medicaid program, the appropriate agreement must be made with the Department for Medicaid Services to provide for limited participation in the Medicaid program; if the appropriate agreement is not made, the services will not be considered to be covered under this section.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: December 21, 1988
FILED WITH LRC: January 4, 1989 at 9 a.m.

STATEMENT OF EMERGENCY
907 KAR 1:011E

This emergency administrative regulation provides for the inclusion of a federally mandated group known as "qualified Medicare beneficiaries," does away with use of the "standard filing unit," and shows coverage of a new "pass-through" eligible group who lost state supplementation payments or supplemental security income as a result of specified widows-widowers benefits. The regulation must be implemented on an emergency basis to comply with federal requirements for implementation. This emergency administrative regulation differs from the emergency administrative regulation on the same subject matter that was filed on October 7, 1988 as follows: none of the changes shown above were in the previous emergency regulation. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation will be filed with the Regulations Compiler on or about January 1, 1989.

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
STATUTORY AUTHORITY: KRS 194.050
EFFECTIVE: January 4, 1989
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, 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 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 th 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 February 1, 1989, individuals

specified in Section 9116 of P.L. 100-203 who lose SSI or state supplementation payments as a result of receipt of benefits under Section 202(e) or (f) of the Social Security Act, would be eligible for SSI or SSP except for such benefits, and are not entitled to hospital insurance benefits under Part A of Title XVIII; and

(13) [(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, and effective with regard to determinations of eligibility made for periods beginning on or after October 1, 1988, pregnant women and children under the age of one (1) as permitted by Section 4101 of the Omnibus Budget Reconciliation Act of 1987, subject to the following:

(a) Pregnant women, infants and children are required to meet the income and resource requirements for these eligibility groups 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 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. Qualified Medicare Beneficiaries. Effective January 1, 1989, coverage is extended to qualified Medicare beneficiaries as specified in Section 301 of the Medicare Catastrophic Coverage Act of 1988, subject to the income and resource limitations shown in 907 KAR 1:004, and for the scope of benefits specified in 907 KAR 1:006. A qualified Medicare beneficiary must be eligible for and receiving Medicare Part A benefits, and may be determined eligible for benefits as a qualified Medicare beneficiary eligible individual effective for the month after the month in which the determination is made but not retroactively and not for the month in which the determination is made.

Section 4. [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) Effective for determinations of eligibility made on or after January 1, 1989, including the usual determinations of retroactive eligibility for pending cases for periods prior to January 1, 1989, 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 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.

(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.

(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 January 1, 1989, a responsible relative (but not a child) [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 5. [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 unless he is under age twenty-one (21) or age twenty-two (22) if receiving such inpatient services on his 21st birthday 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 6. [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 six (6) months in any nine (9) month period, effective with regard to determinations of eligibility for periods beginning on or after December 1, 1988.

(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 7. [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 8. [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 9. [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 10. [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.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: December 29, 1988
FILED WITH LRC: January 4, 1989 at 9 a.m.

STATEMENT OF EMERGENCY
907 KAR 1:022E

This emergency administrative regulation is being amended to comply with Section 1919 of the Social Security Act which mandates the implementation of preadmission screening and annual resident review requirements for all skilled nursing facilities with regard to admission and resident stays occurring on or after January 1, 1989. This action must be taken on an emergency basis to comply with the statutory requirements. This emergency administrative regulation shall be replaced by an ordinary regulation to be filed on or about January 1, 1989.

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

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services

907 KAR 1:022E. Skilled nursing facility services.

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: KRS 194.050
EFFECTIVE: January 6, 1989
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to skilled nursing facility services for which payment shall be made by the medical assistance program in behalf of both the categorically needy and medically needy.

Section 1. Participation Requirements. Each facility desiring to participate as a skilled nursing facility must meet the following requirements:

(1) An application for participation shall be made to the cabinet using the procedures specified by the Commissioner, Department for Medicaid Services [Social Insurance], Cabinet for Human Resources. A vendor number shall be assigned to the facility by the cabinet when participation status is achieved.

(2) Each skilled nursing facility shall be required to have participatory status in the program of health care known as Title XVIII, Medicare, before the conditions of participation for Title XIX shall be deemed met.

(3) Each skilled nursing facility shall be required to comply with the preadmission screening and annual resident review requirements specified in Section 1919 of the Social Security Act, effective with regard to admissions and resident stays occurring on or after January 1, 1989. Facilities failing to comply with this requirement shall be subject to disenrollment, with exclusion from participation to be accomplished in accordance with 907 KAR 1:220, Terms and conditions of provider participation; provider appeals, and federal regulations at 42 CFR 431.153 and 431.154.

Section 2. Provision of Service. Payment for services shall be limited to those services provided to eligible individuals meeting the criteria of patient status in that they require skilled nursing care on a continuous basis following an acute illness or as a result of a chronic disease and/or disability and are receiving such care in a participating facility.

Section 3. Determining Patient Status. Professional staff of the cabinet, or a [the Kentucky] peer review organization operating under its lawful authority pursuant to the terms of its agreement with the cabinet, shall review and evaluate the health status and care needs of the recipient in need of institutional care giving consideration to the medical diagnosis, care needs, services and health personnel required to meet these needs and the feasibility of meeting the needs through alternative institutional or noninstitutional services. A patient shall not qualify for Medicaid patient status unless the person is qualified for admission, and continued stay as appropriate, under the preadmission screening and annual resident review criteria specified in Section 1919 of the Social Security Act with regard to admissions and resident stays occurring on or after January 1, 1989. Patients qualify for skilled nursing care when their needs mandate skilled nursing [and/]or skilled rehabilitation services on a daily basis and when, as a practical matter, the care can only be provided on an inpatient basis. Where the inherent complexity of a service prescribed for a patient is such that it can be safely [and/]or effectively performed only by or under the supervision of technical or professional personnel, the patient would qualify for skilled nursing care. A patient with an unstable medical condition manifesting a combination of care needs in the following areas may qualify for skilled nursing care:

(1) Intravenous, intramuscular, or subcutaneous injections and hypodermoclysis or intravenous feeding;

(2) Nasogastric or gastrostomy tube feedings;

(3) Nasopharyngeal and tracheotomy aspiration;

(4) Recent [and/]or complicated ostomy requiring extensive care and self-help training;

(5) Indwelling catheter for therapeutic management of a urinary tract condition;

(6) Bladder irrigations in relation to previously indicated stipulation;

(7) Special vital signs evaluation necessary in the management of related conditions;

(8) Sterile dressings;

(9) Changes in bed position to maintain proper body alignment;

(10) Treatment of extensive decubitus ulcers or other widespread skin disorders;

(11) Receiving medication recently initiated, which requires skilled observation to determine desired or adverse effects [and/]or frequent adjustment of dosage;

(12) Initial phases of a regimen involving administration of medical gases;

(13) Receiving services which would qualify as skilled rehabilitation services when provided by or under the supervision of a qualified therapist(s), such as: ongoing assessment of rehabilitation needs and potential; therapeutic exercises which must be performed by or under the supervision of a qualified physical therapist; gait evaluation and training; range of motion exercises which are part of the active treatment of a specific disease state which has resulted in a loss of, or restriction of, mobility; maintenance therapy when the specialized knowledge and judgment of a qualified therapist is required to design and establish a maintenance program based on an initial evaluation and periodic reassessment of the patient's needs, and consistent with the patient's capacity and tolerance; ultrasound, short wave, and microwave therapy treatments; hot pack, hydrocollator infrared treatments, paraffin baths, and whirlpool (in cases where the patient's condition is complicated by circulatory deficiency, areas of desensitization, open wounds, fractures or other complications, and the skills, knowledge, and judgment of a qualified physical therapist are required); and services by or under the supervision of a speech pathologist or audiologist when necessary for the restoration of function in speech or hearing.

Section 4. Reevaluation of Need for Service. Skilled nursing service shall be provided for as long as the health status and care needs are within the scope of program benefits as described in Sections 2 and 3 of this regulation. Patient status shall be reevaluated at least once every six (6) months. If a reevaluation of care needs reveals that the patient no longer requires skilled care, payment shall continue for ten (10) days to permit orderly transfer to a lesser level of care. Patients who met patient status criteria as of August 31, 1985 on the basis that they would have been reclassified to intermediate care patient status except for the unavailability of such a bed, and had continued to receive care in the facility while on the waiting list of suitable facilities, will be considered to meet patient status criteria through January 31, 1986 so long as the preexisting conditions for such patient status criteria continue to be met.

Section 5. Evaluation of Patient Status for Persons with Mental Disorders or Mental Retardation. A person with a mental disorder or mental retardation meeting the health status and care needs specified in Sections 2 and 3 of this regulation shall generally be considered to meet patient status. However, these individuals are specifically excluded from coverage in the following situations:

(1) When the cabinet determines that in the individual case the combination of care needs is beyond the capability of the facility, and that placement in the skilled nursing facility is inappropriate due to potential danger to the health and welfare of the patient, other patients in the facility [and/]or staff of the facility; and

(2) When the skilled nursing care needs result directly and specifically from a [the] mental disorder; i.e., are essentially symptoms of the mental disorder; and

(3) When the patient does not meet the preadmission screening and annual resident review criteria specified in Section 1919 of the Social Security Act for entering or remaining in a skilled nursing facility.

Section 6. Reserved Bed Days. The cabinet will cover reserved bed days (effective December 1, 1984) in accordance with the following specified upper limits and criteria.

(1) Reserved bed days will be covered for a maximum of fourteen (14) days per absence for a hospital stay with an overall maximum of forty-five (45) days per provider during the calendar year.

(2) Reserved bed days will be covered for a maximum of fifteen (15) days per provider during the calendar year for leaves of absence other

than for hospitalization.

(3) Coverage during a recipient's absence for hospitalization or leave of absence is contingent on the following conditions being met:

(a) The person is in Title XIX payment status in the level of care he/she is authorized to receive and has been a resident of the facility at least overnight. Persons for whom Title XIX is making Title XVIII coinsurance payments are not considered to be in Title XIX payment status for purposes of this policy;

(b) The person can be reasonably expected to return to the same level of care;

(c) Due to demand at the facility for beds at that level, there is a likelihood that the bed would be occupied by some other patient were it not reserved;

(d) The hospitalization is for treatment of an acute condition, and not for testing, brace-fitting, etc.; and

(e) In the case of leaves of absence other than for hospitalization, the patient's physician orders and plan of care provide for such leaves. Leaves of absence include visits with relatives and friends, and leaves to participate in state-approved therapeutic or rehabilitative programs.

[Section 7. The provisions of this regulation as amended shall be effective on September 1, 1985.]

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: December 28, 1988
FILED WITH LRC: January 6, 1989 at 2 p.m.

STATEMENT OF EMERGENCY
907 KAR 1:024E

This emergency administrative regulation is being amended to comply with Section 1919 of the Social Security Act which mandates the implementation of preadmission screening and annual resident review requirement for all intermediate care facilities with regard to admission and resident stays occurring on or after January 1, 1989. This action must be taken on an emergency basis to comply with the statutory requirements. This emergency administrative regulation shall be replaced by an ordinary regulation to be filed on or about January 1, 1989.

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

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services

907 KAR 1:024E. Intermediate care facility services.

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: KRS 194.050
EFFECTIVE: January 10, 1989
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 provision relating to intermediate care facility services for which payment shall be made by the medical assistance program in behalf of both the categorically needy and the medically needy.

Section 1. Definitions. The following definitions shall be applicable:

(1) "Patient status." means that the individual has care needs meeting the criteria set forth in this regulation for treatment in the institutional setting.

(2) "Intermittent skilled services," means the individual requires skilled nursing services at regular or irregular intervals, but not on a twenty-four (24) hour per day basis.

(3) "Stable medical condition," means one which is capable of being maintained in accordance with a planned treatment regimen requiring a minimum amount of medical supervision without significant change or fluctuation in the patient's condition or treatment regimen.

Section 2. Participation Requirements. Each intermediate care facility shall be required to comply with the preadmission screening and annual resident review requirement specified in Section 1919 of the Social Security Act, effective with regard to admissions and resident stays occurring on or after January 1, 1989. Facilities failing to comply with this requirement will be subject to disenrollment, with exclusion from participation to be accomplished in accordance with 907 KAR 1:220, Terms and conditions of provider participation; provider appeals, and federal regulations at 42 CFR 431.153 and 431.154.

Section 3. [1.] Provision of Services. Payment for services shall be limited to those services provided to eligible individuals meeting the criteria of patient status.

Section 4. [2.] Classification of Facilities. There shall be two (2) classifications of intermediate care facilities, i.e.:

(1) General intermediate care facilities; and

(2) Intermediate care facilities for the mentally retarded and persons with related conditions.

[Section 3. Definitions. The following definitions shall be applicable:]

[(1) "Patient status," means that the individual has care needs meeting the criteria set forth in this regulation for treatment in the institutional setting.]

[(2) "Intermittent skilled services," means the individual requires skilled nursing services at regular or irregular intervals, but not on a twenty-four (24) hour per day basis.]

[(3) "Stable medical condition," means one which is capable of being maintained in accordance with a planned treatment regimen requiring a minimum amount of medical supervision without significant change or fluctuation in the patient's condition and/or treatment regimen.]

Section 5. [4.] Determining Patient Status. Professional staff of the cabinet or a [the Kentucky] peer review organization operating under its lawful authority pursuant to the terms

of its agreement with the cabinet, shall review and evaluate the health status and care needs of the recipient in need of institutional care giving consideration to the medical diagnosis, care needs, services and health personnel required to meet the needs and the feasibility of meeting the needs through alternative institutional or noninstitutional services.

(1) A patient shall not qualify for Medicaid patient status unless the person is qualified for admission and continued stay, as appropriate, under the preadmission screening and annual resident review criteria specified in Section 1919 of the Social Security Act with regard to admissions and resident stays occurring on or after January 1, 1989.

(2) [(1)] An individual shall be determined to meet patient status for a general intermediate care facility when the individual requires intermittent skilled nursing care, continuous personal care [and/]or supervision in an institutional setting. In making the decision as to patient status, the following criteria shall be applicable:

(a) An individual with a stable medical condition requiring intermittent skilled services not provided in a personal care home is considered to meet patient status.

(b) An individual with a stable medical condition, who has a complicating problem which prevents the individual from caring for himself in an ordinary manner outside the institution is considered to meet patient status. For example, ambulatory cardiac and hypertensive patients may be reasonably stable on appropriate medication, but have intellectual deficiencies preventing safe use of self-medication, or other problems requiring frequent nursing appraisal, and thus be considered to meet patient status.

(c) An individual with a stable medical condition manifesting a significant combination of the following care needs shall be determined to meet patient status for a general intermediate care facility when the professional staff determines that such combination of needs can be met satisfactorily only by provision of intermittent skilled nursing care, continuous personal care [and/]or supervision in an institutional setting:

1. Assistance with wheelchair;
2. Physical [and/]or environmental management for confusion and mild agitation;
3. Must be fed;
4. Assistance with going to bathroom or using bedpan for elimination;
5. Old colostomy care;
6. Indwelling catheter for dry care;
7. Changes in bed position;
8. Administration of stabilized dosages of medication;
9. Restorative and supportive nursing care to maintain the patient and prevent deterioration of his condition;
10. Administration of injections during time licensed personnel is available.
11. Services that could ordinarily be provided or administered by the individual but due to physical [and/]or mental condition is not capable of such self-care.
12. Routine administration of medical gases after a regimen of therapy has been established.

(d) An individual shall not generally be considered to meet patient status criteria when care needs are limited to the following:

1. Minimal assistance with activities of daily living;
2. Independent use of mechanical devices, for example, assistance in mobility by means of a wheelchair, walker, crutch(es) or cane;
3. Limited diets such as low salt, low residue, reducing and other minor restrictive diets;
4. Medications that can be self-administered [and/]or the individual requires minimal supervision.

(e) An individual with a psychiatric primary diagnosis or needs, or who is mentally retarded, is considered to meet general intermediate care patient status criteria only when the individual also has medical care needs as shown in subsection (2)[(1)](a) through (c) of this section, the mental care needs are adequately handled in a supportive environment (i.e., the intermediate care facility), and the individual does not require active psychiatric or mental retardation inpatient treatment.

(3) [(2)] An individual shall be determined to meet patient status for an intermediate care facility for the mentally retarded and persons with related conditions when the individual requires physical [and/]or environmental management [and/]or rehabilitation for moderate to severe retardation. In making the decision as to patient status the following criteria shall be applicable:

(a) An individual with significant developmental disabilities and significantly subaverage intellectual functioning who requires a planned program of active treatment to attain [and/]or maintain the individual's optimal level of functioning, but does not necessarily require skilled or general intermediate care facility services, is considered to meet patient status.

(b) An individual requiring a protected environment while overcoming the effects of developmental disabilities and subaverage intellectual functioning is considered to meet patient status while:

1. Learning fundamental living skills;
2. Learning to live happily and safely within his own limitations;
3. Obtaining educational experiences that will be useful in self-supporting activities;
4. Increasing his awareness of his environment.

(c) An individual with a psychiatric primary diagnosis or needs is considered to meet patient status criteria only when the individual also has care needs as shown in paragraph (a) or (b) of this subsection, the mental care needs are adequately handled in a supportive environment (i.e., the intermediate care facility), and the individual does not require psychiatric inpatient treatment.

(d) An individual that does not require a planned program of active treatment to attain [and/]or maintain the individual's optimal level of functioning is not considered to meet patient status.

(e) It is the policy of the cabinet that no individual is to be denied patient status solely due to advanced age, or length of stay in an institution, or history of previous institutionalization, so long as the individual qualifies for patient status on the basis of all other factors.

(f) With regard to an individual with a "related condition" (not mental retardation), the illness or ailment must have manifested itself prior to the individual's 22nd birthday.

Section 6. [5.] Reserved Bed Days. The cabinet will cover reserved bed days (effective December 1, 1984 for general intermediate facilities and March 1, 1982, for intermediate care facilities for the mentally retarded and persons with related conditions) in accordance with the following specified upper limits and criteria.

(1) For general intermediate care facilities, reserved bed days will be covered for a maximum of fourteen (14) days per absence for a hospital stay, with an overall maximum of forty-five (45) days per provider during a calendar year. Reserved bed days will be covered for a maximum of fifteen (15) days per provider during a calendar year for leaves of absence other than for hospitalization.

(2) For intermediate facilities for the mentally retarded and persons with related conditions, reserved bed days will be covered for a maximum of forty-five (45) days per provider within a calendar quarter. Reserved bed days for hospital stays may not exceed fifteen (15) days per stay. No more than thirty (30) consecutive reserved bed days (for hospital stay(s) plus leave(s) of absence, or leave of absence only) may be approved for coverage.

(3) Coverage during a recipient's absence for hospitalization or leave of absence is contingent on the following conditions being met.

(a) The person is in Title XIX payment status in the level of care he[/she] is authorized to receive and has been a resident of the facility at least overnight;

(b) The person can be reasonably expected to return to the same level of care;

(c) Due to demand at the facility for beds at that level, there is a likelihood that the bed would be occupied by some other patient were it not reserved;

(d) The hospitalization is for treatment of an acute condition, and not for testing, brace-fitting, etc.; and

(e) In the case of leaves of absence other than for hospitalization, the patient's physician orders and plan of care provide for such leaves. Leaves of absence include visits with relatives and friends, and leaves to participate in state-approved therapeutic or rehabilitative programs.

Section 7. [6.] Reevaluation of Need for Service. Intermediate care shall be provided for as long as the health status and care needs are within the scope of program benefits as described in Sections 3 and 5 of this regulation. Patient status shall be reevaluated at least every six (6) months. If the reevaluation reveals that the patient's condition indicates the need for a different level of care, payment shall continue for a maximum of ten (10) days to provide for orderly transfer to the appropriate level of care.

Section 8. [7.] Hearing Rights. Any applicant/recipient determined not to meet patient status may appeal that decision in accordance with 907 KAR 1:075 or 904 KAR 2:055, as applicable.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: December 28, 1988
FILED WITH LRC: January 10, 1989 at 3 p.m.

STATEMENT OF EMERGENCY
907 KAR 1:036E

This emergency administrative regulation is being amended to make the respiratory therapy changes agreed to between the cabinet and the Kentucky Hospital Association (KHA) which would have been adopted by amendment at the November meeting of the Health and Welfare Committee except for lack of a quorum of that committee. The letter of deficiency attached to the regulation by the Administrative Regulation Review Subcommittee based on objections raised by the KHA should be removed as soon as possible to prevent serious regulatory difficulties relating to payments for long term care, and it is expected this change will result in the attachment letter being withdrawn. The regulation is also being amended to implement a new payment level for skilled nursing facilities with a specialty in providing services to Medicaid recipients with a diagnosis of mental retardation; this amendment is being made to ensure that Medicaid recipients with mental retardation requiring skilled nursing care will have access to necessary services in a timely manner. In addition, the regulation is amended to reference generic upper limits for specified multiple source drugs; this change is necessary to comply with federal requirements. The incorporated material is amended to show that the determination of the allowable cost of drugs is to include reference to the federal generic upper limits established for specified multiple source drugs effective January 1, 1989; this amendment must be implemented to prevent possible federal financial participation being jeopardized for these drugs. This emergency administrative regulation differs from the emergency administrative regulation on the same subject matter that was filed on August 30, 1988 as follows: the incorporated by reference material concerning respiratory therapy has been amended to comply with changes the Administrative Regulation Review Subcommittee and the Kentucky Hospital Association wanted; a new payment level has been created for skilled nursing facilities with a specialty in providing services to Medicaid recipients with a diagnosis of mental retardation who require skilled nursing care; and the section regarding the determination of the allowable cost of drugs to include reference to the federal generic upper limit established for specified multiple source drugs effective January 1, 1989 has been added. This emergency administrative regulation shall be replaced by an ordinary administrative regulation. The ordinary administrative regulation will be filed with the regulations compiler before or with the emergency 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
STATUTORY AUTHORITY: KRS 194.050
EFFECTIVE: January 6, 1989
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. Definitions. For purpose of Sections 2 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 urethral 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.

(f) Respiratory therapy (excluding the routine administration of oxygen) effective September 1, 1988.

(g) Psychological and psychiatric therapy (for intermediate care facilities for the mentally retarded only).

(h) Ventilator therapy services, subject to the coverage limitations shown in the reimbursement manual.

(i) Disposable and reusable incontinent briefs, reusable briefs with disposable liners, and disposable or reusable underpads when ordered by a physician.

(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, band-aids 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) For disposable briefs, reusable briefs, reusable briefs with disposable liners, and disposable or reusable underpads provided upon a physician's orders, the per unit product cost in excess of twenty (20) cents, but not in excess of forty (40) cents, shall be considered ancillary cost, with other cost for such products (including all laundry cost) to be considered routine cost. The first six (6) dollars and fifty (50) cents of cost per

catheter for indwelling urethral catheters (excluding specialty purpose catheters) shall be considered as allowable ancillary cost with any balance of cost to be considered as allowable routine cost. Indwelling urethral special purpose catheters will be reimbursable as an ancillary at full allowable cost when ordered by a physician.

(14) Effective October 1, 1988, "skilled nursing facility with a mental retardation specialty (SNF/MRS)" means a skilled nursing facility in which at least seventy-five (75) percent of the patients have demonstrated special needs relating to the diagnosis of mental retardation.

Section 2. Reimbursement for Skilled Nursing and Intermediate Care Facilities. All skilled nursing facilities (SNFs) or intermediate care facilities (ICFs) 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 3. Basic Principles of Reimbursement. (1) Payment shall be on the basis of rates which are reasonable and adequate to meet the costs which are required to 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 December 20 [July 1, 1988, as amended on November 1], 1988 which is hereby incorporated by reference) and supplemented by the use of the Title XVIII-A reimbursement principles. The Kentucky Medical Assistance Program Intermediate Care/Skilled Nursing Facility Reimbursement Manual may be reviewed during regular working hours (8 a.m. to 4:30 p.m.) in the Office of the Commissioner, Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621. Copies may also be obtained from that office.

Section 4. 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 except as specified in this section, including the provisions contained in subsections (14) and (15) of this section. 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 shall 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, 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). 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. In recognition of the higher costs of hospital based SNFs, their upper limit shall be set at 135 percent of the upper limit of all other SNFs for covered services provided on or after July 1, 1988, and at 125 percent of the upper limit of all other SNFs for covered services provided on or after January 1, 1989, and at 115 percent of the upper limit of all other SNFs for covered services provided on or after October 1, 1989, and at 105 percent of the upper limit of all other SNFs for covered services provided on or after July 1, 1990. For a skilled nursing facility with mental retardation specialty, effective with regard to services provided on or after October 1, 1988, the upper limit shall be set at 120 percent of the maximum payment for freestanding skilled nursing facilities. 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.

(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;

(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). Compensation for owners and nonowner administrators (except for nonowner administrators of intermediate care facilities for the mentally retarded and dual licensed pediatric facilities) shall not exceed the amounts specified in the Interimediate Care/Skilled Nursing Facility Reimbursement Manual.

(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 shall 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.

(f) Effective with regard to services provided on or after October 1, 1988, skilled nursing facilities with a mental retardation specialty (SNF/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 Kentucky Medical Assistance Program Intermediate Care/Skilled Nursing Facility 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 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 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 any records (in a form acceptable to the cabinet) which 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 or expansions will be made on a prospective basis in the context that if 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 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 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 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; audits may be conducted annually or at less frequent intervals. An 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.

(d) The prospective rate has been set based on unaudited cost reports and the prospective rate is to be adjusted based on audited reports with the appropriate cost settlement made to adjust the unaudited prospective payment amounts to the correct audited prospective payment amounts, effective September 1, 1988.

(16) Reimbursement paid shall 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 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) 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 shall 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 is required to be in the skilled nursing facility bed awaiting placement to an intermediate care bed; and

(c) The patient is required to have been reclassified from SNF patient status to ICF patient status; or, alternatively, the patient is required to meet ICF patient status criteria, and the appropriate representative of the Department for Social Services is required to 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.

Section 5. 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 7-1-88)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$32.99 & below	$.92	$.58
33.00 - 33.99	$.86	$.50
34.00 - 34.99	$.78	$.41
35.00 - 35.99	$.70	$.32
36.00 - 36.99	$.61	$.21
37.00 - 37.99	$.51	$.09
38.00 - 38.61	$.35	-

Maximum Payment $38.61

(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 7-1-88)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$43.99 & below	$.92	$.58
44.00 - 45.99	.86	.50
46.00 - 47.99	.78	.41
48.00 - 49.99	.70	.32
50.00 - 51.99	.61	.21
52.00 - 53.99	.51	.09
54.00 - 56.07	.35	-

Maximum Payment $56.07*

*The maximum payment for hospital based skilled nursing facilities is set at $75.69 effective July 1, 1988 and $70.09 effective January 1, 1989.

(d) Cost incentive and investment schedule for skilled nursing facilities with mental retardation specialty:

(Effective 10-1-88)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$53.99 & below	$1.38	$.87
54.00 - 55.99	1.29	.75
56.00 - 57.99	1.18	.62
58.00 - 59.99	1.06	.47
60.00 - 61.99	.92	.31
62.00 - 63.99	.76	.13
64.00 - 67.28	.53	-

Maximum Payment $67.28*

(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 and, effective October 1, 1988, skilled nursing facilities with a mental retardation specialty have special requirements that are required to 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 6. 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 is required to 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 is required to 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 are required to 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 7. Implementation Date. The amendments to this regulation shall be effective with regard to payments for services provided on or after January 1, 1989 [July 1, 1988] except as specified in Sections 1(14), [1(2)(f),] 4(2), 4(8)(f), 5(5)(d) and 5(6) [and (15)(d)] of this regulation and as specified in the incorporated material with regard to respiratory therapy services and services provided by a skilled nursing facility with a mental retardation specialty, which are effective September 1, 1988 and October 1, 1988, respectively.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: December 28, 1988
FILED WITH LRC: January 6, 1989 at 2 p.m.

STATEMENT OF EMERGENCY
907 KAR 1:045E

This emergency administrative regulation is being amended to provide a payment increase of $1.55 per unit of service to the mental health center's outpatient clinical payment rate effective October 1, 1988. This action must be taken on an emergency basis to access available federal financial participation while conserving state funds. This emergency administrative regulation shall be replaced by an ordinary regulation to be filed on or about January 1, 1989.

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

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services

907 KAR 1:045E. Payments for mental health center services.

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: KRS 194.050
EFFECTIVE: January 6, 1989
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 mental health center services.

Section 1. Mental Health Centers. In accordance with 42 CFR 447.325, the cabinet shall make payment to Kentucky based (in-state) providers who are appropriately licensed and have met the conditions for participation (including the signing of such contractural arrangements as the cabinet may require of this class of provider) set by the cabinet, on the following basis:

(1) Payment shall be on a prospective basis based on reasonable allowable prior year costs (utilizing the latest audited annual cost report or unaudited report if an audited report is not available) not to exceed usual and customary charges or the upper limits on payments. Allowable costs shall be trended to the beginning of the rate year and indexed for the rate year, so as to more accurately approximate actual costs which will be incurred during the year. (If an unaudited report is used, cost will not be adjusted based on audit.)

(2) Payment amounts shall be determined by application of the "Community Mental Health Center General Policies and Guidelines and Principles of Reimbursement," (revised December 20, 1988 [July 1, 1987]) developed and issued by the cabinet, (incorporated by reference to the extent that such policies, guidelines and principles are applicable to Title XIX services and reimbursement, and filed herein), supplemented by the use of Title XVIII reimbursement principles.

(3) Allowable costs shall not exceed customary charges which are reasonable. Allowable costs shall not include the costs associated with political contributions, travel and related costs for trips outside the state (for purposes of conventions, meetings, assemblies, conferences, or any related activities), the costs of motor vehicles used by management personnel which exceed $15,000 total valuation annually (unless such excess cost is considered as compensation to the management personnel), 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.

(4) The prospective rate shall not exceed 110 percent of the median of the reasonable allowable cost for each reimbursable departmental cost center (i.e., inpatient, outpatient, partial hospitalization and personal care) for all participating facilities. For services provided on or after October 1, 1988, a funding adjustment of one (1) dollar and fifty-five (55) cents will be added to the outpatient (clinical) per unit rate.

Section 2. Implementation of Payment System. (1) Payments may be based on units of service such as fifteen (15) minute or hourly increments, or at a daily rate, depending on the type of service.

(2) Overpayments discovered as a result of audits may be settled in the usual manner, i.e., through recoupment or withholding.

(3) The vendor shall complete an annual cost report on forms provided by the cabinet not later than sixty (60) days from the end of the vendor's accounting year and the vendor shall maintain an acceptable accounting system to account for the cost of total services provided, charges for total services rendered, and charges for covered services rendered eligible recipients.

(4) Each community mental health center provider shall make available to the cabinet at the end of each fiscal reporting period, and at such intervals as the cabinet may require, all patient and fiscal records of the provider, subject to reasonable prior notice by the cabinet. Notwithstanding this general requirement, the provider need not make available (for purposes of determining Medicaid payment amounts) staff notes or treatment records which show treatment details for non-Medicaid covered services; for such services, the information required shall be limited to a case summary sheet or listing which shows, at a minimum, the type of service provided, the staff member who provided the service, the date of the service, and appropriate identifying information relating to the patient.

(5) Payments due the community mental health center shall be made at reasonable intervals but not less often than monthly.

Section 3. Nonallowable Costs. The cabinet shall not make reimbursement under the provisions of this regulation for services not covered by 907 KAR 1:044, community mental health center services, nor for that portion of a community mental health center's costs found unreasonable or nonallowable in accordance with the cabinet's "Community Mental Health Center General Policies and Guidelines and Principles of Reimbursement."

Section 4. Reimbursement of Out-of-state Providers. The cabinet shall make payment to out-of-state mental health center providers who are appropriately licensed, participate with their state's Title XIX Medicaid Program, and have met the Kentucky Medical Assistance Program conditions of participation. The payment rate will be the lower of charges, or the facility's rate as set by the state Medicaid Program in the other state, or the upper limit for that type of service in effect for Kentucky providers.

Section 5. The amendments to this regulation shall be effective with regard to payments for services provided on or after October 1, 1988 [July 1, 1987].

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: December 28, 1988
FILED WITH LRC: January 6, 1989 at 2 p.m.

STATEMENT OF EMERGENCY
907 KAR 1:460E

This emergency administrative regulation is being promulgated to comply with Section 1919 of the Social Security Act which mandates implementation of a preadmission screening and annual resident review (PASARR) program by January 1, 1989 for individuals desiring admission to or continued stay in Medicaid participating skilled nursing or general intermediate care facilities. This regulation provides for coverage and payments related to activities necessary to accomplish implementation of the PASARR program, and action must be taken on an emergency basis to comply with the federal statutory requirement. This emergency administrative regulation shall be replaced by an ordinary regulation to be filed on or about January 1, 1989.

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

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services

907 KAR 1:460E. Coverage and payments for preadmission screening and annual resident review.

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: KRS 194.050
EFFECTIVE: January 10, 1989
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 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 coverage and payment provisions for preadmission screening and annual resident review.

Section 1. General Applicability. The provisions of this regulation are applicable for all individuals desiring admission to, or continued stay in, skilled nursing or general intermediate care facilities (SNFs/GICFs) participating in the Kentucky Medical Assistance Program.

Section 2. Deemed Consent for Preadmission Screening and Annual Resident Review. Any individual applying for admission to, or requesting a continued stay in, a skilled nursing or general intermediate care facility (SNF/GICF) participating in the Medicaid program

on or after January 1, 1989 shall be deemed to have given his consent for the Cabinet for Human Resources to make the determination of appropriateness for the individual to enter or remain in the facility using the standards specified in Section 1919 of the Social Security Act.

Section 3. Responsibility for Preadmission Screening and Annual Resident Review (PASARR). The Department for Mental Health and Mental Retardation Services (DMHMRS) shall be responsible for determining whether individuals desiring to enter, or remain in, a skilled nursing or general intermediate care facility (SNF/GICF) participating in the Medicaid program are mentally ill or mentally retarded and if so, whether the individual requires the level of services provided by an SNF/GICF, and if such services are required, whether the individual requires active treatment for mental illness or mental retardation. A practicing physician's written statement that an individual requires the level of services provided by an SNF/GICF will be considered adequate documentation with regard to that requirement being met; however, for reimbursement to be provided under Title XIX an individual must be Medicaid eligible and meet the usual patient care criteria specified in 907 KAR 1:022 and 907 KAR 1:024. The DMHMRS may contract with mental health/mental retardation centers for evaluations and recommendations as to whether the individual is mentally ill or mentally retarded, or requires active treatment and may delegate the authority for the determination as to whether an individual may enter or remain in an SNF/GICF to the mental health/mental retardation centers; and may contract with other agencies, organizations or entities if necessary to fulfill DMHMRS's obligations with regard to the PASARR function.

Section 4. Payments for the Performance of Preadmission Screening and Annual Resident Review Functions. The Medicaid program shall be responsible for the costs of the PASARR program, and funds may be paid from the Medicaid program to the DMHMRS, or directly to contracted agencies, for the performance of the PASARR program; however, no funds shall accrue to the DMHMRS for this purpose which are in excess of the actual costs to DMHMRS (including contract costs) of implementing and operating the PASARR program.

Section 5. Admissions Criteria under PASARR. Admissions to Medicaid participating SNFs/GICFs must be in accordance with Section 1919 of the Social Security Act. The following represents the substance of the admissions criteria derived from Section 1919 of the Social Security Act.

(1) A person who is determined not to be mentally ill or mentally retarded is not subject to further PASARR activity.

(2) A person who is mentally ill or mentally retarded may be admitted to an SNF/GICF if he requires the appropriate level of care and a determination is made as to whether active treatment for mental illness or mental retardation is required.

(3) A person who is mentally ill or mentally retarded and who does not require the appropriate level of care may not be admitted to an SNF/GICF regardless of whether he requires active treatment for mental illness or mental retardation.

Section 6. Criteria for Annual Resident Review. Residents in Medicaid participating SNFs/GICFs are subject to annual resident review in accordance with Section 1919 of the Social Security Act. The following represents the substance of the criteria for annual resident review and continued stay derived from Section 1919 of the Social Security Act.

(1) A person who is determined not to be mentally ill or mentally retarded is not subject to further PASARR activity except for annual resident review to verify continuation of his mental health status.

(2) A person who is determined to be mentally ill or mentally retarded but who requires the level of care provided by an SNF/GICF may remain in the facility but a determination must be made as to whether active treatment for mental illness or mental retardation is required.

(3) A person who is mentally ill or mentally retarded but who is determined not to require the level of care provided by an SNF/GICF may remain in the facility if he has continuously resided in an SNF/GICF for thirty (30) months before the date of the determination so long as he requires active treatment for mental illness or mental retardation.

(4) An individual who is mentally ill or mentally retarded and who is determined not to require the level of care provided by an SNF/GICF may not remain in the facility if he has not continuously resided in an SNF/GICF for thirty (30) months prior to the date of the determination.

Section 7. Additional PASARR Admissions and Continued Stay Criteria. The following additional criteria for compliance with the PASARR admission and continued stay requirements shall be applied.

(1) A mentally ill or mentally retarded person who is of advanced years and competent to make an independent decision may be admitted to or remain in the facility if he meets the SNF/GICF level of care, is not a danger to himself or others, and chooses that level of care.

(2) A mentally ill or mentally retarded person may be admitted to an SNF/GICF for 120 days after release from an acute care hospital for convalescent care, if the individual needs the SNF/GICF level of care and is not a danger to himself or others, without being subjected to further PASARR evaluation.

(3) A mentally ill or mentally retarded individual may be admitted to or reside in an SNF/GICF if he requires continuous nursing care or medical supervision and treatment and is terminally ill, and is not a danger to himself or others.

(4) A mentally ill or mentally retarded individual who is not a danger to himself or others may be admitted to or remain in an SNF/GICF based on severity of illness if he is: comatose; ventilator dependent; functions at the brain stem level; or has a diagnosis of Chronic Obstructive Pulmonary Disease, Severe Parkinson's Disease, Hunting's Disease, Amyo Lateraltropic Schlerosis, or Congestive Heart Failure, and any other diagnosis so determined by the United States Department of Health and Human Services, Health Care Financing Administration.

Section 8. Appeals. Individuals who are not qualified for admission to or continued stay in a Medicaid participating SNF/GICF as a result of a PASARR determination by the DMHMRS may appeal using the following process.

(1) If a person is determined not suitable for admission to or continued stay in an SNF/GICF as a result of the PASARR process, the individual will receive a notice from the DMHMRS (or peer review organization acting on behalf of the DMHMRS) which advises the individual of the negative decision, the reason for the negative decision, the procedure and time frame for requesting an appeal, and of the right to legal or other appropriate representation. An individual in an SNF/GICF must be allowed at least ten (10) days to transfer from the facility, and shall not be required to move during the appeal process if the decision is appealed within the ten (10) day period. The individual may appeal the decision at any time within thirty (30) days of the decision. The individual, his attending physician, and the facility, as appropriate, will be notified of the date, time, and place of the hearing. The hearing shall be conducted by the DMHMRS and the appeal decision rendered within thirty (30) days of the notice of appeal. If the determination is adverse to the individual, the negative decision will contain further appeal rights, the time frame and procedure for requesting a hearing, and the right to legal or other appropriate representation.

(2) Upon a negative hearing decision by the DMHMRS, the individual may within twenty (20) days of the notice of the decision request a further appeal of the decision. The appeal hearing will be conducted by the Division for Administrative Review, Department for Social Insurance as the agency of the Department for Medicaid Services. The hearing and further appeal rights will be in accordance with 904 KAR 2:055, Hearings and appeals.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: December 28, 1988
FILED WITH LRC: January 10, 1989 at 3 p.m.

REGULATIONS AS AMENDED BY ADMINISTRATIVE BODY AND REVIEWING COMMITTEE

COMPILER'S NOTE: The following regulations were amended by the promulgating agency and the Administrative Regulation Review Subcommittee on January 3, 1989.

FINANCE AND ADMINISTRATION CABINET
Higher Education Assistance Authority
Division of Program Administration
(As Amended)

11 KAR 5:120. Application by recipients of AFDC.

RELATES TO: KRS 164.748(4), (8), (14), (16), 164.753(4)(b), 164.780, 164.785

STATUTORY AUTHORITY: KRS 13A.100, 164.748(4)

NECESSITY AND FUNCTION: The Kentucky Higher Education Assistance Authority administers grant programs to provide financial assistance to students to attend Kentucky educational institutions. This regulation sets forth procedures by which recipients of Aid to Families with Dependent Children may apply for KHEAA grant assistance and the award determination procedures for such applicants.

Section 1. Definitions. The term "authority" shall have the meaning defined in KRS 164.740. For purposes of this regulation, the term listed below shall have the following meaning: "parent" means a student's natural or adoptive mother or father, or a legal guardian appointed by a court who is specifically required by the court to use his or her own resources to support the student.

Section 2. The student application prescribed in 11 KAR 5:130 shall be used.

Section 3. To properly complete the KHEAA grant application procedure, each applicant who receives payments for himself/herself or whose parent receives payments on behalf of the applicant under the program known as "Aid to Families with Dependent Children (AFDC)" administered by the Kentucky Cabinet for Human Resources, Bureau for Social Insurance, (CHR, BSI), shall indicate in the designated place on the application that these benefits are received.

Section 4. The authority shall request data from the DHR, BSI to verify that the family is a current bona fide recipient of payments under the AFDC program.

Section 5. Each verified applicant receiving AFDC payments for himself/herself or whose parent receives payments for the applicant who meets all of the student eligibility requirements in 11 KAR 5:030, except Section 2 [1](4), will be awarded a KHEAA grant in the maximum amount available to students at the educational institution where the applicant is or will be enrolled for the period covered by the application, so long as funds are available.

WAYNE STRATTON, Chairman
APPROVED BY AGENCY: October 26, 1988
FILED WITH LRC: November 15, 1988 at 10 a.m.

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

401 KAR 63:045. School asbestos abatement accreditations.

RELATES TO: KRS 224.320, 224.330, 224.340, 224.550, 40 CFR 763.80, 763.84, 763.85, 763.86, 763.87, 763.88, 763.90, 763.91, 763.92, 763.93, 763.94, 763.95, 763.99, Appendices A, B, and D (October 30, 1987), Toxic Substances Control Act II (15 USC 2601 and the related sections which follow, as in effect on July 18, 1988)

STATUTORY AUTHORITY: KRS Chapter 13A, 224.033, 224.550, 224.560, 224.994, 40 CFR 763.80, 763.84, 763.85, 763.86, 763.87, 763.88, 763.90, 763.91, 763.92, 763.93, 763.94, 763.95, 763.99, Appendices A, B, and D (October 30, 1987), Toxic Substances Control Act II (15 USC 2601 and the related sections which follow, as in effect on July 18, 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. KRS 224.550 allows the cabinet to develop, adopt, and maintain a comprehensive statewide asbestos contractor accreditation program relating to asbestos in schools. This regulation provides for the accreditation of individuals who inspect for asbestos in schools, prepare plans addressing potential and actual asbestos hazards in schools, and design, supervise, or perform response actions in schools.

Section 1. Definitions. As used in this regulation, the following terms shall have the following meanings. If not defined in this section, a term shall have the meaning given it by commonly accepted usage.

(1) "Abatement project designer" means an individual who determines how asbestos abatement work should be conducted and who prepares for purposes of an abatement response action, plans, designs, procedures, workscope, or other substantive direction or criteria.

(2) "Act" means the Toxic Substances Control Act (TSCA), 15 USC 2601 and the related sections which follow, as in effect on July 18, 1988.

(3) "Accredited" means when referring to an individual that the individual is accredited in accordance with section 206 of Title II of the Act.

(4) "Accreditation certificate" means a certificate issued by the cabinet attesting to the training qualifications of an individual to perform specified asbestos abatement projects.

(5) "Asbestos" means the asbestiform varieties of: chrysotile (serpentine), crocidolite (riebeckite), amosite (cummingtonite-grunerite), anthophyllite, tremolite, and actinolite.

(6) "Asbestos abatement contractor" means the individual responsible for the on-site supervision of the removal, encapsulation, or enclosure of friable ACM in a school. An asbestos abatement contractor may also perform the duties of an asbestos abatement supervisor, abatement project designer, or an asbestos

abatement worker.

(7) "Asbestos abatement project" means any project intended to identify, assess, plan for, or respond to an asbestos hazard in a school building.

(8) "Asbestos abatement supervisor" means the individual responsible for the on-site supervision of the removal, encapsulation, or enclosure of friable ACM in a school. An asbestos abatement supervisor may also perform the duties of an asbestos abatement contractor, abatement project designer, or an asbestos abatement worker.

(9) "Asbestos abatement worker" means an individual who cleans, removes, encapsulates, encloses, hauls, or disposes of friable asbestos material or who performs any response action required to be performed by an accredited individual.

(10) "Asbestos-containing material" or "ACM" means, when referring to school buildings, any material or product which contains more than one (1) percent asbestos by area.

(11) "Asbestos-containing building material" or "ACBM" means surfacing ACM, thermal system insulation ACM, or miscellaneous ACM that is found in or on interior structural members or other parts of a school building.

(12) "Cabinet" has the meaning given it in KRS 224.005.

(13) "Day" means calendar day.

(14) "Discipline" means any of the following: an inspector, management planner, abatement project designer, asbestos abatement contractor, asbestos abatement supervisor, and asbestos abatement worker.

(15) "Encapsulation" means the treatment of ACBM with a material that surrounds or embeds asbestos fibers in an adhesive matrix to prevent the release of fibers, as the encapsulant creates a membrane over the surface (bridging encapsulant) or penetrates the material and binds its components together (penetrating encapsulant).

(16) "Enclosure" means an airtight, impermeable, permanent barrier around ACBM to prevent the release of asbestos fibers into the air.

(17) "EPA" or "U.S. EPA" means the United States Environmental Protection Agency.

(18) "EPA-approved training course" means a training or refresher course for the discipline for which accreditation is requested which is approved by the U.S. EPA, at the time the course is taken, for the purpose of complying with the requirements of section 206 of the Act.

(19) "Friable" means that the material, when dry, may be broken, crumbled, pulverized, or reduced to powder by hand pressure, and includes previously nonfriable material after the previously nonfriable material becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.

(20) "Functional space" means a room, group of rooms, or homogeneous area (including crawl spaces or the space between a dropped ceiling and the floor or roof deck above), such as classrooms, a cafeteria, gymnasium, hallways, designated by an individual accredited to prepare management plans, or design or conduct response actions.

(21) "Homogeneous area" means an area of surfacing material, thermal system insulation material, or miscellaneous material that is uniform in color and texture.

(22) "Inspector" means an individual who identifies, assesses the condition of, or collects preabatement air samples or bulk samples of ACM.

(23) "Inspection" means an identification of the status of asbestos in schools, including identification of, assessment of the conditions of, or collection of preabatement air samples or bulk samples of, ACM. This term also includes reinspections, after the initial inspection has been performed.

(24) "Local education agency" or "LEA" means:

(a) Any local education agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 USC 3381), which means, a public board of education or other public authority legally constituted for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision, or any combination of school districts or counties recognized as an administrative agency for its public elementary or secondary schools. This term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(b) The owner of any nonpublic, nonprofit elementary or secondary school building.

(c) The governing authority of any school operated under the defense dependents' education system provided for under the Defense Dependents' Education Act of 1978 (20 USC 921, and the following related sections).

(25) "Management plan" means a plan submitted by an LEA and which is not disapproved, and which contains the items required in 40 CFR 763.93.

(26) "Management planner" means an individual who uses data gathered by inspectors to assess asbestos hazards, and by doing so determines appropriate response actions and develops management plans. A management planner may also perform the duties of an inspector.

(27) "Miscellaneous ACM" means miscellaneous material that is ACM in a school building.

(28) "Miscellaneous material" means interior building material on structural components, structural members, or fixtures, such as floor and ceiling tiles, and does not include surfacing material or thermal system insulation.

(29) "Nonfriable" means material in a school building which when dry may not be broken, crumbled, pulverized, or reduced to powder by hand pressure.

(30) "Operations and maintenance program" or "O&M program" means a program of work practices to maintain friable ACBM in good condition, ensure cleanup of asbestos fibers previously released, and prevent further release by minimizing and controlling friable ACBM disturbance or damage.

(31) "Person" has the meaning given it in KRS 224.005.

(32) "Removal" means the taking out or the stripping of substantially all ACBM from a damaged area, a functional space, or a homogeneous area in a school building.

(33) "Repair" means returning damaged ACBM to an undamaged condition or to an intact state so as to prevent fiber release.

(34) "Response action" means a method, including but not limited to removal,

encapsulation, enclosure, repair, operations and maintenance, that protects human health and the environment from friable ACBM.

(35) "School" means any elementary or secondary school as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 USC 2854).

(36) "School building" means:

(a) Any structure suitable for use as a classroom, including a school facility such as a laboratory, library, school eating facility, or facility used for the preparation of food;

(b) Any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education;

(c) Any other facility used for the instruction or housing of students or for the administration of education or research programs;

(d) Any maintenance, storage, or utility facility, including any hallway, essential to the operation of any facility described in paragraphs (a) to (c) of this subsection;

(e) Any portico or covered exterior hallway or walkway; or

(f) Any exterior portion of a mechanical system used to condition interior space.

(37) "Surfacing ACM" means surfacing material that is ACM.

(38) "Surfacing material" means material in a school building that is sprayed on, troweled on, or otherwise applied to surfaces, such as acoustical plaster on ceilings and fireproofing materials on structural members, or other materials on surfaces for acoustical, fireproofing, or other purposes.

(39) "Thermal system insulation" means material in a school building applied to pipes, fittings, boilers, breeching, tanks, ducts, or other interior structural components to prevent heat loss or gain, or water condensation, or for other purposes.

(40) "Thermal system insulation ACM" means thermal system insulation that is ACM.

Section 2. Applicability. The provisions of this regulation shall apply to all individuals required to be accredited by 401 KAR 63:050.

Section 3. Prohibition. No individual may engage in, nor any person cause or allow any individual to engage in, any asbestos abatement project at a school on or after October 12, 1988, unless an accreditation certificate to so engage in these projects has been issued to that individual by the cabinet, is currently in effect, and is maintained on the person of that individual at all times.

Section 4. Applications. (1) No individual shall be considered for accreditation unless the training requirements of Section 9 of this regulation have been completed prior to application.

(2) Applications for accreditation shall be made on forms prepared by the cabinet for this purpose and shall contain the information that the cabinet deems is necessary to determine whether the accreditation should be issued.

(3) Applications for accreditation shall be signed by the individual requesting accreditation. The signature shall be made under oath and shall constitute personal affirmation that the statements made in the application are true and complete.

(4) Applications shall contain the accreditation fee as indicated in Section 7 of this regulation.

Section 5. Consideration of Applications. (1) Within fifteen (15) days after receipt of an application for accreditation, the cabinet shall advise the applicant as to whether or not the application is complete, and if not complete, what additional information is necessary in order to evaluate the application.

(2) Within fifteen (15) days after the application for accreditation is deemed complete, the cabinet shall make its determination concerning the application unless the cabinet determines that an additional period of time is necessary.

(3) If the application is approved, the cabinet shall issue to the applicant the accreditation certificate to engage in asbestos abatement projects at schools, according to the provisions of the regulation.

(4) The cabinet may deny an application for accreditation if the cabinet determines that the applicant has violated any provision of this regulation, 401 KAR 57:011, 401 KAR 63:042, or 401 KAR 63:050, if the applicant willfully made any misstatements in the application, or if the applicant cannot reasonably be expected to conduct himself in a manner that is consistent with the acceptance of responsibility for asbestos abatement projects at schools. The cabinet shall make determinations regarding issuance or denial of the accreditation based upon the applicant's actions during any prior term of accreditation, the information contained in the application, and any other pertinent information that is available to the cabinet.

(5) Accreditations issued according to this regulation shall be subject to the terms and conditions set forth and embodied in the accreditation certificate as the cabinet deems necessary to ensure compliance with the requirements of this regulation, 401 KAR 57:011, 401 KAR 63:042, and 401 KAR 63:050.

Section 6. Duration and Renewal of Accreditation Certificates. (1) Unless the cabinet revokes an accreditation certificate, both initial and renewed accreditation certificates issued after the effective date of this regulation, shall remain in effect concurrent with the certificate which is issued upon successful completion of the EPA-approved training or refresher course required in Section 9 of this regulation [for one (1) year after the date of issuance].

(2) No individual shall be considered for renewal of accreditation unless the training requirements of Section 9 of this regulation have been completed prior to application.

(3) Applications for renewal of accreditation shall be made on forms prepared by the cabinet for this purpose and shall contain the information that the cabinet deems is necessary to determine whether the accreditation should be issued.

(4) Applications for renewal of accreditation shall be signed by the individual requesting accreditation. The signatures shall be made under oath and shall constitute personal affirmation that the statements made in the application are true and complete.

(5) Failure to supply information required or deemed necessary by the cabinet to enable it to

act upon the renewal application shall result in denial of that renewal.

(6) Any individual who submits an application for renewal of accreditation shall include with the application an accreditation fee, as specified in Section 7 of this regulation.

(7) The cabinet shall make its determination to approve or deny the renewal within fifteen (15) days of receipt of a complete renewal application. The cabinet shall notify the applicant, in writing, of its determination and shall set forth its reasons for any denial.

(8) If the renewal is approved, the cabinet shall issue to the applicant the renewed certificate to engage in asbestos abatement projects in schools, according to the provisions of this regulation and 401 KAR 63:050.

(9) The cabinet may deny an application for renewal of accreditation if the cabinet determines that the applicant has violated any provision of this regulation, 401 KAR 57:011, 401 KAR 63:042, or 401 KAR 63:050, if the applicant willfully made any misstatements in the application, or if the applicant cannot reasonably be expected to conduct himself in a manner that is consistent with the acceptance of responsibility for asbestos abatement projects at schools. The cabinet shall make determinations regarding issuance or denial of the renewed accreditation based upon the applicant's actions during any prior term of accreditation, the information contained in the application, and any other pertinent information that is available to the cabinet.

(10) Renewed accreditations issued according to this regulation shall be subject to the terms and conditions set forth and embodied in the accreditation certificate as the cabinet deems necessary to ensure compliance with the requirements of this regulation, 401 KAR 57:011, 401 KAR 63:042, and 401 KAR 63:050.

Section 7. Fees. All fees shall be submitted to the cabinet by check or money order, payable to the Kentucky State Treasurer. Fees for more than one (1) discipline shall be obtained by summing the fees for the requested accreditations. The fee for accreditation as an inspector, management planner, abatement project designer, asbestos abatement contractor, asbestos abatement supervisor, or asbestos abatement worker shall be twenty (20) dollars. The fee for renewal of accreditation for each of those disciplines shall be ten (10) dollars.

Section 8. Accreditation Revocation. The cabinet may revoke any accreditation issued under this regulation if the accredited individual:

(1) Willfully makes any misstatement or knowingly omits information in the certification application, renewal application, or any amendments to an application;

(2) Fails to comply with the terms or conditions of the accreditation;

(3) Fails to comply with 401 KAR 57:011, 401 KAR 63:042, or 401 KAR 63:050;

(4) Fails to perform a response action in a manner which will protect human health and the environment;

(5) Performs a response action required to be performed by an accredited individual which is disapproved by the cabinet or not contained in an applicable management plan; or

(6) Alters any accreditation certificate.

Section 9. Training Requirements. (1) Initial accreditation. Every individual requesting accreditation shall attend and successfully complete an EPA-approved training course for the appropriate discipline for which accreditation is requested within one (1) year prior to applying for accreditation. Training successfully completed at an EPA-approved training course for the requested discipline since January 1, 1985, shall satisfy the requirement of this subsection for one (1) year from October 5, 1988 [the effective date of this regulation].

(2) Renewal of accreditation.

(a) If an individual successfully completes an EPA-approved refresher course for the discipline for which accreditation is requested prior to the expiration of his certificate and if the individual requests that his accreditation certificate be renewed prior to expiration, then the cabinet may extend the accreditation certificate for one (1) year. The cabinet will issue a renewal certificate for each approved extension.

(b) If an individual fails to successfully complete an EPA-approved refresher course for the discipline for which accreditation is requested within one (1) year of being certified, his accreditation certificate shall expire; however, an expired certificate may be renewed if the applicant successfully completes an EPA-approved refresher course within one (1) year of expiration, and completes all other requirements for renewal of certifications.

(c) If an individual fails to successfully complete an EPA-approved refresher course for the discipline for which accreditation is requested within one (1) year of expiration of his accreditation certificate, the individual shall complete all requirements for initial accreditation in order to receive accreditation.

Section 10. Penalties. Any individual or other person who violates any provision of this regulation shall be subject to the appropriate enforcement action as provided under KRS 224.994.

CARL H. BRADLEY, Secretary
WILLIAM F. KNAPP, JR., Acting Commissioner
APPROVED BY AGENCY: December 14, 1988
FILED BY LRC: December 14 1988 at 4 p.m.

CORRECTIONS CABINET
(As Amended)

501 KAR 6:070. Kentucky Correctional Institution for Women.

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on November 4 [July 14], 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
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 (Amended 11/04/88)
KCIW 02-07-01 Release of CETA Money Earned
[KCIW 03-01-01 Travel Expense Reimbursement (Deleted 11/04/88)]
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 (Deleted 11/04/88)]
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 (Deleted 11/04/88)]
KCIW 06-01-01 Inmate Records
KCIW 06-01-02 Transfers to Community Centers and the Minimum Security Unit [(Amended 7/14/88)]
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
KCIW 11-01-01 Food Service Operation Inspections
KCIW 11-01-02 Budgeting, Accounting, and Purchasing Procedures for Food Products
KCIW 11-02-01 Menu Preparation/Special Diets
KCIW 11-03-01 General Guidelines for Food Service Workers
KCIW 11-03-02 General Guidelines for Food Service Workers
KCIW 11-04-01 Health Regulations and General Guidelines for the Food Service Area
KCIW 12-01-01 Control of Pests and Vermin (Amended 11/04/88)
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
KCIW 13-01-02 Preliminary Health Screening and Appraisal
KCIW 13-01-03 Use of Pharmaceutical Products
KCIW 13-03-01 Emergency Care
KCIW 13-03-02 Infirmary Care and Outside Services
KCIW 13-03-03 Outside Hospital Security
KCIW 13-04-01 Medical Alert System
KCIW 13-04-02 Psychiatric/Psychological Services
KCIW 13-06-01 Informed Consent
KCIW 13-07-01 Detoxification and Alcohol or Chemical Dependency Guidelines
KCIW 13-08-01 Medical Exams for New Employees
KCIW 13-09-01 Suicide Prevention and Intervention Program
KCIW 13-11-01 Infection Control
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 [(Amended 7/14/88)]
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 (Amended 11/04/88)
KCIW 18-02-01 Classification Procedures (Amended 11/04/88)
KCIW 18-05-01 Special Needs Inmates
KCIW 18-06-01 Institutional Status Codes (Amended 11/04/88)
KCIW 19-01-01 Inmate Work/Program Assignments (Amended 11/04/88) (Amended 01/03/89)
KCIW 19-03-01 Landscape and Maintenance Work Details (Amended 11/04/88)
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: November 4, 1988
FILED WITH LRC: November 4, 1988 at 11 a.m.

CORRECTIONS CABINET
(As Amended)

501 KAR 6:090. Frankfort Career Development Center.

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

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

FCDC 01-04-01	Confidentiality of Information Roles and Services of Consultant, Contract Personnel, Governmental Services Supervisors and Volunteers
FCDC 01-05-01	Duties and Responsibilities of FCDC Duty Officer
FCDC 02-09-01	Inmate Account Draw and Savings Deposit Transactions Between Inmates
FCDC 02-10-01	Fiscal Management and Control (Amended 11/15/88)
FCDC 02-11-01	Fiscal Management: Accounting Procedures
FCDC 02-12-01	Fiscal Management: Checking Accounts
FCDC 02-13-01	Purchasing and Receiving
FCDC 03-01-02	Security Manual Part 1: Staff Guidelines
FCDC 03-10-01	Dress Code
FCDC 03-15-01	Travel Expense Reimbursement
FCDC 03-16-01	Employee Grievance Procedure
FCDC 03-21-01	Time and Attendance
FCDC 06-02-01	Inmate Records (Amended 11/15/88)
FCDC 08-01-01	Fire Safety Practices (Added 11/15/88)
FCDC 09-01-02	Institutional Entry/Exit Surveillance and Perimeter Security Procedures (Added 11/15/88)
FCDC 09-03-01	Control and Accountability of Flammable Toxic, Caustic and Other Hazardous Materials (Added 01/03/89) (Amended 01/03/89)
FCDC 09-06-08	Searches and Contraband Control (Added 11/15/88)
FCDC 11-01-01	Special Diets
FCDC 11-02-01	Menu Preparation (Amended 11/15/88)
FCDC 11-03-01	Food Services (Amended 11/15/88)
FCDC 12-03-01	Laundry, Clothing, Hygiene and Grooming Services (Amended 11/15/88)
FCDC 12-04-01	Sanitation Practices and Inspections
FCDC 13-01-01	Use of Pharmaceutical Products (Amended 11/15/88)
FCDC 13-01-02	Medical Emergencies (Amended 11/15/88)
FCDC 13-01-03	Informed Consent
FCDC 13-02-01	Inmate Medical Screenings and Health Evaluations
FCDC 13-03-01	Psychiatric and Psychological Services (Amended 11/15/88) (Amended 01/03/89)
FCDC 13-03-02	Parental Administration of Medications and Use of Psychotropic Drugs
FCDC 13-04-01	Intra-system Transfers of Medical/Psychiatric Problems
FCDC 13-05-01	Family Notification: Serious Illness, Injury or Major Surgery
FCDC 13-06-01	Chronic and Convalescent Care (Amended 11/15/88)
FCDC 13-08-01	Sick Call/Physician's Bimonthly Clinic (Amended 11/15/88)
FCDC 13-09-01	Management of Serious and Infectious Diseases
FCDC 13-10-01	Treatment Protocol Regarding First-Aid Procedures, Routine Health Care [(Amended 4/15/87)]
FCDC 13-11-01	Health Education: Provision of Special Health Care Needs
FCDC 13-12-01	Elective Services
FCDC 13-13-01	Physicians Referrals
FCDC 13-14-01	Health Records
FCDC 13-15-01	Routine and Emergency Dental Appointments
FCDC 13-16-01	Routine and Emergency Eye Examinations
FCDC 13-17-01	Inmate Death
FCDC 14-01-01	Prohibiting Inmate Authority Over Other Inmates
FCDC 14-02-01	Inmate Grievance System
FCDC 14-03-01	Inmates Are Not Subject to Discrimination Based on Race, Religion, National Origin, Sex, Handicap or Political Beliefs and Are Protected Against Corporal Punishment
FCDC 14-04-01	Legal Services Program (Amended 11/15/88)
FCDC 15-01-01	Good Time - Credits
FCDC 15-03-01	Conduct of Adjustment Committee Hearings (Chairperson)
FCDC 15-04-01	Prehearing Detention and Protective Custody Requests (Added 11/15/88)

FCDC 16-01-01	Inmate Visiting	(Amended 11/15/88) (Amended 01/03/89)
FCDC 16-02-01	Mail Policy	(Amended 11/15/88)
FCDC 16-03-01	Inmate Access to Telephones	(Amended 11/15/88)
FCDC 17-01-01	Inmate Property Control	
FCDC 17-02-01	Inmate Reception, Orientation, and Discharge	
FCDC 18-01-01	Inmate Classification	
FCDC 18-02-01	Reclassification Document	(Amended 11/15/88)
FCDC 18-03-01	Instructions for Six Month Review	(Amended 11/15/88)
FCDC 19-01-01	Security and Operation of the Governmental Services Program	
FCDC 19-02-01	Inmate Work Program	
FCDC 20-01-01	Academic and Vocational Education	(Amended 11/15/88)
FCDC 22-01-01	Privilege Trips	
FCDC 22-01-02	Activity Trips	
FCDC 22-02-01	Recreation and Inmate Activities	
FCDC 23-01-01	Religious Activities	(Amended 11/15/88)
FCDC 24-01-01	Social Service Program	(Amended 11/15/88)
FCDC 24-02-01	Substance Abuse Programs	(Amended 11/15/88)
FCDC 25-01-01	Escorted Leaves	(Amended 11/15/88)
FCDC 25-02-01	Temporary Release/Community Center Program	(Amended 11/15/88)
FCDC 25-03-01	Release Preparation Program	

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: November 15, 1988
FILED WITH LRC: November 15, 1988 at noon

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction
(As Amended)

704 KAR 7:080. Ride to the Center for the Arts Program Fund.

RELATES TO: KRS 157.605, 157.606
STATUTORY AUTHORITY: KRS 156.070, 157.606
NECESSITY AND FUNCTION: KRS 157.605 and 157.606 establish the "Ride to the Center for the Arts Program Fund" to provide matching funds to local school districts for the cost of transportation of students in grades 6-9 for the purpose of visiting the Kentucky Center for the Arts. This regulation is necessary to provide for the administration of the program and disbursement of money from the fund.

Section 1. Total transportation costs eligible for reimbursement from the Ride to the Center for the Arts Program Fund shall be eighty (80) cents per mile computed from the school to the Kentucky Center for the Arts, and the bus driver's salary for the hours worked. One-half (1/2) (fifty (50) percent) of the total transportation cost may [will] be awarded to the local school district upon receipt of a statement signed by the superintendent verifying the date the trip was made, the number of students transported, the number of buses used, the total mileage, and the bus driver's total hours and hourly rate.

Section 2. Applications for the matching funds shall be made on forms supplied by the Office of Instruction, Unit for Arts and Humanities, by July 1 of each year beginning July 1, 1989. Applications prior to July 1, 1989, must also be made on forms supplied by the Office of Instruction and will be processed when received.

Section 3. Preference shall be given to schools who have not participated previously in the program. A review panel selected by the Office of Instruction, Unit for Arts and Humanities, shall review all applications and make recommendations to the State Board for Elementary and Secondary Education.

HENRY E. POGUE, IV, Chairman
APPROVED BY AGENCY: November 2, 1988
FILED WITH LRC: November 15, 1988 at 11 a.m.

PUBLIC PROTECTION & REGULATION CABINET
Department of Housing, Buildings & Construction
Division of Plumbing
(As Amended)

815 KAR 20:020. Parts or [and] materials list.

RELATES TO: KRS Chapter 318
STATUTORY AUTHORITY: KRS Chapter 13A, 318.130 [13.080(3)(b), 13.082]
NECESSITY AND FUNCTION: The department is directed by KRS 318.130 through the State Plumbing Code Committee to adopt and put into effect a State Plumbing Code. This regulation will allow the department to permit the use of new parts and materials without amending specific regulations for each new item. This regulation will eliminate the repetitious amending of the Plumbing Code now required to include new materials item by item. This amendment is needed to formalize the approval process in accordance with KRS Chapter 13A, to establish certain new definitions and to clarify the intent that all new products be equivalent to other items already in the Code.

Section 1. Definitions as used in this regulation. (1) "APML" shall mean the "Approved Parts or Materials List."
(2) "ABS" means acrylonitrile-butadiene-styrene pipe.
(3) "ASTM" means American Society for Testing Materials.
(4) [(2)] "Parts or materials" shall mean all types of fittings and piping used in the soil, waste and vent systems, house sewers, potable water supply, plumbing fixtures, appurtenances, and mechanical sewage systems in plumbing systems.
(5) [(3)] "Committee" shall mean the State Plumbing Code Committee.
(6) [(4)] "Code" shall mean the State Plumbing Code.
(7) [(5)] "Department" shall mean the Department of Housing, Buildings and Construction.
(8) [(6)] "Person" shall mean any individual, public or private corporation, political subdivision, government agency, municipality, copartnership, association, firm, trust, estate, or other entity whatsoever.
(9) "PVC" means polyvinyl chloride pipe.

Section 2. Approved Parts or [and] Materials List (APML). The use of any part or material in any drainage or plumbing system or section

thereof, other than those currently authorized by the code, is prohibited unless the use of such part or material has been considered by the committee and approved by the department as being equal to or better than other similar approved items for inclusion in the APML. The APML may also specify methods of installation [and/]or restrictions applicable to a particular part or material.

Section 3. Amending the APML. (1) A person desiring to have the APML amended shall petition, in writing, for an opportunity to be heard by the committee no later than fourteen (14) days prior to the next scheduled meeting of the committee. Such request shall include a description of the part or material for which approval is sought, available technical data, and a listing of other authorities which have the use of the part or material, and any other pertinent information requested by the committee.

(2) The committee will consider all parts or materials for which approval is sought and will forward thirty (30) days thereafter its recommended disposition to the department. Provided, however, that a hearing will be held before the committee if requested, within thirty (30) days following the determination of the committee, by a person having an interest in the subject matter. Upon approval [adoption] of a recommendation by the department, the APML shall be amended by listing the new part or material in Section 5 of this regulation. [will be amended as necessary, and filed by reference in accordance with 1 KAR 1:010.]

Section 4. Custody of the APML. It shall be the responsibility of the Director, Division of Plumbing, to maintain an up-to-date APML and to make it available for inspection during regular office hours. Copies of the APML may be obtained by mailing a self-addressed stamped envelope to the Division of Plumbing, Department of Housing, Buildings and Construction, Frankfort, Kentucky 40601. The cost of reproduction shall not exceed ten (10) cents per page.

Section 5. Content of Approved Parts or Materials List. The following list of parts or materials have been approved by the Kentucky Plumbing Code Committee and the Division of Plumbing and shall be allowed for installation in Kentucky.

(1) Flexible three-fourths (3/4) inch hot and cold water connectors for hot water heaters, minimum wall thickness, .032.

(2)(a) Flushmate water closet tank.

(b) Microphor company. Two (2) quart flush toilets.

(c) Jomar 3 and 4 water conserver water closets to operate efficiently on three and one-half (3 1/2) gallons of water per flush.

(d) Superinse toilet that operates on one (1) gallon of water per flush as manufactured by Universal Rundle for the Thetford Wastewater Treatment Systems.

(e) IFO Sanitar AB Model-3160 and 3180 China Water Closet equipped with a Fluidmaster 4003A-F77 Ballcock.

(f) Cashsaver MX (quantum 150-1) Water Closet Combination and Flushmate II Flushometer/Tank as manufactured by Mansfield Plumbing Products.

(3) Tubular traps with gasket in trap seal.

(4) Magic Flush Sewage Systems - limited for use in governmental, industrial or commercial applications where proper operation and maintenance is assured.

(5)(a) Polyethylene sump pump basin. Polyethylene sump pump basin must be constructed of polyethylene material and be provided with a sump cover.

(b) Liberty Pump Model 402, Laundry Tray Pump for pipe size one and one-half (1 1/2) inch for light commercial and household usage.

(c) Drain pump and HiLo Industries Power Drain for pipe size one and one-half (1 1/2) inch for light commercial and household usage.

(d) Sewage ejector pit - eighteen (18) inch by twenty-two (22) inch with steel cover pit and eighteen (18) inch by thirty (30) inch with steel cover sump pit as manufactured by Lunsford and Associates, Inc.

(6)(a) No-caulk roof flashing. No-caulk roof flashing shall be eighteen (18) inch by eighteen (18) inch galvanized iron base with a neoprene boot forming a water tight seal with the stack that it serves.

(b) Polyethylene roof flashing. Polyethylene roof flashing shall have a base which will extend six (6) inches in all directions from the base of a stack and shall have a boot with a performed thermoplastic rubber gasket.

(c) Dektite pipe flashing system to be used on metal building decks for plumbing vent stacks as manufactured by Buildex Corporation.

(d) Oatey eighteen (18) inch by eighteen (18) inch no caulk thermoplastic flashing, one (1) piece construction, positive double seal in three (3) inch only.

(e) Carlisle syntec systems. Vent flashings for sureseal and Brite-Ply roofing systems as required by Carlisle Corporation.

(f) Trocal roofing systems. Vent flashings for Trocal roofing systems as required by Dynamit Nobel of American, Inc.

(g) Masterflash Pipe Flashing system for plumbing vent stacks as manufactured by Aztec Washer Company.

(h) Hi-Tuff Roofing Systems pipe flashing system for plumbing vent stacks as required by J.P. Stevens and Company, Inc.

(7)(a) Kitchen sink faucet. Kitchen sink faucets may have corrugated supply piping provided the piping has a wall thickness equal to Type M copper pipe.

(b) Sink and lavatory faucets and pop-up lavatory assembly parts manufactured by CPVC plastic as manufactured by Nobco Co.

(8) Lab-Line Enfield L-E Acide waste systems, one and one-half (1 1/2) thru four (4) inch inside measurement for above and below ground installation on acid waste only. Underground must be laid on six (6) inches of sand grillage. May be backfilled by hand and tamped six (6) inches around piping or may be surrounded by six (6) inches of sand grillage.

(9) Floor drains, shower drains, urinal drains and cleanouts manufactured by Plastic Oddities, Inc.

(10) Tubular plastic components conforming to ASTM F409-75, bathtub waste and overflow, traps, continuous sink wastes and extension tubes as manufactured by J & B Products Corporation.

(11)(a) Water heaters. Heat pump water heaters as manufactured by Dec International, Inc., Therma-Stor Products Group.

(b) Water heaters, point of use or instantaneous.

1. In-sink-erator's Ultra System. For instant hot water to serve individual fixtures, Model

#777W, W, WH, WA and WHA.

2. Thermar Tankless water heaters - nonpressure type without the requirement of a temperature and pressure relief valve; the pressure type with the requirement that the temperature and pressure relief valve be of a one-half (1/2) inch short shank valve and must be installed with the product.

3. Vitaclimate Control Systems, Inc. - Heatrae Instantaneous Water Heaters Models 7000 and 9000, pressure type, point of use water heater and must be equipped with an approved temperature and pressure relief valve installed so that the thermo couple of the relief valve extends into the heat chamber discharge.

4. Paloma Automatic Instantaneous Gas Water Heaters Numbers PH-6DN, PH-6DP, PH-12A-DN, PH-12A-DP, PH-12M-DN, PH-12M-DP, PH-16A-DN, PH-16A-DP, PH-16M-DN, PH-16M-DP, PH-24A-DN, PH-24A-DP, PH-24M-DN and PH-24M-DP.

5. Rinnai Gas Fired Instantaneous Water Heaters Model Numbers REU-95GS-2R, REU-95GS-3R, REU-90, REU-130 pressure type and must be equipped with an approved temperature and pressure relief valve.

6. Elkay Aqua-Temp tankless water heaters - nonpressure type without the requirement of a temperature and pressure relief valve.

7. International Technology Sales Corporation AEG Telefunken MDT instantaneous water heater and must be equipped with an approved temperature and pressure relief valve.

8. International Technology Sales Corporation Zanker Faucet Model W05U without a temperature and pressure relief valve.

9. Amtrol hot water maker model numbers WH7P, WH7 and WH7C with a minimum three-fourths (3/4) inch inlet and outlet.

10. Chronomite Laboratories, Inc. - instantaneous water heater and must be equipped with an approved temperature and pressure relief valve.

11. Nova Hot Water Generator Models: VES5/10, VES6/12, VES7/14, VES8/16, VES9/18 and VES11/22 as manufactured by Hot Water Generators, Inc.

12. Aqua Star tankless gas water heaters, model numbers 125 VP and 80 VP and must be equipped with an approved temperature and pressure relief valve.

13. Ariston electric water heaters, model numbers P-15S and P-10S and must be equipped with an approved temperature and pressure relief valve.

(12) Compression joints. Failsafe hot and cold water systems.

(13) Orion fittings for acid waste piping systems for above and below ground.

(14) R & G Slone Manufacturing Company. Fuseal mechanical joint for the connection of polypropylene and waste piping.

(15) Johns Manville Flex I drain roof drain system.

(16) Hydrocide liquid membrane (HLM) to be used as a shower pan material conforming to ASTM C836-76. The density of the material must be at least one-sixth (1/6) inch thick.

(17) Cycle-let waste treatment and water recycling system as manufactured by Thetford Corporation to be approved on an individual basis as to engineering requirements.

(18) Scotch-Clad brand waterproofing system as manufactured by the 3M Company for thin-set installation of ceramic and quarry tile in shower stalls, bathrooms, janitorial closets limited to those applications on concrete floors and using metallic soil and waste piping.

(19) Elkay Aqua-chill water dispensers.

(20) Flexible connectors for hot and cold potable water supply in plumbing fixture connections as manufactured by Aqua-Flo Corporation limited to thirty (30) inch length except dishwashers which will be forty-eight (48) inches maximum.

(21)(a) Delta Faucet Company's quick-connect fitting known as "grabber" to be used with hot and cold potable water installations above ground only.

(b) REMCO Angle Stop Quick connect valve for use with hot and cold potable water installations above ground only.

(22) Interceptors.

(a) Town and Country plastic interceptors to be used as a grease trap.

(b) Grease recovery unit (GRU) as manufactured by Lowe Engineering, Lincoln Park, NJ.

(c) Scienco, Inc., models SI-101-20G, SI-104-35G, SI-102-50G and SI-103-100G with PVC solvent connections only.

(d) Rockford separators for grease, oil, hair and solids in various styles and sizes and being more specifically model series G, G LO, G M, G LOM, GF, GFE, GAS, GPS, GSS, OS, RHS, GSC, RMS, RSD, SD, SDE, GTD, and RTD that are used for their intended purpose and installed in accordance to the manufacturer's specification and the plumbing code.

(e) Grease interceptors as manufactured by Enpoco, Inc. of St. Charles, IL.

(23) Plastic Oddities Srv (sewer relief vent) cleanout.

(24) ARMCO A-2000 - a PVC corrugated pipe with smooth interior meeting or exceeding all the material and service test requirements of ASTM D-3034-74 except dimensions at the time of manufacture.

(25) Nonchemical water treatment to control lime scale and corrosion build-up superior water conditioners as manufactured by Kemtune, Inc.

(26) Eljer plumbing ware - Elgers ultra one/G water closet.

(27) P/"Power Flush" and "Quik Jon" as manufactured by Zoeller Company; must have a three (3) inch vent; alternate additional waste openings to be located in pump chamber above top of base chamber.

(28) Exemplar Energy garden solar water heater.

(29) ProSet systems for pipe penetrations in fire rated structures. System A for copper and steel pipe. System C using solvent weld joints only. ProSet E-Z flex coupling is approved for dissimilar materials [NOT APPROVED for use].

(30) ABS and PVC backwater valves, Models 3281, 3282, 3283 and 3284 for solvent cement joints only as manufactured by Canplas Industries.

(31) Clamp-All Corporation Pipe Coupling Systems is approved size for size on dissimilar materials on new or existing installations. Snap-All Increaser/Reducer transition bushings are approved only for repairs using dissimilar materials or sizes.

CHARLES A. COTTON, Commissioner
THEODORE T. COLLEY, Secretary
APPROVED BY AGENCY: October 20, 1988
FILED WITH LRC: October 25, 1988 at 9 a.m.

REGULATIONS AMENDED AFTER PUBLIC HEARING

TRANSPORTATION CABINET
Department of Highways
Divisions of Planning and Maintenance
(Amended After Hearing)

603 KAR 5:230. Bridge weight limits on the extended weight coal or coal by-products haul road system.

RELATES TO: KRS 177.9771, 189.230
STATUTORY AUTHORITY: KRS 177.9771
NECESSITY AND FUNCTION: KRS 177.9771(2) requires the Secretary of the Transportation Cabinet to certify those public highways which meet certain criteria as the extended weight coal or coal by-products haul road system. KRS 189.230 provides that the Department of Highways may prescribe gross vehicle weight limits for bridges lower than the limits prescribed in KRS 177.9771 on any bridge which may be damaged or destroyed to the point of catastrophic failure if gross vehicle weights exceed certain limits. This regulation identifies the extended weight coal or coal by-products haul road system and the bridges on the [extended weight coal haul road] system which the Department of Highways has judged may be so damaged and prescribes the maximum weight limit for each of these [such] bridges. Further, KRS 177.9771(9) requires the Transportation Secretary to meet with certain local governing bodies and give consideration to their concerns before adding to or deleting from the extended weight coal or coal by-products haul road system and establishes procedures to be followed by local governing bodies requesting this consideration.

Section 1. Definitions. The following terms when used in this administrative regulation shall have the following meanings:

(1) "TY I" means a single unit truck consisting of two (2) single axles.

(2) "TY II" means a single unit truck consisting of one (1) steering axle and two (2) axles in tandem arrangement.

(3) "TY III" means a single unit truck consisting of one (1) steering axle and three (3) axles in tridem arrangement.

(4) "TY IV" means a tractor-semitrailer combination with five (5) or more axles.

(5) "KY" means a state numbered highway maintained by the Kentucky Department of Highways.

(6) "US" means a United States numbered highway maintained by the Kentucky Department of Highways.

(7) "I" means an interstate and defense highway maintained by the Kentucky Department of Highways.

(8) "CR" means a public highway, road, or street not maintained by the Kentucky Department of Highways.

(9) "MP" means milepoint.

(10) "FROM" means the beginning milepoint and terminus of a road segment on the extended weight coal haul road system.

(11) "TO" means the ending milepoint and terminus of a road segment on the extended weight coal haul road system.

(12) "Catastrophic failure" means a failure that is marked by sudden or unpredictable damage ranging from extreme misfortune to utter ruin.

(13) "AASHTO" means the American Association of State Highway and Transportation Officials.

(14) "CO" means county.

(15) "LN" means line.

(16) "Mpt." means milepoint.

(17) "PKWY" means parkway.

(18) "Local governing body" means the fiscal court of any county, the city council or commission of a city of the first through fourth classes or the council of an urban county government.

(19) "Coal by-products" means any of the following: fly ash, bottom ash, wet bottom boiler slag, scrubber sludge, burned coal waste (red dog), coal slag, and coal cinders.

Section 2. (1) The Department of Highways shall determine the bridges on the extended weight coal or coal by-products haul road system which may be damaged or destroyed to the point of catastrophic failure by motor vehicles operating at the weights authorized by KRS 177.9771. This determination shall be based upon an analysis of the bridges in accordance with the guidelines and ratings set forth in the AASHTO Manual for Maintenance Inspection of Bridges, 1983 edition and 1984 and 1985 Interim Revisions. The load factor method of analysis may be used only when a bridge is known to have been designed by that method. When the allowable stress method of analysis is used the maximum allowable stress in steel members shall not exceed sixty-nine (69) percent of the yield strength of the steel.

(2) When the analysis specified in subsection (1) of this section cannot be applied to a bridge, the Department of Highways shall determine if any [such] bridge may be damaged or destroyed to the point of catastrophic failure in accordance with the AASHTO Manual for Maintenance Inspection of Bridges, 1983 edition and 1984 and 1985 Interim Revisions. Before making such a determination the Department of Highways shall conduct an on-site inspection to determine whether the bridge shows appreciable signs of deterioration or distress or otherwise poses a significant hazard to the traveling public.

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

Section 4. The following highways, or portions of those highways, are certified as meeting the criteria of and are designated as the extended weight coal and coal by-products haul road system. Further, the Department of Highways has determined that the [following] bridges listed beneath the highways on the extended weight coal or coal by-products haul road system may be damaged or destroyed to the point of catastrophic failure as provided in Section 2 of this administrative regulation and has established a weight limit for each as set forth in Section 3 of this administrative regulation:

ANDERSON COUNTY

	ROAD	FROM	TO
*	Bluegrass Pkwy	44.8 Washington County Line	52.3 Mercer County Line
	Weight Limit - Bridge over Cheeselick Road @ milepoint 51.84		
	TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 60 tons		
		56.3 Mercer County Line	61.9 Woodford County Line

BATH COUNTY

	ROAD	FROM	TO
*	KY 11	0.0 Montgomery CO LN	12.8 Fleming CO LN
	Weight Limit - Bridge over Hinkston Creek @ milepoint 0.01		
	TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 54 tons		

BELL COUNTY

	ROAD	FROM	TO
*	US 25E	0.0 Virginia State LN	19.5 Knox CO LN
	Weight Limit - Bridge over Little Yellow Creek @ milepoint 2.17		
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 43 tons		
	Weight Limit - Bridge over L & N R.R. @ milepoint 7.52		
	TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 56 tons		
	Weight Limit - Bridge over Greasy Creek @ milepoint 18.14		
	TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 48 tons		
*	US 119	0.0 US 25E	15.8 Harlan CO LN
	Weight Limit - Bridge over Cumberland River @ milepoint 0.02		
	TY I = 20 tons, TY II = 30 tons, TY III = 32 tons, TY IV = 39 tons		
*	KY 66	0.0 US 25E	10.1 Buffalo Creek RD
			[8.4 Little Creek RD]
	Weight Limit - Bridge over Cumberland River @ milepoint 0.33		
	TY I = 20 tons, TY II = 49 tons, TY III = 49 tons, TY IV = 54 tons		
	Weight Limit - Bridge over Left Fork Straight Creek @ milepoint 3.95		
	TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 44 tons		
	Weight Limit - Bridge over Sims Fork @ milepoint 7.16		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons		
		11.9 Straight Creek Road	15.1 Mines
		18.2 KY 2011	18.7 Clay CO LN
		[9.8 Titan Tipple	11.9 Straight CR RD
		12.9 Bow Valley	18.7 Clay CO LN]
*	KY 72	1.0 Mine [0.0 US 119]	3.4 Harlan CO LN
	[Weight Limit - Bridge over Hinkston Creek @ milepoint 0.06		
	TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons]		
*	KY 74	0.0 Tennessee State LN	0.9 KY 535
		9.8 Mine	16.1 KY 2079 [16.8 US 25E]
	Weight Limit - Bridge over L & N R.R. @ milepoint 11.56		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over Stoney Fork @ milepoint 13.07		
	TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Yellow Creek Bypass Canal @ milepoint 14.21		
	TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 60 tons		
	[Weight Limit - Bridge over Little Yellow Creek @ milepoint 16.66		
	TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 37 tons]		
*	KY 92	0.0 Whitley CO LN	10.8 US 25E
*	KY 186	2.2 Appollo Tipple [0.0 Tennessee ST LN]	3.1 KY 74
	Weight Limit - Bridge over Bennett's Fork @ milepoint 2.41		
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons		
*	KY 188	2.8 KY 988	4.1 Cranes Creek RD
	Weight Limit - Bridge over Clear Fork Creek @ milepoint 2.80		
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons		
*	KY 217	0.0 KY 988 [4.6 KY 1344]	8.8 KY 987
	Weight Limit - Bridge over Clear Fork Creek @ milepoint 0.20		
	TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 58 tons		
	Weight Limit - Bridge over Clear Fork Creek @ milepoint 1.22		
	TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 38 tons		
	Weight Limit - Bridge over Brownies Creek @ milepoint 8.77		
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons		
*	KY 221	0.0 KY 66	12.6 Harlan CO LN
	Weight Limit - Bridge over Right Fork Straight Creek @ milepoint 4.16		
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Stoney Fork Creek @ milepoint 9.23		
	TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons		
*	KY 441	4.5 KY 2079	4.9 US 25E
	Weight Limit - Bridge over Yellow Creek @ milepoint 4.62		
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 59 tons		
*	KY 535	0.0 KY 74	0.6 Clear Fork RD

*	KY 987	9.4 [4.8] Hen Wilder RD	13.5 [8.7] KY 217
	[Weight Limit - Bridge over Brownies Creek @ milepoint 8.19		
	TY I = 20 tons, TY II = 28 tons, TY III = 30 tons, TY IV = 48 tons]		
*	KY 988	1.2 KY 217	1.7 KY 188
*	KY 1344	0.0 KY 217	2.1 Wolfpen Branch RD
*	KY 2011	8.6 Beverly Tipple [0.0 KY 221]	9.0 KY 66
	[Weight Limit - Bridge over Knuckles Branch @ milepoint 1.27		
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Jim York Branch @ milepoint 1.88		
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Stoney Fork Creek @ milepoint 3.86		
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Red Bird Creek @ milepoint 6.40		
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Red Bird Creek @ milepoint 7.54		
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons		
	Weight Limit - Bridge over Red Bird Creek @ milepoint 7.91		
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons]		
*	KY 2012	0.0 Private Haul RD	0.1 Hen Wilder RD [2.0 US 119]
	[Weight Limit - Bridge over Cumberland River @ Tejay @ milepoint 1.30		
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons]		
*	KY 2014	0.0 US 25E	2.7 Lewis Coal Mine RD
	Weight Limit - Bridge over Cumberland River @ milepoint 0.63		
	TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons		
*	KY 2079	2.4 Ashbury Avenue	3.2 KY 441
*	Hen Wilder RD		
	CR 5001	0.0 KY 987	2.0 KY 2012
*	Cow Fork Road		
	CR 5032	0.0 KY 2011	2.6 Mine
*	Straight Creek Road		
	CR 5040	0.0 KY 66	0.6 Knox CO LN
*	Cranes Creek Road		
	CR 5260	0.0 KY 188	0.2 Mountain Drive Tipple
*	Hignite Creek Road		
	CR 5219	0.0 KY 74	2.3 Mine Access RD [End of Road]
	Weight Limit - Bridge over Hignite Creek		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	Clear Fork Road		
	CR 5227	0.0 KY 535	0.6 Mine Access RD [End of Road]
*	Lewis Mine Road		
	CR 5330	0.0 KY 2014 @ PONTA	0.5 Min-Dora Tipple
	Weight Limit - Bridge over Fourmile Creek		
	TY I = 20 tons, TY II = 45 tons, TY III = 51 tons, TY IV = 53 tons		
*	Little Creek Road		
	CR 5358	0.0 KY 66	0.2 Little Creek Tipple
*	Fitzpatrick Avenue (Middlesboro)		
		0.0 Ashbury Avenue	0.4 Old R B S Tipple
*	Ashbury Avenue (Middlesboro)		
		0.2 KY 2079	0.3 Fitzpatrick Avenue

BOURBON COUNTY

	ROAD	FROM	TO
*	US 27	8.3 US 460	15.4 Harrison CO LN
	Weight Limit - Bridge over Cooper Creek @ milepoint 11.82		
	TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 59 tons		
	Weight Limit - Bridge over Townsend Creek @ milepoint 15.4		
	TY I = 20 tons, TY II = 41 [40] tons, TY III = 43 [42] tons, TY IV = 60 [59] tons		
*	US 68	2.4 US 68X	10.8 Nicholas CO LN
	Weight Limit - Bridge over Hinkston Creek @ milepoint 9.41		
	TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 50 tons		
*	US 68X	1.4 KY 627	2.8 US 68 (East)
	Weight Limit - Bridge over Stoner Creek @ milepoint 2.0		
	TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 48 tons		
*	US 460	7.7 US 27	9.2 US 68X
	Weight Limit - Bridge over L & N RR @ milepoint 7.99		
	TY I = 10 tons, TY II = 10 tons, TY III = 10 tons, TY IV = 10 tons		
	Weight Limit - Bridge over Houston Creek @ milepoint 8.95 [8.82]		
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 57 tons		
*	KY 627	0.0 Clark CO LN	9.5 US 68X
	Weight Limit - Bridge over Strodes Creek Mill Race @ milepoint 0.75		
	TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 60 tons		

BOYD COUNTY

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

BOYLE COUNTY

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

BRACKEN COUNTY

ROAD	FROM	TO
* KY 8	0.0 Pendleton CO LN	19.0 Mason CO LN
Weight Limit - Bridge over Holts Creek at Foster @ milepoint 1.20		
TY I = 20 tons, TY II = 29 [27] tons, TY III = 30 [28] tons, TY IV = 39 tons		
Weight Limit - Bridge over Snag Creek @ milepoint 4.18		
TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 40 tons		
Weight Limit - Bridge over Locust Creek @ milepoint 7.04		
TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 57 tons		
Weight Limit - Bridge over Big Bracken Creek @ milepoint 13.93		
TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 53 tons		

BREATHITT COUNTY

ROAD	FROM	TO
* KY 15	0.0 Perry CO LN	27.5 Wolfe CO LN
Weight Limit - Bridge over Lost Creek @ milepoint 0.48		
TY I = 20 tons, TY II = 39 tons, TY III = 38 tons, TY IV = 51 tons		
Weight Limit - Bridge over Lost Creek @ milepoint 3.07		
TY I = 20 tons, TY II = 39 tons, TY III = 38 tons, TY IV = 51 tons		

Weight Limit - Bridge over Lost Creek @ Milepoint 3.80
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 51 tons
Weight Limit - Bridge over Lost Creek @ milepoint 6.48
TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 49 tons
Weight Limit - Bridge over Lost Creek @ milepoint 6.69
TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 50 tons
Weight Limit - Bridge over Troublesome Creek @ Milepoint 7.64
TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 50 tons
Weight Limit - Bridge over Quicksand Creek @ milepoint 14.73
TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 47 tons
Weight Limit - Bridge over Frozen Creek @ milepoint 23.27
TY I = 20 tons, TY II = 45 tons, TY III = 49 tons, TY IV = 57 tons

*	KY 28	5.7 Perry CO LN	7.4 Perry CO LN
*	KY 30	14.1 Elkatawa Tipple	14.8 KY 15 (North)
		[14.8 KY 15 (South)	33.3 KY 542

Weight Limit - Bridge over Hunting Creek @ milepoint 29.07
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons]

*	KY 476	0.0 Perry CO LN	11.4 KY 15

Weight Limit - Bridge over Troublesome Creek @ milepoint 7.02
TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 50 tons

*	KY 542	9.2 Quicksand Creek RD [0.0 KY 30]	18.6 Magoffin CO LN

[Weight Limit - Bridge over Big Caney Creek @ milepoint 0.09
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons]

*	KY 1098	0.0 KY 15	20.7 Knott CO LN

Weight Limit - Bridge over South Fork Quicksand Creek @ milepoint 5.27
TY I = 20 tons, TY II = 27 tons, TY III = 30 tons, TY IV = 49 tons
Weight Limit - Bridge over Quicksand Creek @ milepoint 17.98
TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 59 tons

*	KY 1110	15.2 Haddix Tipple	15.7 KY 15

Weight Limit - Bridge over North Fork Kentucky River @ milepoint 15.55
TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 51 tons

*	KY 1111	0.0 KY 10.98	2.2 Big Lovely RD
*	Quicksand Creek RD		
	CR 5028	0.0 KY 542	1.0 Mine
*	Big Lovely Road		
	CR 5030	0.0 KY 1111	2.1 Knott CO LN [1.4 KY 542]
*	Springsfork Road		
	CR 5032	0.0 [2.2] KY 542	1.4 [3.6] Mine Access
*	Slusher Road		
	CR 5067	0.0 KY 542	2.5 Mine
*	Buckhorn Creek RD		
	CR 5135	0.0 KY 476	0.3 Mine

Weight Limit - Bridge over Laurel Pad Branch Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Buckhorn Creek Northeast of Noble
TY I = 4 tons, TY II = 4 tons, TY III = 4 tons, TY IV = 4 tons

BULLITT COUNTY

	ROAD	FROM	TO
*	US 31E	0.0 Spencer CO LN	5.5 Jefferson CO LN

[Weight Limit - Bridge over Salt River @ milepoint 0.01
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons]
Weight Limit - Bridge over Hough Run @ milepoint 1.73
TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 40 tons
Weight Limit - Bridge over Mulberry Creek @ milepoint 1.98
TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 40 tons

BUTLER COUNTY

	ROAD	FROM	TO
*	Green River Parkway		
		18.2 Warren CO LN	35.1 Ohio CO LN

Weight Limit - Bridge over Green River @ milepoint 32.64
TY I = 20 tons, TY II = 42 tons, TY III = 46 tons, TY IV = 54 tons

[*	Western KY PKWY	87.4. Ohio CO Ln	88.4 Grayson CO LN]
*	US 231	8.6 KY 1468	8.9 Green River PKWY
		11.5 KY 70 (South)	18.9 Ohio CO LN

Weight Limit - Bridge over Green River @ milepoint 12.26
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 51 tons
Weight Limit - Bridge over Indian Camp Creek @ milepoint 16.32
TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 51 tons
Weight Limit - Bridge over West Fork Indian Camp Creek @ milepoint 17.1
TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 51 tons

*	KY 70	0.0 Muhlenberg CO LN	14.4 US 231
	Weight Limit - Bridge over Panther Creek @ milepoint 4.19		
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 60 tons		
		14.4 US 231	25.3 KY 411
	Weight Limit - Bridge over Welch Creek @ milepoint 20.37		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons		
*	KY 79	13.4 KY 70	15.2 Possum Hollow School RD
*	KY 411	0.0 KY 70	6.1 Mine
*	KY 1328	8.4 Pyramid Mine Access RD [10.3 Mine]	11.7 KY 70 [10.6 Old Greenwich SCH RD]
		[11.5 Mine	11.7 KY 70]
*	KY 1468	0.0 KY 70	1.1 US 231
*	Old Greenwich School Road		
	CR 5015	0.0 KY 1328	0.7 KY 70
*	Jolertown Ridge Road		
	CR 5027	0.0 KY 70	0.3 Pyramid Mine
*	New Cut Road (South)		
	CR 5243	0.0 KY 70	0.3 C Crabtree MN
*	Possum Hollow School Road		
	CR 5355	0.0 KY 79	0.7 Mine
	Weight Limit - Bridge over East Prong of Indian Creek		
	TY I = 18 tons, TY II = 18 tons, TY III = 18 tons, TY IV = 18 tons		
[*	Hickory Camp Creek Road		
	CR 5246	0.0 KY 70	1.4 G Southerland RD
*	Elzie Penally Road		
	CR 5247	0.0 KY 70	0.4 Addwest Mine
*	G Southerland Road		
	CR 5406	2.0 Mine	3.0 Hickory Camp Creek RD]

CALDWELL COUNTY

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

CALLOWAY COUNTY

	ROAD	FROM	TO
*	US 641	0.0 Tennessee State LN	17.4 Marshall CO LN
	Weight Limit - Bridge over Clark's River @ milepoint 1.10		
	TY I = 20 tons, TY II = 30 tons, TY III = 31 tons, TY IV = 44 tons		
	Weight Limit - Bridge over Bee Creek @ milepoint 8.92		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over Rockhouse Creek @ milepoint 15.65		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		

[CAMPBELL COUNTY

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

CARTER COUNTY

	ROAD	FROM	TO
*	US 60	24.1 KY 1 and KY 7	24.8 KY 1
		29.7 Fighting Fork RD [30.7 KY 207]	35.0 Boyd CO LN
*	KY 1	0.0 Lawrence CO LN [1.2 KY 1496]	10.6 US 60 [11.5 I-64]
	Weight Limit - Bridge over Dry Fork Creek @ milepoint 0.46		
	TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Dry Fork Creek @ milepoint 0.83		
	TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Dry Fork Creek @ milepoint 1.12		
	TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 2.40		
	TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 59 tons		
	Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 4.13		
	TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons		

Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 4.75
TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons
Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 5.41
TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 60 tons
Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 5.77
TY I = 20 tons, TY II = 33 tons, TY III = 34 tons, TY IV = 45 tons
Weight Limit - Bridge over Little Fork Little Sandy River @ milepoint 7.70
TY I = 20 tons, TY II = 40 tons, TY III = 41 tons, TY IV = 55 tons

		10.6 US 60	11.5 I-64

Weight Limit - Bridge over I-64 @ milepoint 11.50
TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons

*	KY 7	0.0 Elliott CO LN	10.9 KY 1

Weight Limit - Bridge over Clifty Creek near Sophie @ milepoint 1.64
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Little Sandy River @ milepoint 10.12
TY I = 20 tons, TY II = 45 tons, TY III = 49 tons, TY IV = 56 tons

*	KY 207	0.0 US 60	2.3 Greenup CO LN
*	Fighting Fork RD CR 5034	0.0 US 60	0.9 Mine

CHRISTIAN COUNTY

	ROAD	FROM	TO
*	Pennyrile PKWY	9.4 US 68 [7.0 US 41A]	28.1 KY Hopkins CO LN [11.7 KY 1682]

[Weight Limit - Bridge over US 41 @ milepoint 7.91
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons]

*	US 41	28.5 KY 1296	31.6 Hopkins CO LN

Weight Limit - Bridge over Campbells Creek @ milepoint 29.51
TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 60 tons
Weight Limit - Bridge over L & N RR @ milepoint 30.88
TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 50 tons

[*	US 41A	4.4 I-24	13.5 Pennyrile Parkway]
*	KY 1296	2.7 Campbell Cemetery RD	5.2 US 41
*	Campbell Cemetery Road CR 5418	0.0 KY 1296	2.0 Mine [1.6 T D C Mine]

CLARK COUNTY

	ROAD	FROM	TO
*	Mountain Parkway (KY 402)	0.0 I-64	11.9 Powell CO LN

Weight Limit - Bridge over I-64 @ milepoint 0.13
TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 47 tons
Weight Limit - Bridge over C & O RR @ milepoint 3.65
TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 55 tons

*	US 60	0.0 Fayette CO LN	6.7 KY 627
		7.0 KY 89	7.2 KY 15
*	KY 15	0.0 Powell CO LN	13.1 US 60

Weight Limit - Bridge over Lulbegrud Creek @ milepoint 0.01
TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons
Weight Limit - Bridge over Upper Howard's Creek @ milepoint 2.98
TY I = 21 tons, TY II = 21 tons, TY III = 24 tons, TY IV = 38 tons
Weight Limit - Bridge over Big Stoner Creek @ milepoint 7.00
TY I = 20 tons, TY II = 21 tons, TY III = 24 tons, TY IV = 38 tons
Weight Limit - Bridge over C&O Railroad @ milepoint 11.08
TY I = 20 tons, TY II = 20 tons, TY III = 22 tons, TY IV = 28 tons

*	KY 89	15.9 US 60	16.0 KY 627
*	KY 418	5.7 KY 1924	5.8 KY 627
*	KY 627	0.0 Madison CO LN [0.1 KY 418]	6.4 KY 1958

Weight Limit - Bridge over Kentucky River @ Boonesboro @ milepoint 0.01
TY I = 20 tons, TY II = 36 tons, TY III = 37 tons, TY IV = 47 tons

		7.8 US 60	8.1 KY 89
		9.3 I-64	14.8 Bourbon CO LN

Weight Limit - Bridge over Woodruff Creek @ milepoint 13.20
TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 40 tons

*	KY 1924	0.0 Dale Power Plant	1.8 KY 418
*	KY 1958	0.0 KY 627	2.8 I-64

CLAY COUNTY

	ROAD	FROM	TO
*	Daniel Boone Parkway	10.6 Laurel CO LN	35.9 Leslie CO LN

Weight Limit - Bridge over Little Goose Creek Rd. @ milepoint 10.81
TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons

Weight Limit - Bridge over Urban Road @ milepoint 13.90
TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons
Weight Limit - Bridge over Hooker Road @ milepoint 16.14
TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons
Weight Limit - Bridge over Ham Branch Rd. & Goose Creek @ milepoint 21.67
TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 57 tons
Weight Limit - Bridge over Red Bird River @ milepoint 33.58
TY I = 20 tons, TY II = 42 tons, TY III = 42 tons, TY IV = 56 tons

*	US 421	0.0 Leslie CO LN [2.6 KY 66]	32.8	Jackson CO LN

Weight Limit - Bridge over Horse Creek @ milepoint 16.58
TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons
Weight Limit - Bridge over Little Goose Creek @ milepoint 18.59
TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 48 tons
Weight Limit - Bridge over Island Creek @ milepoint 20.49
TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 43 tons
Weight Limit - Bridge over Branch of Island Creek @ milepoint 21.20
TY I = 20 tons, TY II = 28 tons, TY III = 32 tons, TY IV = 53 tons
Weight Limit - Bridge over Laurel Creek @ milepoint 23.97
TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 43 tons
Weight Limit - Bridge over Sexton Creek @ milepoint 28.41
TY I = 20 tons, TY II = 28 tons, TY III = 32 tons, TY IV = 52 tons

*	KY 11	0.0 Knox CO LN	8.9	US 421 (South)

Weight Limit - Bridge over Collins Fork - Goose Creek @ milepoint 2.91
TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons
Weight Limit - Bridge over Collins Fork - Goose Creek @ milepoint 5.38
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons

		8.9 US 421 (North)	26.6	Owsley CO LN

Weight Limit - Bridge over Wildcat Creek @ milepoint 15.57
TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons

*	KY 66	0.0 Bell CO LN	1.8	Beverly Tipple [Lick FK]
		[4.9 Phillips Fork	6.9	Leslie CO LN

Weight Limit - Bridge over Phillips Fork Creek @ milepoint 4.95
TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 48 tons

		6.9 Leslie CO LN	18.5	US 421
		32.8 KY 3014	33.2	KY 11]
*	KY 80	4.8 New Truckers Tipple [7.0 Big Creek Tipple]	7.5	US 421
		[3.0 Roots Branch	7.5	US 421
*	KY 1350	0.0 US 421	4.1	KY 577 (West)
*	KY 1482	9.4 Mine Access	10.2	KY 66]
*	KY 1524	0.0 US 421	1.1	KY 2000
*	KY 2000	0.0 KY 1524	4.6	Sand Hill RD
			[3.5	Mine Access]
*	KY 2432	0.0 Sester Road	1.4	Panama SCH RD
			[0.7	Littleton Road]
*	KY 2438	0.0 US 421	0.1	KY 2432

Weight Limit - Bridge over Goose Creek & L & N RR @ milepoint 0.01
TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 50 tons

[*	Littleton Road			
	CR 5103	0.0 KY 2432	0.9	Panama School RD

Weight Limit - Bridge over Coal Hollow
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons]

*	Sand Hill Road			
	CR 5129	0.0 KY 2000	0.2	Mine
*	Sevier Road			
	CR 5180	0.0 US 421	0.2	Tipple Access RD [Bridge]

Weight Limit - Bridge over Goose Creek
TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 60 tons

*	Sester Road (Manchester)			
	CR 5227AA	0.0 KY 2432	0.2	Tipple Access
*	Panama School Road			
	CR 5341	0.0 Littleton Road	0.8	Steele RD
*	Steele Road			
	CR 5342	0.0 Panama School RD	0.9	Mine Acces [End of Road]

CLINTON COUNTY

	ROAD	FROM	TO
*	KY 90	9.8 Poplar Mountain Road	12.8 Wayne CO LN
*	Poplar Mountain Road		
	CR 5058	0.0 KY 90	3.4 Mine

[CRITTENDEN COUNTY

	ROAD	FROM	TO
*	US 60	0.0 Livingston CO LN	23.0 Union CO LN

Weight Limit - Bridge over Windlow Creek @ milepoint 12.4
TY I = 20 tons, TY II = 25 tons, TY III = 26 tons, TY IV = 43 tons

Weight Limit - Bridge over Repton Creek @ milepoint 14.69
TY I = 20 tons, TY II = 27 tons, TY III = 28 tons, TY IV = 44 tons
Weight Limit - Bridge over Matoon Creek @ milepoint 15.79
TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 60 tons
Weight Limit - Bridge over Hoods Creek @ milepoint 17.22
TY I = 20 tons, TY II = 27 tons, TY III = 28 tons, TY IV = 47 tons
Weight Limit - Bridge over Meadow Creek @ milepoint 20.32
TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons

	ROAD	FROM	TO
*	KY 120	0.0 US 60	16.6 Webster CO LN

Weight Limit - Bridge over Unnamed Stream @ milepoint 5.20
TY I = 20 tons, TY II = 39 tons, TY III = 38 tons, TY IV = 57 tons
Weight Limit - Bridge over Piney Fork Creek @ milepoint 9.05
TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 60 tons
Weight Limit - Bridge over Piney Fork Creek @ milepoint 9.18
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons
Weight Limit - Bridge over Slough of Trade Water River @ milepoint 16.43
TY I = 17 tons, TY II = 19 tons, TY III = 20 tons, TY IV = 33 tons
Weight Limit - Bridge over Slough of Trade Water River @ milepoint 16.53
TY I = 17 tons, TY II = 19 tons, TY III = 20 tons, TY IV = 33 tons]

DAVIESS COUNTY

	ROAD	FROM	TO
*	Green River Parkway	59.5 Ohio CO LN	70.7 US 60 Bypass

Weight Limit - Bridge over Owensboro Beltline @ milepoint 70.18
TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 55 tons

*	US 60	10.2 [10.1] US 60 Bypass	28.0 [27.9] Hancock CO LN

Weight Limit - Bridge over L & N Railroad @ milepoint 11.78
TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 44 tons
Weight Limit - Westbound Bridge over L & N RR @ milepoint 16.66
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons
Weight Limit - Eastbound Bridge over Power Plant Entrance @ milepoint 16.66
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 53 tons
Weight Limit - Bridge over Pup Creek @ milepoint 20.31
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 45 tons

*	US 60B	0.0 US 60	10.2 US 60

Weight Limit - Bridge over US 431 @ milepoint 4.22
TY I = 20 tons, TY II = 42 tons, TY III = 42 tons, TY IV = 48 tons
Weight Limit - Bridge over L & N Railroad @ milepoint 4.84
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 49 tons
Weight Limit - Bridge over Sutherland Road @ milepoint 5.08
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons
Weight Limit - Bridge over Horse Fork Creek @ milepoint 5.65
TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons
Weight Limit - Bridge over I C RR @ milepoint 7.71
TY I = 20 tons, TY II = 37 tons, TY III = 37 tons, TY IV = 48 tons
Weight Limit - Bridge over L&N RR & KY 2710 @ milepoint 9.77
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 43 tons

*	US 231	0.0 Ohio CO LN	11.3 US 60 Bypass

Weight Limit - Bridge over Panther Creek @ milepoint 3.91
TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons
Weight Limit - Bridge over Panther Creek @ milepoint 8.84
TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 60 tons
Weight Limit - Bridge over overflow @ milepoint 8.94
TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons
Weight Limit - Bridge over overflow @ milepoint 9.22
TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons
Weight Limit - Bridge over Owensboro Beltline @ milepoint 11.29
TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 60 tons

[*	KY 54	2.5 US 60 Bypass	12.9 Boston-Laffoon RD

Weight Limit - Bridge over Barnett Creek @ milepoint 5.68
TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 60 tons
Weight Limit - Bridge over Caney Creek @ milepoint 7.78
TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons
Weight Limit - Bridge over Panther Creek Overflow @ milepoint 10.26
TY I = 20 tons, TY II = 36 tons, TY III = 39 tons, TY IV = 60 tons
Weight Limit - Bridge over Panther Creek @ milepoint 10.46
TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 58 tons]

*	KY 81	0.0 McLean CO LN	11.9 US 60 Bypass

Weight Limit - Bridge over Panther Creek @ milepoint 6.50
TY I = 20 tons, TY II = 27 tons, TY III = 28 tons, TY IV = 43 tons

*	KY 144	0.0 US 60	11.9 Flora RD

Weight Limit - Bridge over L & N RR @ milepoint 0.16
TY I = 20 tons, TY II = 43 tons, TY III = 46 tons, TY IV = 50 tons

*	KY 331	0.0 US 60 (East) (Via Industrial Dr. & Medley-Roost Rd.)	1.9 Mine
*	KY 554	1.9 Mine	4.8 KY 81
*	KY 951	0.0 KY 144	2.9 Mine
*	Floral Road CR 5035	0.0 KY 144	1.4 Mine
*	St Lawrence Road CR 5036	1.6 Mine [0.0 KY 144]	1.8 Indian Hill Rd [0.2 Mine]
*	Indian Hill Road CR 5038	0.0 KY 951	0.5 St. Lawrence RD
*	Iceland Road		

ELLIOTT COUNTY

	ROAD	FROM	TO
*	KY 7	17.1 KY 409 [0.0 Morgan CO LN]	19.3 Carter CO LN
	[Weight Limit - Bridge over Doctors Branch @ milepoint 4.15		
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Little Sandy River @ milepoint 7.15		
	TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 59 tons		
	Weight Limit - Bridge over Little Sandy River @ milepoint 10.32		
	TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 55 tons		
	Weight Limit - Bridge over Little Sandy River @ milepoint 13.61		
	TY I = 20 tons, TY II = 26 tons, TY III = 29 tons, TY IV = 38 tons		
	Weight Limit - Bridge over Little Sandy River @ milepoint 19.27		
	TY I = 20 tons, TY II = 45 tons, TY III = 49 tons, TY IV = 56 tons		
*	KY 32	8.6 KY 7	11.4 KY 719
	Weight Limit - Bridge over Middle Fork @ milepoint 11.30		
	TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 47 tons		
*	KY 409	0.0 KY 7	2.7 Mine
*	Dickerson CR 5025	0.0 KY 7	0.8 Mine]

[ESTILL COUNTY

	ROAD	FROM	TO
*	KY 52	0.0 Madison CO LN	21.0 Lee CO LN
	Weight Limit - Bridge over Drowning Creek @ milepoint 0.01		
	TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 60 tons		
	Weight Limit - Bridge over KY River @ milepoint 7.37		
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 37 tons]		

FAYETTE COUNTY

	ROAD	FROM	TO
*	US 60	0.0 Woodford CO LN	4.7 KY 4 (West)
	Weight Limit - Bridge over South Elkhorn Creek @ milepoint 1.30		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
		10.2 KY 4 (East)	19.3 Clark CO LN
	Weight Limit - Bridge over New Circle Road (KY 4) @ milepoint 10.19		
	TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 58 tons		
*	US 68	0.0 Jessamine CO LN	3.1 KY 4
	Weight Limit - Bridge over South Elkhorn Creek @ milepoint 0.74		
	TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons		
*	KY 4	2.2 US 68 (South)	12.7 US 60 (East) [9.3 KY 922]
	Weight Limit - Bridge over US 60, Versailles Road @ milepoint 4.61		
	TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 58 tons		
	Weight Limit - Bridge over Viley Pike @ milepoint 5.48		
	TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Southern RR @ milepoint 8.03 [6.01]		
	TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 51 tons		
*	KY 922	1.0 KY 4	2.9 I-75

FLEMING COUNTY

	ROAD	FROM	TO
*	US 68	0.0 Robertson CO LN	5.4 Mason CO LN
*	KY 11	0.0 Bath CO LN	17.2 Mason CO LN
	Weight Limit - Bridge over Fleming Creek @ milepoint 7.80		
	TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 54 tons		
	Weight Limit - Bridge over Cassidy Creek @ milepoint 8.77		
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons		

FLOYD COUNTY

	ROAD	FROM	TO
*	US 23	0.0 Pike CO LN	24.1 Johnson CO LN
	Weight Limit - Bridge over Levisa Fork Big Sandy River @ milepoint 10.76		
	TY I = 20 tons, TY II = 45 tons, TY III = 49 tons, TY IV = 56 tons		

Weight Limit - Bridge over C&O RR @ milepoint 10.95
TY I = 20 tons, TY II = 45 tons, TY III = 48 tons, TY IV = 57 tons
* KY 3 0.0 US 23 & KY 80 2.3 Blackhawk Tipple
* KY 7 0.0 Knott CO LN 6.5 KY 80 [8.0 KY 550]
[Weight Limit - Bridge over Right Fork Beaver Creek @ milepoint 8.01
TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 38 tons]
* KY 80 0.0 Knott CO LN 14.4 US 23 & KY 3
* KY 114 0.0 Magoffin CO LN [9.5 KY 404] 11.4 US 23
Weight Limit - Bridge over Middle Creek @ milepoint 4.12
TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 60 tons
Weight Limit - Bridge over C&O RR @ milepoint 10.41
TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 56 tons
Weight Limit - Bridge over Middle Creek @ milepoint 10.60
TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 55 tons
* KY 122 8.5 KY 80 21.1 Spewing Camp Branch RD
[31.6 KY 466]
[Weight Limit - Bridge over Left Beaver Creek north of Price
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 53 tons
Weight Limit - Bridge over unnamed stream @ Pilgrim Church
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons
Weight Limit - Bridge over Abner Fork @ Melvin
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons]
24.3 Mine 31.6 KY 466
[* KY 194 0.0 KY 1428 1.6 Coal Mac Mine
Weight Limit - Bridge over Cow Creek @ milepoint 1.27
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons]
* KY 194 9.0 Addington Mine 12.2 Pike CO LN
Weight Limit - Bridge over Brushy Creek @ milepoint 12.15
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons
* KY 404 0.0 Magoffin CO LN 3.1 KY 850
4.2 KY 1210 8.1 KY 114
Weight Limit - Bridge over Middle Creek @ milepoint 8.07
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons
* KY 466 2.3 Caleb FK RD 4.1 KY 122
Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 2.58
TY I = 16 tons, TY II = 18 tons, TY III = 21 tons, TY IV = 37 tons
Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 2.90
TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons
* KY 550 0.0 Knott CO LN 0.2 KY 7
Weight Limit - Bridge over Right Fork of Beaver Creek @ milepoint 0.06
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons
[0.2 KY 7 1.2 Jett Tipple]
* KY 680 0.0 KY 122 0.9 KY 1929
1.6 Joseph Mining Tipple 5.4 KY 979
* KY 777 6.5 Mine [5.2 Transcontinental Mine] 9.1 [9.0] KY 80
* KY 850 3.0 Mine [4.3 Pitts FK RD] 7.5 KY 404
* KY 979 0.0 KY 122 19.3 US 23
Weight Limit - Bridge over Toler Creek @ milepoint 17.43
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
* KY 1091 0.0 Knott CO LN 1.2 KY 122
Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 1.20
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons
* KY 1101 0.0 KY 122 0.1 Stonecoal Branch RD
[0.9 Stonecoal BR RD 1.0 KY 122]
Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 0.90
TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 59 tons
* KY 1210 0.0 KY 80 0.6 Mines
7.1 Nerco-Hiller Tipple 7.8 KY 404
Weight Limit - Bridge over Middle Creek @ milepoint 7.76
TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 59 tons
* KY 1426 0.0 Pike CO LN 6.6 KY 979 [2.5 K C Rogers Mine]
6.6 KY 979 [6.4 Damron Coal Mine] 9.5 Justice BR RD
10.9 Mine 14.3 US 23
Weight Limit - Bridge over Levisa Fork of Big Sandy River @ milepoint 14.09
TY I = 20 tons, TY II = 49 tons, TY III = 49 tons, TY IV = 55 tons
* KY 1428 6.2 US 23 8.8 KY 194
14.1 Uptown Mining Mine 15.6 US 23
Weight Limit - Bridge over Little Paint Creek @ milepoint 14.85
TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 44 tons
* KY 1498 0.0 Knott CO LN 4.6 KY 122
Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 4.59
TY I - 20 tons, TY II = 39 tons, TY III - 38 tons, TY IV = 60 tons
* KY 1928 2.0 Ned FK RD 4.5 KY 680
[* KY 1929 0.0 Ned FK RD 2.5 KY 680]

*	KY 2030	0.0 KY 122	7.8 KY 1426
	Weight Limit - Bridge over Left Fork of Beaver Creek @ milepoint 0.10		
	TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 56 tons		
*	KY 2557	0.0 Betsy Layne BR RD	0.3 US 23
*	KY 3188	0.8 Kanawha Mine	1.3 KY 80
*	KY 3379	0.0 Left Fork/Tinker Fork RD	7.0 KY 979
*	KY 3380	0.0 KY 979	0.6 Andy Branch RD
*	Powell Branch Road		
	CR 5022	0.0 Justell Bridge RD	0.3 Camp BR Branch RD
*	Justell Bridge Road		
	CR 5024F	0.0 US 23	0.1 Powell Branch RD
*	Ivy Creek RD		
	CR 5032	0.0 US 23	2.1 Mine
*	Bushy Fork Road		
	CR 5046	0.0 KY 194	0.8 Pike CO LN [0.4 Wolf BR RD]
*	Wolf Branch Road		
	CR 5046A	0.0 Bushy Fork Road	1.0 Martin CO LN
*	Bull Creek Road		
	CR 5055	0.0 KY 3	0.5 Cabin Coal Tipple
*	Camp Branch Road		
	CR 5078	0.0 Powell Branch RD	0.9 Right FK/Camp BR RD
*	Right Fork/Camp Branch Road		
	CR 5078A	0.0 Camp Branch RD	0.2 Prater Creek Mine
*	Transcontinental Road (Excluding Bridge)		
	CR 5083	0.0 Transcontinental Tip	0.8 US 23
[*	Spruce Pine Road		
	CR 5098	0.0 KY 2030	0.4 Maple Ridge Mine]
*	Justice Branch Road		
	CR 5107	0.0 KY 1426	0.4 Right Fork Justice BR RD
*	Right Fork of Justice Branch RD		
	CR 5107A	0.0 Justice Branch RD	0.3 Island Creek Mine
[*	Big Branch/Little Mud Creek Road		
	CR 5108	0.0 KY 2030	3.3 Island Creek Mine]
*	Frog Branch Road		
	CR 5110	0.0 KY 2030	1.0 Maple Ridge Mine
*	Betsy Layne Branch Road		
	CR 5111	0.0 KY 2557	0.9 Somerset Coal Mine
*	Cedar Hill Road		
	CR 5118	0.0 KY 1426	0.2 Mine [0.6 Bebe Tipple]
*	Hamilton Branch RD		
	CR 5127	0.0 KY 1426	0.2 Bebe Mine
	Weight Limit - Bridge over Toler Creek		
	TY I = 20 tons, TY II = 20 tons, TY III = 23 tons, TY IV = 35 tons		
*	Parsons Branch Road		
	CR 5128	0.0 KY 979	0.2 Transcontinental Mine
	Weight Limit - Bridge over Mud Creek		
	TY I = 20 tons, TY II = 36 tons, TY III = 36 tons, TY IV = 36 tons		
*	Frasure Branch Road		
	CR 5134	0.0 KY 979	1.0 Joseph Mining Mine
*	Mink Branch Road		
	CR 5138	0.0 KY 979	1.2 Mine [1.9 Joseph Mining Mine]
	Weight Limit - Bridge over Big Mud Creek		
	TY I = 22 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons		
*	Dry Branch/Mud Creek Road		
	CR 5139	0.0 KY 979	1.1 Joseph Mining Mine
*	Ned Fork Road		
	CR 5140	0.0 KY 1929	1.1 Premium Elkhorn Shannon Mine
*	Branham Creek Road		
	CR 5142	0.0 KY 3379 [979]	0.6 [8.3] Pike CO LN
*	Barn Branch Road		
	CR 5146	0.0 Branham Creek RD	0.3 Phyllis Coal Mine
*	Left Fork/Tinker Fork Road		
	CR 5147	0.0 Branham Creek RD	0.2 Wellmore Kodiak Mine
*	Andy Branch Road		
	CR 5148	0.0 Tinker Fork RD	0.5 Ensol Mine
[*	Tinker Fork Road		
	CR 5152	0.0 KY 979	0.6 Andy Branch RD]
*	Red Morg Branch Road		
	CR 5153	0.0 KY 979	0.9 Turner Elkhorn Mine
*	Buzzard Rock Road		
	CR 5157	0.2 Apache Mining Mine	0.5 Pike CO LN
[*	Buckhorn Hollow Road		
	CR 5159	0.0 KY 979	0.4 Wheelwright Douglas #2 Mine]

*	Caleb Fork RD		
	CR 5175	0.0 KY 466	0.7 Pike County Haul RD
*	Spewing Camp Branch		
	CR 5190	0.0 KY 122	1.8 [2.4 J R M Mining] Mine
	Weight Limit - Bridge over Left Fork of Beaver Creek		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	Little Muddy Creek Road		
	CR 5197	0.0 KY 2030	3.0 Bebe Mine
*	Upper Wolfpen Branch Road		
	CR 5197B	0.0 Little Muddy Creek RD	0.7 Prater Creek Mine
[*	Gunstock Branch Road		
	CR 5202	0.0 KY 2030	0.4 Island Creek Mine]
*	Hite Road		
	CR 5220	1.8 Hite RD-KY 122	1.9 Hite Prep Plant Connector RD
*	Hite Road-KY 122 Connector Road		
	CR 5220A	0.0 KY 122	0.1 Hite RD
*	Stonecoal Branch Road		
	CR 5234	0.0 KY 1101	1.6 Mine [2.0 Blackhawk Mine]
[*	Step Branch Road		
	CR 5247	0.0 KY 122	0.1 Transcontinental Mine]
*	Goose Creek Road		
	CR 5273	0.0 Gosling Branch RD	0.6 Transcontinental T&H Mine
*	Gosling Branch Road		
	CR 5274	0.0 KY 80	0.1 Goose Creek RD
*	Vine Street (Eastern)		
	CR 5283C	0.0 KY 80	0.1 May I Tipple
	Weight Limit - Bridge over Right Fork of Beaver Creek		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
[*	Pitts Fork Road		
	CR 5288	0.0 KY 850	1.3 Branham & Baker Mine]
*	Johnson Fork-Conley Fork Road		
	CR 5409	0.0 KY 1210	0.2 Amber Prep Plant

FRANKLIN COUNTY

	ROAD	FROM	TO
*	US 60	0.0 Shelby CO LN	6.5 US 127 (West)
	Weight Limit - Bridge over Benson Creek @ milepoint 0.01		
	TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 40 tons		
	Weight Limit - Bridge over South Benson Creek @ milepoint 2.72		
	TY I = 20 tons, TY II = 23 tons, TY III = 26 tons, TY IV = 40 tons		
		12.1 US 421 (East)	14.0 KY 676
	Weight Limit - Bridge over L & N Railroad @ milepoint 12.12		
	TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 40 tons		
*	US 127	5.3 KY 676	6.2 US 60
*	KY 676	0.0 US 127	5.3 US 60

[GRAYSON COUNTY

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

GREENUP COUNTY

	ROAD	FROM	TO
*	US 23	0.0 Boyd CO LN	11.6 KY 2541 [11.2 KY 2]
	Weight Limit - Bridge over Little Sandy River @ milepoint 11.41		
	TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 57 tons		
		[24.5 K O T Dock	28.8 Ohio ST LN
	Weight Limit - Bridge over Tygart's Creek @ milepoint 26.47		
	TY I = 20 tons, TY II = 45 tons, TY III = 45 tons, TY IV = 50 tons]		
*	KY 1	11.4 KY 207	17.3 US 23
[*	KY 2	10.3 Schultz Branch Road	17.2 US 23
	Weight Limit - Bridge over Little Sandy River @ milepoint 13.17		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons]		
*	KY 207	0.0 Carter CO LN	0.5 Logtown Hollow RD
		8.3 Woods RD [6.9 Mine]	9.2 KY 1
*	Logtown Hollow Road		
	CR 5168	0.0 KY 207	0.5 Mine
*	Stepp Drive		
	CR 5216	0.0 KY 207	0.3 Mine
*	Schultz Branch Road		
	CR 5250	0.0 KY 2	1.0 Mine

HANCOCK COUNTY

	ROAD	FROM	TO
*	US 60	0.0 Daviess CO LN	5.0 Mine

[HARDIN COUNTY

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

HARLAN COUNTY

	ROAD	FROM	TO
*	US 119	0.0 Bell CO LN	39.7 Letcher CO LN
	Weight Limit - Bridge over Poore Fork Cumberland River @ milepoint 31.12		
	TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 53 tons		
	Weight Limit - Bridge over Poore Fork Cumberland River @ milepoint 33.32		
	TY I = 20 tons, TY II = 47 tons, TY III = 47 tons, TY IV = 55 tons		
	Weight Limit - Bridge over Clover Lick Creek @ milepoint 33.74		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over Poor Fork @ milepoint 35.56		
	TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Poor Fork @ milepoint 38.91		
	TY I = 20 tons, TY II = 25 tons, TY III = 27 tons, TY IV = 35 tons		
	Weight Limit - Bridge over Poor Fork @ milepoint 39.61		
	TY I = 20 tons, TY II = 30 tons, TY III = 31 tons, TY IV = 44 tons		
*	US 421	0.0 Virginia State LN	17.6 US 119 (West)
	Weight Limit - Bridge over Cranks Creek @ milepoint 2.70		
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 42 tons		
	Weight Limit - Bridge over Fork of Crummies Creek @ milepoint 7.36		
	TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 40 tons		
	Weight Limit - Bridge over KY 840, L&N RR, Clover Fork @ milepoint 17.51		
	TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 49 tons		
		17.6 US 119 (East)	27.4 Leslie CO LN
*	KY 38	0.0 US 421	13.3 Shields SCH RD [8.5 KY 215]
	Weight Limit - Bridge over Clover Fork Cumberland River @ milepoint 8.21		
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 53 tons		
	Weight Limit - Bridge over Yocum Creek @ milepoint 8.60		
	TY I = 20 tons, TY II = 26 tons, TY III = 27 tons, TY IV = 38 tons		
		[11.9 Nance RD	14.5 Highsplint]
	Weight Limit - Bridge over Clover Fork @ milepoint 12.90		
	TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 60 tons		
		16.7 Conveyor Dump Point [Belt Line]	17.0 KY 179
		[28.1 Jericol Tipple	29.5 Virginia State LN]
*	KY 72	0.0 Bell CO LN	1.3 Mill Branch RD
		1.9 KY 2005	4.9 Rockhouse BR RD
	Weight Limit - Bridge over Puckett Creek @ milepoint 4.73		
	TY I = 20 tons, TY II = 26 tons, TY III = 27 tons, TY IV = 40 tons		
	Weight Limit - Bridge over Puckett Creek @ milepoint 4.84		
	TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons		
		10.2 Mine [9.0 KY 2425]	11.3 US 421
	Weight Limit - Bridge over Clover Fork Cumberland River @ milepoint 11.19		
	TY = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 31 tons		
[*	KY 179	0.0 KY 38	0.6 Mines]
*	KY 215	0.0 KY 38	0.2 Yocum Tipple
	Weight Limit - Bridge over Yocum Creek @ milepoint 1.06		
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons		
[*	KY 219	2.3 Mine	5.1 US 119
	Weight Limit - Bridge over Wallins Creek @ milepoint 2.48		
	TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 58 tons		
	Weight Limit - Bridge over Tributary of Wallins Creek @ milepoint 2.79		
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons		
	Weight Limit - Bridge over Wallins Creek @ milepoint 2.88		
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 60 tons]		
*	KY 221	0.0 Bell CO LN	8.9 US 421 (South)
		8.9 US 421 (North)	21.6 KY 2008 [26.8 Perry CO LN]
*	KY 987	10.4 Wilder Branch RD	18.5 US 421
	Weight Limit - Bridge over Martins Fork Lake @ milepoint 12.72		
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 55 tons		

Weight Limit - Bridge over Martins Fork @ milepoint 15.07
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 60 tons
Weight Limit - Bridge over Crummies Creek @ milepoint 18.52
TY I = 20 tons, TY II = 29 tons, TY III = 34 tons, TY IV = 41 tons

*	KY 990	0.0 US 421	1.3 Coalgood Tipple
*	KY 1137	0.0 US 421	3.2 Mine Access RD [2.0 Crummies Creek RD]
*	KY 2005	2.6 Lick Branch Culvert	5.1 KY 72

Weight Limit - Bridge over Yocum Creek @ milepoint 5.08
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons

*	KY 2006	0.7 Mine	4.6 Arch of KY Tipple
[*	KY 2007	0.0 US 119	0.5 Layman-Coldiron RD

Weight Limit - Bridge over Cumberland River @ milepoint 0.43
TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 55 tons]

*	KY 2008	0.0 Leslie CO LN	1.4 KY 221
*	KY 2009	0.0 KY 221	2.7 Leslie CO LN

Weight Limit - Bridge over Fork of Laurel Fork Creek @ milepoint 1.51
TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 59 tons
Weight Limit - Bridge over Laurel Fork Creek @ milepoint 2.72
TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 58 tons

[*	KY 2425	0.0 Mine	0.4 KY 72]
*	KY 3449	0.0 Forester's Creek RD	1.1 Kentucky Harlan Tipple
*	KY 3451	1.4 Mine	2.2 US 119
*	KY 3457	0.0 KY 38	0.5 Mine
*	KY 3462	0.0 US 421	0.8 Mine
*	KY 3465	0.0 KY 221	3.9 Leslie CO LN
*	Totz Road		
	CR 5007B	0.0 Haul RD	0.1 Totz Washer
[*	Crummies Creek Road		
	CR 5137	0.0 KY 1137	1.5 N to End]
*	Slack Cemetery Road		
	CR 5140	0.0 US 421 (North)	0.4 Tipple [End]
*	Barn Branch Road		
	CR 5142	0.0 US 421	0.4 Mine Access RD [End]
*	Grays Branch Road		
	CR 5206K	0.0 US 421 @ Grays Knob	0.4 Tipple [End]

Weight Limit - Bridge over Martins Fork
TY I = 20 tons, TY II = 20 tons, TY III = 20 tons, TY IV = 20 tons

[*	Mill Branch Hollow		
	CR 5219	0.0 KY 72	0.3 Mine
*	Layman-Coldiron Road		
	CR 5236H	0.0 KY 2007	0.9 Foresters Creek RD

Weight Limit - Bridge over Jesses Creek
TY I = 18 tons, TY II = 18 tons, TY III = 18 tons, TY IV = 18 tons]

*	Foresters Creek Road		
	CR 5238	0.0 KY 3449 [Layman-Coldiron RD]	1.7 Mine Access RD [1.8 Mine]
*	Rockhouse Branch Road		
	CR 5256	0.0 KY 72	0.2 R B Tipple
*	Gabes Branch Road		
	CR 5326E	0.0 KY 38	0.1 Brookside Tipple
*	Ages Creek Road		
	CR 5326M	0.0 KY 38	0.3 Mine

Weight Limit - Bridge over Ages Branch
TY I = 20 tons, TY II = 27 tons, TY III = 33 tons, TY IV = 53 tons

[*	Abner Fork Road		
	CR 5338	0.0 KY 221	3.9 Leslie CO LN]
*Big Run Hollow Road			
	CR 5344	2.1 Mine Access Road	2.6 Bell CO LN

HARRISON COUNTY

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

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

Weight Limit - Bridge over Richland Creek @ milepoint 19.18
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 60 tons

HENDERSON COUNTY

	ROAD	FROM	TO
*	US 41	0.0 Webster CO LN	13.0 KY 812
	Weight Limit - Bridge over King Creek @ milepoint 0.65		
	TY I = 20 tons, TY II = 41 tons, TY III = 44 tons, TY IV = 60 tons		
	Weight Limit - Bridge over East Fork of Cane Creek @ milepoint 6.20		
	TY I = 20 tons, TY II = 41 tons, TY III = 44 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Dredged Ditch @ milepoint 6.32		
	TY I = 20 tons, TY II = 41 tons, TY III = 44 tons, TY IV = 60 tons		
*	KY 812	5.6 Mine	7.4 US 41
*	KY 2097	0.0 US 41	0.9 Bill Givens RD
*	Bill Givens Road CR 5142	0.0 Webster CO LN	0.1 KY 2097

HOPKINS COUNTY

	ROAD	FROM	TO
*	Western Kentucky Parkway	21.8 Caldwell CO LN	43.4 Muhlenberg CO LN
	Weight Limit - Bridge over Tradewater River Overflow @ milepoint 22.00		
	TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons		
	Weight Limit - Bridge over I.C. RR @ milepoint 24.89		
	TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons		
	Weight Limit - Bridge over KY 112 & Copperas Creek @ milepoint 28.35		
	TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 52 tons		
	Weight Limit - Bridge over Oak Hill Rd. & I.C. RR @ milepoint 33.87		
	TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Pennyrile Parkway @ milepoint 38.31		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 56 tons		
*	Pennyrile Parkway (Nontoll Segment) and US 41	29.6 US 41 (South) [32.9 US 62]	45.2 Begin Toll Segment @ US 41(N)
	Weight Limit - Bridge on exit ramp to U.S. 41 @ milepoint 45.2		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	Pennyrile Parkway (Toll Segment)	45.2 End Nontoll Segment @ US 41 (North)	55.0 Webster CO LN
	Weight Limit - Bridge over KY 138 @ milepoint 54.07		
	TY I = 20 tons, TY II = 40 tons, TY III = 41 tons, TY IV = 56 tons		
*	US 41	0.0 Christian CO LN	2.3 Pennyrile Parkway (South) [1.4 US 41A]
	Weight Limit - Bridge over Drakes Creek @ milepoint 0.49		
	TY I = 20 tons, TY II = 31 tons, TY III = 36 tons, TY IV = 53 tons		
	US 41 & Pennyrile Parkway (Nontoll Segment) included with Pennyrile Parkway Listing		
		2.3 Pennyrile Parkway (North) [3.0 KY 1751]	11.8 Webster CO LN
	Weight Limit - Bridge over Otter Creek @ milepoint 6.13		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons		
*	US 41A	0.0 US 41	29.4 Webster CO LN
	Weight Limit - Bridge over Crab Orchard Creek @ milepoint 0.82		
	TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 56 tons		
	Weight Limit - Bridge over IC RR & Pleasant Run Creek @ milepoint 3.42		
	TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 48 tons		
	Weight Limit - Bridge over L&N RR @ milepoint 6.59		
	TY I = 20 tons, TY II = 28 tons, TY III = 28 tons, TY IV = 34 tons		
	Weight Limit - Bridge over Pond Creek @ milepoint 22.86		
	TY I = 20 tons, TY II = 23 tons, TY III = 27 tons, TY IV = 43 tons		
*	US 62	1.7 KY 109	21.3 Sextet Mine & Tipple
	Weight Limit - Bridge over Copperas Creek @ milepoint 5.70		
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Cane Run Creek @ milepoint 7.94		
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Pleasant Run @ milepoint 12.51		
	TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 60 tons		
	Weight Limit - Bridge over L&N RR, Fork Pleasant Run @ milepoint 14.89		
	TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 58 tons		
	Weight Limit - Bridge over US 41 @ milepoint 15.64		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over Pleasant Run Creek @ milepoint 16.39		
	TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Drakes Creek @ milepoint 16.72		
	TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 54 tons		
*	KY 70	4.5 Peter Howton Road	7.1 KY 109 [18.7 US 41A]
	[Weight Limit - Bridge over Lick Creek @ milepoint 5.92		
	TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 51 tons		

Weight Limit - Bridge over Richland Creek @ milepoint 11.77
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons
Weight Limit - Bridge over ICG RR NE of Richland @ milepoint 13.09
TY I = 20 tons, TY II = 27 tons, TY III = 27 tons, TY IV = 34 tons
Weight Limit - Bridge over Sugar Creek @ milepoint 13.45
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons
Weight Limit - Bridge over L&N RR @ milepoint 18.53
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons]

		19.9 US 41	24.0 Mine Access RD
		[18.7 US 41A	26.4 Muhlenburg CO]

[Weight Limit - Bridge over Pond River @ milepoint 26.32
TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 60 tons

*	KY 85	0.0 KY 70	3.3 Green River Mine]
*	KY 109	2.1 US 62	17.2 KY 814

Weight Limit - Bridge over Western Kentucky Parkway @ milepoint 3.81
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 54 tons
Weight Limit - Bridge over IC RR @ milepoint 4.50
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 58 tons
Weight Limit - Bridge over IC RR @ milepoint 6.49
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 58 tons
Weight Limit - Bridge over Lick Creek @ milepoint 7.24
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons

*	KY 112	3.5 Mine Access RD [0.0 US 62]	9.8 US 41A

[Weight Limit - Bridge over Copperas Creek @ milepoint 0.68
TY I = 20 tons, TY II = 25 tons, TY III = 26 tons, TY IV = 43 tons]
Weight Limit - Bridge over Finley Ditch @ milepoint 5.85
TY I = 20 tons, TY II = 26 tons, TY III = 27 tons, TY IV = 46 tons
Weight Limit - Bridge over Unnamed Stream @ milepoint 8.06
TY I = 20 tons, TY II = 26 tons, TY III = 27 tons, TY IV = 46 tons
Weight Limit - Bridge over Unnamed Stream @ milepoint 8.26
TY I = 20 tons, TY II = 26 tons, TY III = 27 tons, TY IV = 46 tons

*	KY 262	0.0 KY 630	2.6 Bean Cemetary RD
			[0.3 Warrior Mine]

Weight Limit - Bridge over Pogue Creek @ milepoint 0.92
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

*	KY 281	0.0 US 41A	0.7 Pennyrile Parkway

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

*	KY 336	3.2 McLeod RD [0.0 US 41A]	5.8 US 41A [2.3 McLeod RD]
*	KY 454	0.0 US 62	2.3 KY 112

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

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

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

[*	KY 2083	0.9 US 62	1.1 South Hopkins Tipple]
*	KY 2086	0.0 Walnut Grove RD	1.2 KY 109
*	KY 2273	0.0 KY 109	0.2 Ferguson Town Spur RD
*	KY 2663	0.0 Mine Access RD	0.6 KY 2655
*	Old Hanson-Slaughters Road		
	CR 5073	0.0 Jasper Reynolds RD	0.4 KY 2655
*	Jasper Reynolds RD		
	CR 5081	0.0 US 41	0.4 Old Hanson RD
*Herbert Brown RD			
	CR 5082	0.0 Old Hanson RD	0.1 KY 2655
*	McLeod Road		
	CR 5140	0.0 KY 3361	0.3 Mine & Tipple [0.5 Mine]
*	Mortons Gap-White City Road		
	CR 5153	0.0 KY 813	1.8 Mine [2.4 Mine]
[*	Farmers Crossing Road		
	CR 5161	0.0 KY 813	3.0 Ogelsby RD

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

*	Ogelsby Road		
	CR 5163	0.9 Mine	1.4 Farmer Crossing RD
*	Goat Lane		
	CR 5179	0.0 US 62	0.4 Drakes Creek RD
*	Drakes Creek Road		
	CR 5180	1.4 KY 813	1.5 Farmers Crossing RD]

* Wells Road			
CR 5212	7.9 Barnsley Loop RD	8.7 Mine	
* Barnsley Loop Road			
CR 5217	0.0 US 41A	1.5 Wells Road	
[* Copper Creek Road			
CR 5257	0.0 KY 112	1.0 Clyde Lee RD	
Weight Limit - Bridge over Copper Creek			
TY I = 20 tons, TY II = 36 tons, TY III = 46 tons, TY IV = 50 tons			
* Clyde Lee Road			
CR 5258	0.0 Copper Creek RD	0.4 Mine]	
* Leonard Jackson Road			
CR 5262	0.0 Dawson Daylight RD	1.0 Private Haul RD	
* Walnut Grove Road			
CR 5301	0.0 Mine	0.6 KY 2086	
* Dawson Daylight Road			
CR 5305	0.0 KY 109	2.4 Leonard Jackson RD	
* Ferguson Town Spur Road			
CR 5311	0.0 Ferguson Town RD	0.1 Roberts Bros Tipple	
[* Ferguson Town Road			
CR 5325	3.0 Ferguson Town Spur	3.2 KY 109]	
* Peter Howton Road			
CR 5330	0.0 KY 70	0.3 Mine	
[* Poole Road			
CR 5390	0.2 KY 70	0.4 KY 1302]	
* Bean Cemetery Road			
CR 5396	0.4 Mine [0.0 KY 1302]	2.9 KY 262 [0.4 Mine]	
Weight Limit - Bridge over Greasy Creek			
TY I = 11 tons, TY II = 11 tons, TY III = 11 tons, TY IV = 11 tons			

JACKSON COUNTY

ROAD	FROM	TO
* US 421	0.0 Clay CO LN	6.3 Andrews RD [4.6 KY 30 (East)]
Weight Limit - Bridge over Flat Lick Creek @ milepoint 6.26		
TY I = 20 tons, TY II = 33 tons, TY III = 35 tons, TY IV = 56 tons		
* KY 30	0.0 Laurel CO LN	12.5 US 421 (South)
Weight Limit - Bridge over Moores Creek @ milepoint 0.59		
TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 49 tons		
Weight Limit - Bridge over Pond Creek @ milepoint 2.64		
TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 49 tons		
	12.5 US 421 (North)	20.9 Owsley CO LN
[* KY 2002	0.0 KY 30	4.3 Ruby Mine
* KY 2003	0.0 KY 2002	2.9 Ruby Mine]
* Andrews Road		
CR 5122	0.0 US 421	0.6 Begley Road
* Begley Road		
CR 5245	0.8 Andrews Road	0.9 Mine

JEFFERSON COUNTY

ROAD	FROM	TO
* US 31E	0.0 Bullitt CO LN	5.5 KY 1065
Weight Limit - Bridge over Floyd's Fork Creek @ milepoint 0.58		
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
[Weight Limit - Bridge over Branch of Cedar Creek @ milepoint 5.16		
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
Weight Limit - Bridge over Cedar Creek @ milepoint 5.39		
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons]		
	16.7 US 42	17.8 US 31W @ Second Street
* US 31W	3.2 Kosmos Cement CO	22.1 US 31E @ Second Street [14.8 I-264]
* US 42	0.0 US 31E	0.8 US 60
Weight Limit - Bridge over Beargrass Creek @ milepoint 0.23		
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
* US 60	0.0 US 42 (Westbound)	17.4 Shelby CO LN
Weight Limit - Bridge over Floyd's Fork @ milepoint 13.56		
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
Weight Limit - Bridge over Longrun Creek @ milepoint 15.79		
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
* KY 841	0.0 US 31W	6.1 KY 1865
[Weight Limit - Bridge over I.C.G. R.R. @ milepoint 0.28		
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
Weight Limit - Bridge over Pond Creek @ milepoint 0.87		
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
Weight Limit - Bridge over Wagon Box Road @ milepoint 1.47		
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons]		

*	KY 864	4.3 KY 1065 (East)	4.4 KY 1065 (West)
*	KY 1065	1.0 KY 1865	10.0 KY 864
	Weight Limit - Bridge over Northern Ditch @ milepoint 1.40		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over I-65 @ milepoint 4.75		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons		
		10.0 KY 864	11.9 US 31E
*	KY 1865	0.9 KY 841	1.3 KY 1065
*	KY 1934	5.5 Ralph AVE [6.8 I-264]	8.4 US 31W [7.0 Ralph AVE]
*	KY 2056	0.4 B.F. Goodrich Plant	1.1 I-264
*	Ralph Avenue (Louisville)		
		0.9 KY 1934	1.8 Dupont Plant

JESSAMINE COUNTY

	ROAD	FROM	TO
*	US 68	0.0 Mercer CO LN	12.1 Fayette CO LN

JOHNSON COUNTY

	ROAD	FROM	TO
*	US 23	0.0 Floyd CO LN	18.4 Lawrence CO LN
	Weight Limit - Bridge over C&O RR & Levisa Fork @ milepoint 3.53		
	TY I = 20 tons, TY II = 28 tons, TY III = 33 tons, TY IV = 38 tons		
	Weight Limit - Bridge over Paint Creek @ milepoint 8.68		
	TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 55 tons		
*	US 460	0.0 Magoffin CO LN	8.3 US 23
*	KY 3	3.1 Lacker Branch RD [0.1 KY 302]	4.7 Martin CO LN
*	KY 40	7.2 KY 172 [0.0 Magoffin CO LN]	8.7 US 460
	[Weight Limit - Bridge over Little Paint Creek @ milepoint 0.53		
	TY I = 20 tons, TY II = 25 tons, TY III = 26 tons, TY IV = 43 tons		
	Weight Limit - Bridge over Little Paint Creek @ milepoint 1.50		
	TY I = 20 tons, TY II = 23 tons, TY III = 27 tons, TY IV = 44 tons		
	Weight Limit - Bridge over Road Fork Creek @ milepoint 4.60		
	TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 41 tons		
	Weight Limit - Bridge over Road Fork Creek @ milepoint 4.92		
	TY I = 20 tons, TY II = 28 tons, TY III = 29 tons, TY IV = 41 tons		
	Weight Limit - Bridge over Barnetts Creek @ milepoint 6.31		
	TY I = 20 tons, TY II = 28 tons, TY III = 29 tons, TY IV = 41 tons		
	Weight Limit - Bridge over Big Paint Creek @ milepoint 6.46		
	TY I = 20 tons, TY II = 20 tons, TY III = 23 tons, TY IV = 40 tons]		
		8.7 US 23	13.3 Deadfall Branch RD
*	KY 172	6.9 Joe Salyers Branch RD [0.0 Morgan CO LN]	12.4 KY 40
	[Weight Limit - Bridge over Upper Laurel Creek @ milepoint 1.65		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons]		
	Weight Limit - Bridge over Mudlick Creek @ milepoint 11.91		
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 55 tons		
*	KY 302	2.8 KY 2381 [4.1 KY 2381]	6.5 KY 3
[*	KY 469	3.0 KY 1614	6.2 Lawrence CO LN
*	KY 1559	2.8 Frank Vanhoose Road	6.0 US 23
	Weight Limit - Bridge over Tom's Creek @ milepoint 3.53		
	TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 58 tons		
*	KY 1614	0.0 Morgan CO LN	1.2 KY 469]
*	KY 2381	0.0 US 23	2.2 KY 302
[*	KY 3214	2.3 Briar Fork Road	3.2 KY 172
*	Frank Vanhoose Road		
	CR 5061	0.0 KY 1559	0.4 Mine]
*	Deadfall Branch Road		
	CR 5139	0.0 KY 40	0.6 Mine Access Road
[*	Briar Fork Road		
	CR 5339	0.0 KY 3214	1.0 Morgan CO LN]

KNOTT COUNTY

	ROAD	FROM	TO
*	KY 7	2.5 KY 1498 [0.0 Letcher CO LN]	16.0 Floyd CO LN
	[Reduced] Weight Limit - Bridge over Beaver Fork @ milepoint 6.10		
	TY I = 20 tons, TY II = 40 tons, TY III = 41 tons, TY IV = 60 tons		
*	KY 15	0.0 Letcher CO LN	9.4 Perry CO LN
	[Reduced] Weight Limit - Bridge over Carr Fork Reservoir @ milepoint 2.82		
	TY I = 20 tons, TY II = 45 tons, TY III = 49 tons, TY IV = 55 tons		
	[Reduced] Weight Limit - Bridge over Carr Fork Lake @ milepoint 5.64		
	TY I = 20 tons, TY II = 39 tons, TY III = 42 tons, TY IV = 60 tons		
*	KY 80	0.0 Perry CO LN	21.1 Floyd CO LN
*	KY 160	0.0 KY 15	5.8 A K P Coal Mine
	[Reduced] Weight Limit - Bridge over Carr Fork Lake @ milepoint 1.74		
	TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 56 tons		
		8.2 KY 1393	13.9 Patsy Jayne Mine [12.5 KY 80]

*	KY 550	23.8 Big Springs RD [20.6 National Mines Mine]	26.6 Floyd CO LN
	[Reduced Weight Limit - Bridge over Jones Fork @ milepoint 20.63		
	TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 51 tons		
	Reduced Weight Limit - Bridge over Jones Fork @ milepoint 21.51		
	TY I = 20 tons, TY II = 27 tons, TY III = 30 tons, TY IV = 39 tons]		
	[Reduced] Weight Limit - Bridge over Jones Fork @ milepoint 25.30		
	TY I = 20 tons, TY II = 30 tons, TY III = 31 tons, TY IV = 44 tons		
*	KY 899	[0.0 KY 1393	4.9 Apollo Coal Mine]
		7.7 National Mines Mine	12.2 KY 7
	[Reduced] Weight Limit - Bridge over Caney Creek @ milepoint 8.74		
	TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 44 tons		
	[Reduced] Weight Limit - Bridge over Caney Creek @ milepoint 11.82		
	TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 60 tons		
*	KY 1087	1.4 KY 3209	3.4 Mountain Clay Mine
		9.6 C & D Coal Mine [12.0 Sandlick Branch RD]	14.1 KY 80
*	KY 1088	3.9 Young's Fork RD [9.1 Old KY 15]	9.4 KY 15
	[Reduced] Weight Limit - Bridge over Yellow Creek @ milepoint 9.12		
	TY I = 20 tons, TY II - 36 tons, TY III = 38 tons, TY IV = 60 tons		
	[Reduced] Weight Limit - Bridge over Carr Creek @ milepoint 9.36		
	TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 56 tons		
*	KY 1091	0.0 KY 7	2.2 Floyd CO LN
	Weight Limit - Bridge over Right Fork of Beaver Creek @ milepoint 0.01		
	TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons		
*	KY 1098	0.0 Breathitt CO LN	12.0 KY 1087
	Weight Limit - Bridge over Laurel Fork Quicksand Creek @ milepoint 6.94		
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons		
*	KY 1102	1.1 Sandlick Branch RD	2.7 KY 80
*	KY 1231	0.0 KY 15	1.2 Flax Patch Branch RD
			[5.8 Atlas Mining Mine]
*	KY 1393	2.8 KY 899	4.9 KY 160
*	KY 1410	0.0 KY 160	4.7 Letcher CO LN
	[Reduced] Weight Limit - Bridge over Carr Fork @ milepoint 0.01		
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 55 tons		
*	KY 1498	0.5 KY 7	1.5 Floyd CO LN
*	KY 3209	0.0 KY 80	0.4 KY 1087
	[Reduced] Weight Limit - Bridge over Ball Fork @ milepoint 0.05		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons		
*	KY 3391	0.0 KY 1231	1.7 Madden Creek RD
*	Potato Branch RD		
	CR 5005	0.0 KY 7	1.1 Wheelwright Mine
	Weight Limit - Bridge over Right Fork of Beaver Creek		
	TY I = 20 tons, TY II = 23 tons, TY III = 26 tons, TY IV = 44 tons		
*	Patten Branch of Beaver Creek Road		
	CR 5009	0.0 KY 7	0.2 National Mines Mine
*	Big Springs Branch Road		
	CR 5032	0.0 KY 550	0.9 National Mines Mine
	[Reduced] Weight Limit - Bridge over Jones Fork		
	TY I = 19 tons, TY II = 20 tons, TY III = 23 tons, TY IV = 39 tons		
*	Triplett Branch Road		
	CR 5033	0.0 KY 550	0.8 National Mines Mine
*	Rock Fork (Bolyn) Road		
	CR 5037	0.0 KY 80	0.8 Consolidation Mine
*	Bates Branch Road		
	CR 5117	0.0 KY 7	1.4 Wheelwright Mine
*	Perkins Branch-Lick Branch Road		
	CR 5145	0.0 KY 15	0.4 Southeast Coal Mine
*	Runnells Branch Road		
	CR 5156	0.0 KY 160	0.5 Left FK Runnells BR RD
*	Left Fork of Runnells Branch Road		
	CR 5156A	0.0 Runnells Branch RD	0.3 Golden Oak Mine
*	Irishman Creek Road		
	CR 5203	0.0 KY 1231	0.8 [2.5] R J F Coal Mine
*	Flax Patch Branch Road		
	CR 5208	0.0 KY 1231	0.5 Allied Coals Mine
*	Defeated Creek Road		
	CR 5212	0.0 KY 15	3.2 Meade & Shepherd Mine
*	Young's Fork Road		
	CR 5226	0.0 KY 1088	1.3 Kentucky Prince Mine
*	Middle Fork of Quicksand Creek Road		
	CR 5312	0.0 Decoy-Spring Fork RD	1.0 Big Branch of Quicksand Creek RD
*	Big Branch of Quicksand Creek Road		
	CR 5314	0.0 Miller Branch Mine	1.2 Middle Fork of Quicksand Creek RD

*	Decoy-Spring Fork Road		
	CR 5315	0.0 Breathitt CO LN	1.1 Middle Fork of Quicksand Creek Road
*Sandlick Branch Road			
	CR 5336	0.0 KY 1102	0.9 McCoy Coal Mine

KNOX COUNTY

	ROAD	FROM	TO
*	US 25E	0.0 Bell CO LN	26.6 Laurel CO LN
	Weight Limit - Bridge over Cumberland River @ milepoint 0.85		
	TY I = 20 tons, TY II = 33 tons, TY III = 33 tons, TY IV = 40 tons		
	Weight Limit - Bridge over L&N RR @ milepoint 1.54		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 51 tons		
	Weight Limit - Bridge over Stinking Creek @ milepoint 3.70		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons		
	Weight Limit - Bridge over Turkey Creek @ milepoint 4.81		
	TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 51 tons		
*	KY 6	0.0 Whitley CO LN	14.7 KY 11
	Weight Limit - Bridge over Lynn Camp Creek @ milepoint 0.23		
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons		
	Weight Limit - Bridge over Stewards Creek @ milepoint 0.83		
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Indian Creek @ milepoint 6.15		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Tributary of Indian Creek @ milepoint 6.85		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Indian Creek @ milepoint 8.37		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons		
*	KY 11	0.0 Whitley CO LN	10.1 US 25E
	Weight Limit - Bridge over Little Poplar Creek @ milepoint 2.17		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 51 tons		
		10.1 US 25E	22.7 Clay CO LN
	Weight Limit - Bridge over Little Richland Creek @ milepoint 13.00		
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Little Richland Creek @ milepoint 13.39		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Little Richland Creek @ milepoint 13.57		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons		
*	KY 225	5.9 Kayjay Mine	15.0 US 25E
[*	KY 233	3.4 Lynn Camp Branch RD	6.2 US 25E]
*	KY 312	0.0 Whitley CO LN	1.3 US 25E
[*	KY 459	2.6 Little Indian Creek RD	11.7 KY 11
	Weight Limit - Bridge over Richland Creek @ milepoint 11.48		
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 38 tons]		
*	KY 930	0.0 KY 225	4.1 US 25E
	Weight Limit - Bridge over Stinking Creek @ milepoint 1.77		
	TY I = 20 tons, TY II = 31 tons, TY III = 33 tons, TY IV = 50 tons		
[*	KY 1418	0.8 Hubbs Hollow Road	2.3 Clate-Perman RD]
*	KY 1809	0.0 Whitley CO LN	6.3 KY 11
*	KY 2421	0.0 KY 225	0.9 KY 11
*	Alex Creek Road		
	CR 5031	1.7 Straight Creek RD	2.2 Mine
*	Straight Creek Road		
	CR 5032	0.0 Bell CO LN	0.8 Alex Creek RD
*	Little Brush Creek Road		
	CR 5166	0.0 KY 225	1.6 Lay Branch RD
	Weight Limit - Bridge over Brush Creek		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	Lay Branch Road		
	CR 5169	0.0 Little Brush CK RD	0.8 Mine [0.2 K & M Mines]
*	Swan Pond Road		
	CR 5209	0.0 KY 11	1.9 Mine
*	Stoney Fork Road		
	CR 5210	0.0 KY 1809	1.0 Mine [1.1 Roark Mine]
*	Hubbs Road		
	CR 5214	0.0 KY 1809	1.5 Girdner #1 Mine
	Weight Limit - Bridge over Hubbs Creek east of Bryant's Store		
	TY I = 20 tons, TY II = 24 tons, TY III = 28 tons, TY IV = 47 tons		
	Weight Limit - Bridge over Hubbs Creek @ Bain Branch		
	TY I = 3 tons, TY II = 3 tons, TY III = 3 tons, TY IV = 3 tons		
*	Sugartree Road		
	CR 5216	0.0 Hubbs RD	0.5 Terco #1 Mine
	Weight Limit - Bridge over Hubbs Creek		
	TY I = 4 tons, TY II = 4 tons, TY III = 4 tons, TY IV = 4 tons		

*	Davis Branch Road		
	CR 5224	0.0 KY 1809	0.1 Mine
[*	Flat Creek Road		
	CR 5243	0.0 KY 1418	2.6 Little Indian CR RD
*	Hubbs Hollow Road		
	CR 5244	0.0 KY 1418	0.8 Brenda Mine
*	Little Indian Creek Road		
	CR 5245	3.3 Flat Creek Road	3.6 KY 459]
*	Dowis Road		
	CR 5248	0.0 KY 6	0.9 Mosley Branch RD
[*	Lewellen Road		
	CR 5259	0.0 Hubbs Road	0.5 Jarcoal Mine
*	Old US 25E Loop #6 Road		
	CR 5304	0.6 Bailey Branch RD	1.0 US 25E
	Weight Limit - Bridge over Bailey Creek		
	TY I = 9 tons, TY II = 9 tons, TY III = 9 tons, TY IV = 9 tons		
*	Bailey Bridge Road		
	CR 5305	0.0 Old US 25E Loop #6 RD	0.5 Bailey Switch Tipple
	Weight Limit - Branch over Bailey Branch (Richland Creek)		
	TY I = 18 tons, TY II = 18 tons, TY III = 18 tons, TY IV = 18 tons]		
*	Middle Fork Richland Creek Road		
	CR 5311	0.9 Higgins Road	1.2 H & P Mine
*	Higgins Road		
	CR 5323	0.0 US 25E	0.8 Richland Creek RD

LAUREL COUNTY

	ROAD	FROM	TO
*	Daniel Boone Parkway	0.0 US 25 & KY 80	10.6 Clay CO LN
	Weight Limit - Bridge over L&N RR @ milepoint 0.85		
	TY I = 20 tons, TY II = 45 tons, TY III = 48 tons, TY IV = 55 tons		
	Weight Limit - Bridge over Little Laurel River @ milepoint 3.40		
	TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Sallys Branch Rd. @ milepoint 4.18		
	TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 60 tons		
	Weight Limit - Bridge over KY 1305 @ milepoint 6.42		
	TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 48 tons		
	Weight Limit - Bridge over Lick Creek Road @ milepoint 7.64		
	TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 48 tons		
	Weight Limit - Bridge over KY 488 @ milepoint 8.57		
	TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 60 tons		
*	US 25	0.0 US 25E & US 25W	10.4 KY 192 [16.3 KY 490]
	Weight Limit - Bridge over Robinson Creek @ milepoint 3.28		
	TY I = 20 tons, TY II = 36 tons, TY III = 37 tons, TY IV = 49 tons		
	Weight Limit - Bridge over Laurel River at Lily @ milepoint 4.14		
	TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons		
	Weight Limit - Bridge over L&N RR @ milepoint 7.19		
	TY I = 20 tons, TY II = 36 tons, TY III = 37 tons, TY IV = 48 tons		
	Weight Limit - Bridge over Little Laurel River @ milepoint 8.44		
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 60 tons		
		13.6 KY 80 & Daniel Boone Parkway	23.1 KY 909
*	US 25E	0.0 Knox CO LN	0.3 US 25 & US 25W [2.0 I-75]
[*	US 25W	0.0 Whitley CO LN	1.0 US 25 & US 25E]
*	KY 30	1.4 [1.2] KY 490	9.8 Jackson CO LN
	Weight Limit - Bridge over Rockcastle River @ milepoint 9.08		
	TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 59 tons		
*	KY 80	0.0 Pulaski CO LN	11.1 US 25 & Daniel Boone PKWY
	Weight Limit - Bridge over I-75 @ milepoint 10.59		
	TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 43 tons		
		[11.1 US 25	13.3 KY 638]
*	KY 192	18.2 I-75 [0.0 Pulaski CO LN]	22.0 D Boone PKWY
	Weight Limit - Bridge over I-75 @ milepoint 18.24		
	TY I = 20 tons, TY II = 32 tons, TY III = 34 tons, TY IV = 42 tons		
*	KY 229	0.0 Knox CO LN	11.5 KY 192
	Weight Limit - Bridge over Laurel River @ milepoint 6.85		
	TY I = 20 tons, TY II = 38 tons, TY III = 38 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Little Laurel River @ milepoint 10.63		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons		
*	KY 490	0.0 US 25	0.9 KY 30
	Weight Limit - Bridge over L&N RR @ milepoint 0.10		
	TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 44 tons		
[*	Railroad Street (London)		
	CR 5091N	0.0 KY 80 (4th Street)	0.5 Balmont Tipple]

LAWRENCE COUNTY

	ROAD	FROM	TO
*	US 23	0.0 Johnson CO LN	30.2 Boyd CO LN
*	KY 1	0.0 KY 3	5.0 Olioville-Coal Branch RD
			[3.6 KY 828]
		12.8 KY 201	14.1 Carter CO LN
*	KY 3	0.0 Martin CO LN	15.5 US 23
	Weight limit - Bridge over Levisa & Tug Forks @ milepoint 14.87		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
		24.4 KY 1398	24.7 KY 1
		[15.5 US 23	24.7 KY 1
	Weight Limit - Bridge over Two Mile Branch @ milepoint 15.52		
	TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons]		
*	KY 3S	0.0 KY 3	0.1 West Virginia State LN
	Weight Limit - Bridge over Levisa & Tug Forks @ milepoint 0.01		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	KY 32	8.5 Lower Laurel Creek RD [5.9 KY 469]	28.9 US 23
	Weight Limit - Bridge over Cains Creek @ milepoint 9.53		
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Blaine Creek @ milepoint 10.10		
	TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 54 tons		
	Weight Limit - Bridge over Hood Creek @ milepoint 10.85		
	TY I = 20 tons, TY II = 36 tons, TY III = 37 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Brushy Creek @ milepoint 16.05		
	TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 54 tons		
	Weight Limit - Bridge over Rich Creek @ milepoint, 18.39		
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 59 tons		
	Weight Limit - Bridge over Blaine Creek @ milepoint 22.55		
	TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Russey Branch @ milepoint 23.46		
	TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons		
*	KY 201	5.0 KY 32	18.2 KY 1
	Weight Limit - Bridge over Dry Fork Creek @ milepoint 18.13		
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons		
[*	KY 469	0.0 Johnson CO LN	2.0 KY 32
	Weight Limit - Bridge over Left Fork of Blaine Creek @ milepoint 0.01		
	TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 60 tons]		
*	KY 645	0.0 US 23	5.2 Martin CO LN
*	KY 1690	1.5 KY 645	1.7 KY 2033
*	KY 1760	0.0 US 23	2.8 Georges Creek RD
*	KY 2033	1.3 KY 1690	3.3 Richardson Mine
*	KY 3398	0.0 US 23	2.3 KY 3
[*	Fallsburg-Fullers Road		
	CR 5022	0.0 US 23	0.1 Belfry #5 Tipple]
*	Donithon Branch Road		
	CR 5118	0.0 KY 3	1.6 Lockworth Mine
*	Georges Creek Road		
	CR 5156	0.0 KY 1760	1.5 Left FK Brushy CR RD
*	Left Fork Brushy Creek Road		
	CR 5203	0.0 Georges Creek Road	0.8 Mine
*	Lower Laurel Creek Road		
	CR 5221	0.0 KY 32	1.7 Black Wells Mine
	Weight Limit - Bridge over Lower Laurel Creek		
	TY I = 5 tons, TY II = 5 tons, TY III = 5 tons, TY IV = 5 tons		
	Weight Limit - Birdge over Lower Laurel Creek		
	TY I = 10 tons, TY II = 10 tons, TY III = 10 tons, TY IV = 10 tons		
*	Olioville-Coal Branch Road		
	CR 5311	0.0 KY 1	0.3 Mine

[LEE COUNTY

	ROAD	FROM	TO
*	KY 11	0.0 Owsley CO LN	4.3 KY 52 (West)
	Weight Limit - Bridge over South Fork Kentucky River @ milepoint 3.19		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over North Fork Kentucky River @ milepoint 4.17		
	TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 51 tons		
*	KY 52	0.0 Estill CO LN	12.9 KY 11 (North)]

LESLIE COUNTY

	ROAD	FROM	TO
*	Daniel Boone Parkway	35.9 Clay CO LN	51.0 Perry CO LN
*	US 421	0.0 Harlan CO LN	6.3 Mine [35.4 Clay CO LN]
	[Weight Limit - Bridge over Middle Fork Kentucky River @ milepoint 11.55		
	TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 46 tons]		

		20.6 KY 2431	22.6 KY 18
	[Weight Limit - Bridge over Rockhouse Creek @ milepoint 23.02		
	TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 51 tons]		
		26.8 Wet Rockhouse Branch	35.4 Clay CO LN
[*	KY 66	0.0 Clay CO LN	2.8 Clay CO LN
	Weight Limit - Bridge over Red Bird River @ milepoint 2.71		
	TY I = 20 tons, TY II = 28 tons, TY III = 34 tons, TY IV = 44 tons]		
*	KY 80	0.0 US 421	9.7 Perry CO LN
	Weight Limit - Bridge over Cutshin Creek @ milepoint 5.15		
	TY I = 20 tons, TY II = 27 tons, TY III = 28 tons, TY IV = 43 tons		
	Weight Limit - Bridge over Wooton Creek @ milepoint 6.12		
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 46 tons		
	Weight Limit - Bridge over MacIntosh Creek @ milepoint 8.84		
	TY I = 20 tons, TY II = 25 tons, TY III = 26 tons, TY IV = 42 tons		
*	KY 118	0.0 US 421	3.5 Daniel Boone PKWY
[*	KY 221	0.0 Perry CO LN	1.9 KY 699]
*	KY 699	0.0 KY 80	13.6 Old Big Rock RD
			[10.0 Long BR]
	Weight Limit - Bridge over Cutshin Creek @ milepoint 1.96		
	TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 43 tons		
	Weight Limit - Bridge over Maggard Creek @ milepoint 8.14		
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons		
		15.2 Mine	16.0 Perry CO LN
*	KY 1807	0.0 KY 80	3.6 Mine Access RD
			[End State MAINT]
*	KY 2008	0.0 KY 2009	3.0 Mine Access RD
			[1.5 End ST MAINT]
		5.2 Mine [1.5 Begin State MAINT]	8.2 [3.8] Harlan CO LN
*	KY 2009	0.0 Harlan CO LN	5.4 Bledsoe Tipple
	Weight Limit - Bridge over Greasy Creek @ milepoint 3.58		
	TY I = 8 tons, TY II = 8 tons, TY III = 8 tons, TY IV = 8 tons		
*	KY 2057	0.0 KY 699	3.1 Bear BR RD
*	KY 2431	0.0 US 421	0.1 High School
	Weight Limit - Bridge over Middle Fork Kentucky River @ milepoint 0.01		
	TY I = 20 tons, TY II = 27 [26] tons, TY III = 28 tons, TY IV = 32 tons		
*	Wendover Road		
	CR 5001	0.0 KY 2431	1.6 Hurricane Creek RD
*	Hurricane Creek Road		
	CR 5002	2.2 Camp Creek RD [Big BR H'Cane CR RD]	3.3 Wendover RD
*	Camp Creek[s Fork] Road		
	CR 5005	0.0 Hurricane Creek RD	0.7 Tipple Access [1.6 Left FK]
*	Bear Branch Road		
	CR 5018	0.0 KY 2057	1.4 Mine & Perry CO LN
*	Bailey Branch Road		
	CR 5027	0.0 KY 1807	0.6 Mine
*	Long Branch Road		
	CR 5118	0.0 KY 699	0.2 Mine
*	Old Big Rock Road		
	CR 5126	0.0 KY 699	0.6 Right Fork of Cutshin RD
	Weight Limit - Bridge over Cutshin Creek		
	TY I = 18 tons, TY II = 18 tons, TY III = 18 tons, TY IV = 18 tons		
*	Right Fork of Cutshin Road		
	CR 5128	0.0 Old Big Rock RD	3.7 Mine
[*	Lewis Creek-Napier Road		
	CR 5132	0.0 KY 2008	4.7 KY 2008]
*	Abner Branch Road		
	CR 5133	0.0 Harlan CO LN	1.3 KY 2008
			[Lewis Creek-Napier RD]
*	White Oak Road		
	CR 5135	0.0 KY 2008	0.8 Mine
[*	Spruce Pine Creek Road		
	CR 5219	2.3 Mine	6.6 Rocky Hollow BR RD
*	Rocky Hollow Branch Road		
	CR 5220	0.0 US 421	0.2 Spruce Pine Creek RD
	Weight Limit - Bridge over Beech Fork		
	TY I = 5 tons, TY II = 5 tons, TY III = 5 tons, TY IV = 5 tons]		
*	Phillips Fork Road		
	CR 5225	5.0 Mine RD	5.2 Mine RD

LETCHER COUNTY

	ROAD	FROM	TO
*	US 23	0.0 Virginia State LN	7.1 Pike CO LN
	Weight Limit - Bridge over Elkhorn Creek @ milepoint 5.83		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons		

*	US 119	0.0 Harlan CO LN	7.0 Scotia Mine Tipple
			[9.4 KY 806]
		20.7 KY 1862	27.7 US 23
*	KY 7	0.0 Perry CO LN	25.2 KY 317 [27.6 Knott CO LN]
	Weight Limit - Bridge over Line Fork @ milepoint 0.17		
	TY I = 20 tons, TY II = 25 tons, TY III = 29 tons, TY IV = 34 tons		
	Weight Limit - Bridge over North Fork Kentucky River @ milepoint 2.61		
	TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 48 tons		
	Weight Limit - Bridge over Elk Creek @ milepoint 5.28		
	TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Gaudill Branch @ milepoint 8.04		
	TY I = 20 tons, TY II = 41 tons, TY III = 44 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Rockhouse Creek @ milepoint 22.31		
	TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Rockhouse Creek @ milepoint 24.78		
	TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 48 tons		
*	KY 15	2.7 KY 931	9.2 KY 7
		9.2 [9.3] KY 7	10.7 Knott CO LN
		[5.2 Loggy Hollow RD	9.3 KY 7]
[*	KY 113	0.0 KY 805	4.5 Millstone-Dem RD
	Weight Limit - Bridge over North Fork Kentucky River @ milepoint 0.53		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons		
	Weight Limit - Bridge over North Fork Kentucky River @ milepoint 1.49		
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons		
	Weight Limit - Bridge over Left Fork Milestone Creek @ milepoint 1.80		
	TY I = 20 tons, TY II = 36 tons, TY III = 37 tons, TY IV = 58 tons		
	Weight Limit - Bridge over Milestone Creek @ milepoint 2.48		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons]		
*	KY 160	13.4 Lucky Branch RD	21.8 KY 15
	Weight Limit - Bridge over Kings Creek @ milepoint 14.73		
	TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 51 tons		
*	KY 317	0.0 KY 805	0.4 Mine [8.9 KY 7]
		1.0 KY 343	8.9 KY 7
*	KY 343	0.0 KY 317	1.5 #2 Hollow Road
	Weight Limit - Bridge over Yount's Fork Creek @ milepoint 0.08		
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons		
	Weight Limit - Bridge over Wright's Fork @ milepoint 0.46		
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons		
	Weight Limit - Bridge over Wright's Fork @ milepoint 0.65		
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons		
*	KY 588	3.7 Tolson Loading	5.0 KY 160
		5.0 KY 160	11.0 Mine
			[6.2 Kingdom Come Creek RD]
*	KY 805	0.0 US 119	3.1 KY 317 [9.2 US 23]
	[Weight Limit - Bridge over Potters Fork @ milepoint 6.98		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 51 tons		
	Weight Limit - Bridge over Potters Fork @ milepoint 8.18		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Potters Fork @ milepoint 8.92		
	TY I = 20 tons, TY II = 36 tons, TY III = 39 tons, TY IV = 60 tons		
	Weight Limit - Bridge in Haymond @ milepoint 9.24		
	TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 31 tons]		
*	KY 931	7.7 Hampton Branch RD	*
		16.4 Clay Hollow [16.6 KY 1862]	18.4 KY 7
*	KY 1103	6.0 Private Haul RD [3.3 Defeated Creek]	8.2 Tolby Branch RD
*	KY 1410	0.0 Knott CO LN	1.6 KY 7
*	KY 1862	1.2 KY 3410 [0.3 Mayking-Cram CR RD]	1.7 US 119 [0.4 US 119]
		6.4 Mine	9.9 KY 931
	[Weight Limit - Bridge over North Fork Kentucky River @ milepoint 0.31		
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons]		
*	KY 3410	0.0 Cram Creek-Pert Creek RD	1.1 KY 1862
*	Clay Hollow Road		
	CR 5010	0.0 KY 931	0.2 Golden Oak Mine
[*	Millstone-Democrat Road		
	CR 5020	1.7 Beth Energy Mine	2.7 KY 113]
*	Beaverdam Branch Road		
	CR 5047	0.0 KY 7	2.7 Mine [2.0 A & E Coal Mine]
*	Bottom Fork Road		
	CR 5068L	0.2 Tammy Ann Mine	0.7 #2 Hollow Road
*	#2 Hollow Road		
	CR 5068M	0.0 Bottom Fork Road	0.6 KY 343
*	Marshall Branch Road		
	CR 5103	0.0 Pike CO LN	0.3 Pike CO LN
[*	Mayking-Cram Creek Road		
	CR 5153	0.0 KY 1862	1.5 Cram Creek RD]

*	Cram Creek Road		
	CR 5169	0.9 Wampler Bros Mine	1.4 KY 3410 [Mayking-Cram CR RD]
*	Kingdom Come Creek Road		
	CR 5229	0.0 Ky 588	1.2 Lake Coal Mine
	[Weight Limit - Bridge over Cowan Creek		
	TY I = 20 tons, TY II = 30 tons, TY III = 34 tons, TY IV = 53 tons]		
	Weight Limit - Bridge over Kingdom Come Creek		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	Big Branch-Tolson Branch Road		
	CR 5258	0.0 KY 588	1.4 [4.5] Lake Coal Mine
*	Whitaker Branch Road		
	CR 5259	1.4 Mine [0.0 KY 1103]	2.5 Big BR-Tolson BR RD
*	Defeated Creek Road		
	CR 5265	5.1 Southeast Mine	5.6 KY 1103
	Weight Limit - Bridge over Line Fork Creek		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	Lucky Branch Road		
	CR 5272	0.0 KY 160	0.4 Lake Coal Mine
*	Johnson Branch Road		
	CR 5309	0.0 KY 160	0.3 Whitaker Mine
*	Bee Tree Branch Road		
	CR 5311	0.0 KY 160	1.0 Lake Coal Mine
*	Hollybush Branch Road		
	CR 5312	0.0 KY 160	0.4 Golden Oak Mine
[*	Loggy Hollow Road		
	CR 5314	0.0 KY 15	1.1 Katco Mining Mine]
*	Stamper's Branch Road		
	CR 5335	0.0 KY 7	0.8 Whitaker Mine
*	Hicks Branch Road		
	CR 5338	0.0 KY 7	0.1 Isom #2 Tipple
	Weight Limit - Bridge over Rockhouse Creek		
	TY I = 9 tons, TY II = 9 tons, TY III = 9 tons, TY IV = 9 tons		
*	Caudill Creek Road		
	CR 5354	0.0 KY 7	2.3 Golden Oak Mine
[*	Lowgap Branch/Elk Creek Road		
	CR 5361	0.0 KY 7	1.2 Elk Creek RD
	Weight Limit - Bridge over Elk Creek		
	TY I = 20 tons, TY II = 36 tons, TY III = 42 tons, TY IV = 60 tons		
*	Elk Creek Road		
	CR 5362	0.0 Lowgap BR/Elk CK RD	0.5 Golden Oak Mine
*	Bull Creek-Meadow Fork Road		
	CR 5367	3.3 Golden Oak Mine	5.0 Perry CO LN]

LINCOLN COUNTY

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

LIVINGSTON COUNTY

	ROAD	FROM	TO
[*	US 60	0.0 McCracken CO LN	29.1 Crittenden CO LN
	Weight Limit - Bridge over Cumberland River @ milepoint 12.37		
	TY I = 20 tons, TY II = 23 tons, TY III = 26 tons, TY IV = 35 tons		
	Weight Limit - Bridge over Dyers Creek @ milepoint 16.66		
	TY I = 14 tons, TY II = 15 tons, TY III = 16 tons, TY IV = 23 tons		
	Weight Limit - Bridge over Mitchell Branch @ milepoint 21.31		
	TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons		
	Weight Limit - Bridge over Sandy Creek @ milepoint 25.98		
	TY I = 13 tons, TY II = 13 tons, TY III = 15 tons, TY IV = 21 tons		
	Weight Limit - Bridge over Dry Creek @ milepoint 29.06		
	TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 40 tons]		
*	US 62	0.0 Marshall CO LN [1.2 KY 453]	2.9 Lyon CO LN
	Weight Limit - Bridge over Kentucky Lake Dam Lock @ milepoint 0.31		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 55 tons		

Weight Limit - Bridge over I.C. Gulf R.R. @ milepoint 0.64
TY I = 20 tons, TY II = 39 tons, TY III = 38 tons, TY IV = 51 tons
Weight Limit - Bridge over Reed's Haul Road @ milepoint 0.97
TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 54 tons
Weight Limit - Bridge over Cumberland River @ milepoint 2.78
TY I = 20 tons, TY II = 26 tons, TY III = 29 tons, TY IV = 38 tons

*	KY 453	0.5 B R T Dock	2.8 US 62

Weight Limit - Bridge over IC RR @ milepoint 1.92
TY I = 20 tons, TY II = 46 [45] tons, TY III = 47 tons, TY IV = 60 tons

LOGAN COUNTY

	ROAD	FROM	TO
*	US 68	11.2 US 79 & KY 100	26.6 Warren CO LN
*	US 79	0.0 Todd CO LN	12.9 US 68

Weight Limit - Bridge over Vick's Branch @ milepoint 2.91
TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 60 tons
Weight Limit - Bridge over Branch of Whippoorwill Creek @ milepoint 4.64
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons
Weight Limit - Bridge over Dry Fork @ milepoint 5.93
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 54 tons

LYON COUNTY

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

[McCRACKEN COUNTY

	ROAD	FROM	TO
*	US 60	19.5 US 62	20.0 Livingston CO LN

Weight Limit - Bridge over US 68 @ milepoint 19.64
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Tennessee River @ milepoint 19.86
TY I = 20 tons, TY II = 21 tons, TY III = 22 tons, TY IV = 30 tons

*	US 62	1.2 KY 453	2.9 Lyon CO LN

Weight Limit - Bridge over IC RR @ milepoint 12.98
TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 60 tons
Weight Limit - Bridge over IC RR @ milepoint 13.06
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons

*	US 68	0.0 US 62	1.0 I-24

Weight Limit - Bridge over I-24 @ milepoint 1.01
TY I = 20 tons, TY II = 40 tons, TY III = 41 tons, TY IV = 54 tons]

McCREARY COUNTY

	ROAD	FROM	TO
*	US 27	0.0 Tennessee State LN [4.6 KY 90]	22.7 Pulaski CO LN
[*	KY 90	0.0 US 27	4.9 Eagle Creek RD]
*	KY 92	17.3 Railroad DR	28.4 Whitley CO LN

Weight Limit - Bridge over Marsh Creek @ milepoint 25.42
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 59 tons

*	KY 1673	0.0 Whitley CO LN	0.6 Whitley CO LN
		[0.6 Whitley CO LN	2.2 Corley Ridge RD]
*	KY 3257	0.0 KY 90	1.4 Big Swag Ridge RD
[*	KY 90 - Sawyer Road (Eagle Creek Road)		
	CR 5023	0.0 KY 90	1.4 Big Swag Ridge RD
*	Big Swag Ridge Road		
	CR 5055	0.0 Eagle Creek RD	1.3 Shamrock #9 Mine
*	Corley Ridge Road		
	CR 5108	0.0 KY 1673	0.4 Whitley CO LN]
*	Railroad Drive		
	CR 5203	0.0 KY 92	0.3 Revelo Prep Plant
*	Bauer Road		
	CR 5333	0.0 US 27	3.8 Pulaski CO LN

McLEAN COUNTY

	ROAD	FROM	TO
*	KY 81	12.8 KY 1792 [11.9 KY 256]	18.3 Daviess CO LN
*	KY 136	11.1 KY 1792	12.9 KY 81

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

*	KY 140	0.0 KY 256	0.1 KY 1792
*	KY 256	5.6 Mine	5.9 KY 140 [10.4 KY 81]

[Weight Limit - Bridge over Porters Ditch @ milepoint 6.72
TY I = 17 tons, TY II = 17 tons, TY III = 20 tons, TY IV = 22 tons

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

	ROAD	FROM	TO
*	KY 1792	0.0 KY 140	2.6 KY 136

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

MADISON COUNTY

	ROAD	FROM	TO
[*	KY 52	13.0 KY 876	22.9 Estill CO LN]
*	KY 627	0.1 I-75	6.2 Clark CO LN

Weight Limit - Bridge over I-75 @ milepoint 0.11
TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 60 tons

[*	KY 876	7.2 I-75	10.8 KY 52]

MAGOFFIN COUNTY

	ROAD	FROM	TO
*	Mountain PKWY (KY 402)	71.7 KY 30	75.6 US 460

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

*	US 460	0.0 Morgan CO LN [12.5 Mountain PKWY]	20.4 Johnson CO LN

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

*	KY 7	3.2 Mine Access RD [4.8 Brushy Creek RD]	23.9 Mountain Parkway (KY 402)

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

*	KY 30	4.5 Mine Access RD [3.3 KY 1397]	8.9 Mountain Parkway (KY 402)

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

[*	KY 40	4.6 KY 1081	6.9 Johnson CO LN

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

*	KY 114	0.0 US 460	5.0 Floyd CO LN
[*	KY 364	0.0 KY 1081	1.3 Mine]
*	KY 404	0.0 KY 7	2.7 Floyd CO LN
*	KY 542	0.0 Breathitt CO LN	5.8 KY 7
*	KY 867	4.0 Mine Access RD [4.7 KY 1635]	5.7 KY 7
		5.7 KY 7	7.4 Hickory Tipple
[*	KY 1081	8.3 KY 364	16.9 KY 40
*	KY 1397	2.5 Crane Nest Branch RD	3.0 KY 30]
*	KY 1471	0.0 Big Half Mountain RD	4.3 KY 7

Weight Limit - Bridge over Licking River @ milepoint 3.96
TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons

[*	KY 1502	2.7 Jake Wireman RD	3.3 KY 542]
*	KY 1635	0.0 Tiptop-Bettsmann RD	5.7 KY 867
[*	KY 1734	0.0 KY 7	1.3 Salt Lick RD
*	Salt Lick Road		
	CR 5126	0.0 KY 1734	0.3 Mine]
*	Brushy Fork Road		
	CR 5132	0.0 KY 7	1.0 Mine
*	Bull Creek Road		
	CR 5140	0.0 KY 7	0.4 Mine
*	Jake Wireman Road		
	CR 5144	0.0 KY 1502	1.0 Mines
*	Beetree Branch Road		
	CR 5145	0.0 KY 7	0.7 Mine
*	Big Half Mountain Road		
	CR 5148	0.0 Mine	0.5 KY 1471

Weight Limit - Bridge over Big Half Mountain Creek
TY I = 5 tons, TY II = 5 tons, TY III = 5 tons, TY IV = 5 tons

*	Wright Oakley Creek Road		
	CR 5221	0.0 KY 1635	0.3 Mine

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

*	Tiptop-Bettsmann Branch Road		
	CR 5225B	0.0 Breathitt CO LN	0.7 KY 1635
[*	Crane Nest Branch Road		
	CR 5229	0.0 KY 1397	0.3 Mine]

MARSHALL COUNTY

	ROAD	FROM	TO
*	US 62	7.2 KY 95	12.1 Livingston CO LN
	Weight Limit - Bridge over KY 282 @ milepoint 8.67		
	TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 53 tons		
	Weight Limit - Bridge over Cypress Drainage Ditch @ milepoint 9.48		
	TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV 53 tons		
	Weight Limit - Bridge over Tennessee River Dam Gates @ milepoint 11.94		
	TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV 48 tons		
*	US 68	9.7 US 641 (North)	10.1 US 641 (South)
*	US 641	0.0 Calloway CO LN	12.9 US 68 (Southeast)
	Weight Limit - Bridge over Town Creek @ milepoint 7.94		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over Town Creek @ milepoint 7.95		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV 40 tons		
		12.9 US 68 (Northwest)	19.4 US 62
*	KY 95	4.1 US 62	7.3 KY 1523
	Weight Limit - Bridge over Cypress Creek @ milepoint 6.32		
	TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV 60 tons		

MARTIN COUNTY

	ROAD	FROM	TO
*	KY 3	0.0 Johnson CO LN	11.6 KY 645 (North) [13.3 KY 40]
	[Weight Limit - Branch Coldwater Fork Rockcastle Creek @ milepoint 13.09		
	TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 52 tons]		
		18.5 Rockcastle BR RD [22.9 KY 292]	23.2 Lawrence CO LN
*	KY 40	5.3 KY 1224	9.1 KY 645 (West) [10.2 KY 3]
	Weight Limit - Bridge over Rockcastle Fork @ milepoint 6.95		
	TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 53 tons		
	[Weight Limit - Bridge over Rockcastle Creek @ milepoint 10.14		
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons]		
		10.8 KY 645 (East)	20.3 West Virginia ST LN
		[10.2 KY 3	20.2 KY 292]
*	KY 292	0.0 Pike CO LN	13.2 KY 40
	Weight Limit - Bridge over Wolfe Creek @ milepoint 11.99		
	TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 43 tons		
		28.5 [27.8] Mine	28.9 KY 3
*	KY 645	0.0 Lawrence CO LN	6.6 KY 3 (North) [4.7 KY 40]
		6.6 KY 3 (South)	7.6 KY 40 (East)
*	KY 1224	1.3 [0.5] Mine	5.2 [4.4] KY 40
	Weight Limit - Bridge over Rockcastle Fork @ milepoint 4.32		
	TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 55 tons		
*	KY 1439	0.0 Pike CO LN [Meathouse Road]	11.2 [6.4] KY 1714
	Weight Limit - Bridge over Wolfe Creek @ milepoint 1.83		
	TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 45 tons		
*	KY 1714	3.6 KY 1439	9.2 KY 292
*	KY 2032	0.0 KY 1439	4.0 KY 40
*	Emily Branch [Creek] Road]		
	CR 5105	3.1 Private Haul RD [0.0 KY 1714]	3.2 Private Haul RD 1.0 miles SW of Oppy [0.5 Mine]
*	Emily-Long Branch RD		
	CR 5107	0.9 Private Haul RD	1.0 Private Haul RD
[*	Meathouse Road		
	CR 5116	0.0 KY 1439	2.6 Lowgap RD
*	Lowgap Road		
	CR 5117	0.0 Pike CO LN	2.0 Meathouse RD]
*	Laurel Fork-Wolf Creek Road		
	CR 5202	0.0 KY 1439	7.8 Private Access Road
*	Middle Fork of Wolf Creek Road		
	CR 5205	0.0 Middle Fork of Rockcastle Creek RD	3.7 Mine [3.3 Mine Access RD]
*	Middle Fork of Rockcastle Creek Road		
	CR 5206	0.0 KY 3	0.2 Mid FK Wolf CK RD
*	Mudlick Branch Road		
	CR 5210	0.0 KY 3	0.8 Mine
*	Peter Cave Branch Road		
	CR 5315	0.0 KY 3	0.5 Mine
*	Rockcastle Branch Road		
	CR 5317	0.0 KY 3	0.5 Mine

MASON COUNTY

	ROAD	FROM	TO
*	US 62	12.7 US 68	17.4 KY 10 (West)
*	US 68	0.0 Fleming CO LN	11.9 US 62

* KY 8	0.0 Bracken CO LN		11.0 KY 10
Weight Limit - Bridge over Phillips Creek @ milepoint 7.11			
TY I = 20 tons, TY II = 32 tons, TY III = 33 tons, TY IV = 39 tons			
* KY 10	9.7 US 68		15.9 Spring Creek RD
Weight Limit - Bridge over L&N RR @ milepoint 9.79			
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons			
Weight Limit - Bridge over Bull Fork @ milepoint 13.30			
TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 60 tons			
* KY 11	0.0 Fleming CO LN		11.3 US 62
Weight Limit - Bridge over Mill Creek @ milepoint 0.16			
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 59 tons			
* Spring Creek Road			
CR 5012	0.0 KY 10		1.8 Cabin Creek PK
Weight Limit - Bridge over Spring Creek 1.2 miles east of Plumville			
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons			
Weight Limit - Bridge over Spring Creek @ Cabin Creek Pike			
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons			
* Cabin Creek Pike			
CR 5013	0.0 Spring Creek RD		0.7 Dravo Lime CO

[MEADE COUNTY

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

MERCER COUNTY

ROAD	FROM	TO
* Bluegrass PKWY	52.3 Anderson CO LN	56.3 Anderson CO LN
Weight Limit - Bridge over Salt River @ milepoint 56.27		
TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 54 tons		
[* US 68	6.8 US 127	20.3 Jessamine CO LN
Weight Limit - Bridge over Shaker Creek @ milepoint 12.70		
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
Weight Limit - Bridge over Kentucky River @ milepoint 20.29		
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons]		
* US 127	0.0 Boyle CO LN	4.4 US 68
[* KY 33	64. KY 342	7.7 US 68
* KY 342	0.0 KY 33	1.5 E. W. Brown Power Plant]

MONTGOMERY COUNTY

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

MORGAN COUNTY

ROAD	FROM	TO
* US 460	20.1 Malone-Jones Creek RD [15.5 KY 191]	28.8 Magoffin CO LN [17.8 KY 7]
Weight Limit - Bridge over Licking River @ milepoint 23.74		
TY I = 17 tons, TY II = 24 tons, TY III = 25 tons, TY IV = 40 tons		
[* KY 7	0.0 US 460	11.7 Elliott CO LN
Weight Limit - Bridge over Elk Fork Creek @ milepoint 2.56		
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 51 tons		
Weight Limit - Bridge over North Fork of Licking River @ milepoint 8.37		
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 51 tons		
Weight Limit - Bridge over Road Fork @ milepoint 8.60		
TY I = 20 tons, TY II = 23 tons, TY III = 25 tons, TY IV = 37 tons]		
* KY 172	21.0 Cindas Creek RD [18.7 Cinda Branch RD]	22.3 KY 1614 [22.6 Johnson CO LN]
[* KY 191	13.0 Steele Branch RD	14.7 US 460

*	KY 437	6.3 KY 3344	12.4 KY 172 @ Relief
	Weight Limit - Bridge over Open Fork Creek @ milepoint 12.27		
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons		
*	KY 1614	0.0 KY 172	0.2 Johnson CO LN
*	KY 3344	0.0 KY 437	0.4 Mine
*	Cinda Branch Road		
	CR 5043	0.0 KY 172	0.3 Mine
*	River Road		
	CR 5100	0.0 KY 191	0.3 Mine]
*	Malone-Jones Creek Road		
	CR 5175	0.0 KY 7	2.0 Mine

MUHLENBERG COUNTY

	ROAD	FROM	TO
*	Western Kentucky Parkway		
		43.4 Hopkins CO LN	57.9 US 431 [65.7 Ohio CO LN]
	Weight Limit - Bridge over Pond River Relief @ milepoint 43.60		
	TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 60 tons		
	Weight Limit - Bridge over KY 175-IC RR - Unnamed Creek @ milepoint 48.05		
	TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 60 tons		
	Weight Limit - Bridge over KY 181 @ milepoint 52.52		
	TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 55 tons		
	Weight Limit - Bridge over IC RR @ milepoint 55.51		
	TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 59 tons		
	Weight Limit - Bridge over L&N RR, Branch Little Cypress Creek @ milepoint 57.58		
	TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 60 tons		
	[Weight Limit - Bridge over Green River Parkway @ milepoint 65.38		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 57 tons]		
*	US 62	1.3 Henry Oates RD	10.5 KY 176
	Weight Limit - Bridge over Branch of Thompson Creek @ milepoint 3.68		
	TY I = 20 tons, TY I = 28 tons, TY III = 31 tons, TY IV = 40 tons		
	Weight Limit - Bridge over I.C. & Gulf R.R. @ milepoint 5.40		
	TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 57 tons		
		19.2 KY 604	26.0 Ohio CO LN
[*	US 62	8.8 KY 189	10.5 KY 176
		17.9 US 431	26.0 Ohio CO LN]
	Weight Limit - Bridge over I.C. RR @ milepoint 24.71		
	TY I = 20 tons, TY II = 28 tons, TY III = 28 tons, TY IV = 36 tons		
*	US 431	11.5 KY 176 [9.8 KY 70]	25.5 Mine
	Weight limit - Bridge over Pond Creek @ milepoint 12.45		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Western KY Parkway @ milepoint 17.48		
	TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 60 tons		
[*	KY 70	0.0 Hopkins CO LN	15.4 US 431
	Weight Limit - Bridge over Pond River @ milepoint 0.20		
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Isaac Creek @ milepoint 3.50		
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons]		
*	KY 70	23.6 Barge Dock	23.8 Butler CO
		[15.4 US 431	23.8 Butler CO LN]
	Weight Limit - Bridge over Mud River @ milepoint 23.75		
	TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 46 tons		
*	KY 176	0.0 US 62	12.5 T V A Paradise Plant
	Weight Limit - Bridge over Pond Creek @ milepoint 4.29		
	TY I = 20 tons, TY II = 40 tons, TY III = 40 tons, TY IV = 60 tons		
[*	KY 181	15.2 Western KY PKWY	17.5 Mine]
*	KY 189	6.0 Mine Access	8.8 US 62
*	KY 277	2.6 KY 602	3.8 KY 1379
*	KY 602	0.0 KY 277	0.7 US 431
*	KY 604	0.0 US 431	1.0 US 62
	Weight Limit - Bridge over Western Kentucky Parkway @ milepoint 0.34		
	TY I = 20 tons, TY II = 28 tons, TY III = 29 tons, TY IV = 39 tons		
*	KY 1379	0.0 KY 277	0.5 Prep Plant Access
	Weight Limit - Bridge over Unnamed Stream @ milepoint 0.25		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	Wilcox Cemetery Road		
	CR 5003	0.0 US 421	0.6 Mine
[*	Cleaton-Green River Road		
	CR 5022	0.0 US 62	2.4 Gibraltar Haul RD
*	Gibraltar Haul Road		
	CR 5040	0.0 Cleaton-Green River RD	0.2 Mine]
*	Green River Power Plant Road		
	CR 5045	0.0 US 431	0.7 KY Utilities Plant

[* Caney Creek Mine Road			
CR 5103	0.0 KY 176		0.7 Prep Plant & Mine
* Vogue Haul Road			
CR 5389	0.0 Henry Oaks Road		0.8 Vogue Road]
* Henry Oates [Oaks] Road			
CR 5392	0.0 US 62 [2.3 Mine]		2.3 Mine [4.5 Vogue Haul Road]
[* Vogue Road			
CR 5407	0.0 Vogue Haul Road		1.6 Tipple]

NELSON COUNTY

	ROAD	FROM	TO
*	Bluegrass PKWY	33.3 KY 55	39.3 Washington CO LN
	Weight Limit - Bridge over Chaplin River @ milepoint 39.25		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	US 31E	15.4 KY 245	27.6 Spencer CO LN
	Weight Limit - Bridge over Powell Run @ milepoint 26.99		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	US 62	15.9 KY 245	25.0 KY 55
	Weight Limit - Bridge over East Fork of Simpson Creek @ milepoint 24.96		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	KY 55	3.1 Bluegrass Parkway	3.8 US 62
	Weight Limit - Bridge over East Fork of Simpson Creek @ milepoint 3.77		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	KY 245	0.0 US 62	1.0 US 31E

NICHOLAS COUNTY

	ROAD	FROM	TO
*	US 68	0.0 Bourbon CO LN	12.2 Robertson CO LN
	Weight Limit - Bridge over Stony Creek @ milepoint 9.72		
	TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons		

OHIO COUNTY

	ROAD	FROM	TO
*	Western KY PKWY	74.6 US 231	76.8 Green River Parkway
		[65.7 Muhlenberg CO LN	87.4 Butler CO LN]
	[Weight Limit - Bridge over Lewis Creek @ milepoint 69.75		
	TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons		
	Weight Limit - Bridge over KY 369 @ milepoint 72.43		
	TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 49 tons]		
	Weight Limit - Bridge over US 231 @ milepoint 74.56		
	TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Arnold-Butler Road @ milepoint 85.72		
	TY I = 20 tons, TY II = 42 tons, TY III - 44 tons, TY IV = 60 tons		
*	Green River PKW	35.1 Butler CO LN	59.5 Daviess CO LN
	Weight Limit - Bridge over Rough River @ milepoint 49.34		
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 54 tons		
*	US 62	0.0 Muhlenberg CO LN	19.0 [15.5] Horton-MT Pleasant RD
	Weight Limit - Bridge over Green River @ milepoint 0.01		
	TY I = 20 tons, TY II = 27 [31] tons, TY III = 32 tons, TY IV = 38 [41] tons		
	Weight Limit - Bridge over Lewis Creek @ milepoint 1.45		
	TY I = 20 tons, TY II = 32 tons, TY III = 32 tons, TY IV = 57 tons		
	Weight Limit - Bridge over Branch of Three Lick Fork @ milepoint 11.91		
	TY I = 20 tons, TY II = 33 tons, TY III = 35 tons, TY IV = 49 tons		
	Weight Limit - Bridge over Three Lick Fork @ milepoint 12.03		
	TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Muddy Creek @ milepoint 12.30		
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 59 tons		
	Weight Limit - Bridge over Elmlick Creek @ milepoint 14.95		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 53 tons		
*	US 231	0.0 Butler CO LN	10.0 US 62 (South)
		10.0 US 62 (North)	24.3 Daviess CO LN
	Weight Limit - Bridge over North Fork Muddy Creek @ milepoint 12.30		
	TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 59 tons		
	Weight Limit - Bridge over Barnett Creek @ milepoint 20.30		
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons		
*	KY 69	6.9 Mine	7.6 KY 85 (South)
		13.7 US 231 (South)	15.4 Country Club Road
*	KY 85	7.2 [7.3] KY 69 (East)	11.3 [11.4] US 62
	Weight Limit - Bridge over Branch West Fork Lewis Creek @ milepoint 9.62		
	TY I = 20 tons, TY II = 33 tons, TY III = 35 tons, TY IV = 56 tons		
[*	KY 269	0.8 Schultztown-Cool SP RD	5.6 US 231
*	KY 1245	4.6 Pyramid Washer	5.2 James RD]
*	KY 1414	14.0 Sugar Grove RD	15.7 KY 54
*	KY 1903	0.0 US 62	0.9 Lewis Creek Dock

*	Sunnydale Road		
	CR 5076	8.3 Sugar Grove RD	8.4 Sugar Grove RD
*	Sugar Grove Road		
	CR 5077	0.0 KY 1414	1.5 Sunnydale RD
		1.5 Sunnydale RD	2.0 Mine
*	Horton-Mount Pleasant Road		
	CR 5125 [5124]	0.0 US 62	0.1 Southwind Tipple
	Weight Limit - Bridge over Pigeon Creek		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
[*	Daniels Mine Road (West)		
	CR 5206A	0.0 US 62	1.6 Brown Badgett Mine
		1.7 Southwind Mine	2.9 US 62
*	Schultztown-Cool Springs Road		
	CR 5267	2.5 KY 269	3.6 Green Mine
*	Lone Star Road		
	CR 5313	0.0 KY 69	1.1 Tipple
*	James Road		
	CR 5322	0.0 US 62	0.5 KY 1245
	Weight Limit - Bridge over Railroad Ditch		
	TY I = 4 tons, TY II = 4 tons, TY III = 4 tons, TY IV = 4 tons		
	Weight Limit - Bridge over Render Creek		
	TY I = 3 tons, TY II = 3 tons, TY III = 3 tons, TY IV = 3 tons]		
*	Whoopee Hill Road		
	CR 5356	0.0 US 231	1.5 Rone RD
*	Rone Road		
	CR 5356A	0.0 Whoopee Hill RD	0.5 Mine
*	Maple Lake Road (Old Martin-Dodson Cemetery Road)		
	CR 5373	0.1 [0.0] US 231	0.7 [0.6] Mine

OWSLEY COUNTY

	ROAD	FROM	TO
*	KY 11	0.0 Clay CO LN	10.8 KY 1938 [17.3 Lee CO LN]
	Weight Limit - Bridge over Sexton Creek @ milepoint 1.80		
	TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 53 tons		
	Weight Limit - Bridge over Island Creek @ milepoint 4.02		
	TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 56 tons		
	Weight Limit - Bridge over White Oak Creek @ milepoint 6.18		
	TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 49 tons		
*	KY 30	0.0 Jackson CO LN	10.8 [5.2] KY 847
	Weight Limit - Bridge over Little Sturgeon Creek @ milepoint 3.42		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Little Sturgeon Creek @ milepoint 4.88		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Little Sturgeon Creek @ milepoint 5.15		
	TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons		
		[9.4 Venable School Road	11.2 KY 11 @ Levi]
*	KY 847	4.3 Bowman Branch RD [0.0 KY 30]	7.2 KY 30 [4.3 Bowman Branch RD]
	Weight Limit - Bridge over Buck Creek @ milepoint 6.34		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	Hurricane Branch Road		
	CR 5301	0.0 Bowman Branch Road	1.1 Denham & Lewis Mine
*	Bowman Branch Road		
	CR 5303	0.0 KY 847	0.3 Hurricane Branch RD
[*	Venable School Road		
	CR 5316	0.0 KY 30	0.4 Apex Mine
*	The Judd Road		
	CR 5323	2.2 Manious Road	2.4 KY 30]

PENDLETON COUNTY

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

PERRY COUNTY

	ROAD	FROM	TO
*	Daniel Boone Parkway		
		51.0 Leslie CO LN	59.1 KY 15
*	KY 7	0.0 KY 15	13.6 Letcher CO LN
	Weight Limit - Bridge over Maces @ milepoint 2.44		
	TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 53 tons		
*	KY 15	0.0 Knott CO LN	25.2 Breathitt CO LN
	Weight Limit - Bridge over Main Street, Carr Fork, & L&N RR @ milepoint 0.20		
	TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 55 tons		
	Weight Limit - Bridge over Carr Fork & L&N RR @ milepoint 3.37		
	TY I = 20 tons, TY II = 45 tons, TY III = 48 tons, TY IV = 55 tons		
	Weight Limit - Bridge over L&N RR @ milepoint 13.17		
	TY I = 20 tons, TY II = 45 tons, TY III = 50 tons, TY IV = 55 tons		
	Weight Limit - Bridge over KY 80, N Fork KY River @ milepoint 13.57		
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 49 tons		
	Weight Limit - Bridge over First Creek & L&N RR @ milepoint 15.95		
	TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 56 tons		
*	KY 28	3.5 Buckhorn-Breathitt RD	6.0 Breathitt CO LN
		6.0 Breathitt CO LN	18.1 KY 15
	Weight Limit - Bridge over Grapevine Creek @ milepoint 15.02		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons		
*	KY 80	0.0 Leslie CO LN	7.9 KY 15 Underpass [4.6 KY 451]
	Weight Limit - Bridge over Right Fork of Big Creek @ milepoint 1.57		
	TY I = 20 tons, TY II = 25 tons, TY III = 28 tons, TY IV = 46 tons		
	Weight Limit - Bridge over Big Creek @ mile point 5.27		
	TY I = 20 tons, TY II = 27 tons, TY III = 30 tons, TY IV = 44 tons		
	Weight Limit - Bridge over L & N R.R. & Kentucky River @ milepoint 7.09		
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 43 tons		
		7.9 D Boone Parkway & KY 15	15.9 Knott CO LN
[*	KY 221	0.0 Harlan CO LN	0.5 Leslie CO LN]
*	KY 451	5.0 Mine	7.7 Daniel Boone Parkway
		7.7 Daniel Boone PKWY	7.8 KY 80
		7.8 KY 80	10.9 KY 2021
*	KY 463	1.4 Jackson Fork RD	6.5 KY 699
	Weight Limit - Bridge over Leatherwood Creek @ milepoint 6.34		
	TY I = 20 tons, TY II = 42 tons, TY III = 44 tons, TY IV = 60 tons		
*	KY 476	2.0 KY 550	2.4 Black Gold Tipple
	Weight Limit - Bridge over Lotts Creek @ milepoint 2.07		
	TY I = 20 tons, TY II = 19 tons, TY III = 20 tons, TY IV = 30 tons		
	Weight Limit - Bridge over Lotts Creek @ milepoint 2.22		
	TY I = 20 tons, TY II = 21 tons, TY III = 22 tons, TY IV = 29 tons		
		2.9 KY 1088	18.1 Mine
[*	KY 476	3.9 KY 1146 (South)	14.2 KY 1146 (North)
		7.5 Dwarf-Engle Ford Road	22.3 Breathitt CO LN]
	Weight Limit - Bridge over Jake's Creek @ milepoint 3.65		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over Troublesome Creek @ milepoint 8.72		
	TY I = 20 tons, TY II = 24 tons, TY III = 27 tons, TY IV = 38 tons		
	Weight Limit - Bridge over Ball Fork @ milepoint 12.36		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 54 tons		
	[Weight Limit - Bridge over Troublesome Creek @ milepoint 18.30		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons]		
		22.2 Buckhorn Creek Road	22.3 Breathitt CO LN
*	KY 550	0.0 KY 15 & KY 80	2.5 KY 476
	Weight Limit - Bridge over Big Leather Creek @ milepoint 2.4		
	TY I = 20 tons, TY II = 35, TY III = 36 tons, TY IV = 48 tons		
*	KY 699	0.0 Leslie CO LN	4.8 KY 463 [12.5 KY 7]
	Weight Limit - Bridge over Leatherwood Creek @ milepoint 4.75		
	TY I = 20 tons, TY II = 33 tons, TY III = 35 tons, TY IV = 57 tons		
		6.5 Beech Fork RD	12.5 KY 7
	Weight Limit - Bridge over Leatherwood Creek @ milepoint 8.01		
	TY I = 20 tons, TY II = 38 tons, TY III = 38 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Big Leather Creek @ milepoint 10.77		
	TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 60 tons		
*	KY 1087	0.0 KY 476	0.7 Lick Branch RD
*	KY 1088	0.0 KY 476	1.1 Mine
*	KY 1095	0.4 Emmons Tipple [0.0 Montgomery Creek RD]	2.9 KY 15
	Weight Limit - Bridge over Carr Fork @ milepoint 2.55		
	TY I = 18 tons, TY II = 19 tons, TY III = 22 tons, TY IV = 31 tons		
*	KY 1096	0.0 KY 80	4.0 Whitaker Tipple
	Weight Limit - Bridge over Big Creek @ milepoint 0.02		
	TY I = 20 tons, TY II = 40 tons, TY III = 38 tons, TY IV = 46 tons		
	Weight Limit - Bridge over Big Creek @ milepoint 3.55		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		

*	KY 1146	2.2 Jakes Fork Tipple	2.7 KY 476
	Weight Limit - Bridge over Trace Fork @ milepoint 2.69		
	TY I = 20 tons, TY II = 28 tons, TY III = 31 tons, TY IV = 31 tons		
		2.7 KY 476	4.0 KY 80
		4.0 KY 80	4.6 Buckhorn Prep Plant
*	KY 2021	1.1 Beech Oak Branch	3.4 KY 451
*	KY 3196	0.0 Beech Fork RD	0.1 KY 699
	Weight Limit - Bridge over Leatherwood Creek @ milepoint 0.01		
	TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons		
*	KY 3348	0.1 Little Leatherwood Creek RD	3.9 KY 699
	Weight Limit - Bridge over Little Leatherwood Creek @ milepoint 1.44		
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons		
	Weight Limit - Bridge over Little Leatherwood Creek @ milepoint 2.32		
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons		
*	Wayne Davidson Road		
	CR 5005	0.3 Cumberland Elk Tipple	0.5 KY 15
*	Dwarf-Engle Fork Road		
	CR 5032	0.0 KY 476	0.1 Highland Coal Mine
*	Coates Branch Road		
	CR 5044	0.0 Ky 476	0.5 Ball Branch Mine
*	Lick Branch Road		
	CR 5045	0.0 KY 1087	0.6 Star Fire Mine
[*	Cockerell Fork-Noble Branch Road		
	CR 5050	0.0 KY 476	1.7 Shamrock Coal Mine]
*	Buckhorn Creek Road		
	CR 5070	0.0 KY 476	0.1 Breathitt CO LN
	Weight Limit - Bridge over Troublesome Creek		
	TY I = 16 tons, TY II = 16 tons, TY III = 16 tons, TY IV = 16 tons		
[*	Jeff-Knott County Line Road		
	CR 5100	0.0 Old KY 15 Loop #1 RD	2.4 Lake Coal Mine]
*	Old KY 15 Loop #1 Road		
	CR 5102	0.0 KY 15	0.2 Kentucky Prince Tipple
			[0.5 Jeff-Knott CO LN RD]
	[Weight Limit - Bridge over North Fork of Kentucky River		
	TY I = 10 tons, TY II = 10 tons, TY III = 10 tons, TY IV = 10 tons]		
*	Oakwood Avenue-Stacy Branch Road		
	CR 5117	0.0 Main ST (Vicco)	1.3 Chester Tipple
*	Main Street (Vicco)		
	CR 5118B	0.0 KY 1095	0.2 Oakwood Ave-Stacey Branch RD
			[0.6 Knott CO LN]
*	Kelly Fork Road		
	CR 5119	0.0 KY 1095	0.4 Emmons Tipple
[*	Montgomery Creek Road		
	CR 5120	0.0 Letcher CO LN	1.5 KY 1095
*	Left Fork Maces Creek Road		
	CR 5131	0.0 KY 1165	1.1 Leemike Mine
*	Little Leatherwood Creek Road		
	CR 5139	0.0 KY 699	5.7 Blue Diamond Mine
	Weight Limit - Bridge over Straight Fork		
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons		
	Weight Limit - Bridge over Little Leatherwood Creek		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over Little Leatherwood Creek		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons]		
*	Straight Fork Road		
	CR 5140	0.0 Little Leatherwood Creek RD	0.5 Mine
*	Beech Fork Road		
	CR 5146	0.0 KY 3196	3.0 Lee Mine
*	Jackson Fork Road		
	CR 5152	0.0 KY 463	0.4 Blue Diamond Mine
*	Beech Oak Branch Road		
	CR 5213	0.0 KY 2021	0.9 Mine
[*	Coal Waste Road		
	CR 5237	0.0 KY 699	0.8 Leatherwood Lookout TWR RD
*	Leatherwood Lookout Tower Road		
	CR 5238	0.0 Coal Waste RD	2.2 Leslie CO LN]
*	Sam Campbell Branch Road (Old Pigeon Roose-Hull School RD)		
	CR 5319	0.0 KY 15	4.8 Dun Raven Tipple
*	Clear Fork Road		
	CR 5320	0.0 KY 28	2.3 Sam Campbell BR RD
*	Barwick Road		
	CR 5330	0.0 KY 28	0.8 Breathitt CO LN
*	Right Fork Spencer Creek Road		
	CR 5332	0.0 Spencer Creek-Napfor BR RD	1.0 Vires Coal Mine

* Spencer Creek-Napfor Branch Road
CR 5333 0.0 KY 28 1.9 Pine Branch Mine
* Buckhorn-Breathitt County Line Road
CR 5349 0.0 KY 28 0.4 Mine [1.2 Kescoal Mine]

PIKE COUNTY

	ROAD	FROM	TO
*	US 23	0.0 Letcher CO LN	39.6 Floyd CO LN
	(Via Old US 23 at Pikeville, Does not include new cut through)		
	Weight Limit - Bridge over Shelby Creek @ milepoint 17.23		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over Little Creek @ milepoint 18.12		
	TY I = 20 tons, TY II = 34 tons, TY III = 33 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Shelby Creek @ milepoint 19.75		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over C&O RR & Levisa Fork @ milepoint 22.00		
	TY I = 20 tons, TY II = 30 tons, TY III = 31 tons, TY IV = 47 tons		
*	New US 23 (Pikeville Cut Through)		
		0.0 US 23 (South) [KY 1384]	2.7 [1.4] US 23 NW of Pikeville
*	US 119	0.0 US 23 (North of Pikeville)	29.7 W. Va. State LN
	Weight Limit - Bridge over Raccoon Creek @ milepoint 6.61		
	TY I = 18 tons, TY II = 20 tons, TY III = 23 tons, TY IV = 40 tons		
	Weight Limit - Bridge over John's Creek @ milepoint 7.94		
	TY I = 20 tons, TY II = 21 tons, TY III = 24 tons, TY IV = 37 tons		
	Weight Limit - Bridge over Bent Branch @ milepoint 9.99		
	TY I = 20 tons, TY II = 35 tons, TY III = 37 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Bent Branch @ milepoint 10.23		
	TY I = 13 tons, TY II = 13 tons, TY III = 13 tons, TY IV = 13 tons		
	Weight Limit - Bridge over Bent Branch @ milepoint 10.88		
	TY I = 12 tons, TY II = 12 tons, TY III = 12 tons, TY IV = 12 tons		
	Weight Limit - Bridge over Bent Branch @ milepoint 11.25		
	TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Bent Branch @ milepoint 11.40		
	TY I = 20 tons, TY II = 20 tons, TY III = 23 tons, TY IV = 40 tons		
	Weight Limit - Bridge over Bent Branch @ milepoint 11.63		
	TY I = 11 tons, TY II = 11 tons, TY III = 11 tons, TY IV = 11 tons		
	Weight Limit - Bridge over Fork of Big Creek @ milepoint 16.41		
	TY I = 20 tons, TY II = 35 tons, TY III = 36 tons, TY IV = 60 tons		
	Weight Limit - Bridge over Big Creek @ milepoint 17.06		
	TY I = 20 tons, TY II = 23 tons, TY III = 24 tons, TY IV = 27 tons		
	Weight Limit - Bridge over Reed Fork @ milepoint 18.48		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over Big Creek @ milepoint 20.13		
	TY I = 20 tons, TY II = 24 tons, TY III = 28 tons, TY IV = 47 tons		
	Weight Limit - Bridge over Tug River @ West Virginia State Line @ milepoint 29.7		
	TY I = 20 tons, TY II = 45 tons, TY III = 45 tons, TY IV = 52 tons		
*	Old US 119	0.0 US 23 @ Ferguson Creek	2.8 US 119 West of Zebulon
*	US 460	0.0 US 23	24.0 Virginia State LN
	Weight Limit - Bridge over Levisa Fork @ milepoint 4.26		
	TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 46 tons		
*	KY 80	0.0 US 460	6.9 Virginia State LN
	Weight Limit - Bridge over Russell Fork of Big Sandy @ milepoint 3.07		
	TY I = 20 tons, TY II = 41 tons, TY III = 42 tons, TY IV = 57 tons		
	Weight Limit - Bridge over Russell Fork & Clinchfield R.R. @ milepoint 3.60		
	TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 57 tons		
*	KY 122	3.3 Arnold Fork Road Mine	10.4 US 23
	Weight Limit - Bridge over Robinson Creek @ milepoint 6.75		
	TY I = 20 tons, TY II = 36 tons, TY III = 37 tons, TY IV = 53 tons		
	Weight Limit - Bridge over Bear Fork north of Jones Chapel @ milepoint 8.28		
	TY I = 20 tons, TY II = 36 tons, TY III = 39 tons, TY IV = 60 tons		
*	KY 194	0.0 Floyd CO LN	16.8 US 119 (South)
		16.8 US 119 (North)	27.8 [41.3 Kyber Coal] Mine
	Weight Limit - Bridge over John's Creek @ milepoint 25.62		
	TY I = 20 tons, TY II = 28 tons, TY III = 30 tons, TY IV = 48 tons		
		29.6 KY 3418	40.0 KY 1499
		52.4 Prater Branch RD	55.7 KY 632 @ Phelps
		[47.2 H K Corp Mine	55.7 KY 632 @ Phelps]
	[Weight Limit - Bridge over Peter Creek @ milepoint 51.37		
	TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 60 tons]		
		67.3 Mine [66.5 Lynntrough Branch RD]	67.7 KY 2062
		69.6 KY 2059	73.2 Virginia State LN
*	KY 195	0.0 KY 197	11.6 US 460
	Weight Limit - Bridge over Brushy Branch @ milepoint 3.27		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		

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

*	KY 197	9.8 KY 195 [5.6 Fountain Blue Mine]	16.6 KY 80

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

*	KY 199	8.2 KY 1056	11.6 US 119

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

*	KY 292	0.0 Goody-AFLX-BURNWL RD	4.8 US 119 (South)
		4.8 US 119 (North)	12.7 Martin CO LN
*	KY 319	0.0 US 119 [3.8 KY 1056 @ Nampa]	7.0 KY 1056 @ Ransom [12.3 US 119]

[Weight Limit - Bridge over Blackberry Creek @ milepoint 4.40
TY I = 20 tons, TY II = 43 tons, TY III = 45 tons, TY IV = 60 tons]
Weight Limit - Bridge over Blackberry Fork North of Hardy [@ milepoint 10.33]
TY I = 3 tons, TY II = 3 tons, TY III = 3 tons, TY IV = 3 tons

*	KY 468	0.0 US 119	13.6 KY 292
*	KY 610	0.0 US 23	2.6 Myra Tipple [2.7 Burk BR RD]

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

		8.1 KY 1460 [8.0 Virgie Tipple]	8.9 KY 122

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

*	KY 611	0.0 KY 195	3.5 Henry Clay Mine
		4.3 Little Fork-Left Fork RD	6.0 US 23
*	KY 612	0.0 KY 468	3.6 Mine
		6.6 Mine	8.4 KY 292
[*	KY 612	0.0 Turkey CK-Long FK RD	1.6 Sukey Fork RD]
*	KY 632	0.0 KY 194 @ Kimper	15.0 KY 194 @ Phelps

Weight Limit - Bridge over Johns Creek @ milepoint 1.19
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons
Weight Limit - Bridge over Peter Creek @ milepoint 14.96
TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 60 tons

*	KY 881	0.0 US 119	3.0 Brushy Fork Road
*	KY 1056	0.0 KY 199	11.6 W.Vir. ST LN [7.7 KY 319 (N)]

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

		[7.7 KY 319 (South)	10.1 West Virginia State LN]

Weight Limit - Bridge over Tug Fork Big Sandy River @ milepoint 11.5 [10.10]
TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 53 tons

*	KY 1373	4.8 Card Creek-Card Knob Road	6.7 US 460
*	KY 1384	0.0 US 23 @ Boldman	6.1 KY 3417
		[0.2 Peter Fork #2 Tipple	3.8 Dog Fork-Hurricane CR RD
		6.0 Clark Elkhorn Mine	7.3 New US 23]
*	KY 1426	0.0 Floyd CO LN [US 23]	4.9 US 23 [Floyd CO LN]
*	KY 1441	0.0 KY 1789	3.9 Mine
		4.4 Standard Elkhorn Mine	10.1 US 119

Weight Limit - Bridge over Pompey Creek @ milepoint 0.21
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons
Weight Limit - Bridge over Raccoon Creek @ milepoint 4.79
TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 60 tons
Weight Limit - Bridge over Raccoon Creek @ milepoint 6.04
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons
Weight Limit - Bridge over Raccoon Creek @ milepoint 7.96
TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 60 tons
Weight Limit - Bridge over Burning Fork Creek @ milepoint 10.00
TY I = 20 tons, TY II = 39 tons, TY III = 41 tons, TY IV = 58 tons

*	KY 1469	4.5 KY 3414 [6.0 KY Elkhorn Mine]	11.4 KY 610
		11.4 KY 610	12.2 KY Elkhorn Tipple
*	KY 1499	0.0 US 460	6.1 KY 194

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

*	KY 1758	6.8 Daugherty Tipple	7.8 KY 632
*	KY 1789	0.0 US 460	1.1 KY 1441 [0.4 Clark Elkhorn #1 Tipple]

*	KY 2059	0.0 KY 194	0.3 Private Haul Road
		1.6 Private Haul Road	2.3 Lower Elk Creek RD
*	KY 2061	0.0 US 23	7.1 KY 194 [3.4 Hawkeye Mine]
	Weight Limit - Bridge over Cowpen Creek @ milepoint 0.81		
	TY I = 18 [20] tons, TY II = 19 [39] tons, TY III = 22 [41] tons, TY IV = 36 [60] tons		
	Weight Limit - Bridge over Caney Fork of Johns Creek @ milepoint 6.72		
	TY I = 10 tons, TY II = 10 tons, TY III = 10 tons, TY IV = 10 tons		
	Weight Limit - Bridge over Johns Creek @ milepoint 7.11		
	TY I = 20 tons, TY II = 36 tons, TY III = 38 tons, TY IV = 60 tons		
*	KY 2062	0.0 KY 194 @ Jamboree	3.1 KY 194 @ Stopover
*	KY 2552	0.0 US 23	0.3 Shelbiana RD
	Weight Limit - Bridge over Shelby Creek @ milepoint 0.01		
	TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 39 tons		
*	KY 3154	0.0 [0.2] Meathouse Branch RD	2.7 [0.5] US 119
*	KY 3226	0.0 Rockhouse Creek-Greasy RD	3.3 US 460
*	KY 3227	0.0 US 23	1.0 Coal Run Tipple
*	KY 3414	2.4 Mine	3.4 KY 1469
*	KY 3415	0.0 Robinson Creek RD	2.8 KY 122
	Weight Limit- Bridge over Robinson Creek @ milepoint 0.4		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over Robinson Creek @ milepoint 0.6		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	KY 3416	0.0 Island Creek RD	1.7 KY 1426
*	KY 3417	0.0 KY 1426	1.1 KY 1384
*	KY 3418	7.4 Hurricane Creek RD	10.1 KY 194
*	KY 3419	4.9 KY 632	6.0 Kentucky Carbon Scales
		10.5 Mine	12.0 KY 1056
	Weight Limit - Bridge over Left Fork of Blackberry Creek @ milepoint 11.47		
	TY I = 20 tons, TY II = 29 tons, TY III = 31 tons, TY IV = 46 tons		
	Weight Limit - Bridge over Blackberry Creek @ milepoint 12.01		
	TY I = 20 tons, TY II = 37 tons, TY III = 48 tons, TY IV = 60 tons		
*	Frozen Creek Road		
	CR 5004	0.0 KY 1441	2.4 Mine
[*	Grassy Branch Road		
	CR 5005	0.0 KY 1441	0.5 Branson Coleman Mine]
*	Winn Branch Road		
	CR 5011	0.0 US 119	1.3 Chloe Creek Dev Mine
	Weight Limit - Bridge over Little Ratliff Creek		
	TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons		
*	Varney Branch Road		
	CR 5021	0.0 KY 194 South of Deskin	0.4 Utility Tipple
*	Meathouse Fork Road		
	CR 5022	0.0 KY 194 @ Deskin	0.8 Callahan Branch-Dix Fork RD
			[1.3 Rockhouse FK-Pigeon CR RD]
*	Callahan Branch-Dix Fork Road		
	CR 5023	0.0 Meathouse Fork RD	1.0 Mine
[*	Rockhouse Fork-Pigeon Creek Road		
	CR 5024	0.0 Meathouse FK RD	1.0 Ridgeway Coals Mine]
*	Meathouse Branch Road		
	CR 5025	0.0 KY 3154	0.6 Mine
			[3.2 Ember and K-Line Mines]
*	Peg Branch Road		
	CR 5043	0.0 US 119	0.6 Eastern Coal Mine
*	Goody-Aflex-Burnwell Road		
	CR 5050	0.0 KY 292	0.8 Mine [1.1 Harbour Marine MN]
[*	Turkey Creek-Long Fork Road		
	CR 5062	0.0 KY 468	3.1 KY 612
*	Sukey Fork Road		
	CR 5063	0.0 KY 612	0.5 Coal Mac Mine]
*	Bent Branch Road		
	CR 5074	0.0 KY 468	1.1 Gex Tipple
	Weight Limit - Bridge over Big Creek		
	TY I = 18 tons, TY II = 18 tons, TY III = 20 tons, TY IV = 32 tons		
*	Swinge Camp Branch Road		
	CR 5075	0.0 KY 468	0.4 H Mar/Island Mines
	Weight Limit - Bridge over Big Creek		
	TY I = 3 ton, TY II = 3 ton, TY III = 3 ton, TY IV = 3 ton		
*	Halfway Branch Road		
	CR 5077	0.0 KY 468	0.5 Island Creek Mine
*	Rockhouse Fork Road		
	CR 5078	0.0 KY 468	0.4 Island Creek Mine
	Weight Limit - Bridge over Big Creek		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		

* Brushy Fork Road
CR 5095 0.0 KY 881 0.5 Addington Mine
Weight Limit - Bridge over Left Fork of Brushy Fork
TY I = 20 tons, TY II = 26 tons, TY III = 26 tons, TY IV = 26 tons
16.1 Big Branch/Meathouse Creek RD 16.8 Floyd CO LN
* Big Branch/Meathouse Creek Road
CR 5111 2.4 Mine [0.0 Martin CO LN] 4.2 Brushy Fork RD
[2.7 Little Fork Mine]
* Miller Creek Road
CR 5123 3.6 Miller Creek Tipple 5.1 KY 194
Weight Limit - Bridge over Johns Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
[* Joes Creek Road
CR 5127 0.0 KY 194 0.4 Liberty Mine
Weight Limit - Bridge over Johns Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons]
* Lick Branch Road
CR 5141 0.0 KY 468 0.8 Jex Big Hill Mine
[* Fishtrap Ridgeline Road
CR 5160 0.0 KY 194 2.7 Hurricane Creek Road]
* Hurricane Creek Road
CR 5162 2.5 Wellmore Mine 3.7 KY 3418
[Fishtrap Ridgeline RD]
* Dicks Fork Road
CR 5163 0.0 KY 194 @ Phyliss 0.6 Big Fist #4 Mine
* Lane Branch Road
CR 5168 0.0 KY 632 1.2 McCoy Elkhorn Mine
[* Mullen Fork Road
CR 5191 0.0 KY 199 2.1 St Johnsbury Mine
Weight Limit - Bridge over Pond Creek
TY I = 18 tons, TY II = 18 tons, TY III = 18 tons, TY IV = 18 tons]
* Hatfield Branch Road
CR 5210 0.0 KY 319 0.8 Blackberry CR Mine
[* Left Fork/Blackberry Road
CR 5213 0.0 KY 1056 1.5 H Mar/Eastern Mines
Weight Limit - Bridge over Right Fork Blackberry Creek
TY I = 20 tons, TY II = 37 tons, TY III = 48 tons, TY IV = 60 tons
* Blue Springs Branch Road
CR 5218 0.0 KY 1056 0.1 Blackberry CR Mine
Weight Limit - Bridge over Blackberry Creek
TY I = 16 tons, TY II = 16 tons, TY III = 16 tons, TY IV = 16 tons
* Lynntrough Branch Road
CR 5233 0.0 KY 194 1.2 Majestic Mine]
* Lower Elk Creek Road
CR 5241 0.0 KY 2059 0.6 Race Fork Mine
* Prater Branch Road
CR 5253 0.0 KY 194 0.8 Majestic Mine
[* Calloway Branch Road
CR 5260 0.0 KY 632 1.1 KY Carbon Scales]
* Old Mouth Card-Feds Creek Road
CR 5282 0.0 US 460 0.3 Flannary Branch RD
* Flannary Branch Road
CR 5283 0.0 Old Mouth Card-Feds CR RD 0.2 Mouth Card Mines
* Card Creek-Card Knob Road
CR 5285 0.0 KY 1373 0.7 Clark Elkhorn Mine
1.6 Wellmore Mine 4.6 US 460
* Island Creek Road
CR 5287 0.0 Bane Tipple 0.6 Island Creek-Grapevine RD
* Island Creek-Grapevine Road
CR 5288 0.0 Island Creek Road 1.8 Millers CR RD
* Left Fork/Island Creek Road
CR 5289 0.0 Island Creek-Grapevine RD 0.2 Flannary Coal Mine
* Millers Creek [Branch] Road
CR 5290 0.0 Island Creek-Grapevine RD 2.4 Flannary Coal Mine
* Hopkins Creek Road
CR 5322 0.0 US 460 1.0 Hopkins Creek Tipple
Weight Limit - Bridge over Levisa Fork
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
* Daniel Branch Road
CR 5326 0.0 US 460 0.4 Mine
* Biggs Creek Road
CR 5327 0.0 US 460 1.9 Mine
* Little Fork of Harless Creek Road
CR 5329 0.0 Harless Creek RD 1.0 Mine

* Harless Creek Road		
CR 5330	0.0 US 460	1.5 Wellmore Mine
[* Left Fork Wolfpit Branch Road		
CR 5333	0.0 Wolf Branch-Gardner Fork Road	0.8 Wellmore Mine]
* Jimmie Creek Road		
CR 5341	0.0 US 460	0.6 Wellmore Mine
* Old US 460 Loop #2 Road		
CR 5353	0.3 Potter Coal Mine	0.8 US 460
* Shortridge Fork Road		
CR 5355	0.4 Wellmore Mine	0.9 Wellmore Private RD
* Abes Fork Road		
CR 5356	0.0 Virginia State LN	0.4 Potter Prep Plant
* Ohio Street (Elkhorn City)		
CR 5361T	0.0 KY 80	0.5 Potter Processing
* Old Bridge Street (Elkhorn City)		
CR 5361Z	0.0 KY 80	0.1 Private Access Road
* John Moore Branch Road		
CR 5363	0.0 KY 197	0.9 Federal Tipple
* Jackson Branch Road		
CR 5371	0.0 KY 197	1.9 Mine [1.7 C & D Coal Mine]
* Brushy Branch Road		
CR 5379	0.0 KY 195	0.8 Ratliff Elkhorn Mine
* Marrowbone Creek Road		
CR 5381	0.0 KY 195	2.1 Lad/Prospect Mine
Weight Limit - Bridge over Marrowbone Creek		
TY I = 18 tons, TY II = 18 tons, TY III = 18 tons, TY IV = 18 tons		
* Bowling Fork Road		
CR 5384	0.0 KY 195	1.7 Nats Fork RD
		[1.9 Henry Clay Mine]
* Marshall Branch Road		
CR 5399	0.0 US 23	0.3 Letcher CO LN
	0.3 Letcher CO LN	0.8 Mine
* Little Fork/Left Fork Road		
CR 5416	0.0 KY 611	0.2 Henry Clay Mine
* Rockhouse Creek/Greasy Road		
CR 5422	0.0 KY 195	2.6 Mine [0.3 Bad Fork RD]
Weight Limit - Bridge over Marrowbone Creek		
	5.3 Joe Brown RD	6.3 KY 3226
* Joe Brown Road		
CR 5429	0.0 Rockhouse Creek Greasy RD	0.3 Mine
* Prichard Branch Road		
CR 5430	0.0 Wolfpit Branch-Gardiner Fork RD	0.5 Mine
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
* Wolfpit Branch-Gardner Fork Road		
CR 5433	5.1 Prichard Branch RD [0.0 KY 195]	6.3 KY 3226
		[0.9 Left Fork Wolfpit BR RD]
[Weight Limit - Bridge over Wolfpit Branch		
TY I = 3 tons, TY II = 3 tons, TY III = 3 tons, TY IV = 3 tons		
Weight Limit - Bridge over Wolfpit Creek		
TY I = 3 tons, TY II = 3 tons, TY III = 3 tons, TY IV = 3 tons]		
* Wolfpen Branch Road		
CR 5444	0.0 KY 80	0.8 Wellmore Mine
[* Red Creek Road		
CR 5463	0.0 US 460	0.8 Right FK/Red CK RD
* Right Fork/Red Creek Road		
CR 5465	0.0 Red Creek Road	0.8 Wellmore Mine]
* Shelbiana Road		
CR 5473	0.0 KY 2553	0.5 Coalmac Shelby Tipple
* Marion Branch Road		
CR 5478	0.0 KY 1426	1.6 Chapperal Tipple
* Tollage Creek Road		
CR 5496	0.0 US 23	1.0 Coal Run Mine
* Harmond Branch Road		
CR 5505	0.0 US 23	0.9 Amber #9 Mine
* Dog Fork/Hurricane Creek Road		
CR 5522	0.0 KY 1384	1.3 Peter Fork Joline Mine
[* Cedar Creek/Island Creek Road		
CR 5528	0.0 KY 1384	1.1 KY 1426]
* Hoopwood Branch Road		
CR 5529	0.0 KY 1426	0.7 Stillhouse Mine
* Raccoon Branch Road		
CR 5531	0.0 KY 1426	1.3 Jet/Cimaron Mine
[* Billy Compton Road		
CR 5534	0.0 Island Creek RD	1.2 Horn Const Mine]

* Island Creek Road
CR 5535 0.0 KY 1426 3.3 Mine [4.0 Corbin Coal Mine]
* Ray Branch Road
CR 5537 0.0 Island Creek RD 0.7 Mine
[* Road Branch/Sookey's Creek Road
CR 5539 0.0 RT FK Sookeys CK RD 1.9 Billy Compton RD
* Right Fork Sookeys Creek Road
CR 5540 0.0 Road BR/Sookeys CK RD 0.5 Pace Energies Mine]
* Bear Fork - Tinker Fork Road
CR 5547 0.0 Bear Fork Branch RD 1.1 Floyd CO LN
* L Robinson - Floyd County Road
CR 5550 0.0 Robinson Creek RD 0.6 Floyd CO LN
* Little Fork/Robinson Road
CR 5553 0.0 KY 3415 [Robinson Creek RD] 1.6 Apache Mining Mine
* Robinson Creek Road
CR 5554 0.0 KY 3415 [122] 1.3 Mine [4.1 Apache Mining Mine]
[Weight Limit - Bridge over Robinson Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Robinson Creek
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons]
* Arnold Fork Road
CR 5555 0.0 KY 122 0.3 Apache Mining Mine
[* Burk Branch Road
CR 5578 0.0 KY 610 0.9 Beth Energy Mine]
* Lizzie Fork Road
CR 5590 0.0 US 23 [0.4 Beth Energy Mine] 1.0 Mine [1.4 US 23]
Weight Limit - Bridge over Caney Creek
TY I = 20 tons, TY II = 22 tons, TY III = 22 tons, TY IV = 22 tons
* Rob Fork Road
CR 5593 0.0 US 23 0.5 Damron Fork Tipple
* Gillespie Branch Road
CR 5606 0.0 KY 3226 0.9 Mine
* Lucy Branch Road
CR 5607 0.0 KY 3226 0.3 Mine
* Sugar Camp Branch Road
CR 5611 0.0 KY 122 1.5
* Bear Fork Branch Road
CR 5616 0.0 KY 122 1.5 Bear FK-Tinker FK RD

POWELL COUNTY

	ROAD	FROM	TO
*	Mountain Parkway (KY 402)	11.9 Clark CO LN	36.0 Wolfe CO LN

Weight Limit - Bridge over Lulbegrud Creek @ milepoint 11.90
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 45 tons
Weight Limit - Bridge over Red River @ milepoint 18.22
TY I = 20 tons, TY II = 37 tons, TY III = 37 tons, TY IV = 45 tons
Weight Limit - Bridge over Red River @ milepoint 24.83
TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 50 tons
Weight Limit - Bridge over Cane Creek @ milepoint 26.12
TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 60 tons
Weight Limit - Bridge over KY 613 @ milepoint 27.38
TY I = 20 tons, TY II = 44 tons, TY III = 46 tons, TY IV = 60 tons
Weight Limit - Bridge over North Fork Red River @ milepoint 27.94
TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 55 tons
Weight Limit - Bridge over Middle Fork Red River @ milepoint 31.96
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 46 tons
Weight Limit - Bridge over KY 11 & 15 @ milepoint 32.08
TY I = 20 tons, TY II = 42 tons, TY III = 43 tons, TY IV = 54 tons

*	KY 11	21.0 KY 15 @ Clay City	25.0 Montgomery CO LN
*	KY 15	3.5 KY 11	4.1 Mountain PKW (KY 402) @ KY 82

Weight Limit - Bridge over Mountain Parkway @ milepoint 4.08
TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons

	4.1 Mountain Parkway (KY 402) @ KY 82	8.9 Clark CO LN

PULASKI COUNTY

	ROAD	FROM	TO
*	US 27	0.0 McCreary CO LN	16.9 KY 80 Bypass

Weight Limit - Bridge over Cumberland River @ milepoint 9.19
TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons
Weight Limit - Bridge over Pitman Creek @ milepoint 10.06
TY I = 20 tons, TY II = 39 tons, TY III = 38 tons, TY IV = 59 tons

*	KY 80	21.6 KY 80 Bypass	40.4 Laurel CO LN

Weight Limit - Bridge over Buck Creek @ milepoint 31.55
TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 55 tons

*	KY 80B	0.0 US 27	2.3 KY 80
*	KY 90	0.0 Wayne CO LN [2.0 KY 790]	4.2 US 27
	Weight Limit - Bridge over Cumberland River @ milepoint 3.07		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
*	KY 192	0.0 KY 80 Bypass	15.0 Old Whitley RD [18.6 Laurel CO LN]
	Weight Limit - Bridge over Pitman Creek @ milepoint 4.13		
	TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 58 tons		
	Weight Limit - Bridge over Buck Creek @ milepoint 10.57		
	TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 48 tons		
*	KY 790	0.0 Wayne CO LN	5.7 KY 90
*	KY 1247	0.0 US 27	5.5 KY 1580 [8.3 KY 80 Bypass]
	Weight Limit - Bridge over Southern RR @ milepoint 0.08		
	TY I = 20 tons, TY II = 40 tons, TY III = 41 tons, TY IV = 52 tons		
	Weight Limit - Bridge over Pitman Creek @ milepoint 3.40		
	TY I = 20 tons, TY II = 31 tons, TY III = 32 tons, TY IV = 52 tons		
*	KY 1580	0.0 Ferguson Tipple	0.5 KY 1247
*	KY 1642	4.7 US 27	6.3 KY 1247
*	KY 1675	5.7 Acorn-Lick Creek RD	10.5 KY 80
	Weight Limit - Bridge over Branch of Short Creek @ milepoint 9.48		
	TY I = 20 tons, TY II = 39 tons, TY III = 40 tons, TY IV = 53 tons		
*	Acorn-Lick Creek Road		
	CR 5016	0.0 KY 1675	1.7 Ano RD
*	Bolthouse Ridge Road		
	CR 5017	0.0 Ano RD	0.9 Ikerd Bandy Mine
*	Ano Road		
	CR 5018	0.0 Acorn-Lick Creek RD	1.4 Bolthouse Ridge RD
*	Old Whitley Road		
	CR 5216	0.0 KY 192	3.8 [3.9] Cumberland River RD
*	Cumberland River Road		
	CR 5225	0.0 Old Whitley RD	0.8 Mine [1.1 Wash Ridge Mine]
*	Bauer Road		
	CR 5232	0.0 McCreary CO LN	0.8 Mine
*	Cooper Power Plant Road		
	CR 5349	0.0 KY 1247	0.6 E KY Power Plant

ROBERTSON COUNTY

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

ROCKCASTLE COUNTY

	ROAD	FROM	TO
*	US 25	11.8 I-75	13.9 US 150
*	US 150	0.0 Lincoln CO LN	10.5 US 25

SHELBY COUNTY

	ROAD	FROM	TO
*	US 60	0.0 Jefferson CO LN	23.0 Franklin CO LN
	Weight Limit - Bridge over L & N R.R. @ milepoint 2.64		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Brige over Little Bullskin Creek @ milepoint 5.02		
	TY I = 20 tons, TY II = 21 tons, TY III = 25 tons, TY IV = 43 tons		
	Weight Limit - Bridge over Clear Creek @ milepoint 11.17		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over Guist Creek @ milepoint 13.93		
	TY I = 20 tons, TY II = 27 tons, TY III = 28 tons, TY IV = 44 tons		

SIMPSON COUNTY

	ROAD	FROM	TO
*	US 31W	3.2 KAEC Gasahol Plant [0.0 Tennessee ST LN]	6.5 KY 100 in Franklin [14.0 Warren CO LN]

SPENCER COUNTY

	ROAD	FROM	TO
*	US 31E	0.0 Nelson CO LN	2.4 Bullitt CO LN

TODD COUNTY

	ROAD	FROM	TO
*	US 79	0.0 Tennessee State LN	10.6 Logan CO LN
	Weight Limit - Bridge over L & N R.R. @ milepoint 1.94		
	TY I = 20 tons, TY II = 34 tons, TY III = 35 tons, TY IV = 51 tons		
	Weight Limit - Bridge over Elk Fork Creek @ milepoint 7.61		
	TY I = 20 tons, TY II = 32 tons, TY III = 34 tons, TY IV = 47 tons		

UNION COUNTY

	ROAD	FROM	TO
*	US 60	1.4 KY 109 [0.0 Crittenden CO LN]	9.2 Mine
			[5.7 KY 109 in Sturgis]
	Weight Limit - Bridge over Branch of Cypress Creek @ milepoint 3.66		
	TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 55 tons		
*	KY 109	0.0 Webster CO LN	1.5 US 60 (West)
		1.5 US 60 (East)	4.9 KY 492
[*	KY 360	0.5 KY 871 (South)	6.6 Island Creek Mine]
*	KY 492	1.9 Davis Mine RD	2.5 KY 109
[*	KY 871	0.0 KY 360 (South)	2.4 Hite Speece RD]
*	KY 1508	0.0 KY 109	2.7 Pyro Dock
		5.3 Canipe Dock	6.0 Private Haul Road
	Weight Limit - Bridge over Unnamed Stream @ milepoint 5.61		
	TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 59 tons		
*	Davis Mine Road		
	CR 5227	0.0 KY 109	0.3 Private Haul Road
[*	Hite Speece Road		
	CR 5314	0.0 KY 871	0.2 Hamilton Mine Road
*	Hamilton Mine Road		
	CR 5317	0.0 Hite Speece Road	0.5 Mine and Prep Plant]

WARREN COUNTY

	ROAD	FROM	TO
*	Green River Parkway		
		0.0 I-65	18.2 Butler CO LN
	Weight Limit - Bridge over I-65 @ milepoint 0.01		
	TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 52 tons		
	Weight Limit - Bridge over US 31-W @ milepoint 3.57		
	TY I = 20 tons, TY II = 44 tons, TY III = 45 tons, TY IV = 59 tons		
[*	US 31W	0.0 Simpson CO LN	9.0 Green River Parkway
	Weight Limit - Bridge over L&N RR @ milepoint 7.99		
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons]		
*	US 68	0.0 Logan CO LN	8.2 Green River Parkway

WASHINGTON COUNTY

	ROAD	FROM	TO
*	Bluegrass Parkway		
		39.3 Nelson CO LN	44.8 Anderson CO LN
	Weight Limit - Bridge over Chaplin River @ milepoint 42.08		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		

WAYNE COUNTY

	ROAD	FROM	TO
*	KY 90	0.0 Clinton CO LN	25.2 Pulaski CO LN
	Weight Limit - Bridge over Beaver Creek @ milepoint 8.65		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		
	Weight Limit - Bridge over Meadow Creek @ milepoint 19.51		
	TY I = 20 tons, TY II = 43 tons, TY III = 44 tons, TY IV = 56 tons		
*	KY 776	7.5 KY 790	9.8 Brammer Hill Ridge RD
*	KY 790	1.3 KY 776	10.5 Pulaski CO LN
	Weight Limit - Bridge over Sinking Creek @ milepoint 2.02		
	TY I = 20 tons, TY II = 30 tons, TY III = 31 tons, TY IV = 41 tons		
*	Brammer Hill Ridge Road		
	CR 5023	0.0 KY 776	4.1 Jonesville Cemetery RD
			[2.2 Mine]
*	Denny Creek Road		
	CR 5024	0.0 KY 776	1.7 Shamrock Mine [Sizemore RD]
*	Brammer Hill-Delta Road		
	CR 5030	0.0 KY 790	2.2 Brammer Hill Ridge RD
*	Jones Cemetery #2 Road		
	CR 5031	0.0 Brammer Hill Ridge RD	2.4 Mine
*	Sizemore Road		
	CR 5155	0.0 Denny Creek RD	1.1 [0.4] Mine

WEBSTER COUNTY

	ROAD	FROM	TO
*	Pennyrile PKWY	55.0 Hopkins CO LN	62.6 KY 56
*	US 41	0.0 Hopkins CO LN	12.1 Henderson CO LN
*	US 41A	0.0 Hopkins CO LN	19.5 KY 56
*	KY 56	5.3 US 41A	12.5 US 41 (South)
	Weight Limit - Bridge over Branch @ milepoint 12.42		
	TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons		
		12.5 US 41 (North)	14.4 Old Eastwood Ferry RD

* KY 109	2.9 KY 670		14.7 Union CO LN
Weight Limit - Bridge over Crab Orchard Creek @ milepoint 7.33			
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 51 tons			
Weight Limit - Bridge over Caney Fork @ milepoint 10.72			
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 51 tons			
[* KY 120	0.0 Crittenden CO LN		6.7 US 41A]
* KY 132	23.6 Mine		25.9 KY 494
* KY 270	8.4 Mine		13.2 US 41A
* KY 494	0.0 KY 132		2.2 US 41
* KY 670	0.0 KY 109		2.7 US 41A
* KY 814	0.0 Hopkins CO LN		0.6 US 41A
* Old Eastwood Ferry Road			
CR 5034	0.0 KY 56		0.1 Sebree Dock
* Quinns Landing Road			
CR 5036	0.0 Henderson CO LN		0.2 Big Rivers Plant

WHITLEY COUNTY

ROAD	FROM	TO
* US 25T	0.0 US 25W	0.7 US 25W
* US 25W	1.7 Kensee Creek Rd	14.1 KY 26 (South)
	[0.8 Black Oak-Proctor Road	32.8 US 25T]
Weight Limit - Bridge over Clear Creek @ milepoint 5.04		
TY I = 20 tons, TY II = 30 tons, TY III = 32 tons, TY IV = 39 tons		
Weight Limit - Bridge over Clear Fork Creek @ milepoint 6.23		
TY I = 20 tons, TY II = 30 tons, TY III = 32 tons, TY IV = 39 tons		
Weight Limit - Bridge over L&N RR @ milepoint 11.02		
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons		
[Weight Limit - Bridge over Watts Creek @ milepoint 14.17		
TY I = 20 tons, TY II = 37 tons, TY III = 38 tons, TY IV = 51 tons		
Weight Limit - Bridge over L&N RR @ milepoint 14.35		
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 59 tons		
Weight Limit - Bridge over I-75 South Interchange @ milepoint 16.20		
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 49 tons		
Weight Limit - Bridge over South Fork of Spruce Creek @ milepoint 25.56		
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 57 tons		
Weight Limit - Bridge over Spruce Creek @ milepoint 27.04		
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 59 tons]		
	32.1 KY 26 (North)	32.8 US 25T (South)
	[33.5 KY 312 (East)]	[33.7 Laurel CO LN]
[Weight Limit - Bridge over Lynn Camp Creek @ milepoint 33.73		
TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 45 tons]		
* KY 6	0.8 KY 1064 [0.0 KY 26]	1.6 Knox CO LN
[Weight Limit - Bridge over Unnamed Stream @ milepoint 0.47		
TY I = 20 tons, TY II = 41 tons, TY III = 43 tons, TY IV = 60 tons]		
Weight Limit - Bridge over Corn Creek @ milepoint 1.64		
TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 49 tons		
* KY 11	0.0 KY 92	2.6 Knox CO LN
* KY 26	0.0 US 25W (South)	14.3 US 25W (North)
* KY 92	0.0 McCreary CO LN	11.3 US 25W (South)
Weight Limit - Bridge over Pleasant Run @ milepoint 0.23		
TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 58 tons		
Weight Limit - Bridge over Pleasant Run @ milepoint 1.51		
TY I = 20 tons, TY II = 31 tons, TY III = 33 tons, TY IV = 46 tons		
Weight Limit - Bridge over Jellico Creek @ milepoint 2.99		
TY I = 20 tons, TY II = 25 tons, TY III = 28 tons, TY IV = 40 tons		
Weight Limit - Bridge over Briar Creek @ milepoint 8.39		
TY I = 14 tons, TY II = 14 tons, TY III = 14 tons, TY IV = 14 tons		
Weight Limit - Bridge over I-75 @ milepoint 11.00		
TY I = 20 tons, TY II = 40 tons, TY III = 39 tons, TY IV = 51 tons		
	11.3 US 25W (North)	33.4 Bell CO LN
Weight Limit - Bridge over Cumberland River @ milepoint 22.02		
TY I = 20 [15] tons, TY II = 28 [15] tons, TY III = 30 [15] tons, TY IV = 42 [15] tons		
Weight Limit - Bridge over Golden Fork @ milepoint 26.66		
TY I = 20 tons, TY II = 34 tons, TY III = 36 tons, TY IV = 50 tons		
Weight Limit - Bridge over Harpes Creek @ milepoint 27.89		
TY I = 20 tons, TY II = 38 tons, TY III = 38 tons, TY IV = 60 tons		
* KY 312	2.5 US 25W	2.6 Knox CO LN
* KY 628	1.7 Mine [2.7 Jordan Hollow RD]	5.2 US 25W
Weight Limit - Bridge over Possum Creek @ milepoint 3.91		
TY I = 20 tons, TY II = 38 tons, TY III = 40 tons, TY IV = 60 tons		
Weight Limit - Bridge over I-75 @ milepoint 4.91		
TY I = 20 tons, TY II = 39 tons, TY III = 39 tons, TY IV = 48 tons		
* KY 779	6.3 KY 1064 (East) [(South)]	12.7 KY 11
Weight Limit - Bridge over Cumberland River @ milepoint 11.83		
TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons		

* KY 904 0.0 KY 92 @ Suttons Mill 13.5 KY 92 @ Siler
Weight Limit - Bridge over Cumberland River @ milepoint 0.09
TY I = 15 tons, TY II = 15 tons, TY III = 15 tons, TY IV = 15 tons
Weight Limit - Bridge over Poplar Creek @ milepoint 13.44
TY I = 20 tons, TY II = 40 tons, TY III = 42 tons, TY IV = 60 tons
* KY 1064 0.0 KY 904 @ Dixie [92] 5.1 KY 92 @ Louden
[4.2 KY 779 (West)]
Weight Limit - Bridge over Cumberland River @ Louden
TY I = 12 tons, TY II = 12 tons, TY III = 12 tons, TY IV = 12 tons
Weight Limit - Bridge over Unnamed Stream 0.79 miles North of Louden [@ milepoint 0.79]
TY I = 10 tons, TY II = 10 tons, TY III = 10 tons, TY IV = 10 tons
9.3 KY 779 [4.2 KY 779 (East)] 17.1 KY 6 [12.0 KY 6]
* KY 1595 3.0 Mine 4.6 KY 92
Weight Limit - Bridge over Poplar Creek @ milepoint 4.49
TY I = 20 tons, TY II = 28 tons, TY III = 30 tons, TY IV = 52 tons
* KY 1673 0.0 KY 92 0.4 McCreary CO LN
0.4 McCreary CO LN 1.2 Ball Branch RD
[1.7 McCreary CO LN]
* KY 1809 0.0 KY 92 1.4 Knox CO LN
Weight Limit - Bridge over Golden Creek @ milepoint 0.21
TY I = 20 tons, TY II = 37 tons, TY III = 39 tons, TY IV = 53 tons
[* KY 1898 2.2 Old Jellico RD 2.8 KY 92
Weight Limit - Bridge over Jellico Creek @ milepoint 2.20
TY I = 20 tons, TY II = 29 tons, TY III = 30 tons, TY IV = 38 tons]
* Mosley Road
CR 5038 0.0 KY 1064 0.9 Mine
* McNeil Hollow-Corn Creek Road
CR 5045 2.4 Brenda Mine 3.6 KY 1064
[* Carpenter-Lick Fork Road
CR 5172 0.0 KY 92 0.9 Daniel Bros Mine
Weight Limit - Bridge over Popular Creek
TY I = 5 tons, TY II = 5 tons, TY III = 5 tons, TY IV = 5 tons]
* Doc Siler Road
CR 5223 0.0 Tennessee ST LN 0.1 Skaggs Branch RD
* Skaggs Branch Road
CR 5224 0.0 Doc Siler RD 0.7 Bowlin Mine
* Keswick-Gatliff Road
CR 5227 3.3 Upper Cane Creek RD 8.0 KY 904
Weight Limit - Bridge over Bennetts Branch
TY I = 20 tons, TY II = 28 tons, TY III = 33 tons, TY IV = 56 tons
* Upper Cane Creek Road
CR 5230 0.0 Keswick-Gatliff RD 0.5 Mine
* Jordan Hollow Road
CR 5321 0.0 KY 628 (East) [1.0 Wash Ridge Mine] 0.3 Mine [1.5 KY 628]
* Kensee Creek Road
CR 5326 0.0 US 25W 0.8 Mine
* Ryans Creek Road
CR 5335 0.0 KY 1898 4.3 McCreary CO LN
[1.0 Bucks Branch Road]
[* Old Jellico Road
CR 5337 0.0 KY 92 1.0 Gatliff Mine
Weight Limit - Bridge over Paint Creek
TY I = 16 tons, TY II = 16 tons, TY III = 16 tons, TY IV = 16 tons]
* Ball Branch Road
CR 5338 0.0 KY 1673 0.6 Mine
Weight Limit - Bridge over Pleasant Run Creek
TY I = 12 tons, TY II = 12 tons, TY III = 12 tons, TY IV = 12 tons
[* Kidd Road
CR 5344 0.0 McCreary CO LN 1.5 Stansbury Mine]

WOLFE COUNTY

ROAD	FROM	TO
* Mountain PKWY (KY 402)	36.0 Powell CO LN	42.7 KY 155 [53.3 KY 1010]

[Weight Limit - Bridge over Swiftcamp Creek @ milepoint 43.77
TY I = 20 tons, TY II = 38 tons, TY III = 39 tons, TY IV = 47 tons
Weight Limit - Bridge over KY 191 @ milepoint 46.22
TY I = 20 tons, TY II = 45 tons, TY III = 46 tons, TY IV = 59 tons
Weight Limit - Bridge over KY 1512 @ milepoint 49.67
TY I = 20 tons, TY II = 40 tons, TY III = 41 tons, TY IV = 53 tons]
* KY 15 0.0 Breathitt CO LN 10.3 KY 651
Weight Limit - Bridge over Holly Creek @ milepoint 1.79
TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 60 tons
13.4 Mountain PKWY (KY 402) [13.9 KY 3040] 14.0 KY 715

*	KY 155	0.0 KY 15	1.1 Mountain PKWY (KY 402)
	Weight Limit - Bridge over Mountain Parkway @ milepoint 1.05		
	TY I = 20 tons, TY II = 45 tons, TY III = 47 tons, TY IV = 58 tons		
*	KY 651	2.0 KY 3355 [0.0 Sandy Ridge RD]	2.1 KY 15
*	KY 715	2.6 KY 2016	5.8 KY 15
[*	KY 1010	1.6 Mine	3.7 Mountain PKWY
	Weight Limit - Bridge over Mountain Parkway @ milepoint 3.65		
	TY I = 20 tons, TY II = 22 tons, TY III = 23 tons, TY IV = 31 tons]		
*	KY 2016	0.2 Mine	4.5 KY 715
[*	KY 3040	0.0 KY 15	0.4 J & A Tipple]
*	KY 3355	0.0 KY 651	0.9 Mullins Point RD
*	Mullins Point Road		
	CR 5218	0.0 KY 3355	1.6 Mine
[*	Sandy Ridge Road		
	CR 5220	0.0 KY 651	3.0 Mine]

WOODFORD COUNTY

	ROAD	FROM	TO
*	Bluegrass Parkway	61.9 Anderson CO LN	71.1 US 60
*	US 60	0.0 Franklin CO LN	13.0 Fayette CO LN
*	US 60X	1.0 US 62 in Versailles	1.8 US 60 East of Versailles
*	US 62	0.1 K.U. Tyrone Power Plant	7.1 US 60X in Versailles
	Weight Limit - Bridge under Southern R.R. @ Tyrone @ milepoint 0.1		
	TY I = 20 tons, TY II = 28 tons, TY III = 37 tons, TY IV = 40 tons		

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

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

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

Section 8. Resolutions of local governing bodies issued pursuant to KRS 177.9771(9) making recommendations to the Secretary of Transportation shall be submitted to: Secretary of Transportation, Transportation Cabinet, State Office Building, Frankfort, Kentucky 40622. The resolution shall set forth a specific description of the road or road segments under consideration. The resolution shall futher set forth with specificity those conditions which give rise to inherent and definite hazards or create special conditions which the Secretary of the Transportation Cabinet needs to consider.

Section 9. A copy of the AASHTO Manual for Maintenance Inspection of Bridges, 1983 edition and 1984 and 1985 Interim Revisions is hereby incorporated by reference as part of this administrative regulation. A copy of the AASHTO Manual for Maintenance Inspection of Bridges, 1983 edition and 1984 and 1985 Interim Revisions may be viewed at the Transportation Cabinet, Department of Highways, Division of Maintenance, Frankfort, Kentucky. Copies of the AASHTO Manual for Maintenance Inspection of Bridges, 1983 edition and 1984 and 1985 Interim Revisions may be obtained from the American Association of State Highway and Transportation Officials, 444 North Capitol Street, N.W., Suite 225, Washington, D.C. 20001.

Section 10. 603 KAR 5:210 is repealed.

O. GILBERT NEWMAN, State Highway Engineer
MILO D. BRYANT, Secretary
APPROVED BY AGENCY: December 23, 1988
FILED WITH LRC: January 3, 1989 at 4 p.m.

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

701 KAR 5:060. Code of ethics for state testing program.

RELATES TO: KRS 158.650 to 158.750
STATUTORY AUTHORITY: KRS 156.070, 158.670
NECESSITY AND FUNCTION: KRS 158.650 to 158.750 mandate an annual statewide basic [and essential] skills testing program, for designated grades, the result of which are to be used to assure that all public school students are acquiring appropriate skills; to aid districts in developing educational improvement plans; and to identify school districts which are educationally deficient. Such statutes also require the Department of Education to select and purchase appropriate tests [develop] and implement the statewide testing program. This regulation is necessary to fulfill the intent and purpose of the Educational Improvement Act and to promote the integrity of the testing program by providing guidelines for the administration of the statewide assessment program at the classroom, school, and district levels and by providing required procedures and penalties for reported and confirmed violations.

Section 1. (1) Each local district board of education shall assure that the statewide assessment program required by KRS 158.650 to 158.750 is administered in accordance with the guidelines developed by the Kentucky Advisory Committee for Educational Improvement and approved by the State Board for Elementary and Secondary [of] Education. The guidelines listed in this section [, as approved by the State Board of Education,] comprise the [document]

"Code of Ethics for the State Testing Program." [, November, 1984," and as amended in February, 1985, which is incorporated herein by reference and copies of which may be obtained from the Office of Research and Planning, Department of Education.]

(2) Each local superintendent of schools, in cooperation with the district's testing coordinator and school principals, is responsible for implementing the state testing program in the local school district. The Department of Education shall develop and disseminate district-based certification forms, school-based certification forms, and classroom-based certification forms to be signed by local district superintendents, district testing coordinators, principals, and teachers. These forms shall certify that the following expectations in the Code of Ethics have been met at the local district level:

(a) Teaching the test. Specific test items shall not be taught. This restriction includes any manner of teaching test items during the school day or through homework assignments ranging from teachers remembering a single test item from an in-service session through manually or mechanically copying the actual test items. Changing a word, a phrase, or a distractor in a test item and utilizing it in any manner during the instructional process is a violation of the code. The utilization of any test item from any form of the test in any manner is a violation of the Code of Ethics.

(b) Practice tests and reinforcement materials. The use of practice tests and reinforcement materials developed by major test companies and textbook publishers are appropriate. Materials and documents developed and published by the Kentucky Department of Education are also appropriate. Teacher developed materials are appropriate as long as such materials do not violate the teaching of the test provisions.

(c) Teaching concepts measured by the test. It is appropriate for teachers, principals, and supervisors to be knowledgeable of the skills or concepts being tested and to provide instruction directed toward improving student knowledge in these areas.

(d) Professional preparation.

1. Before administering the test, principals and appropriate central office personnel shall become thoroughly familiar with the testing schedule, the test content, and the directions for test administration. Local district personnel shall read the directions for completing answer sheets and administering the test, follow specific directions for administering each test, make sure students understand what they are to do before beginning the test, monitor students as they work on the test, and allow time for questions from students before beginning the test.

2. The review of test content and test administration procedures by teachers under a controlled situation such as an in-service training activity as a part of a faculty meeting is encouraged. If test booklets are made available to teachers and other appropriate personnel during training sessions, no written notes shall be made with regard to specific test items, and all test booklets shall be accounted for after each session. Teachers are not to be given a permanent copy of the test.

(e) Scheduling the test. Mandated tests shall be scheduled between the 160th and 170th instructional day of the school year. Tests shall be scheduled so there will be sufficient time to complete a subtest by the end of the testing session. Students taking the test shall not be subject to distractions.

(f) Test storage. All tests shall be stored in a secured central location. Each school district shall implement an accounting system for each test, preferably a number system by level. The district's test coordinator and the local superintendent are responsible for test storage and security.

(g) Test distribution. Tests shall be distributed to schools by grade or number of students no more than five (5) working days prior to test administration. This allows time for professional preparation and distribution to individual classroom teachers. The school principal, in cooperation with the district test coordinator, is responsible for test storage and security once the tests are distributed to each school. Tests shall be returned to the central location no later than three (3) days after all test administration is completed. The district test coordinator shall implement an accounting system from the central location to the school and back to the central location. The system shall require signatures of the principal and the district test coordinator.

(h) Timing the test. Timing of the test shall be in compliance with the specified time limits. Teachers and principals, in cooperation with the district testing coordinator, are responsible for implementing and monitoring the specified time limits. Any deviation from the time limits is a violation of the code.

(i) Test administration. During test administration, teachers or proctors shall check to see that students are marking answers in the correct manner and assist students who are not marking on the designated portions of the answer document. After such problems have been resolved, the only assistance given shall be in the mechanics of taking the test. The teacher or proctor shall make sure that all students understand the directions for taking the test. The teacher or proctor may assist students with mechanical tasks, such as helping a student find the proper location on the answer sheet; however, they shall provide no assistance that will inadvertantly indicate an answer, such as pointing out the reasoning behind an item or referring to classwork. Indicating a correct response in any manner is a violation of the code.

(j) Populations to be tested. Students legally identified for special education shall be tested under the mandate of the Educational Improvement Act as amended unless specific parental permission has been obtained through the admissions and release committee procedures to exempt a child from state mandated testing. Local school districts are not permitted to develop separate summaries for special education students. Students lacking proficiency in the English language to the extent that they are taught in a language other than English may be exempted from the state mandated testing program. All students so exempted shall be reported by name and grade in conjunction with the central office certification form.

(k) Collection and storage. The principal is responsible for collecting and organizing answer sheets at the school level. Answer sheets shall

not be altered for any reason (with the exception of erasing stray marks and darkening responses **and for the purpose of coding the student descriptive data as directed by the Kentucky Department of Education** [as required]) or in any manner by the teacher or principal. The district test coordinator is responsible for collecting and organizing answer sheets at the local district level. Answer sheets shall not be altered for any reason (with the exception of erasing stray marks and darkening responses **and for the purpose of coding the student descriptive data as directed by the Kentucky Department of Education** [as required]) or in any manner by the district test coordinator including any personnel who may be assisting the coordinator. Altering answer sheets in any manner at the classroom, school, or district level (with the exception of erasing stray marks or darkening responses **and for the purpose of coding the student descriptive data as directed by the Kentucky Department of Education** [as required]) is a violation of the code and invalidates the data.

(1) Publishing the information. KRS 158.690 and the related annual performance report specify in detail the requirements for publishing test information. Any revisions or deviations from the format or requirements for publishing test information as required by statute and the annual performance report are violation of the code.

Section 2. Each local district board of education shall submit to the Department of Education, at the same time test answer documents are submitted, a certification that the district has adhered to the Code of Ethics [guidelines] set by this regulation. The Department of Education shall develop and disseminate the certification forms [forth in the incorporated code of ethics]. Local district certification shall be submitted by the district as a prerequisite to the scoring of local district test answer documents.

Section 3. Each local district, and the Department of Education, shall adhere to the following procedures for [provide to the Department of Education and the State Board of Education a written explanation of] any cases involving alleged exceptions to compliance with the provisions of the following: [guidelines as set forth in the code of ethics.]

(1) When the Department of Education or a local district receives a written and signed allegation that a violation of the testing ethics has occurred in a local district, the Superintendent of Public Instruction shall notify the superintendent of the local district, and when an alleged violation has been reported, the local district shall fully investigate the alleged violation in accordance with appropriate due process procedures, and:

(a) If it is determined that the alleged violation did not occur, the local district shall keep in a local file a report covering the details of the alleged violation, the investigative steps taken, and the results of the investigation. In addition, a letter shall be forwarded to the Superintendent of Public Instruction concerning the results of the investigation.

(b) If it is determined that the alleged violation did occur, the local district shall submit a written explanation to the Superintendent of Public Instruction that covers the conditions surrounding the violation, the action taken to eliminate further instances of ethics violations and the specific action taken against those causing or committing the violation. Actions against those causing or committing the violation may include, but not be limited to, written reprimands in the personnel and certification files, suspension, and dismissal. If the action taken is not at least a written reprimand, then a full report justifying the action taken shall be filed with the Superintendent of Public Instruction.

(2)(a) Upon receipt of the written report from the local district, the Department of Education shall review the written document, and if the violation is confirmed, such violation shall be confirmed in the summary test score publications, and the district scores that are affected by the violation shall be deleted from those publications and the local district shall note the situation in its Annual Performance Report. The local district shall be notified by the Department of Education that the test results of students affected by any violation shall either be destroyed (with a letter entered into the student cumulative folder explaining the absence of the test report) or a letter attached to the test report explaining which portions of the data are invalid due to the violation.

(b) The Superintendent of Public Instruction shall present a written report of Code of Ethics violations and make recommendations to the Educational Improvement Act Advisory Committee and the State Board for Elementary and Secondary Education.

HENRY E. POGUE, IV, Chairman
APPROVED BY AGENCY: January 11, 1989
FILED WITH LRC: January 6, 1989 at 11 a.m.

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

704 KAR 3:345. Evaluation guidelines.

RELATES TO: KRS 156.101
STATUTORY AUTHORITY: KRS 156.070, 156.101
NECESSITY AND FUNCTION: KRS 156.101 requires the State Board for Elementary and Secondary [of] Education to establish a statewide program for evaluation of certified school employees, including superintendents, and to develop guidelines for implementing the program and establishing the framework within which each local school district is to develop its own specific evaluation policies. This regulation establishes the requirements for the evaluation programs and policies of local school districts.

Section 1. Definitions. (1) Teacher - [for the purpose of this regulation,] any certified staff person who directly instructs students.

(2) Administrator - [for the purpose of this regulation,] any certified staff person other than the classroom teacher or librarian [who serves as a primary evaluator].

(3) Other support staff - any certified staff other than teacher or adminstrator.

(4) [(3)] Evaluation - the process of

assessing or determining the effectiveness of the performance of the certified employee in a given teaching and [/] learning or leadership and [/] management situation, based on predetermined criteria, through observation and other means of gathering information. Evaluation shall also include the establishment and monitoring of a growth plan [mutually agreed upon by the evaluator and the evaluated certified employee].

(5) [(4)] Formative evaluation - a continuous cycle of collecting evaluation information [through observation and other means,] and interacting or providing feedback and suggestions regarding the certified employee's teaching or administrative performance. [The formative evaluation phase may also include the establishment of an improvement plan mutually agreed upon by the evaluator and the evaluated certified employee.]

(6) [(5)] Summative evaluation - the summary of, and conclusions from, all evaluation data, including but not limited to the formative evaluation data. The summative evaluation occurs [the results of the formative evaluation phase occurring] at the end of an evaluation cycle. Summative evaluation includes a conference involving the evaluator and the evaluated certified employee, and a written evaluation report.

(7) [(6)] Observation - a [the] process of gathering information, based on predetermined criteria in the district plan. [, to determine the effectiveness of the teacher by observing in the classroom the behaviors of the teacher and the reactions of the students to the teaching process, as well as the physical set of the classroom.]

(8) [(7)] Conference - a meeting involving the evaluator and the certified employee evaluated for the purpose of providing feedback from the evaluator, analyzing the results of [the] observation(s) and [or] other information to determine strengths and weaknesses, to develop a plan for growth [improvement] and follow-up.

(9) [(8)] Performance criteria - [predetermined] performance areas, [or] skills, or outcomes on which the certified employee shall [will] be evaluated based on the district plan.

(10) [(9)] Indicators - measurable behaviors outcomes which demonstrate performance criteria. [observable level of attainment of a performance criterion.]

(11) [(10)] Standards of performance - acceptable qualitative [and/]or quantitative level of performance expected of effective teachers or [/] administrators.

(12) [(11)] Position - term used to signify a professional role in the school district (e.g., teacher, secondary principal, supervisor of instruction).

(13) [(12)] Job category - term used to signify a group or class of positions with closely related functions (e.g., principal, coordinator, director[, etc.]).

(14) Growth plan - a plan whereby the evaluatee is given assistance for becoming more proficient as a teacher or administrator. The plan includes an objective, a plan for achieving the objective and evaluating success.

Section 2. Each local school district shall have an evaluation plan and procedures approved by the State Board for Elementary and Secondary [of] Education. Approval of the plan and procedures shall be for the purpose of certification as to the compliance of each specific school district's evaluation plan with the broad guidelines set forth herein.

Section 3. The local school district shall have a written policy for the evaluation of all certified employees[. The policy shall include a statement that the purposes of the evaluation system are to improve instruction, provide a measure of performance accountability to citizens and to provide encouragement and incentives for certified employees to improve their performances, as well as to support individual personnel decisions. The policy shall also contain procedures for appeal of individual evaluations in accordance] consistent with KRS 156.101[(11). The local appeals panel mandated therein shall be in place by June 1, 1986. Its jurisdiction shall include but not be limited to evaluations upon which the determination of eligibility for the $300 payment to be given in the 1987-88 school year is based].

[Section 4. All employees required to hold a valid certificate, issued by the Kentucky Department of Education, in order to perform their functions are to be evaluated as follows:]

[(1) The initial evaluation process shall be completed for all administrators, including the superintendent, and nontenured teachers, under an approved plan by the end of the 1985-86 school year.]

[(2) The initial evaluation process shall be completed for all tenured teachers under an approved plan by the end of the 1986-87 school year.]

[(3) In any local school district with an established evaluation plan in full operation during the 1984-85 school year which provides for a three (3) year evaluation cycle for tenured teachers, any evaluations of tenured teachers during the 1984-85 school year may be considered the initial evaluation of those tenured teachers as required by subsection (2) of this section, provided that such evaluation plan and procedures are approved by the Department of Education pursuant to the provisions of this regulation.]

Section 4. [5.] (1) An ad hoc committee consisting of equal numbers of teachers and administrators shall develop evaluation procedures and forms.

(2) The procedures shall provide for both formative evaluation and summative evaluation and shall include, but not be limited to, the following elements:

(a) The immediate supervisor of the certified school employee shall be designated the primary evaluator. Additional administrative personnel may be used to observe and provide information [in addition] to the primary evaluator.

(b) All monitoring or observations of performance of a certified employee shall be conducted openly and with the full knowledge of the teacher or administrator. The local district may determine the length and frequency and nature of observations conducted by an evaluator.

(c) The evaluation system shall include a growth plan [whereby the person evaluated is given assistance for becoming more proficient as a teacher or administrator].

(d) Evaluation shall include formative

conferences [a minimum of one (1) conference] between the evaluator and the person evaluated within one (1) work week following each observation. In addition, the summative conference shall be held at the end of the evaluation cycle and include all evaluation data [the evaluation. However, additional conferences after observations are recommended].

(e) Evaluation with multiple observations shall occur annually for each nontenured certified employee. The formative data collected during the beginning teacher internship period may be utilized in summative evaluation of the intern.

(f) Multiple observations shall be conducted with certified employees whose initial observation results are unsatisfactory.

(g) Summative evaluation shall occur, but not be limited to, [at] a minimum of once every three (3) year period for each tenured teacher. [The local district may evaluate tenured teachers with greater frequency than the minimum.]

(h) Summative evaluation shall occur annually for administrators, except for superintendents who shall be evaluated not less than every two (2) years.

(i) All evaluations of certified employees below the level of the district superintendent shall be in writing on an evaluation form and become a part of the official personnel record.

(j) All observations shall include documentation of information to be used in determining the performance of the evaluatee [person evaluated].

(k) The evaluation system shall provide [personnel] an opportunity for a written response by the evaluatee [certified employee evaluated].

(l) A copy of the evaluation shall be provided to the evaluatee [person evaluated].

Section 5. [6.] (1) The evaluation procedures and forms shall be designed to support individual personnel decisions.

(2) The evaluation forms shall include, but not limited to, a list of performance criteria characteristic of effective teaching or administrative practices. The performance criteria shall include, but not limited to the following:

(a) Performs professional responsibilities and duties as outlined in the job description including regular attendance and punctuality;

(b) Demonstrates effective classroom [and/]or staff management skills;

(c) Uses instructional strategies and processes effectively;

(d) Demonstrates effective interpersonal and communication skills with peers, subordinates, students and[/or] parents;

(e) Demonstrates knowledge of subject matter [and/]or administrative techniques;

(f) Plans and evaluates instructional [and/]or administrative activities. Under each criterion, specific descriptors or indicators that can be measured [observed] and recorded shall be listed. In addition, standards of performance shall be established for each criterion.

(3) All certified school personnel shall be made aware of the criteria on which they are to be evaluated at the beginning of the evaluation period.

(4) Evaluation forms or instruments shall be specific for each position or job category. Other forms for observation and pre- and postconferences may be used at the discretion of the local district. [The Florida Performance Measurement System adopted for use in the Beginning Teacher Internship Program may be used as an observation instrument for formative evaluation in this program, but shall not be the sole basis of the summative evaluation of experienced personnel. All certified personnel shall be made aware of the observation instrument(s) to be used prior to the observation.]

Section 6. [7.] (1) All evaluators, with the exception of district board of education members, shall be trained, tested, and certified.

(2) Training shall:

(a) Include skill development in the use of the local evaluation process [and instrument]. Each local district shall conduct this training;

(b) Include skill development in the identification of effective teaching and [/] management practices, effective observation and conferencing techniques, establishing and assisting with certified employee growth [improvement] plans, and summative evaluation techniques. This training shall be conducted by providers who have been approved by the State Board for Elementary and Secondary [of] Education as trainers for the Instructional Leadership Improvement Program;

(c) Be provided by the State Board for Elementary and Secondary [of] Education for all new administrators who are designated as evaluators. Other administrators who have not received training in the skill areas listed in paragraph (b) of this subsection may participate also; and

(d) Be approved as a part of the evaluation plan and procedures submitted to the State Board for Elementary and Secondary [of] Education.

(3) Testing shall:

(a) Include a cognitive test of research-based and professionally accepted teaching and [/] management practices and effective evaluation techniques listed in subsection (2)(b) of this section; and

(b) Be conducted by the State Board for Elementary and Secondary [of] Education or agencies approved by the State Department of Education.

(4) Initial certification as an evaluator shall be issued by the State Board for Elementary and Secondary [of] Education upon completion of the required evaluation training program and successful completion of testing. All principals employed after January 1, 1987, shall be required to complete the initial certification process. [Principals who receive certification through the Beginning Teacher Internship Program shall not be required to receive additional training or testing on research-based effective teaching practices and observation techniques.]

[(5) All certified personnel who have received a passing score on the cognitive test required by the Beginning Teacher Internship Program prior to July 1, 1986 shall be eligible for initial certification as evaluators of teachers.]

(5) [(6)] Continued certification as an evaluator shall be contingent upon the completion of a minimum twelve (12) hours of evaluation training every two (2) years beginning July 1, 1988 [1986]. This training shall be in any one, or a combination, of the

following skill areas: use of the local evaluation process [and instrument], identification of effective teaching and [/] management practices; effective observation and conferencing techniques; establishing and assisting with certified employee growth [improvement] plans; or summative evaluation techniques.

(a) Hours of training received in the use of the local evaluation process [and instruments] shall be certified by the local board of education with documentation available for review by the State Department of Education.

(b) Hours of training received in the other skill areas may compose part of the evaluator's required hours for the Instructional Leader Improvement Program.

(6) [(7)] Each local district shall designate a person responsible for evaluation training as the contact person for the evaluation plan submitted by the local district.

Section 7. [8.] The local board of education shall annually review the evaluation plan to ensure compliance with KRS 156.101 and these regulations. If substantive changes are made to the evaluation plan, the local board of education shall utilize the ad hoc committee, as provided for in Section 4 [5] of this regulation, in formulating the revisions. Examples of substantive change are, but are not limited to, change in cycle, observation frequency, forms, and appeals procedures. All revisions to the plan shall be reviewed and approved by the local board of education and submitted to the State Board for Elementary and Secondary [of] Education for approval.

Section 8. [9.] (1) Any certified employee who feels that the local district is not implementing the evaluation plan according to the way it was approved by the State Board for Elementary and Secondary [of] Education shall have the opportunity to appeal to the State Board for Elementary and Secondary [of] Education.

(2) The appeal procedures shall be as follows:

(a) The State Board for Elementary and Secondary [of] Education shall appoint a committee of three (3) board members to serve on the State Evaluation Appeals Panel. Said panel shall have no jurisdiction relative to complaints involving the professional judgmental conclusions of evaluations and its jurisdiction shall be limited to procedural matters already addressed by the local appeals panel required by KRS 156.101(11) and Section 3 of this regulation.

(b) The certified employee shall [must] submit a written request to the Superintendent of Public Instruction for a hearing before the State Evaluation Appeals Panel. A specific description of the complaint and grounds for appeal shall [must] be submitted with this request.

(c) The State Evaluation Appeals Panel, or the Department of Education at its direction shall review the complaint and investigate to determine if a hearing should be granted.

(d) If a hearing is granted, all involved parties shall have an opportunity to speak before the appeals panel.

(e) A decision of the appeals panel shall be rendered within fifteen (15) working days after a hearing.

[Section 10. Each nonadministrative certified personnel employed during the 1987-88 school year who has a summative evaluation report which is not unsatisfactory overall shall be paid the sum of $300.]

[(1) The local evaluation plan shall include a definition of and the appropriate rating(s) for a certified employee who has satisfactorily completed the evaluation process and been deemed eligible for the $300 payment during the 1987-88 school year as provided in KRS 156.101(10).]

[(2) The local board of education shall determine the specific local procedures regarding the eligibility for the $300 payment and submit the implementation plan to the State Department of Education for approval by the state board by July 1, 1986.]

[(3) Eligibility for the $300 payment shall be based on the summative evaluation of nonadministrative certified personnel during the 1987-88 school year, or during either of the two (2) previous school years if no evaluation is due during 1987-88. Only one (1) $300 payment will be awarded for each eligible person during this three (3) year period, and said payment shall be made during the 1987-88 school year. Any certified employee who is not scheduled for an evaluation during the 1987-88 school year and has a rating that will prevent him/her from receiving the $300 payment in the 1987-88 school year shall, at the certified employee's request, be reevaluated in 1987-88.]

HENRY E. POGUE, IV, Chairman
APPROVED BY AGENCY: January 11, 1989
FILED WITH LRC: January 6, 1989 at 11 a.m.

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

704 KAR 20:005. Kentucky standards for preparation-certification of professional school personnel program approval.

RELATES TO: KRS 161.020, 161.025, 161.030
STATUTORY AUTHORITY: KRS 156.070, 161.030
NECESSITY AND FUNCTION: KRS 161.020 prohibits any person from holding the position of superintendent, principal, teacher, supervisor, director of pupil personnel, or other public school position for which certificates may be issued unless he holds a certificate of legal qualifications for the particular position; KRS 161.025 gives the Kentucky Council on Teacher Education and Certification the duty to develop and recommend policies and standards relating to teacher preparation and certification; and KRS 161.030 rests the certification of teachers and other school personnel and the approval of teacher-preparatory colleges and universities and their curricula with the State Board of Education. This regulation establishes the standards and procedures which are to be used for the approval of the various teacher preparation programs offered by the colleges and universities, and where applicable, these curriculum standards are consistent with the Program of Studies as incorporated in 704 KAR 3:304; and this regulation also establishes procedures and necessary justifications for future development of new preparation-certification programs.

Section 1. Pursuant to the statutory authority placed upon the Superintendent of Public Instruction, the State Board for Elementary and Secondary [of] Education, and the Kentucky Council on Teacher Education and Certification under KRS Chapter 161, there is hereby devised, created, and incorporated by reference the Kentucky Standards for the Preparation-Certification of Professional School Personnel, which shall include the standards and procedures for the approval of college and university curricula for the preparation programs.

Section 2. The Kentucky Standards for the Preparation-Certification of Professional School Personnel are hereby amended, and the amended document is hereby incorporated by reference and identified as the Kentucky Standards for the Preparation-Certification of Professional School Personnel, revised January, 1989 [November [July], 1988]. A copy of this document can be inspected, copied and obtained from the Office of Instruction, Department of Education, 18th Floor, Capital Plaza Tower, Frankfort, Kentucky, 8 a.m. - 4:30 p.m., Monday-Friday.

Section 3. Any proposal for the development by the Council on Teacher Education and certification of a program of preparation-certification for a new position shall be evaluated in writing by the office of the Superintendent of Public Instruction on the basis of the following criteria:

(1) There are compelling reasons for establishing a preparation-certification program. Alternate procedures for insuring professional competence for the position are either not feasible or are not appropriate. The likelihood of unsatisfactory practices represents too high a risk for noncertification alternatives.

(2) A distinctive and specific body of knowledge exists for the new position which is not likely to be attained without a specific preparation-certification plan. The body of knowledge is sufficiently extensive for a program of preparation - twelve (12) semester hours of credit or more - rather than something that can be earned in miscellaneous noncredit experiences.

(3) There are pupils having unique characteristics which require the teacher to have specialized knowledge and skills or there is a need for special services for which unique professional preparation is required.

(4) There is a sufficient demand for the training for this position to warrant the development of preparation-certification programs at one (1) or more Kentucky teacher education institutions and for sustaining these programs over a period of several years.

(5) The preparation-certification requirement is cost effective in terms of the anticipated benefits to the local school district.

HENRY E. POGUE, IV, Chairman
APPROVED BY AGENCY: January 11, 1989
FILED WITH LRC: January 6, 1989 at 11 a.m.

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

902 KAR 55:065. Return of prescription drugs prohibited, exceptions.

RELATES TO: KRS 217.005 to 217.215, 217.992
STATUTORY AUTHORITY: KRS 194.050, 211.090, 217.125
NECESSITY AND FUNCTION: KRS 217.125 authorizes the Cabinet for Human Resources to administer the provisions of the Kentucky Food, Drug and Cosmetic Act, KRS 217.005 to 217.219 and 217.992. The purpose of this regulation is to prevent the dispensing of prescription drugs that may be adulterated or misbranded.

Section 1. Return of Prescription Drugs Prohibited; Exceptions. (1) No pharmacist, practitioner, or agent thereof shall accept the return of a prescription drug for reuse or resale unless:

(a) The drug is in a sealed container by which it can be readily determined by a pharmacist employed by the dispensing pharmacy or by the dispensing practitioner that entry or attempted entry by any means has not been made;

(b) The drug container meets the standards of the United States Pharmacopoeia for storage conditions including temperature, light sensitivity, moisture, chemical and physical stability;

(c) The drug labeling and packaging has not been altered or defaced and the identity of the drug, its potency, lot number, and expiration date are legible;

(d) The drug does not require refrigeration; and

(e) The drug is returned to a pharmacist employed by the dispensing pharmacy or to the dispensing practitioner within fourteen (14) days. [except that the fourteen (14) day limit may be waived if all conditions listed above are met and if:]

(f) Paragraphs (d) and (e) of this subsection shall be waived if all other conditions are met and if:

1. The drug was dispensed for a patient in a health care facility licensed by the Cabinet for Human Resources;

2. The drug has not come into the physical possession of the person for whom it was prescribed;

3. The drug has been under the continuous control of personnel in the health care facility who are trained and knowledgeable in the storage and administration of drugs; [and]

4. The drug has been properly stored in an area which is regularly inspected by a pharmacist; and

5. The drug is not expired.

(g) Drugs distributed within an acute care facility shall be exempt from the provisions of paragraphs (a), (d) and (e) of this subsection.

(2) Nothing in this regulation shall be construed to require any pharmacist or practitioner to accept the return of any prescription drug.

C. HERNANDEZ, M.D., Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: January 5, 1989
FILED WITH LRC: January 6, 1989 at 11 a.m.

PROPOSED AMENDMENTS RECEIVED THROUGH JANUARY 15, 1989

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

301 KAR 1:200. Seasons and limits for angling.

RELATES TO: KRS 150.010, 150.025, 150.470, 150.990
STATUTORY AUTHORITY: KRS 13A.350, 150.025
NECESSITY AND FUNCTION: In order to insure the continuance of viable and desirable populations of fish, it is necessary to govern the size and numbers anglers can harvest. This amendment is necessary to specify the brook trout waters of Poor Fork in Letcher county and Martins Fork in Harlan County [impose special restrictions on brook trout streams, reduce the striped bass creel limit and increase the smallmouth and largemouth bass size limit at Lake Cumberland, and adjust the crappie creel limits at Kentucky, Barkley and Barren lakes].

Section 1. The statewide creel limits, size limits and possession limits for taking fish by angling shall be as follows, except as specified in Section 3 of this regulation and as provided in 301 KAR 1:180:

	Size Limit Inches	Daily Creel Limit	Possession Limit
Black bass:*			
Largemouth	12)	10	20
Smallmouth	12)	Singly	Singly
Kentucky (spotted)	None)	or in	or in
Coosa	12)	Aggregate	Aggregate
Rock bass (goggle eye or redeye)	None	15	30
Walleye and their hybrids	15	10	20
Sauger	None	10	20
Muskellunge and their hybrids	30	2	2
Northern pike	None	5	10
Chain pickerel	None	5	10
White bass and yellow bass	None	60	60
Striped bass (rockfish) and their hybrids	15	5	5
Crappie	None	60	60
Rainbow trout & brown trout	None	8	8
Brook trout	10	2	2

*For size limit purposes, any black bass, with the exception of the smallmouth, with a patch of teeth on its tongue is considered to be a Kentucky bass.

Section 2. Seasons for all species is year around.

Section 3. The following special limits apply. All other angling limits and seasons apply as set forth in Sections 1 and 2 of this regulation.
(1) The impounded waters of Grayson Lake. The size limit on largemouth bass and smallmouth bass is fifteen (15) inches. There are no daily creel or possession limits on crappie.
(2) The impounded and flowing waters of Dix River and its tributaries upstream from Herrington Lake Dam:

	Size Limit Inches	Daily Creel Limit	Possession Limit
White bass, striped bass (rockfish) and their hybrids	*	20	40

*No more than five (5) fish of a daily limit or ten (10) fish of a possession limit may be fifteen (15) inches or longer.
(3) The impounded waters of Taylorsville Lake. The size limit for largemouth bass and smallmouth bass is fifteen (15) inches.
(4) The impounded waters of Kentucky and Barkley Lakes, including the connecting canal. The size limit for largemouth bass and smallmouth bass is fourteen (14) inches, except that the daily limit may include no more than one (1) and the possession limit no more than two (2) less than fourteen (14) inches in length. The creel and possession limits for crappie are thirty (30) and sixty (60) respectively.
(5) The impounded waters of Cave Run and Dewey Lakes. The size limit for largemouth bass and smallmouth bass is fifteen (15) inches.
(6) The impounded and flowing waters of Barren River and its tributaries upstream from Barren River Lake Dam.

	Size Limit Inches	Daily Creel Limit	Possession Limit
Crappie	10	30	60
White bass, striped bass (rockfish) and their hybrids	*	20	40

*No more than five (5) fish of a daily limit or ten (10) fish of a possession limit may be fifteen (15) inches or longer.

(7) The impounded waters of Cumberland Lake. The size limit for largemouth and smallmouth bass is fifteen (15) inches. The creel and possession limits for striped bass (rockfish) are three (3) and three (3) respectively.
(8) In the following brook trout streams fishing is permitted only with artificial flies or lures with a single hook. Possession of fish eggs, small fish, insects, worms, or other similar organic bait or parts thereof while in the possession of fishing tackle is prohibited [The following brook trout streams]:
(a) Shillalah Creek, Bell County (outside boundary of Cumberland Gap National Park);
(b) Martins Fork and tributaries in Harlan County from Left Fork upstream 2.3 miles to the Cumberland Gap National Historical Park boundary [, Harlan County (outside boundary of Cumberland Gap National Park)];
(c) Bad Branch, Letcher County;
(d) Poor Fork and tributaries in Letcher County from the headwaters downstream to the first crossing of Highway 392 [, Letcher County];
(e) Parched Corn Creek, Wolfe County.
[Fishing is permitted only with artificial

flies or lures with a single hook. Possession of fish eggs, small fish, insects, worms, or other similar organic bait or parts thereof while in the possession of fishing tackle is prohibited.]

Section 4. Measure all fish from the end of the lower jaw to the tip of the tail with fish laid flat on rule, mouth closed and tail lobes squeezed together. All fish caught that are smaller than those prescribed minimum lengths shall be returned immediately to the waters from which they were taken in the best physical condition possible. Under no circumstances may a fisherman remove the head or the tail or part thereof of any of the above-named fish while in the field and before he has completed fishing for the day.

DON R. McCORMICK, Commissioner
MARY RAY OAKEN, Secretary
DAVID GODBY, Chairman
APPROVED BY AGENCY: January 13, 1989
FILED WITH LRC: January 13, 1989 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation will be held on Wednesday, February 22, 1989 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: Peter W. Pfeiffer, Director, Division of Fisheries, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick
(1) Type and number of entities affected: There are over 1 million licensed and unlicensed anglers in Kentucky. Approximately 40,000 of those anglers fished for trout.
(a) Direct and indirect costs or savings to those affected: There are no direct or indirect costs or savings to affected entities because fishing frequency and fishing success will not be changed. The average angler costs and economic benefit will continue to accrue at the same rate.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: No reporting or paperwork is involved.
(2) Effects on the promulgating administrative body: No additional effort will be required. Policing and evaluation is a part of ongoing patrol and study.
(a) Direct and indirect costs or savings: Very small increased costs will occur as a result of time spent apprehending violators.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Slight increase in citations and associated law enforcement reports. Informational brochures will be expanded.
(3) Assessment of anticipated effect on state and local revenues: There is no anticipated effect on budgets, funding manpower levels or equipment needs. No loss in license sales or decrease in local economic impact is expected.
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternative methods were considered because the imposition of harvest restrictions is the only effective means of achieving quality fishing experiences, assuring reproductive viability while at the same time allowing for a reasonable number of fish to be taken from the population.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no statutes, administrative regulations or government policies which are 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: Comments from the Kentucky Council of Trout Unlimited indicate high acceptability of these regulation changes.
TIERING: Was tiering applied? No. Only one entity, the sport fisherman, is impacted by this regulation. There is no social or biological justification for nonuniform application of angling requirements.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Surface Mining Reclamation and Enforcement
(Proposed Amendment)

405 KAR 8:010. General provisions for permits.

RELATES TO: KRS 350.020, 350.055, 350.060, 350.070, 350.085, 350.090, 350.130, 350.135, 350.450, 350.465
STATUTORY AUTHORITY: KRS Chapter 13A, 350.020, 350.028, 350.060, 350.135, 350.450, 350.465
NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part requires the cabinet to promulgate rules and regulations pertaining to permits for surface coal mining and reclamation operations. This regulation provides for permits to conduct <u>these</u> [such] operations. The regulation specifies when permits are required, application deadlines, requirements for applications for permanent program permits, fees, verification of applications, public notice requirements, submission of comments on permit applications, the right to file objections, informal conferences, review of the permit applications, criteria for application approval or denial and relevant actions, term of the permits, conditions of permits, review of outstanding permits, revisions of permits and renewals, transfers, assignments, and sales of permit rights.

Section 1. Applicability. Excluding coal exploration operations, [the provisions of] this regulation shall apply to all applications, all actions regarding permits, and all surface coal mining and reclamation operations.

Section 2. General Requirements. (1) Permanent program permits required. No person shall engage in surface coal mining and reclamation operations unless that person has first obtained a valid permanent program permit under this chapter for the area to be affected by <u>the</u> [such] operations.

(2) General filing requirements for permanent program permit applications.

(a) Each person who intends to engage in surface coal mining and reclamation operations shall file a complete and accurate application for a permanent program permit which shall comply fully with all applicable requirements of KRS Chapter 350 and 405 KAR [Title 405] Chapters 7 through 24, and shall not begin the [such] operations until the permit has been [is] granted.

(b) Renewal of valid permanent program permits. An application for renewal of a permit under Section 21 of this regulation shall be filed with the cabinet at least 120 days before the expiration of the permit.

(c) Revision of permanent program permits. A permittee may, at any time, apply for a revision of a permit, but shall not vary from the requirements of the permit until the [such] revision has been [is] approved by the cabinet. The term of a permit shall remain unchanged by a revision.

(d) Succession to rights granted under prior permanent program permits. An application for the transfer, sale, or assignment of rights granted under a permit may be submitted at any time. The actual transfer, sale, or assignment of permit rights, however, may not take place until written permission has been [is] granted by the cabinet.

(e) Amendment of permanent program permits. A permittee may, at any time, apply for an amendment to a permit under Section 23 of this regulation, but shall not begin surface coal mining and reclamation operations on the [such] areas until the amendment has been [is] approved by the cabinet. The term of a permit shall remain unchanged by an amendment.

(3) Compliance with permits. Any person engaging in surface coal mining and reclamation operations under a permit issued pursuant to KRS Chapter 350 shall comply with the terms and conditions of the permit, including the [provisions of the] plans and other documents submitted as part of the application and approved by the cabinet, and the applicable requirements of KRS Chapter 350 and [Title] 405 KAR.

Section 3. Coordination of Review of Permit Applications. (1) For the purposes of avoiding duplication, the cabinet shall coordinate the review and issuance of permits for surface coal mining and reclamation operations with:

(a) Any other federal or Kentucky permit process applicable to the proposed operations, as required by Section 503 of SMCRA; and

(b) Applicable requirements of the Endangered Species Act of 1973, as amended (16 USC 1531 et seq.); the Fish and Wildlife Coordination Act, as amended (16 USC 661 et seq.); the Migratory Bird Treaty Act of 1918, as amended (16 USC 703 et seq.); the National Historic Preservation Act of 1966, as amended (16 USC 470 et seq.); and the Bald Eagle Protection Act, as amended (16 USC 668a), as required by 30 CFR 773.12.

(2) This coordination shall be accomplished by providing the appropriate agencies with an opportunity to comment on permit applications as set forth in Section 8(6) and (7) of this regulation and, if necessary, by any other measures the cabinet may deem appropriate.

Section 4. Preliminary Requirements. A person desiring a permit shall submit to the cabinet a preliminary application of the form and content prescribed by the cabinet. The preliminary application shall contain pertinent information, including a map at a scale of one (1) inch equals 400 or 500 feet, marked to show the proposed permit area and adjacent areas; and the areas of land to be affected, including, but not limited to, locations of the coal seam(s) to be mined, access roads, haul roads, spoil or coal waste disposal areas, and sedimentation ponds. Areas so delineated on the map shall be physically marked at the site in a manner prescribed by the cabinet. Personnel of the cabinet shall conduct, within fifteen (15) working days after filing, an on-site investigation of the area with the person or his or her representatives and representatives of appropriate local, state or federal agencies, after which the person may submit a permit application.

Section 5. General Format and Content of Applications. (1)(a) Applications for permits to conduct surface coal mining and reclamation operations shall be filed in the number, form and content required by the cabinet, including a copy to be filed for public inspection under Section 8(8) of this regulation.

(b) The application shall be on forms provided by the cabinet, and originals and copies of the application shall be prepared, assembled and submitted in the number, form and manner prescribed by the cabinet with [such] attachments, plans, maps, certifications, drawings, calculations or other [such] documentation or relevant information as the cabinet may require.

(c) The application shall be complete with respect to all information required by 405 KAR [this Title] and include, at a minimum: for surface mining activities, all the applicable information required under 405 KAR 8:030; for underground mining activities, all the information required under 405 KAR 8:040; and, for special types of surface coal mining and reclamation operations, all the information required under 405 KAR 8:050. No application shall be determined to be administratively complete unless all design plans for the permit area are in detailed form.

(2) Information set forth in the application shall be current, presented clearly and concisely, and supported by appropriate references to technical and other written material available to the cabinet.

(3) The collection and analysis of all technical data submitted in the application shall be planned by or conducted under the direction of a professional qualified in the subject to be analyzed and shall be accompanied by:

(a) Names of persons or organizations which collected and analyzed the [such] data;

(b) Dates of the collection and analyses; and

(c) Descriptions of methodology used to collect and analyze the data.

(4) The application shall state the name, address and position of officials of each private or academic research organization or governmental agency who provided information which has been [is] made a part of the application regarding land uses, soils, geology, vegetation, fish and wildlife, water quantity and quality, air quality, and archaeological,

cultural, and historic features.

(5)(a) The applicant shall designate in the permit application either himself or some [such] other person who will serve as agent for service of notices and orders. The [Such] designation shall identify the person by full name and complete mailing address, and if a natural person, the person's Social Security number. The [Such] person shall continue as agent for service of process until a [such time as] written revision of the permit has been [is] made to designate another person as agent.

(b) The applicant may designate persons authorized by the applicant to submit modifications to the application to the cabinet. If the [such] designation has not been [is not] made in the application, or in separate correspondence, the cabinet shall accept [such] modifications only from the applicant.

(6) General requirements for maps and plans.

(a) If any of the information marked on the preliminary map required under Section 4 of this regulation has changed, the application shall contain an updated USGS seven and one-half (7 1/2) minute topographic map marked as required in Section 4 of this regulation.

(b) Maps submitted with applications shall be presented in a consolidated format, to the extent possible, and shall include the types of information [that are] set forth on topographic maps of the U.S. Geological Survey of the 1:24,000 scale series. Maps of the permit area and adjacent areas shall be at a scale of 400 or 500 feet to the inch, inclusive; and the scale shall be clearly shown on the map. However, when the cabinet determines that a map scale larger than 400 feet to the inch is required to adequately show mine site details, a map of larger scale shall be provided by the applicant. The map required by 405 KAR 8:030, Section 23(1)(a) or 405 KAR 8:040, Section 23(1)(a), regarding additional areas on which permits will be sought, shall be a USGS seven and one-half (7 1/2) minute (1:24,000) topographic map.

(c) Where a map or drawing is required to be certified by a qualified registered professional engineer, the map or drawing shall bear the seal and signature of the engineer as required by KRS Chapter 322, and shall be certified in accordance with 405 KAR 7:040, Section 10.

(d) All engineering design plans submitted with applications shall be prepared by or under the direction of a qualified registered professional engineer and shall bear the engineer's seal, signature, and certification as required by KRS Chapter 322 and 405 KAR 7:040, Section 10.

(e) Maps and plans submitted with the application shall clearly identify all previously mined areas as defined at 405 KAR 16:190, Section 7(2)(c) or 405 KAR 18:190, Section 5(2)(c).

(7) Referenced materials. If used in the application, referenced materials shall either be provided to the cabinet by the applicant or be readily available to the cabinet. If provided, relevant portions of referenced published materials shall be presented briefly and concisely in the application by photocopying or abstracting and with explicit citations.

Section 6. Application and Acreage Fees. (1) Each application for a surface coal mining and reclamation permit shall be accompanied by a fee determined by the cabinet. The [Such] fee may be less than, but shall not exceed the actual or anticipated cost of reviewing, administering and enforcing the permit.

(2) The applicant shall submit an application fee of $375 for each application, plus an additional $75 for each acre or fraction thereof of the area of land to be affected by the operation. If the cabinet approves an incremental bonding plan submitted by the applicant, the acreage fees may be paid individually as the bond for each increment is submitted. However, no acreage fees shall be required for surface areas overlying underground or auger workings which will not be [are not] affected by surface operations and facilities.

(3) The fee shall accompany the application in the form of a cashier's check or money order payable to the Kentucky State Treasurer. No permit application shall be processed unless the application fee has been paid.

Section 7. Verification of Application. Applications for permits; revisions; amendments; renewals; or transfers, sales, or assignments of permit rights shall be verified under oath, before a notary public, by the applicant or his authorized representative, that the information contained in the application is true and correct to the best of the official's information and belief.

Section 8. Public Notice of Filing of Permit Applications. (1) An applicant for a permit, major revision, amendment, or renewal of a permit shall place an advertisement in the newspaper of largest bona fide circulation, according to the definition in KRS 424.110 to 424.120, in the county where[in] the proposed surface coal mining and reclamation operations are to be located.

(2)(a) The first advertisement shall be published on or after the date the application is submitted to the cabinet. The applicant may elect to begin publication on or after the date the applicant receives the notification from the cabinet under Section 13(2) of this regulation that the application has been [is] deemed administratively complete and ready for technical review. The advertisement shall be published at least once each week for four (4) consecutive weeks, with the final consecutive weekly advertisement being published after the applicant's receipt of written notice from the cabinet that the application has been [is] deemed administratively complete and ready for technical review.

(b) The final consecutive weekly advertisement shall clearly state that it is the final advertisement, and that written objections to the application may be submitted to the cabinet until thirty (30) days after the date of the final advertisement.

(3) Within fifteen (15) days of the final date of publication of the advertisement, the applicant shall submit to the cabinet proof of publication of the required final four (4) consecutive weekly notices, satisfactory to the cabinet, which may consist of an affidavit from the publishing newspaper certifying the dates, place and content of the advertisements.

(4) The advertisement shall be entitled "Notice of Intention to Mine" and shall be of a form specified by the cabinet.

(5) The advertisement shall contain, at a minimum, the following information:

(a) The name and business address of the applicant; and

(b) A map or description which shall:

1. Clearly show or describe towns, rivers, streams, and other bodies of water, local landmarks, and any other information, including routes, streets, or roads and accurate distance measurements, necessary to allow local residents to readily identify the proposed permit area;

2. Clearly show or describe the exact location and boundaries of the proposed permit area;

3. State the name of the U.S. Geological Survey seven and one-half (7 1/2) minute quadrangle map(s) which contains the area shown or described; and

4. If a map is used, show the north arrow and map scale.

(c) The location where a copy of the application is available for public inspection under subsection (8) of this section;

(d) The name and address of the cabinet to which written comments, objections, or requests for permit conferences on the application may be submitted under Sections 9, 10, and 11 of this regulation;

(e) If an applicant seeks a permit to mine within 100 feet of the outside right-of-way of a public road or to relocate or close a public road; except where public notice and hearing have been previously provided for this particular part of road in accordance with 405 KAR 24:040, Section 2(6)(a) and (b); a concise statement describing the public road, the particular part to be relocated or closed, and the approximate timing and duration of the relocation or closing;

(f) If the application includes a request for an experimental practice under 405 KAR 7:060, a statement indicating that an experimental practice is requested and identifying the regulatory requirement for which a variance is requested; and

(g) The application number.

(6) Within five (5) working days after the application for a permit, major revision, amendment, or renewal of a permit <u>has been</u> [is] determined to be administratively complete, the cabinet shall issue written notification of:

(a) The applicant's intention to conduct surface coal mining and reclamation operations on a particularly described tract of land;

(b) The application number;

(c) Where a copy of the application may be inspected; and

(d) Where comments on the application may be submitted under Section 9 of this regulation.

(7) The written notifications required by subsection (6) of this section shall be sent to:

(a) Local government agencies with jurisdiction over or an interest in the area of the proposed operations, including, but not limited to, planning agencies and sewage and water treatment authorities and water companies, either providing sewage or water services to users in the area of the proposed operations or having water sources or collection, treatment, or distribution facilities located in these areas; and

(b) All federal and Kentucky governmental agencies which have the authority to issue permits and licenses applicable to the proposed surface coal mining and reclamation operation and which are a part of the permit coordination process required by Section 3 of this regulation; and

(c) Those agencies with an interest in the particular proposed operation including, but not limited to:

1. The USDA Soil Conservation Service State Conservationist;

2. The local U.S. Army Corps of Engineers district engineer;

3. The National Park Service;

4. Kentucky and federal fish and wildlife agencies; and

5. The state historic preservation officer.

(8) In accordance with Section 12 of this regulation, the cabinet shall, upon receipt of the application, make the application available for public inspection and copying during all normal working hours at the appropriate regional office of the cabinet where the mining <u>has been</u> [is] proposed [to occur], and shall provide reasonable assistance to the public in the inspection and copying of the application.

Section 9. Submission of Comments or Objections by Public Agencies. (1) Written comments or objections on applications for permits, major revisions, amendments, and renewals of permits may be submitted to the cabinet by the public agencies to whom notification <u>has been</u> [is] provided under Section 8(6) and (7) of this regulation with respect to the effects of the proposed mining operations on the environment within their area of responsibility.

(2) These comments or objections shall be submitted to the cabinet in the manner prescribed by the cabinet, and shall be submitted within thirty (30) calendar days after the date of the written notification by the cabinet pursuant to Section 8(6) and (7) of this regulation.

(3) The cabinet shall immediately file a copy of all [such] comments or objections at the appropriate regional office of the cabinet for public inspection under Section 8(8) of this regulation. A copy shall also be transmitted to the applicant.

Section 10. Right to File Written Objections. (1) Any person whose interests are or may be adversely affected or an officer or head of any federal, state, or local government agency or authority to be notified under Section 8 of this regulation shall have the right to file written objections to an application for a permit, major revision, amendment, or renewal of a permit with the cabinet, within thirty (30) days after the last publication of the newspaper notice required by Section 8(1) of this regulation.

(2) The cabinet shall, immediately upon receipt of any written objections:

(a) Transmit a copy of the objections to the applicant; and

(b) File a copy at the appropriate regional office of the cabinet for public inspection under Section 8(8) of this regulation.

Section 11. Permit Conferences. (1) Procedure for requests. Any person whose interests are or may be adversely affected by the decision on the application, or the officer or head of any federal, state or local government agency or authority to be notified under Section 8 of this regulation may, in writing, request that the cabinet hold an informal conference on any application for a permit, major revision, amendment, or renewal of a permit. The request

shall:

(a) Briefly summarize the issues to be raised by the requester at the conference;

(b) State whether the requester desires to have the conference conducted in the locality of the proposed mining operations; and

(c) Be filed with the cabinet not later than thirty (30) days after the last publication of the newspaper advertisement placed by the applicant under Section 8(1) of this regulation.

(2) Except as provided in subsection (3) of this section, if a permit conference has been [is] requested in accordance with subsection (1) of this section, the cabinet shall hold a conference within twenty (20) working days after the last date to request a [such] conference under subsection (1)(c) of this section. The conference shall be conducted according to the following:

(a) If requested under subsection (1)(b) of this section, the conference shall be held in the locality of the proposed mining.

(b) The date, time, and location of the conference shall be sent to the applicant and parties requesting the conference and advertised once by the cabinet in the newspaper of largest bona fide circulation, according to the definition in KRS 424.110 to 424.120, in the county where[in] the proposed surface coal mining and reclamation operations are to [will] be located, at least two (2) weeks prior to the scheduled conference.

(c) If requested, in writing, by a conference requester in a reasonable time prior to the conference, the cabinet may arrange with the applicant to grant parties to the conference access to the permit area and, to the extent that the applicant has the right to grant access, to the adjacent areas prior to the established date of the conference for the purpose of gathering information relevant to the conference.

(d) The requirements of 405 KAR 7:090 shall not apply to the conduct of the conference. The conference shall be conducted by a representative of the cabinet, who may accept oral or written statements and any other relevant information from any party to the conference. An electronic or stenographic record shall be made of the conference proceedings, unless waived by all the parties. The record shall be maintained and shall be accessible to the parties of the conference until final release of the applicant's performance bond or other equivalent guarantee pursuant to [Title] 405 KAR Chapter 10.

(3) If all parties requesting the conference stipulate agreement before the requested conference and withdraw their requests, the conference need not be held.

(4) Permit conferences held in accordance with this section may be used by the cabinet as the public hearing required under 405 KAR 24:040, Section 2(6) on proposed relocation and closure of public roads.

Section 12. Public Availability of Information in Permit Applications on File with the Cabinet. (1) General availability.

(a) The cabinet shall make an application for a permit, major or minor revision, amendment, or renewal of a permit available for the public to inspect and copy by placing a full copy of the application at the regional office for the area in which mining shall [will] occur. The application will be made available by the cabinet for public inspection and copying, at reasonable times, in accordance with Kentucky open records statutes, KRS 61.870 to 61.884. This copy need not include confidential information exempt from disclosure under subsections (2) and (3) of this section.

(b) The application required by paragraph (a) of this subsection shall be placed at the appropriate regional office no later than the first date of newspaper advertisement of the application.

(c) The applicant shall be responsible for placing all changes in the copy of the application retained at the regional office when [at the same time that] the changes are submitted to the Division of Permits.

(2) Information pertaining to coal seams, test borings, core samples, or soil samples in applications shall be made available for inspection and copying to any person with an interest which is or may be adversely affected.

(3) Confidentiality. The cabinet shall provide for procedures to ensure the confidentiality of qualified confidential information. Confidential [Such] information shall be clearly identified by the applicant and submitted separately from the remainder of the application. Where a dispute arises concerning the disclosure or nondisclosure of confidential information, the cabinet shall provide notice and convene a hearing in accordance with 405 KAR 7:090. Confidential information shall be [is] limited to the following:

(a) Information that pertains only to the analysis of the chemical and physical properties of the coal to be mined, except information on components of the [such] coal which are potentially toxic in the environment;

(b) Information on the nature and location of archaeological resources on public land and Indian land as required under the Archeological Resources Protection Act of 1979.

Section 13. Department Review of Applications for Permits, Revisions, Amendments, and Renewals. (1) General.

(a) The cabinet shall review the application for a permit, revision, amendment, or renewal; written comments and objections submitted; and records of any permit conference held on the application and make a written decision, within the time frames listed in Section 16(1) of this regulation, concerning approval of, requiring modification of, or concerning rejection of the application.

(b) An applicant for a permit, revision, or amendment shall have the burden of establishing that the application is in compliance with all requirements of KRS Chapter 350 and [Title] 405 KAR Chapters 7 through 24.

(2)(a) Administrative completeness determination. Within ten (10) working days of initial receipt of the application the cabinet shall provide written notification to the applicant as to the administrative completeness of the application. If the application is determined to be incomplete, the cabinet shall notify the applicant within ten (10) working days after initial receipt of the application by certified mail, return receipt requested, or by registered mail, of the deficiencies which render the application incomplete. The applicant may submit supplemental information to correct the identified deficiencies for a period of ten

(10) working days after the applicant's receipt of the initial notice of incompleteness. If, after ten (10) working days, the cabinet determines that the application is still incomplete, the cabinet shall return the incomplete application to the applicant with written notification of the reasons for the determination.

(b) A determination by the cabinet that the application is administratively complete means [shall be construed to mean] that the application contains the major elements required by KRS Chapter 350 and [Title] 405 KAR Chapters 7 through 24 which are necessary to allow meaningful review of the application by the cabinet. An application shall not be deemed administratively complete if one (1) or more major elements are found to be absent from the application, which, by virtue of their absence, would require that the permit be denied. A determination that an application is administratively complete [of administrative completeness] shall not [be construed to] mean that the application is complete in every detail, nor shall it [be construed to] mean that any aspect of the application is technically sufficient or approvable.

(3) Processing of the administratively complete application. Within the time periods set forth in Section 16 of this regulation, the cabinet shall either:

(a) Notify the applicant of the cabinet's decision to issue or deny the application; or

(b) Notify the applicant in writing, by certified mail, return receipt requested, or by registered mail, promptly upon discovery of deficiencies in the application and allow the application to be temporarily withdrawn for the purpose of correcting the deficiencies. Temporary withdrawal periods shall not be counted against the time available to the cabinet for consideration of the application.

(4) If the cabinet determines from either the lists submitted as part of the application under 405 KAR 8:030, Section 3(3) or 405 KAR 8:040, Section 3(3), or from other available information, that any surface coal mining operation owned or controlled by the applicant is currently in violation of any law, rule, or regulation of the United States or any state law, rule, or regulation enacted pursuant to federal law, rule, or regulation, pertaining to air or water environmental protection, or of [any provision of] SMCRA [(P.L. 95-87)] or KRS Chapter 350, and regulations promulgated pursuant thereto, the cabinet shall require the applicant, before the issuance of the permit, to either:

(a) Submit to the cabinet proof which is satisfactory to the cabinet and other agencies which have jurisdiction over the [such] violation, that the violation has been or is in the process of being corrected; or

(b) Establish to the cabinet that the applicant has filed and is presently pursuing, in good faith, a direct administrative or judicial appeal to contest the validity of that violation. In this case, the permit shall contain a condition requiring that if the administrative or initial judicial hearing authority either denies a stay applied for in the appeal, or affirms the violation, then any surface coal mining operations being conducted under the permit shall be terminated unless and until the permittee complies with [the provisions of] paragraph (a) of this subsection. For loss of appeal on violations of laws or regulations of the United States or states other than Kentucky, operations shall be terminated under this paragraph only when the cabinet has actual, verified notice of the loss of appeal and the subsequent failure of the permittee to correct or begin correcting the violation; and the [such] termination shall be set aside by the cabinet only when the cabinet has actual, verified notice that the permittee has corrected the violation or is in the process of correcting the violation.

(5) No permit shall be issued if the cabinet determines that the applicant, or the operator specified in the application, controls or has controlled mining operations with a demonstrated pattern of willful violation of SMCRA [(P.L. 95-87)], KRS Chapter 350, or [Title] 405 KAR Chapters 7 through 24 of such a nature and duration and with such resulting "irreparable damage to the environment" (as defined in 405 KAR 7:020) that indicates an intent not to comply with [the provisions of] SMCRA [(P.L. 95-87)], KRS Chapter 350, or [Title] 405 KAR Chapters 7 through 24. Before any final determination by the cabinet pursuant to this subsection the applicant or operator shall be afforded an opportunity for an adjudicatory hearing on the determination as provided for in 405 KAR 7:090.

Section 14. Criteria for Application Approval or Denial. No application for a permit, revision (as applicable), or amendment of a permit shall be approved unless the application affirmatively demonstrates and the cabinet finds, in writing, on the basis of information set forth in the application or from information otherwise available, which has been [is] documented in the approval, that:

(1) The permit application is complete and accurate and in compliance with all requirements of KRS Chapter 350 and [Title] 405 KAR Chapters 7 through 24.

(2) The applicant has demonstrated that surface coal mining and reclamation operations, as required by KRS Chapter 350 and [Title] 405 KAR Chapters 7 through 24 can be feasibly accomplished under the mining and reclamation plan contained in the application.

(3) The assessment of the probable cumulative impacts of all anticipated coal mining in the cumulative impact area on the hydrologic balance has been made by the cabinet and the operations proposed under the application have been designed to prevent material damage to the hydrologic balance outside the proposed permit area.

(4) The proposed permit area is:

(a) Not included within an area designated unsuitable for surface coal mining operations under 405 KAR 24:030;

(b) Not within an area under study for designation as unsuitable for surface coal mining operations in an administrative proceeding begun under 405 KAR 24:030, unless the applicant demonstrates that, before January 4, 1977, he or she made substantial legal and financial commitments in relation to the operation for which he or she is applying for a permit;

(c) Not on any lands subject to the prohibitions or limitations of 405 KAR 24:040, Section 2(1), (2) or (3);

(d) Not within 100 feet of the outside right-of-way line of any public road, except as provided for in 405 KAR 24:040, Section 2(6); and

(e) Not within 300 feet from any occupied dwelling, except as provided for in 405 KAR 24:040, Section 2(5).

(5)(a) The proposed operations will not adversely affect any publicly-owned parks or any places included on [in] the National Register of Historic Places, except as provided for in 405 KAR 24:040, Section 2(4); and

(b) The cabinet has taken into account the effect of the proposed operations on properties listed and eligible for listing on the National Register of Historic Places. This finding may be supported in part by inclusion of appropriate permit conditions or changes in the mining and reclamation plan to protect historic resources, or a documented decision that the cabinet has determined that no additional protection measures are necessary.

(6) For operations involving the surface mining of coal where the private mineral estate to be mined has been severed from the private surface estate, the applicant has submitted to the cabinet the documentation required under 405 KAR 8:030, Section 4(2) or 405 KAR 8:040, Section 4(2).

(7) With regard to current violations, the applicant has either:

(a) Submitted the proof required by Section 13(4)(a) of this regulation; or

(b) Made the demonstration required by Section 13(4)(b) of this regulation.

(8) The applicant has paid all reclamation fees from previous and existing operations as required by 30 CFR 870, or has entered into a payment schedule approved by OSM.

(9) The applicant or the operator, if other than the applicant, does not control and has not controlled mining operations with a demonstrated pattern of willful violations of SMCRA [(P.L. 95-87)] or KRS Chapter 350 of such a nature and duration and with such resulting "irreparable damage to the environment" (as defined in 405 KAR 7:020) as to indicate an intent not to comply with [the provisions of] SMCRA [(P.L. 95-87)] or KRS Chapter 350.

(10) The applicant has demonstrated that any existing structure will comply with 405 KAR 8:030, Section 25 and 405 KAR 8:040, Section 25, and the applicable performance standards of KAR [Title] 405 KAR Chapters 16 and 18.

(11) The applicant has, if applicable, satisfied the requirements for approval of a long-term, intensive agricultural postmining land use.

(12) The applicant can reasonably be expected to submit the performance bond or other equivalent guarantee required under [Title] 405 KAR Chapter 10 prior to the issuance of the permit.

(13) The applicant has, with respect to prime farmland obtained either a negative determination or satisfied the requirements of 405 KAR 8:050, Section 3.

(14) The applicant has satisfied the applicable requirements of 405 KAR 8:050 regarding special categories of mining.

(15) The cabinet has made all specific approvals required under [Title] 405 KAR Chapters 16 through 20.

(16) The cabinet has found that the activities would not affect the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitats as determined under the Endangered Species Act of 1973 (16 USC [Sec.] 1531 et seq.).

(17) The applicant has not forfeited any bond under KRS Chapter 350. When the applicant has forfeited a [such] bond, the permit may be issued if the land for which the bond was forfeited has been satisfactorily reclaimed without cost to the state or the operator or person has paid a [such] sum that [as] the cabinet finds is adequate to reclaim the land [such lands].

(18) The applicant has not had a permit revoked, suspended or terminated under KRS Chapter 350. If the applicant has had a permit revoked, suspended or terminated, another permit may be issued, or a suspended permit may be reinstated, only if the applicant has complied with all of the requirements of KRS Chapter 350 or submitted proof satisfactory to the cabinet that the [such] violation has been corrected or is in the process of being corrected, in respect to all permits issued to him or her.

(19) The operation will not constitute a hazard to or do physical damage to a dwelling house, public building, school, church, cemetery, commercial or institutional building, public road, stream, lake, or other public property.

(20) The surface coal mining operation will not adversely affect a wild river established pursuant to KRS Chapter 146 or a state park unless adequate screening and other measures as approved by the cabinet have been [are] incorporated into the permit application and the surface coal mining operation has been [is] jointly approved by all affected agencies as set forth under 405 KAR 24:040.

(21) For a proposed remining operation where the applicant intends to reclaim in accordance with the requirements of 405 KAR 16:190, Section 7 or 405 KAR 18:190, Section 5, the applicant has demonstrated, to the satisfaction of the cabinet, that the site of the operation will be [is] a previously mined area as defined in those sections.

Section 15. Criteria for Application Approval or Denial Regarding Existing Structures. No application for a permit, revision, or amendment which proposes to use an existing structure in connection with or to facilitate the proposed surface coal mining and reclamation operation shall be approved, unless the applicant demonstrates and the cabinet finds, in writing, on the basis of information set forth in the complete and accurate application, that the provisions of 405 KAR 7:040, Section 4, have been [are] met.

Section 16. Application Approval or Denial Actions. (1) The cabinet shall take action on applications within the following time periods as appropriate:

(a)1. Except as provided for in paragraph (b) of this subsection, for a complete and accurate application submitted under Section 2(2)(a), (b), (d), and (e) of this regulation, a decision shall be made by the cabinet to approve, require modification of, or deny the application within sixty-five (65) working days after the notice of administrative completeness under Section 13(2) of this regulation, except that periods of temporary withdrawal under Section 13(3)(b) of

this regulation shall not be counted against the sixty-five (65) working-day period available to the cabinet.

2. Except as provided in paragraph (b) of this subsection, for a complete and accurate application submitted under Section 2(2)(c) of this regulation of a major revision as provided in Section 20 of this regulation, a decision shall be made by the cabinet to approve, require modification of, or deny the application within forty-five (45) working days after the notice of administrative completeness under Section 13(2) of this regulation, except that periods of temporary withdrawal under Section 13(3)(b) of this regulation shall not be counted against the forty-five (45) working-day period available to the cabinet.

3. For a complete and accurate application submitted under Section 2(2)(c) of this regulation for a minor revision as provided in Section 20 of this regulation, a decision shall be made by the cabinet to approve, require modification of, or deny the application within fifteen (15) working days after the notice of administrative completeness under Section 13(2) of this regulation, except that periods of temporary withdrawal under Section 13(3)(b) of this regulation shall not be counted against the fifteen (15) working-day period available to the cabinet.

(b) If [In the event that] the notice, hearing and conference procedures [as] mandated by KRS Chapter 350 and 405 KAR [this Title] prevent a decision from being made within the time periods specified in paragraph (a) of this subsection, the cabinet shall have additional time to issue its decision, but not to exceed twenty (20) days from the completion of the notice, hearing and conference procedures.

(2) The cabinet shall issue written notification of the decision to approve, modify, or deny the application, in whole or part, to the following persons and entities:

(a) The applicant;

(b) Each person who files comments or objections to the permit application;

(c) Each party to an informal permit conference, if held;

(d) The county judge-executive of the county, and the chief executive officer of any municipality, in which the permit area lies. This notice shall be sent within ten (10) days after the issuance of the permit and shall [must] include a description of the location of the permit area; and

(e) The field office director of the Office of Surface Mining Reclamation and Enforcement.

(3) If the application has been [is] denied, the notification required in subsection (2) of this section, for the applicant, any person filing objections to the permit and parties to an informal conference, shall include specific reasons for the denial.

(4) If the cabinet decides to approve the application, it shall require that the applicant file the performance bond before the permit is issued, in accordance with [the provisions of Title] 405 KAR Chapter 10.

(5) The cabinet shall publish a summary of its decision in the newspaper of largest bona fide circulation, according to the definition in KRS 424.110 to 424.120, in the county where[in] the proposed surface coal mining and reclamation operations are to [will] be located.

Section 17. Term of Permit. (1) Each permit shall be issued for a fixed term not to exceed five (5) years. A longer fixed permit term may be granted at the discretion of the cabinet only if:

(a) The application is complete and accurate for the specified longer term; and

(b) The applicant shows that a specified longer term is reasonably needed to allow the applicant to obtain necessary financing for equipment and for the opening of the operation with the need confirmed, in writing, by the applicant's proposed source for the financing.

(2)(a) A permit shall terminate, if the permittee has not begun the surface coal mining and reclamation operation covered by the permit within three (3) years of the issuance of the permit.

(b) The cabinet may grant reasonable extensions of the time for commencement of these operations, upon receipt of a written statement showing that the [such] extensions of time are necessary, if:

1. Litigation precludes the commencement or threatens substantial economic loss to the permittee; or

2. There are conditions beyond the control and without the fault or negligence of the permittee.

(c) With respect to coal to be mined for use in a synthetic fuel facility or specified major electric generating facility, the permittee shall be deemed to have commenced surface mining operations when [at the time that the] construction of the synthetic fuel or generating facility is initiated.

(d) Extensions of time granted by the cabinet under this subsection shall be specifically set forth in the permit and notice of the extension shall be made to the public.

(3) Permits may be suspended, revoked, or modified by the cabinet, in accordance with Section 19 of this regulation; Section 3 of 405 KAR 7:060; Sections 4, 6, and 7 of 405 KAR 8:050; and [Title] 405 KAR Chapter 12.

Section 18. Conditions of Permits. Actions by an applicant, permittee, or operator to submit an application to the cabinet, to accept a permit issued by the cabinet, or to begin operations pursuant to a permit issued by the cabinet, shall be deemed to constitute knowledge and acceptance of the conditions set forth in this section, which shall be applicable to each permit issued by the cabinet pursuant to this chapter whether or not the [such] conditions have been [are] set forth in the permit.

(1) General.

(a) The permittee shall comply fully with all terms and conditions of the permit and all applicable performance standards of KRS Chapter 350 and [Title] 405 KAR Chapters 7 through 24; and

(b) Except to the extent that the cabinet otherwise directs in the permit that specific actions be taken, the permittee shall conduct all surface coal mining and reclamation operations as described in the approved application; and

(c) The permittee shall conduct surface coal mining and reclamation operations only on those lands specifically designated as the permit area on the maps submitted under 405 KAR 8:030 or 405 KAR 8:040 and authorized for the term of the permit; and which are subject to the performance bond in effect pursuant to [Title] 405 KAR

Chapter 10.

(2) Right of entry.

(a) Without advance notice, unreasonable delay, or a search warrant, and upon presentation of appropriate credentials, the permittee shall allow authorized representatives of the Secretary of the Interior and the cabinet to:

1. Have the rights of entry provided for in 405 KAR 12:010, Section 3; and

2. Be accompanied by private persons for the purpose of conducting a federal inspection when the inspection is in response to an alleged violation reported to the cabinet by the private person.

(b) The permittee shall allow the authorized representatives of the cabinet to be accompanied by private persons for the purpose of conducting an inspection pursuant to 405 KAR 12:030.

(3) Environment, public health, and safety.

(a) The permittee shall take all possible steps to minimize any adverse impact to the environment or public health and safety resulting from failure to comply with any term or condition of the permit, including, but not limited to:

1. Any accelerated or additional monitoring necessary to determine the nature and extent of failure to comply and the results of the failure to comply;

2. Immediate implementation of measures necessary to comply; and

3. Warning, as soon as possible after learning of the [such] failure to comply, any person whose health and safety is in imminent danger due to the failure to comply.

(b) The permittee shall dispose of solids, sludge, filter backwash, or pollutants removed in the course of treatment or control of waters or emissions to the air in the manner required by [Title] 405 KAR Chapters 16 through 20, and which prevents violation of any other applicable Kentucky or federal law.

(c) The permittee shall conduct its operations:

1. In accordance with any measures specified in the permit as necessary to prevent significant, imminent environmental harm to the health or safety of the public; and

2. Utilizing any methods specified in the permit by the cabinet in approving alternative methods of compliance with the performance standards of KRS Chapter 350 and [Title] 405 KAR Chapters 16 through 20, in accordance with [the provisions of] KRS Chapter 350 and [Title] 405 KAR Chapters 16 through 20.

(4) Reclamation fees. The permittee shall pay all reclamation fees required by 30 CFR 870 for coal produced under the permit for sale, transfer, or use, in the manner required by that subchapter.

Section 19. Review of Permits. (1)(a) The cabinet shall review each permit issued under this chapter during the term of the permit. This review shall occur not later than the middle of the permit term and as required by 405 KAR 7:060 and 405 KAR 8:050, Sections 4, 6, and 7. Issued permits shall [will] be reevaluated in accordance with the terms of the permit and the requirements of KRS Chapter 350 and [Title] 405 KAR Chapters 7 through 24, including reevaluation of the bond.

(b) For permits of longer than five (5) year terms, a review of the permit shall be no less frequent than the permit midterm or every five (5) years, whichever is more frequent.

(2) After the review required by subsection (1) of this section, or at any time, the cabinet may, by order, require revision or modification of the permit provisions to ensure compliance with KRS Chapter 350 and [Title] 405 KAR Chapters 7 through 24.

(3) Copies of the decision of the cabinet shall be sent to the permittee.

(4) Any order of the cabinet requiring revision or modification of permits shall be based upon written findings and shall be subject to the provisions for administrative and judicial review of 405 KAR 7:090.

Section 20. Permit Revisions. (1) General. A revision to a permit shall be obtained:

(a) For changes in the surface coal mining and reclamation operations described in the existing application and approved under the current permit.

(b) When a revision is required by an order issued under Section 19 of this regulation.

(c) In order to continue operation after the cancellation or material reduction of the liability insurance policy, performance bond, or other equivalent guarantee upon which the original permit was issued; or

(d) As otherwise required under [Title] 405 KAR Chapters 7 through 24.

(2) Major revision.

(a) A revision is a major revision if the proposed change is of such scope and nature that the cabinet determines that public notice is necessary to allow participation in the cabinet's decision by persons who have an interest which may be adversely affected by the proposed change. Major revisions shall include, but shall not be limited to:

1. Changes in the postmining land use;

2. Enlargement or relocation of impoundments so as to increase the safety hazard classification of the impoundment;

3. Variances to approximate original contour requirements;

4. Construction or relocation of roads, where the [such] construction or relocation could adversely affect the interests of persons other than the surface owner;

5. Changes which may adversely affect significant fish and wildlife habitats or endangered species;

6. Proposed experimental practices;

7. Changes which may cause major impacts on the hydrologic balance;

8. Incidental boundary revisions that affect new watersheds;

9. Incidental boundary revisions that include diversions of perennial streams;

10. Incidental boundary revisions that include new areas from which coal will be removed, except these [provided that such] revisions shall be limited to ten (10) percent of the permit area acreage or five (5) acres, whichever is less.

(b) Major revisions shall be subject to all of the requirements of Sections 5; 7 through 12; 13(1), (2), (3); 14(1) through (6), (8), (10) through (16), (19) through (21); 15; 16; 18; and 24 of this regulation; and shall be submitted on forms prescribed by the cabinet. In addition to the requirements of Section 8(5) of this regulation, the advertisement shall contain a statement that the applicant proposes to revise the existing permit and shall contain a

description of the proposed change.

(3) Minor revisions.

(a) All revisions which are not determined by the cabinet to be major revisions are minor revisions. Minor revisions shall be subject to Sections 5; 7; 12; 13(1), (2), (3); 14(1) through (6), (10) through (16), (19) through (21); 15; 16(1) through (4); 18; and 24 of this regulation; and shall be submitted on forms prescribed by the cabinet.

(b) If the cabinet determines that a proposed minor revision is actually a major revision during the administrative completeness determination under Section 13 of this regulation, the cabinet shall so inform the applicant and return the application.

(c) The cabinet shall notify, in writing, those persons, if any, that the cabinet determines could have an interest that may be adversely affected by the proposed change. Those persons shall have the right to file written objections to the revision within ten (10) days of the date of the notification.

(4) Any extensions to the area covered by a permit, except for incidental boundary revisions, shall be made by application for a new or amended permit and shall not be approved under this section.

(5) Fees. Applications for major and minor revisions shall include a basic fee of $375. If the revision application proposes incidental boundary revisions which would increase the acreage in the permit, an additional acreage fee of seventy-five (75) dollars per acre, or fraction thereof, shall be included with the application, except that no acreage fee shall be required for surface areas overlying underground workings which will not be [are not] affected by surface operations and facilities.

Section 21. Permit Renewals. (1) General requirements for renewal. Any valid, existing permit issued pursuant to this chapter shall carry with it the right of successive renewal, within the approved boundaries of the existing permit, upon expiration of the term of the permit.

(2) Contents of renewal applications. Applications for renewal of permits shall be submitted within the time prescribed by Section 2(2)(b) of this regulation. Renewal applications shall be in a form and with content as required by the cabinet and in accordance with this section, and shall include at a minimum:

(a) The name and address of the permittee, the term of the renewal requested and the permit number;

(b) A copy of the proposed newspaper notice and proof of publication of same under Section 8 of this regulation;

(c) Evidence that liability insurance under 405 KAR 10:030, Section 4, will be provided by the applicant for the proposed period of renewal;

(d) A renewal fee of $375;

(e) Evidence that the performance bond [in effect for the operation] will continue in [full force and] effect for any renewal requested, as well as any additional bond required by the cabinet pursuant to 405 KAR 10:020; and

(f) Any additional revised or updated information which may be required by the cabinet.

(3) Applications for renewal shall be subject to the requirements of Sections 8 through 11, 13 and 16 of this regulation.

(4) An application for renewal shall not include any proposed revisions to the permit. Revisions shall be made by separate application and shall be subject to the requirements of Section 20 of this regulation.

(5) Term of renewal. Any permit renewal shall be for a term not to exceed the period of the original permit established under Section 17 of this regulation.

(6) Approval or denial of renewal applications.

(a) The cabinet shall approve a complete and accurate application for permit renewal, unless it finds, in writing, that:

1. The terms and conditions of the existing permit are not being satisfactorily met;

2. The present surface coal mining and reclamation operations are not in compliance with the environmental protection standards under KRS Chapter 350 and [Title] 405 KAR Chapters 7 through 24;

3. The requested renewal substantially jeopardizes the applicant's continuing responsibility to comply with KRS Chapter 350 and [Title] 405 KAR Chapters 7 through 24 on existing permit areas;

4. The applicant has not provided evidence that any performance bond required [to be in effect] for the operations will continue in [full force and] effect for the proposed period of renewal, as well as any additional bond the cabinet might require pursuant to [Title] 405 KAR Chapter 10;

5. Any additional revised or updated information required by the cabinet has not been provided by the applicant; or

6. The applicant has not provided evidence of having liability insurance in accordance with 405 KAR 10:030, Section 4.

(b) In determining whether to approve or deny a renewal, the burden shall be on the opponents of renewal.

(c) The cabinet shall send copies of its decision to the applicant, any persons who filed objections or comments to the renewal, to any persons who were parties to any informal conference held on the permit renewal and to the field office director of the Office of Surface Mining Reclamation and Enforcement.

(d) Any person having an interest which is or may be adversely affected by the decision of the cabinet shall have the right to administrative and judicial review set forth in Section 24 of this regulation.

Section 22. Transfer, Assignment, or Sale of Permit Rights. (1) General. No transfer, assignment, or sale of the rights granted under any permit issued pursuant to 405 KAR [this Title] shall be made without the prior written approval of the cabinet, in accordance with this section.

(2) Application requirements. An applicant (successor) for approval of the transfer, assignment, or sale of permit rights shall:

(a) Provide a complete and accurate application, on forms provided by the cabinet, for the approval of the proposed transfer, assignment, or sale. The application shall be signed by both the existing holder of permit rights and the applicant for succession. Additionally, the following information shall be provided:

1. The name and address of the existing permittee and the permit number;

2. A brief description of the proposed asction requiring approval;

3. The legal, financial, compliance, and related information required by 405 KAR 8:030, Sections 2 through 10 and 405 KAR 8:040, Sections 2 through 10;

4. Applicable waivers in accordance with 405 KAR 24:040, Section 2(5). Unless the waivers originally submitted with the permit application or subsequent revisions or amendments stipulate that they are transferable, new waviers shall [must] be executed in favor of the proposed successor. If these [such] waivers are not obtained, the successor may only conduct reclamation operations within the area previously exempted by waiver that were disturbed by the original permittee and may not extract coal within this area; and

5. A processing fee of $375.

(b) Advertise the filing of the application in the newspaper of largest bona fide circulation, according to the definition in KRS 424.110 to 424.120, in the county where [in which] the operations are located, indicating the name and address of the applicant, the original permittee, the permit number, the geographic location of the permit, and the address to which written comments may be sent under subsection (3) of this section.

(c) Obtain sufficient performance bond coverage which will ensure reclamation of all lands affected by the permit, including areas previously affected by the existing permittee on the permit being transferred.

(3) Public participation. Any person whose interests are or may be adversely affected by a decision on the transfer, assignment, or sale of permit rights, including an official of any federal, state, or local government agency, may submit written comments on the application to the cabinet within fifteen (15) days of the date of publication of the advertisement.

(4) Criteria for approval. The cabinet may allow a permittee to transfer, assign, or sell permit rights to a successor if it finds, in writing, that the successor:

(a) Is eligible to receive a permit in accordance with the criteria specified in Section 14 of this regulation;

(b) Has submitted a performance bond, in accordance with [Title] 405 KAR Chapter 10, which will ensure reclamation of all lands affected by the permit, including areas previously disturbed by the existing permittee on the permit being transferred, and which is at least equivalent to the bond of the existing permittee;

(c) Has submitted proof that liability insurance, as required by 405 KAR 10:030, Section 4, has been obtained; and

(d) Meets any other requirements specified by the cabinet in order to ensure compliance with KRS Chapter 350 or 405 KAR [Title 405] Chapters 7 through 24.

(5) Notice of decision. The cabinet shall notify the original permittee, the successor, any commenters or objectors, and the field office director of the Office of Surface Mining Reclamation and Enforcement of its final decision.

(6) Permit reissuance. After receiving the notice described in subsection (5) of this section, the successor shall immediately provide proof to the cabinet of the consummation of the transfer, assignment, or sale of permit rights. Upon submission of this [such] proof, the cabinet shall [will] reissue the original permit in the name of the successor.

(7) Rights of successor. All rights and liabilities under the original permit shall pass to the successor upon reissuance of the permit, except that the original permittee shall remain liable for any civil penalties resulting from violations occurring prior to the date of reissuance of the permit. The cabinet shall not approve transfer of a surface coal mining permit to any person who would be ineligible to receive a new permit under KRS 350.130(3).

(8) Requirements for new permits for persons succeeding to rights granted under a permit. A successor in interest who is able to obtain appropriate bond coverage may continue surface coal mining and reclamation operations according to the approved mining and reclamation plan and permit of the original permittee. However, any successor in interest seeking to change the conditions of mining or reclamation operations, or any of the terms or conditions of the original permit shall make application for a new permit, revision, or amendment, as appropriate.

(9) Release of bond liability. The cabinet may release the prior permittee from bond liability on the permit area if [provided that] the successor in interest has filed a performance bond satisfactory to the cabinet, has received written approval of the cabinet for the transfer, sale or assignment of rights, has submitted proof of execution of the agreement, and has assumed all liability under 405 KAR [this Title] for reclamation of the areas affected by all prior permittees.

Section 23. Amendments. Except for incidental boundary revisions, no extensions to an area covered by a permit shall [can] be approved under Section 20 (permit revisions) or Section 21 (permit renewals) of this regulation. All such extensions shall [must] be made by application for another permit. However, if the permittee desires to add the new area to his existing permit in order to have existing areas and new areas under one (1) permit, the cabinet may so amend the original permit provided that the application for the new area shall be subject to all procedures and requirements applicable to applications for original permits under 405 KAR [this Title].

Section 24. Administrative and Judicial Review. (1) Following the final decision of the cabinet concerning the application for a permit, revision or renewal thereof, application for transfer, sale, or assignment of rights or concerning an application for coal exploration, the applicant, permittee or any person with an interest which is or may be adversely affected may request a hearing on the reasons for the final decision in accordance with 405 KAR 7:090.

(2) Any applicant or any person with an interest which is or may be adversely affected and who has participated in the administrative proceedings as an objector shall:

(a) Have the right to judicial review as provided in KRS 224.085 if the applicant or person is aggrieved by the decision of the cabinet in an administrative hearing requested pursuant to subsection (1) of this section; or

(b) Have the right to an action in mandamus pursuant to KRS 350.250 if the cabinet fails to act within time limits specified in KRS Chapter 350 or [Title] 405 KAR Chapters 7 through 24.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 12, 1989
FILED WITH LRC: January 13, 1989 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed amendment has been scheduled to take place on Thursday, February 23, 1989 at 9 a.m. EST. The hearing has been scheduled for the Department for Surface Mining Reclamation and Enforcement's Training Room (Room D-16) in the Hudson Hollow Office Park, 2 Hudson Hollow Road, Frankfort, Kentucky. Persons interested in attending or testifying at this hearing should submit written notification of such by February 18, 1989. Such notification must be submitted to James Hale at the address noted below, and the notice must indicate if testimony is to be given. If, by February 18, Mr. Hale has not received any written notice of intent to testify, the hearing will be cancelled. To assure an accurate record, the cabinet requests that each person testifying at the hearing provide the cabinet with a written copy of his or her testimony. Written comments on the proposed amendment may be submitted at any time before 4:30 p.m. EST on February 23, 1989. Comments received after that time will not be considered. Written comments and written requests to attend or testify at the hearing must be submitted to: James Hale, Department for Surface Mining Reclamation and Enforcement, Hudson Hollow Office Park, 2 Hudson Hollow Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Jim Villines

(1) Type and number of entities affected: This amendment directly affects only the cabinet, in that it requires the cabinet to make a written finding that the cabinet has taken into account the effect of applicants' proposed operations on properties listed and eligible for listing on the National Register of Historic Places. In requiring the cabinet to make the finding, the amendment indirectly requires the cabinet to actually take into account the effect of applicants' proposed operations so that the required findings can be made.

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

1. First year: See (2)(a)1.

2. Continuing costs or savings: See (2)(a)2.

3. Additional factors increasing or decreasing costs (note any effects upon competition): See (2)(a)3.

(b) Reporting and paperwork requirements: See (2)(b).

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The proposed amendment will require the cabinet to make a specific written finding on each application for a new permit, amendment, or revision, and the analyses necessary to justify such a finding. In calendar year 1988 the cabinet received 300 applications for new permits, 252 applications for amendments, and 739 applications for revisions. The cabinet expects that total permitting activity for calendar 1989 will not differ greatly from 1988. The cabinet estimates that permit review activities for cultural and historic resources will require three additional employees with master's degrees in archaeology, two additional employees with bachelor's degrees in archaeology, and one additional secretarial employee, at a total annual personnel cost of $120,000. Two new vehicles would add $27,000, and professional equipment would add $4,000. Travel expenses of $10,000 and vehicle operation and maintenance of $2,000 would bring the first year total to $163,000.

2. Continuing costs or savings: Continuing costs for personnel, travel, and vehicle O/M in succeeding years are estimated at $138,000.

3. Additional factors increasing or decreasing costs: There are no additional factors that would increase or decrease costs to the cabinet, except that costs could increase or decrease if manpower requirements prove to be significantly different than anticipated.

(b) Reporting and paperwork requirements: The cabinet's paperwork will increase as a result of this amendment. The cabinet must make a specific written finding prior to each permitting action, and the permit file must contain documentation which supports the finding.

(3) Assessment of anticipated effect on state and local revenues: This amendment should not affect state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Under the constraints of KRS Chapter 13A, there are no alternatives to the promulgation of this amendment.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no statutes, administrative regulations, or governmental policies that conflict with, overlap, or duplicate the provisions of this amendment.

(a) Necessity of proposed regulation if in conflict: Since no conflicts exist, this item is not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Since no conflicts exist, this item is not applicable.

(6) Any additional information or comments: This proposed amendment also contains several nonsubstantive language changes in response to amendments to KRS Chapter 13A enacted by the 1988 Kentucky General Assembly.

TIERING: Was tiering applied? No. Tiering is not applicable to this proposed amendment because, under the federal and Kentucky surface mining laws and regulations, these requirements must apply equally to all permittees under 405 KAR Chapters 7 through 24.

FISCAL NOTE ON LOCAL GOVERNMENT: A fiscal note is not required for this regulation because it will have no impact on local government.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 30 CFR 773, 774, 775, 777, et al., with the changes to 405 KAR 8:010, Section 14(5) - the substance of this regulation amendment - being mandated by 30 CFR 773.15(c)(11), as revised by federal register 52 FR 4244 et seq., published February 10, 1987. The changes outside of Section 14(5) are being made in response to amendments to KRS Chapter 13A passed during the 1988 session of the Kentucky General Assembly, rather than because of a federal mandate.

2. State compliance standards. The state standard will require the cabinet to consider a mining operation's effect on properties listed on or eligible for listing on the National Register of Historic Places. It will also require the cabinet to make a written finding regarding these impacts prior to issuing a permit for the operation.

3. Minimum or uniform standards contained in the federal mandate. The February 10, 1987 federal regulation change requires that regulatory authorities take into account effects on properties listed on or eligible for listing on the National Register of Historic Places prior to issuance of permits. The mandate also requires that, prior to permit issuance, the regulatory authority make a written finding regarding these effects.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. The state and federal standards will be identical.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This item is not applicable - the state and federal standards will be identical.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Surface Mining Reclamation and Enforcement
(Proposed Amendment)

405 KAR 8:020. Coal exploration.

RELATES TO: KRS 350.057, 350.610

STATUTORY AUTHORITY: KRS Chapter 13A, 350.020, 350.028, 350.057, 350.060, 350.465

NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part requires the cabinet to promulgate rules and regulations pertaining to exploration operations. This regulation specifies when notice to the cabinet is required and when prior written approval is needed from the cabinet. This regulation further specifies the application process, information requirements, and hearing and compliance requirements.

Section 1. Exploration in an Area not Designated Unsuitable for Mining and Removing 250 Tons or Less of Coal. (1) Any person who intends to conduct coal exploration during which 250 tons or less of coal will be removed and which will not take place in an area designated unsuitable for mining pursuant to 405 KAR [Title 405] Chapter 24 shall, at least twenty-one (21) days prior to conducting the exploration, file with the cabinet a written notice of intention to explore.

(2) The notice shall include:

(a) The name, address, and telephone number of the person seeking to explore;

(b) The name, address, and telephone number of the representative who will be present at and responsible for conducting the exploration activities;

(c) A precise description of the exploration area (including latitude, longitude, nearest community, and USGS quadrangle);

(d) A statement of the period of intended exploration;

(e) The names and addresses of the owner of record of the surface land and of the subsurface mineral estate of the area to be explored; and

(f) A description of the method of exploration to be used and the practices that will be followed to protect the environment and to reclaim the area from adverse impacts of the exploration activities in accordance with the applicable requirements of 405 KAR 20:010.

(3) The cabinet shall, in accordance with Section 3 of this regulation, place the [such] notices on public file and make them available for public inspection and copying at the appropriate regional office of the cabinet.

(4) Any person who conducts coal exploration activities pursuant to this section which substantially disturb the natural land surface shall comply with 405 KAR 20:010.

Section 2. Exploration Removing More Than 250 Tons of Coal and Exploration in an Area Designated Unsuitable for Mining, Regardless of Tonnage. (1) General. Any person who intends to conduct coal exploration in which more than 250 tons of coal will be [are] removed, or which will take place in a area designated unsuitable for mining pursuant to 405 KAR [Title 405] Chapter 24, shall, prior to conducting the exploration, submit an application and obtain the written approval of the cabinet in accordance with this section.

(2) Contents of application for approval. Each application for approval, in the number and form required by the cabinet, shall contain, at a minimum:

(a) The name, address, and telephone number of the applicant;

(b) The name, address, and telephone number of the representative of the applicant who will be present at and be responsible for conducting the exploration;

(c) An exploration and reclamation operations plan, including:

1. A narrative description of the proposed exploration area, cross-referenced to the map required under paragraph (e) of this subsection, including latitude, longitude, and nearest community; surface topography; geological, surface water, and other physical features; vegetative cover, the distribution and important habitats of fish, wildlife, and plants, including, but not limited to, any endangered or threatened species listed pursuant to the Endangered Species Act of 1973 (16 USC [Sec.] 1531 et seq.); cultural or historic resources [districts, sites, buildings, structures or objects] listed [on] or known to be eligible for listing on the National Register of Historic Places; [and] known archaeological resources located within the proposed exploration area; and any other information which the cabinet may require regarding known or unknown historic or archaeological resources;

2. A narrative description of the methods to be used to conduct coal exploration and reclamation, including, but not limited to, the types and uses of equipment, drilling, blasting, road or other access route construction, and excavated earth and other debris disposal activities;

3. An estimated timetable for conducting and completing each phase of the exploration and reclamation;

4. The estimated amounts of coal to be removed and a description of the methods to be used to

determine those amounts;

5. A description of the measures to be used to comply with the applicable requirements of 405 KAR 20:010; and

6. A statement as to whether the proposed coal exploration will be conducted within an area which has been designated unsuitable for mining pursuant to 405 KAR [Title 405] Chapter 24. If so, the application shall include a description of the measures to be taken so as not to interfere with the values for which the area was designated unsuitable;

(d) The name and address of the owner of record of the surface land and of the subsurface mineral estate of the area to be explored;

(e) 1. A USGS seven and one-half (7 1/2) minute topographic map marked showing the area of land to be affected and location of drill holes or excavations, and

2. A map at a scale of 1:6000 (one (1) inch equals 500 feet) or larger, showing the areas of land which may be affected by the proposed exploration and reclamation. The map shall also specifically show existing roads, occupied dwellings, and pipelines; proposed location of trenches, roads, and other access routes and structures to be constructed; the location of land excavations to be conducted; water or coal exploratory holes and wells to be drilled or altered; earth or debris disposal areas; existing bodies of surface water; historic, cultural, topographic, and drainage features; and habitats of any endangered or threatened species listed pursuant to the Endangered Species Act of 1973 (16 USC [Sec.] 1531 et seq.);

(f) If the surface is owned by a person other than the applicant, a description of the basis upon which the applicant claims the right to enter that land for the purpose of conducting exploration and reclamation;

(g) A justification of the necessity to remove more than 250 tons of coal from the area during exploration; and

(h) A fee of $375.

(3) Public notice and opportunity to comment. Public notice of the [complete] application and opportunity to comment shall be provided as follows:

(a) As contemporaneously as possible with receipt of written notification from the cabinet under subsection (4)(a) of this section that the application has been [is] determined to be administratively complete, public notice of the filing of the administratively complete application with the cabinet shall be published by the applicant in the newspaper of largest bona fide circulation, according to the definition in KRS 424.110 to 424.120, in the county where [in which] the proposed exploration area is to be located.

(b) The public notice shall state the name and business address of the person seeking approval, the date of the filing of the administratively complete application, the address of the cabinet at which written comments on the application may be submitted, the closing date of the public comment period under paragraph (c) of this subsection, and a description of the general area of exploration.

(c) Any person with an interest which is or may be adversely affected shall have the right to file with the cabinet written comments on the [complete] application within thirty (30) days of the publication of the public notice under paragraph (a) of this subsection.

(4) Processing of applications.

(a) Within ten (10) working days of receipt of an application for approval of coal exploration operations, the cabinet shall provide written notification to the applicant as to the administrative completeness of the application. The date of [such] written notification shall be deemed the date of filing of the administratively complete application. A determination by the cabinet that the application is administratively complete shall not [be construed to] mean that the application is technically sufficient.

(b) The cabinet shall act upon an [complete] application within sixty (60) days after the filing of the administratively complete application.

(c) The cabinet shall approve a complete and accurate application filed in accordance with this regulation, if it finds, in writing, that the applicant has demonstrated that the exploration and reclamation described in the application:

1. Will be conducted in accordance with KRS Chapter 350, 405 KAR 20:010, and this regulation;

2. Will not jeopardize the continued existence of an endangered or threatened species listed pursuant to Section 4 of the Endangered Species Act of 1973 (16 USC 1533) or result in the destruction or adverse modification of critical habitat of those species;

3. Will not adversely affect any cultural or historic resources [or districts, sites, buildings, structures, or objects] listed [or eligible for listing] on the National Register of Historic Places, unless the proposed exploration has been approved by both the cabinet and the agency with jurisdiction [management responsibility] over the [such] areas;

4. If located within an area designated unsuitable for mining, will not be incompatible with the values for which the area was designated unsuitable for mining; and

5. If removal of more than 250 tons of coal has been proposed, that the [such] removal is justified.

(5) Terms of approval. Each approval issued by the cabinet shall contain conditions necessary to ensure that the exploration and reclamation will be conducted in compliance with KRS Chapter 350, this regulation, and 405 KAR 20:010.

(6) Notice and hearing:

(a) The cabinet shall notify the applicant, the appropriate local government officials, and all commenters on the application, in writing, of its decision on the application. If the application has been [is] disapproved, the notice to the applicant shall include a statement of the reason for disapproval. The cabinet shall provide public notice of approval or disapproval of each application by publication of notice in the newspaper of largest bona fide circulation, according to the definition in KRS 424.110 to 424.120, in the county where [in which] the proposed exploration operations are to be located.

(b) Any person having an interest which is or may be adversely affected by a decision of the cabinet pursuant to paragraph (a) of this subsection shall have the opportunity for administrative and judicial review as [are] set forth in 405 KAR 8:010, Section 24.

Section 3. Public Availability of Information.

(1) Except as provided in subsection (2) of this section, all information submitted to the cabinet under this regulation shall be made readily available for public inspection and copying pursuant to Kentucky open record statutes KRS 61.870 to 61.884, at the appropriate Regional Office of the Department of Surface Mining Reclamation and Enforcement.

(2)(a) The cabinet shall not make information available for public inspection, if the person submitting it requests in writing, when it is submitted [at the time of submission], that it not be disclosed and the cabinet determines that the information is confidential.

(b) The cabinet shall determine that information is confidential only if it concerns trade secrets or is privileged commercial or financial information which relates to the competitive rights of the person intending to conduct coal exploration.

(c) Information requested to be held as confidential under this subsection shall not be made publicly available until [after] notice and opportunity to be heard has been [is] afforded persons seeking or opposing disclosure of the information.

Section 4. Compliance. All coal exploration and reclamation operations which substantially disturb the natural land surface shall be conducted in accordance with the coal exploration requirements of KRS Chapter 350, this regulation, and 405 KAR 20:010, and any conditions on approval for exploration and reclamation imposed by the cabinet.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 12, 1989
FILED WITH LRC: January 13, 1989 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed amendment has been scheduled to take place on Thursday, February 23, 1989 at 9 a.m. EST. The hearing has been scheduled for the Department for Surface Mining Reclamation and Enforcement's Training Room (Room D-16) in the Hudson Hollow Office Park, 2 Hudson Hollow Road, Frankfort, Kentucky. Persons interested in attending or testifying at this hearing should submit written notification of such by February 18, 1989. Such notification must be submitted to James Hale at the address noted below, and the notice must indicate if testimony is to be given. If, by February 18, Mr. Hale has not received any written notice of intent to testify, the hearing will be cancelled. To assure an accurate record, the cabinet requests that each person testifying at the hearing provide the cabinet with a written copy of his or her testimony. Written comments on the proposed amendment may be submitted at any time before 4:30 p.m. EST on February 23, 1989. Comments received after that time will not be considered. Written comments and written requests to attend or testify at the hearing must be submitted to: James Hale, Department for Surface Mining Reclamation and Enforcement, Hudson Hollow Office Park, 2 Hudson Hollow Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Jim Villines

(1) Type and number of entities affected: This proposed amendment will affect persons who apply for cabinet approval of coal exploration operations which will remove more than 250 tons of coal or will be conducted in an area designated unsuitable for mining. During calendar 1988 no applications for exploration approval were received, and the cabinet has no reason to expect any significant number of such applications in the coming year.

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

1. First year: The proposed amendment requires that the applicant's plan for exploration and reclamation describe any cultural or historic resources known to be eligible for listing on the National Register of Historic Places (resources already listed on the Register are presently required to be described). This requirement will not add significantly to the cost of preparing an application.

The proposed amendmet requires that the applicant's plan include any other information which the cabinet may require regarding known or unknown historic or archaeological resources. This requirement would add no cost if the cabinet required no additional information, but could add as little as a few hundred dollars or as much as several thousand dollars to the cost of preparing an application depending upon the scope and detail of any field investigations or other analyses the cabinet might require.

The proposed amendment deletes the requirement that resources merely eligible for listing on the Register not be adversely affected by the exploration operations unless jointly approved by the cabinet and the agency with jurisdiction over the area. This could in some limited situations afford significant savings to an applicant who otherwise would be required to avoid affecting such resources or secure joint agency approval to affect such resources.

2. Continuing costs or savings: The proposed amendment will not add any continuing costs or savings to any individual applicant.

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: Applicants will face some additional paperwork if the cabinet requires additional information regarding known or unknown historic or archaeological resources. This would range from simple documents such as letters or maps, to lengthy documents such as reports of archaeological surveys.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: Since extremely few applications are anticipated, there should be no significant costs or savings to the cabinet in the first year.

2. Continuing costs or savings: Since extremely few applications are anticipated, there should be no significant continuing costs or savings to the cabinet.

3. Additional factors increasing or decreasing costs: There are no additional factors which would increase or decrease costs.

(b) Reporting and paperwork requirements: The cabinet will experience minor additional paperwork if it requires an applicant to provide additional information on known or unknown cultural or archaeological resources.

(3) Assessment of anticipated effect on state

and local revenues: The proposed amendment should not affect state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Under the constraints of KRS Chapter 13A, there are no alternatives to the promulgation of this amendment.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no statutes, administrative regulations, or governmental policies that conflict with, overlap, or duplicate the provisions of this amendment.

(a) Necessity of proposed regulation if in conflict: Since no conflicts exist, this item is not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Since no conflicts exist, this item is not applicable.

(6) Any additional information or comments: The proposed amendment contains minor changes to distinguish between administratively complete applications and complete and accurate applications. These changes are made for consistency with 405 KAR 7:020 as adopted December 13, 1988. These changes were inadvertently omitted from amendments to 405 KAR 8:020 adopted December 13, 1988. This proposed amendment also contains several nonsubstantive language changes in response to amendments to KRS Chapter 13A enacted by the 1988 Kentucky General Assembly.

TIERING: Was tiering applied? No. Tiering is not applicable to this proposed amendment because, under the federal and Kentucky surface mining laws and regulations, these requirements must apply equally to all permittees under 405 KAR Chapters 7 through 24.

FISCAL NOTE ON LOCAL GOVERNMENT: A fiscal note is not required for this regulation because it will have no impact on local government.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 30 CFR 772, with the cultural and historic resources changes in 405 KAR 8:020, Section 2(2)(c)1 being mandated by 30 CFR 772.12(b)(8)(i) and (ii), as created by federal register 48 FR 40622 et seq., published on September 8, 1983, and 30 CFR 772.12(b)(8)(iv), as created by federal register 52 FR 4244 et seq., published on February 10, 1987. The changes to Section 2(4)(c)3 are designed to make this subparagraph consistent with 30 CFR 772.12(d)(2)(iii), as created by federal register 48 FR 40622 et seq., published September 8, 1983. The changes outside of Section 2(2)(c)1 and (4)(c)3 are being made in response to amendments to KRS Chapter 13A passed during the 1988 session of the Kentucky General Assembly, rather than because of a federal mandate.

2. State compliance standards. Section 2(2) lists certain application requirements for exploration operations in which more than 250 tons of coal will be removed or which will take place in an area designated unsuitable for mining. The proposed amendments to Section 2(2)(c)1 will require that the narrative description and map required for such applications address the following: 1) cultural or historic resources listed on or known to be eligible for listing on the National Register of Historic Places (not a new requirement), 2) archaeological resources (not a new requirement), and 3) any other information which the cabinet may require regarding known or unknown historic or archaeological resources.

For applications submitted under Section 2(2), the cabinet must make certain findings prior to approving the exploration operation. These findings are listed in Section 2(4)(c). The cabinet is proposing to amend the finding at 2(4)(c)3 to require a determination that the exploration operation will not adversely affect cultural or historic resources listed on the National Register of Historic Places, unless the proposed exploration has been approved by the cabinet and the agency with jurisdiction over the area. In part, the proposed language is simply a clarification of the existing finding required under Section 2(4)(c)3; however, the substance of the current provision and the proposed amendment differs in that the current regulation also requires the finding for sites that are merely eligible for listing on the National Register.

3. Minimum or uniform standards contained in the federal mandate. Like the proposed amendments, the federal mandate requires that exploration applications describe: 1) archaeological resources, 2) cultural or historic resources listed on or eligible for listing on the National Register of Historic Places, and 3) any other information which the regulatory authority may require regarding known or unknown historic or archaeological resources. The federal mandate also requires that the regulatory authority not approve the exploration unless it finds that cultural and historic resources listed on the National Register of Historic Places will not be adversely affected, unless the proposed exploration has been approved by the regulatory authority and the agency with jurisdiction over the area.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. The state and federal standards will be identical.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This item is not applicable - the state and federal standards will be identical.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Surface Mining Reclamation and Enforcement
(Proposed Amendment)

405 KAR 8:030. Surface coal mining permits.

RELATES TO: KRS 350.060, 350.465

STATUTORY AUTHORITY: KRS Chapter 13A, 350.020, 350.028, 350.060, 350.465

NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part requires the cabinet to promulgate rules and regulations pertaining to permits for surface mining activities. This regulation specifies certain information to be shown by the applicant related to legal and compliance status, environmental resources, and his mining and reclamation plan. This regulation

further specifies certain showings to be made by the applicant to obtain a permit.

Section 1. General. (1) This regulation applies to any person who applies for a permit to conduct surface mining activities.

(2) The requirements set forth in this regulation specifically for applications for permits to conduct surface mining activities are in addition to the requirements applicable to all applications for permits to conduct surface coal mining and reclamation operations as set forth in 405 KAR 8:010.

(3) This regulation sets forth information required to be contained in applications for permits to conduct surface mining activities, including:

(a) Legal, financial, compliance, and related information;

(b) Environmental resources information; and

(c) Mining and reclamation plan information.

Section 2. Identification of Interests. (1) Each application shall contain the names and addresses of:

(a) The permit applicant, including his or her telephone number;

(b) Every legal or equitable owner of record of the property to be mined;

(c) The holders of record of any leasehold interest in the property to be mined;

(d) Any purchaser of record, under a real estate contract, of the property to be mined;

(e) The operator, if different from the applicant, who will conduct surface mining activities on behalf of the applicant, including his or her telephone number; and

(f) The resident agent of the applicant who will accept service of process, including his or her telephone number.

(2) If any owner, holder, purchaser, or operator, identified under subsection (1) of this section, is a business entity other than a single proprietor, the application shall contain the names and addresses of their respective principals, officers, and resident agents.

(3) Each application shall contain a statement of whether the applicant is a corporation, partnership, single proprietorship, association or other business entity. For businesses other than single proprietorships, the application shall contain the following information, where applicable:

(a) Names and addresses of every officer, partner, director, or other person performing a function similar to a director of the applicant;

(b) Name and address of any person who is a principal shareholder of the applicant;

(c) Names under which the applicant, partner, or principal shareholder previously operated a surface coal mining operation in the United States within the five (5) years preceding the date of application;

(d) If a partnership, a certified copy of the partnership agreement; and

(e) If a domestic corporation, a certified copy of the certificate of incorporation from the Secretary of State; and if a foreign corporation, a certified copy of the certificate of authority to conduct business within the Commonwealth of Kentucky.

(4) Each application shall contain a statement of any current or previous coal mining permits in the United States held by the applicant during the five (5) years preceding the application and by any person identified in subsection (3)(c) of this section, and of any pending permit application to conduct surface coal mining and reclamation operations in the United States. The information shall be listed by permit or application number and identify the regulatory authority for each of those coal mining operations.

(5) Each application shall contain the names and addresses of the owners of record of all surface and subsurface areas contiguous to any part of the proposed permit area.

(6) Each application shall contain the name of the proposed mine and all MSHA identification numbers that have been assigned for the mine and all sections.

(7) Each application shall contain proof, such as a power of attorney or a resolution of the board of directors, that the individual signing the application has the power to represent the applicant in the permit matter.

(8) Each application shall contain a statement of all lands, interests in lands, options, or pending bids on interests held or made by the applicant for lands which are contiguous to the area to be covered by the permit.

Section 3. Compliance Information. (1) Each application shall contain a statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant has:

(a) Had a coal mining permit of the United States or any state suspended or revoked in the last five (5) years; or

(b) Forfeited a coal mining performance bond or similar security deposited in lieu of bond.

(2) If any [such] suspension, revocation, or forfeiture as described in subsection (1) of this section has occurred, the application shall contain a statement of the facts involved, including:

(a) Identification number and date of issuance of the permit, and date and amount of bond or similar security;

(b) Identification of the authority that suspended or revoked a permit or forfeited a bond and the stated reasons for that action;

(c) The current status of the permit, bond, or similar security involved;

(d) The date, location, and type of any administrative or judicial proceedings initiated concerning the suspension, revocation, or forfeiture; and

(e) The current status of these proceedings.

(3) Each application shall contain a list of each violation notice pertaining to SMCRA [(P.L. 95-87)] or KRS Chapter 350 and regulations promulgated thereto, received by the applicant in connection with any surface coal mining operation during the three (3) year period before the application date. Each application shall also contain a list of each violation notice pertaining to air or water environmental protection received by the applicant in connection with any surface coal mining operation during the three (3) year period before the application date, for violations of any law, rule or regulation of the United States, or of any state law, rule or regulation enacted pursuant to federal law, rule or regulation. The application shall also contain a statement regarding each violation notice, including:

(a) The date of issuance and identity of the

issuing regulatory authority, department, or agency;

(b) A brief description of the particular violation alleged in the notice;

(c) The final resolution of each violation notice, if any;

(d) For each violation notice that has not been finally resolved:

1. The date, location, and type of any administrative or judicial proceedings initiated concerning the fact of the violation, including, but not limited to, proceedings initiated by the applicant to obtain administrative or judicial review of the fact of the violation and the current status of the proceedings; and

2. The actions, if any, taken or being taken by the applicant to abate the violation.

(4) Upon request by a small operator as defined in KRS 350.450(4)(d), the cabinet shall [will] provide to the small operator, with regard to persons under subsection (1) of this section which are identified by the small operator, the compliance information required by this section regarding suspension and revocation of permits and forfeiture of bonds under KRS Chapter 350, and information pertaining to violations of KRS Chapter 350 and regulations promulgated thereunder.

Section 4. Right of Entry and Right to Surface Mine. (1) Each application shall contain a description of the documents upon which the applicant bases his or her legal right to enter and begin surface mining activities in the permit area and whether that right is the subject of pending litigation. The description shall identify those documents by type and date of execution, identify the specific lands to which the document pertains, and explain the legal rights claimed by the applicant.

(2) Where the private mineral estate to be mined has been severed from the private surface estate, the application shall also provide for lands within the permit area, a copy of the document of conveyance that grants or reserves the right to extract the coal by surface mining methods.

(3) Nothing in this section shall be construed to afford the cabinet the authority to adjudicate property title disputes.

Section 5. Relationship to Areas Designated Unsuitable for Mining. (1) Each application shall contain a statement of available information on whether the proposed permit area is within an area designated unsuitable for surface mining activities under 405 KAR [Title 405,] Chapter 24 or under study for designation in an administrative proceeding under that chapter.

(2) If an applicant claims the exemption in 405 KAR 8:010, Section 14(4)(b), the application shall contain information supporting the applicant's assertion that it made substantial legal and financial commitments before January 4, 1977, concerning the proposed surface mining activities.

(3) If an applicant proposes to conduct surface mining activities within 300 feet of an occupied dwelling, the application shall contain the waiver of the owner of the dwelling as required in 405 KAR 24:040, Section 2(5).

Section 6. Permit Term Information. (1) Each application shall state the anticipated or actual starting and termination date of each phase of the surface mining activities and the anticipated number of acres of land to be affected for each phase of mining and over the total life of the permit.

(2) If the applicant proposes to conduct the surface mining activities in excess of five (5) years, the application shall contain the information needed for the showing required under 405 KAR 8:010, Section 17(1).

Section 7. Personal Injury and Property Damage Insurance Information. Each permit application shall contain a certificate of liability insurance according to 405 KAR 10:030, Section 4.

Section 8. Identification of Other Licenses and Permits. Each application shall contain a list of all other licenses and permits needed by the applicant to conduct the proposed surface mining activities. This list shall identify each license and permit by:

(1) Type of permit or license;

(2) Name and address of issuing authority;

(3) Identification numbers of applications for those permits or licenses or, if issued, the identification numbers of the permits or licenses; and

(4) If a decision has been made, the date of approval or disapproval by each issuing authority.

Section 9. Identification of Location of Public Office for Filing of Application. Each application shall identify, by name and address, the appropriate regional office of the cabinet where the applicant will file a copy of the entire [complete] application for public inspection under 405 KAR 8:010, Section 8(8).

Section 10. Newspaper Advertisement and Proof of Publication. A copy of the newspaper advertisement of the application and proof of publication of the advertisement shall be filed with the cabinet and made a part of the [complete] application, not later than fifteen (15) days after the last date of publication required under 405 KAR 8:010, Section 8(2).

Section 11. Environmental Resources Information. (1) Each permit application shall include descriptions of the existing environmental resources within the proposed permit area and adjacent areas as required by Sections 11 through 23 of this regulation. The descriptions required by this regulation may, where appropriate, be based upon published texts or other public documents together with reasonable extrapolations from specific data available from existing permit areas or other appropriate areas.

(2)(a) Each application shall describe and identify the nature of cultural, [and] historic, and archaeological resources listed [in] or eligible for listing on [in] the National Register of Historic Places and known archaeological sights [features] within the proposed permit area and adjacent areas. The description shall be based on all available information, including, but not limited to, information from the state Historic Preservation Officer and from [data of state and] local archaeological, historical, and cultural preservation agencies.

(b) The cabinet may require the applicant to

identify and evaluate important historic and archaeological resources that may be eligible for listing on the National Register of Historic Places, through collection of additional information, field investigations, or other appropriate analyses.

Section 12. General Requirements for Baseline Geologic and Hydrologic Information. (1) The application shall contain baseline geologic and hydrologic information which has been collected, analyzed, and submitted in the detail and manner acceptable to the cabinet, and which shall be sufficient to:

(a) Identify and describe protective measures pursuant to Section 32(1) of this regulation which will be implemented during the mining and reclamation process to assure protection of the hydrologic balance, or to demonstrate that protection of the hydrologic balance can be assured without the design and installation of protective measures; and to design necessary protective measures pursuant to Section 32(2) of this regulation;

(b) Determine the probable hydrologic consequences of the mining and reclamation operations upon the hydrologic balance in the permit area and adjacent area pursuant to Section 32(3) of this regulation so that an assessment can be made by the cabinet pursuant to 405 KAR 8:010, Section 14(3) of the probable cumulative impacts of all anticipated mining on the hydrologic balance in the cumulative impact area;

(c) Determine pursuant to 405 KAR 8:010, Section 14(2) and (3) whether reclamation as required by 405 KAR [Title 405] can be accomplished and whether the proposed operation has been designed to prevent material damage to the hydrologic balance; and

(d) Design surface and groundwater monitoring systems pursuant to Section 32(4) of this regulation for the during-mining and postmining time period which, together with the baseline data collected under Sections 14(1) and 15(1) of this regulation, will demonstrate whether the mining operation is meeting applicable effluent limitations and stream standards and protecting the hydrologic balance.

(2)(a) Geologic and hydrologic information pertaining to the area outside the permit and adjacent area but within the cumulative impact assessment area shall be provided to the applicant by the cabinet:

1. If this information is needed in preparing the cumulative impact assessment; and

2. If this information is available from an appropriate federal or state agency.

(b) If this information is needed by the cabinet for conducting the cumulative impact assessment and is not available from a federal or state agency, the applicant may gather and submit this information to the cabinet as part of the permit application.

(3) Interpolation, modeling, correlation or other statistical methods, and other data extrapolation techniques may be used if the applicant can demonstrate to the satisfaction of the cabinet that the [such] data extrapolation techniques are valid and that information obtained through the [such] techniques meets the requirements of subsection (1) of this section.

(4) All water quality analyses performed to meet the requirements of this chapter shall be conducted according to the methodology in the fourteenth edition of "Standard Methods for the Examination of Water and Wastewater," or the methodology in 40 CFR Parts 136 and 434. All water quality sampling shall be conducted according to either methodology listed above when feasible.

Section 13. Baseline Geologic Information. (1) The application shall contain baseline geologic information collected from the permit area which shall meet the requirements of Section 12(1) of this regulation and shall include at a minimum:

(a) The results of samples obtained from continuous cores; drill cuttings; channel cuttings from fresh, unweathered, rock outcrops; or other rock or soil material which has been collected using acceptable sampling techniques.

1. The vertical extent of sampling shall include those strata from the surface down to and including the stratum immediately below the lowest coal seam to be mined; and

2. Where aquifers which are located within the permit area underlie the lowest coal seam to be mined and these [such] aquifers may be adversely affected by the mining operation, the vertical extent of sampling shall also include those strata from the lowest coal seam to be mined down to and including the [such] aquifers.

3. The area and vertical density of sampling shall, at a minimum, be sufficient to determine the distribution of strata which have a potential to produce acid drainage and to determine the area and vertical extent of aquifers which may be adversely affected.

4. If the vertical extent, and the area and vertical density of sampling specified in subparagraphs 1 through 3 of this paragraph are not sufficient to locate suitable strata for use as a topsoil substitute, or for other required design or analysis, additional sampling shall be conducted as necessary to furnish adequate geologic information.

(b) Chemical analyses including, but not limited to, maximum potential acidity and neutralization potential of each overburden stratum and the stratum immediately below the lowest coal seam to be mined, to identify those strata which have a potential to produce acid or toxic drainage.

(c) Chemical analyses of the coal seam to be mined to determine the potential to produce acid or toxic drainage, including the parameters of total sulfur and pyritic sulfur; except that the cabinet shall [will] not require an analysis for pyritic sulfur if the applicant can demonstrate to the satisfaction of the cabinet that an analysis for total sulfur provides adequate information to assure protection of the hydrologic balance.

(d) Collection of geologic information from the permit area as required in this subsection may be waived in whole or in part if:

1. The applicant can demonstrate to the satisfaction of the cabinet through geologic correlation or other procedures that information collected from outside the permit area is representative of the permit area and is sufficient to meet the requirements of Section 12(1) of this regulation; or

2. Other information equivalent to that required by this subsection is available to the cabinet in a satisfactory form and is made a part of the permit application; and

3. The cabinet provides a written statement granting a waiver.

(2) The application shall contain a description of the geology of the proposed permit area and adjacent area which shall meet the requirements of Section 12(1) of this regulation and be based on the information required in subsection (1) of this section or other appropriate geologic information. The description shall include, at a minimum, geologic logs, cross-sections, fence diagrams, or other appropriate illustrations and written descriptions depicting:

(a) Within the permit area:

1. The structural geology and lithology of overburden strata and the stratum immediately below the lowest coal seam to be mined;

2. The thickness and chemical characteristics of each overburden stratum and the stratum immediately below the lowest coal seam to be mined; and

3. Where aquifers may be adversely affected by the mining operation, the structural geology, lithology, thickness, and area extent of the [such] aquifers; and structural geology and lithology of strata, and thickness of each stratum, from the surface down to the [such] aquifers.

(b) Within the adjacent area, the approximate area extent and approximate thickness of aquifers which may be adversely affected by the mining operation.

(3) If determined by the cabinet to be necessary to assure adequate reclamation and protection of the hydrologic balance, the cabinet may require geologic information and description in addition to that required by subsections (1) and (2) of this section including, but not limited to, leaching tests of material from strata which may be disturbed by the operation to determine the potential for the operation to produce drainage with elevated levels of acidity, sulfate, and total dissolved solids, and the collection of information to greater depths within the proposed permit area or the collection of information for areas outside the proposed permit area.

Section 14. Baseline Ground Water Information. (1) The application shall contain baseline groundwater information for the permit area and adjacent area which shall be collected and submitted in a manner acceptable to the cabinet and shall be adequate to meet the requirements of Section 12(1) of this regulation.

(2) Groundwater information shall include an inventory of wells, springs, underground mines, or other similar groundwater supply facilities which are currently being used, have been used in the past, or have a potential to be used for domestic, agricultural, industrial, or other beneficial purpose. The inventory shall include the location, ownership, type of usage, and where possible, other relevant information such as the depth and diameter of wells and approximate rate of usage, pumpage or discharge from wells, springs, and other groundwater supply facilities.

(3) Groundwater information shall include seasonal groundwater quantity and quality data collected from monitoring wells, springs, underground mines, or other appropriate groundwater monitoring facilities, at a sufficient number of monitoring locations with adequate area distribution to meet the requirements of Section 12(1) of this regulation. Seasonal groundwater quantity and quality data shall be provided for each water transmitting zone above, and potentially impacted water transmitting zone below, the lowest coal seam to be mined including at a minimum:

(a) Groundwater levels; and

(b) Total dissolved solids, or specific conductance corrected to twenty-five (25) degrees C; pH; dissolved iron; dissolved manganese; acidity; alkalinity; and sulfate. For data collected prior to August 13, 1985 [the effective date of these amendments], total iron and total manganese may be substituted for dissolved iron and dissolved manganese.

(4) The groundwater information described in subsection (3) of this section shall [will] be required in whole or in part for coal seams if the [in those cases where] coal seams to be mined are serving as water supply sources or are otherwise significant in protecting the hydrologic balance.

(5) If additional information is needed to assess the need for protective measures, to design protective measures, to determine the probable hydrologic consequences of mining, or to conduct the cumulative impact assessment, the cabinet may require groundwater information in addition to that described in subsections (2), (3), and (4) of this section including, but not limited to, information pertaining to aquifer storage, yield, discharge, recharge capacity, and additional water quality parameters.

Section 15. Baseline Surface Water Information. (1) The application shall contain baseline surface water information for the permit area and adjacent area which shall be collected and submitted in a manner acceptable to the cabinet and shall be adequate to meet the requirements of Section 12(1) of this regulation.

(2) Surface water information shall include an inventory of all streams, lakes, impoundments or other surface water bodies in the permit and adjacent area which are currently being used for domestic, agricultural, industrial, or other beneficial purpose. The inventory shall include the name of the surface water body which is being used as a water supply source; the location, drainage area, ownership, and type of usage for the withdrawal; and where possible other relevant information such as the rate of withdrawal and seasonal variation.

(3) Surface water information shall include:

(a) The name, location, and ownership where appropriate, of all streams, lakes, impoundments, and other surface water bodies which receive run-off from watersheds which will be disturbed by the operation; and

(b) The location and description of any existing facilities located in watersheds which will be disturbed by the mining operation which may contribute to surface water pollution, such as existing or abandoned mining operations, oil wells, logging operations, or other similar facilities, including the location of any discharges which may be flowing from the [such] facilities.

(4) Surface water information shall include seasonal quantity and quality data collected from a sufficient number of watersheds which will be disturbed by the operation with adequate area distribution to meet the requirements of Section 12(1) of this regulation and include at a minimum:

(a) Flow rates; and

(b) Total dissolved solids, or specific conductance corrected to twenty-five (25) degrees C; total suspended solids; pH; total iron; total manganese; acidity; alkalinity; and sulfate.

(5) If additional information is needed to assess the need for protective measures, to design protective measures, to determine the probable hydrologic consequences of mining, or to conduct the cumulative impact assessment, the cabinet may require surface water information in addition to that described in subsections (2), (3), and (4) of this section including, but not limited to, information pertaining to flood flows and additional water quality parameters.

Section 16. Alternative Water Supply Information. (1) The application shall identify the extent to which the proposed surface mining activities may proximately result in contamination, diminution, or interruption of an underground or surface source of water within the proposed permit area or adjacent area which is used for domestic, agricultural, industrial, or other beneficial use.

(2) If contamination, diminution, or interruption of a surface or groundwater source may result, then the application shall identify and describe the adequacy and suitability of the alternative sources of water supply that could be developed for existing premining uses and approved postmining land uses.

Section 17. Climatological Information. (1) When requested by the cabinet, the application shall contain a statement of the climatological factors that are representative of the proposed permit area, including:

(a) The average seasonal precipitation;

(b) The average direction and velocity of prevailing winds; and

(c) Seasonal temperature ranges.

(2) The cabinet may request [such] additional data as deemed necessary to ensure compliance with the requirements of this chapter.

Section 18. Soil Resources Information. (1) If soil survey information for the proposed permit area is available from SCS, the application shall include this [such] information as a part of the description of premining land use capability and productivity required by Section 22(1)(b) of this regulation.

(2) Where the applicant proposes to use selected overburden materials as a supplement or substitute for topsoil, the application shall provide results of analyses, trials, and tests as required under 405 KAR 16:050, Section 2(5).

Section 19. Vegetation Information. (1) The permit application shall, as required by the cabinet, contain a map that delineates existing vegetative types and a description of the plant communities within the proposed permit area and within any proposed reference area. This description shall include information adequate to predict the potential for reestablishing vegetation.

(2) When a map or aerial photograph is required, sufficient adjacent areas shall be included to allow evaluation of vegetation as important habitat for fish and wildlife.

Section 20. Fish and Wildlife Resources Information. Permit applications shall not be required under this section to contain a study of fish and wildlife unless and until federal regulations requiring a [such] study have been promulgated and this regulation has been amended as necessary to be consistent with the corresponding federal regulations.

Section 21. Prime Farmland Investigation. (1) The applicant shall before making application investigate the proposed permit area to determine whether lands within the area may be prime farmland.

(2) Land shall not be considered prime farmland where the applicant can demonstrate, to the satisfaction of the cabinet, one (1) of the following:

(a) The land has not been historically used as cropland;

(b) The slope of the land is ten (10) percent or greater;

(c) Other relevant factors exist, which would preclude the soils from being defined as prime farmland according to 7 CFR 657, such as a very rocky surface, or the land is flooded during the growing season more often than once in two (2) years, and the flooding has reduced crop yields; or

(d) On the basis of a soil survey of lands within the permit area, there are no soil map units that have been designated prime farmland by the U.S. SCS.

(3) If the investigation establishes that the lands are not prime farmland, the applicant shall submit with the permit application a request for a negative determination and results of the investigation which show that the land for which the negative determination is being sought meets one (1) of the criteria of subsection (2) of this section.

(4) If the investigation indicates that lands within the proposed permit area may be prime farmlands, the applicant shall contact the U.S. SCS to determine if a soil survey exists for those lands and whether the applicable soil map units have been designated as prime farmlands. If no soil survey has been made for the lands within the proposed permit area, the applicant shall request the SCS to conduct a soil survey.

(a) When a soil survey of lands within the proposed permit area contains soil map units which have been designated as prime farmlands, the applicant shall submit an application, in accordance with 405 KAR 8:050, Section 3 for the [such] designated land.

(b) When a soil survey for lands within the proposed permit area contains no soil map units which have been designated as prime farmland after review by the U.S. SCS, the applicant shall submit with the permit application a request for negative determination under subsection (2)(d) of this section for the [such] nondesignated land.

(5) The cabinet shall decide to grant or deny a negative determination based upon documentation provided by the applicant and any other pertinent information, such as cropping history, available to the cabinet from other sources.

(6) The cabinet shall consult with the SCS in deciding on a request for negative determination under subsection (2)(c) of this section.

(7) The cabinet shall examine any records on crop history available from the Agriculture Stabilization and Conservation Service when deciding on a request for negative determination

under subsection (2)(a) of this section.

Section 22. Land-use Information. (1) The application shall contain a statement of the condition, capability, and productivity of the land within the proposed permit area, including:

(a) A map and supporting narrative of the uses of the land existing when the application is filed [at the time of the filing of the application]. If the premining use of the land was changed within five (5) years before the date of application, the historic use of the land shall also be described.

(b) A narrative of land use capability and productivity, which analyzes the land-use description in conjunction with other environmental resources information required under this regulation. The narrative shall provide analyses of:

1. The capability of the land before any mining to support a variety of uses, giving consideration to soil and foundation characteristics, topography, vegetative cover and the hydrology of the proposed permit area; and

2. The productivity of the proposed permit area before mining, expressed as average yield of food, fiber, forage, or wood products from the [such] lands obtained under high levels of management. The productivity shall be determined by yield data or estimates for similar sites based on current data from the U.S. Department of Agriculture, state agricultural universities or appropriate state natural resource or agricultural agencies.

(2) The application shall state whether the proposed permit area has been previously mined, and, if so, the following information, if available:

(a) The type of mining method used;

(b) The coal seams or other mineral strata mined;

(c) The extent of coal or other minerals removed;

(d) The approximate dates of past mining; and

(e) The uses of the land preceding mining.

(3) The application shall contain a description of the existing land uses and local government land use classifications, if any, of the proposed permit area and adjacent areas.

(4) The application shall contain a description identifying the extent to which cities, towns, and municipalities, or parts thereof, are located within the proposed permit area.

Section 23. Maps and Drawings. (1) The permit application shall include a map or maps showing:

(a) The boundaries of all subareas which are proposed to be affected over the estimated total life of the proposed surface mining activities, with a description of the size, sequence, and timing of the surface mining operations for which it is anticipated that additional permits will be sought;

(b) Any land within the proposed permit area and adjacent area which is within the boundaries of any units of the National System of Trails or the Wild and Scenic Rivers System, including study rivers designated under Section 5(a) of the Wild and Scenic Rivers Act (16 USC 1276(a)), or which is within the boundaries of a wild river established pursuant to KRS Chapter 146;

(c) The boundaries of any public park and locations of any cultural or historical resources listed on [in] or eligible for listing on [in] the National Register of Historic Places and known archaeological sites within the permit area and adjacent areas;

(d) The locations of water supply intakes for current users of surface water within a hydrologic area defined by the cabinet, and those surface waters which will receive discharges from affected areas in the proposed permit area;

(e) All boundaries of lands and names of present owners of record of those lands, both surface and subsurface, included in or contiguous to the permit area;

(f) The boundaries of land within the proposed permit area upon which the applicant has the legal right to enter and begin surface mining activities;

(g) The location of surface and subsurface manmade features within, passing through, or passing over the proposed permit area, including, but not limited to, major electric transmission lines, pipelines, and agricultural drainage tile fields;

(h) The location and boundaries of any proposed reference areas for determining the success of revegetation for the permit area;

(i) The location of all buildings on and within 1,000 feet of the proposed permit area, with identification of the current use of the buildings;

(j) Each public road located in or within 100 feet of the proposed permit area;

(k) Each [public or private] cemetery that is [or Indian burial ground] located in or within 100 feet of the proposed permit area;

(l) Other relevant information required by the cabinet.

(2) The application shall include drawings, cross sections, and maps showing:

(a) Elevations and locations of test borings and core samplings;

(b) Elevations and locations of monitoring stations or other sampling points in the permit area and adjacent areas used to gather data on water quality and quantity, fish and wildlife, and air quality, if required, in preparation of the application, or which will be used for such data gathering during the term of the permit;

(c) Nature, depth, and thickness of the coal seams to be mined, any coal or rider seams above the seam to be mined, each stratum of the overburden, and the stratum immediately below the lowest coal seam to be mined, for the permit area;

(d) All coal crop lines and the strike and dip of the coal to be mined within the proposed permit area;

(e) Location and extent of known workings of active, inactive, or abandoned underground mines, including mine openings to the surface within the proposed permit area and adjacent areas;

(f) Location and extent of subsurface water, if encountered, within the proposed permit area or adjacent areas;

(g) Location of surface water bodies such as streams, lakes, ponds, springs, constructed or natural drainage patterns, and irrigation ditches within the proposed permit area and adjacent areas;

(h) Location and extent of existing or previously surface-mined areas within the proposed permit area;

(i) Location, and depth if available, of gas

and oil wells within the proposed permit area and water wells in the permit area and adjacent areas;

(j) Location and dimensions of existing areas of spoil, waste, and noncoal waste disposal, dams, embankments, other impoundments, and water treatment and air pollution control facilities within the proposed permit area;

(k) Sufficient slope measurements to adequately represent the existing land surface configuration of the proposed permit area, measured and recorded according to the following:

1. Each measurement shall consist of an angle of inclination along the prevailing slope extending 100 linear feet above and below or beyond the coal outcrop or the area to be disturbed or, where this is impractical, at locations and in a manner as specified by the cabinet.

2. Where the area has been previously mined, the measurements shall extend at least 100 feet beyond the limits of mining disturbances, or any other distance determined by the cabinet to be representative of the premining configuration of the land.

3. Slope measurements shall take in account natural variations in slope, to provide accurate representation of the range of natural slopes and reflect geomorphic differences of the area to be disturbed.

(3) The permit application shall include the map information specified in Sections 22(1)(a), 24(3), 24(4)(c), 24(4)(h), 27(1), 28(1), 31, 32, 33, 34, and 38 of this regulation, and 405 KAR 8:010, Section 5(6).

(4) Maps, drawings, and cross-sections included in a permit application which are required by this section shall be prepared by or under the direction of and certified by a qualified registered professional engineer, and shall be updated as required by the cabinet. The qualified registered professional engineer shall not be required to certify true ownership of property.

Section 24. Mining and Reclamation Plan; General Requirements. (1) Each application shall contain a detailed mining and reclamation plan (MRP) for the proposed permit area as set forth in this section through Section 38 of this regulation, showing how the applicant will comply with KRS Chapter 350 and 405 KAR [Title 405,] Chapters 16 through 20.

(2) Each application shall contain a description of the mining operations proposed to be conducted within the proposed permit area, including, at a minimum, the following:

(a) A narrative description of the type and method of coal mining procedures and proposed engineering techniques, anticipated annual and total production of coal, by tonnage, and the major equipment to be used for all aspects of those operations; and

(b) A narrative explaining the construction, modification, use, maintenance, and removal of the following facilities (unless retention of the [such] facilities is to be approved as necessary for postmining land use as specified in 405 KAR 16:210):

1. Dams, embankments, and other impoundments;

2. Overburden and topsoil handling and storage areas and structures;

3. Coal removal, handling, storage, cleaning, and transportation areas and structures;

4. Spoil, coal processing waste, and noncoal waste removal, handling, storage, transportation, and disposal areas and structures;

5. Mine facilities; and

6. Water and air pollution control facilities.

(3) Each application shall contain plans and maps of the proposed permit area and adjacent areas as follows:

(a) The plans and maps shall show the lands proposed to be affected throughout the operation and any change in a facility or feature to be caused by the proposed operations, if the facility or feature was shown under Section 23 of this regulation.

(b) The following shall be shown for the proposed permit area:

1. Buildings, utility corridors and facilities to be used;

2. The area of land to be affected within the proposed permit area, according to the sequence of mining and reclamation;

3. Each area of land for which a performance bond or other equivalent guarantee will be posted under 405 KAR [Title 405,] Chapter 10;

4. Each coal storage, cleaning and loading area;

5. Each topsoil, spoil, coal waste, and noncoal waste storage area;

6. Each water diversion, collection, conveyance, treatment, storage, and discharge facility to be used;

7. Each air pollution collection and control facility;

8. Each source of waste and each waste disposal facility relating to coal processing or pollution control;

9. Each facility to be used to protect and enhance fish and wildlife and related environmental values;

10. Each explosive storage and handling facility; and

11. Location of each sedimentation pond, permanent water impoundment, coal processing waste bank, and coal processing waste dam and embankment, in accordance with Section 34 of this regulation, and fill area for the disposal of excess spoil in accordance with Section 27 of this regulation.

(c) Plans, maps, and drawings required under this section shall be prepared by, or under the direction of, and certified by a qualified registered professional engineer.

(4) Each plan shall contain the following information for the proposed permit area:

(a) A projected timetable for the completion of each major step in the mining and reclamation plan;

(b) A detailed estimate of the cost of reclamation of the proposed operations required to be covered by a performance bond under 405 KAR [Title 405,] Chapter 10, with supporting calculations for the estimates;

(c) A plan for backfilling, soil stabilization, compacting, and grading, with contour maps or cross-sections that show the anticipated final surface configuration of the proposed permit area, in accordance with 405 KAR 16:190;

(d) A plan for removal, storage, and redistribution of topsoil, subsoil, and other material to meet the requirements of 405 KAR 16:050 including a demonstration of suitability of any proposed topsoil substitutes or supplements;

(e) A plan for revegetation as required in 405

KAR 16:200, including, but not limited to, descriptions of the: schedule of revegetation; species and amounts per acre of seeds and seedlings to be used; methods to be used in planting and seeding; mulching techniques; irrigation, if appropriate; pest and disease control measures, if any; and measures proposed to be used to determine the success of revegetation as required in 405 KAR 16:200, Section 6; and a soil testing plan for evaluation of the results of topsoil handling and reclamation procedures related to revegetation;

(f) A description of the measures to be used to maximize the use and conservation of the coal resource as required in 405 KAR 16:010, Section 2;

(g) A description of measures to be employed to ensure that all debris, acid-forming and toxic-forming materials, and materials constituting a fire hazard are disposed of in accordance with 405 KAR 16:150, and 405 KAR 16:190, Section 3, and a description of the contingency plans which have been developed to preclude sustained combustion of the [such] materials;

(h) A description, including appropriate maps and drawings, of the measures to be used to seal or manage mine openings, and to plug, case, or manage exploration holes, other bore holes, wells, and other openings within the proposed permit area, in accordance with 405 KAR 16:040; and

(i) A description of steps to be taken to comply with the requirements of the Clean Air Act (42 USC [Sec.] 7401 et seq.), the Clean Water Act (33 USC [Sec.] 1251 et seq.), and other applicable air and water quality laws and regulations and health and safety standards. This description shall, at a minimum, consist of identification of permits or approvals required by these laws and regulations which the applicant either has obtained, has applied for, or intends to apply for.

Section 25. MRP; Existing Structures. (1) Each application shall contain a description of each existing structure proposed to be used in connection with or to facilitate the surface coal mining and reclamation operation. The description shall include:

(a) Location;

(b) Plans of the structure which describe its current condition;

(c) Approximate dates on which construction of the existing structure was begun and completed; and

(d) A showing, including relevant monitoring data or other evidence, whether the structure meets the performance standards of 405 KAR [Title 405,] Chapters 16 through 20 or, if the structure does not meet those performance standards, a showing whether the structure meets the performance standards of the interim performance standards of 405 KAR [Title 405,] Chapter 1.

(2) Each application shall contain a compliance plan for each existing structure proposed to be modified or reconstructed for use in connection with or to facilitate the surface coal mining and reclamation operation. The compliance plan shall include:

(a) Design specifications for the modification or reconstruction of the structure to meet the performance standards of 405 KAR [Title 405,] Chapters 16 through 20;

(b) A construction schedule which shows dates for beginning and completing interim steps and final reconstruction;

(c) Provisions for monitoring the structure as required by the cabinet to ensure that the performance standards of 405 KAR [Title 405,] Chapters 16 through 20 are met; and

(d) A showing that the risk of harm to the environment or to public health or safety will not be [is not] significant during the period of modification or reconstruction.

Section 26. MRP; Blasting. (1) Each application shall contain a blasting plan for the proposed permit area explaining how the applicant intends to comply with the requirements of 405 KAR 16:120. This plan shall include, at a minimum, information setting forth the limitations the permittee will meet with regard to ground vibration and airblast, the bases for the ground vibration and airblast limitations, and the methods to be applied in controlling the adverse effects of blasting operations.

(2) Each application shall contain a description of the systems to be used to monitor compliance with the standards for ground vibration and airblast including identification of the types, capabilities, and sensitivities of blast monitoring equipment and identification of the monitoring procedures and locations.

(3) Blasting operations within 500 feet of active underground mines require approval of the cabinet, MSHA, and the Kentucky Department of Mines and Minerals.

Section 27. MRP; Disposal of Excess Spoil. (1) Each application shall contain descriptions, including appropriate maps and cross-section drawings, of the proposed disposal site and design of the spoil disposal structures according to 405 KAR 16:130. These plans shall describe the geotechnical investigation, design, construction, operation, maintenance, and removal if appropriate, of the site and structures.

(2) Each application shall contain the results of a geotechnical investigation of the proposed disposal site, including the following:

(a) The character of bedrock and any adverse geologic conditions in the disposal area;

(b) A survey identifying all springs, seepage, and groundwater flow observed or anticipated during wet periods in the area of the disposal site;

(c) An assessment of the potential effects of subsidence of the subsurface strata due to past and future mining operations;

(d) A technical description of the rock materials to be utilized in the construction of those disposal structures containing rock chimney cores or underlain by a rock drainage blanket; and

(e) A stability analysis including, but not limited to, strength parameters, pore pressures and long-term seepage conditions. These data shall be accompanied by a description of all engineering design assumptions and calculations and the alternatives considered in selecting the specific design specifications and methods.

(3) If, under 405 KAR 16:130, Section 1(4), rock toe buttresses or key way cuts are required, the application shall include the following:

(a) The number, location, and depth of borings or test pits which shall be determined with respect to the size of the spoil disposal structure and subsurface conditions; and

(b) Engineering specifications utilized to design the rock toe buttresses or key way cuts which shall be determined in accordance with subsection (2)(e) of this section.

Section 28. MRP; Transportation Facilities. (1) Each application shall contain a transportation facilities plan including a description of each road, conveyor, or rail system to be constructed, used, or maintained within the proposed permit area. The description shall include a map, appropriate cross-sections, and the following:

(a) Specifications for each road width, road gradient, road surface, road cut, fill embankment, culvert, bridge, drainage ditch, and drainage structure.

(b) A report of appropriate geotechnical analysis, where approval of the cabinet is required for alternative specifications, or for steep cut slopes under 405 KAR 16:220.

(c) A description of measures to be taken to obtain approval of the cabinet for alteration or relocation of a natural drainageway under 405 KAR 16:220.

(d) A description of measures, other than use of a rock headwall, to be taken to protect the inlet end of a ditch relief culvert, for approval by the cabinet under 405 KAR 16:220.

(2) Each plan shall contain a general description of each road, conveyor, or rail system to be constructed, used, or maintained within the proposed permit area.

Section 29. MRP; Surface Mining Near Underground Mining. For surface mining activities within the proposed permit area to be conducted within 500 feet of an underground mine, the application shall describe the measures to be used to comply with 405 KAR 16:010, Section 3.

Section 30. MRP; Protection of Public Parks and Historic Places. (1) For any publicly-owned [public] parks or any [historic] places listed on the National Register of Historic Places that may be adversely affected by the proposed operations, each plan shall describe the measures to be used to prevent adverse impact; or, if valid existing rights exist or joint agency approval is to be obtained under [minimize or prevent these impacts and to obtain approval of the cabinet and other agencies as required in] 405 KAR 24:040, Section 2(4), to minimize adverse impacts.

(2) The cabinet may require the applicant to protect historic or archaeological properties listed or eligible for listing on the National Register of Historic Places through appropriate mitigation and treatment measures. These measures need not be completed prior to permit issuance, but shall be completed before the properties are affected by surface mining activities.

Section 31. MRP; Protection of Public Roads. Each application shall describe, with appropriate maps and drawings, the measures to be used to ensure that the interests of the public and landowners affected are protected if, under 405 KAR 24:040, Section 2(6), the applicant seeks to have the cabinet approve:

(1) Conducting the proposed surface mining activities within 100 feet of the right-of-way line of any public road, except where mine access or haul roads join that right-of-way; or

(2) Relocating a public road.

Section 32. MRP; Protection of the Hydrologic Balance. (1) Each application shall contain a description, as set forth in this subsection, of the measures to be taken to minimize disturbances to the hydrologic balance within the permit area and adjacent area and to prevent material damage to the hydrologic balance outside the permit area.

(a) The description shall be based upon the baseline geologic, hydrologic, and other information required by Sections 12 through 16 of this regulation and other appropriate information, shall be specific to local hydrologic conditions, and shall be prepared in a manner and detail acceptable to the cabinet.

(b) The description shall identify the protective measures to be taken to enable the operation to meet, at a minimum, each of the hydrologic requirements referenced in this paragraph, or shall demonstrate to the satisfaction of the cabinet that protective measures are not necessary for [in order to enable] the operation to meet the [such] requirements:

1. Meet applicable water quality statutes, regulations, standards, and effluent limitations as required by 405 KAR 16:060, Section 1(3);

2. Avoid acid or toxic drainage as required by 405 KAR 16:060, Sections 4, 5, and 6;

3. Control the discharge of sediment to streams located outside the permit area as required by 405 KAR 16:060, Section 2;

4. Control the drainage and discharge of water within the permit area as required by 405 KAR 16:060, Sections 1(4), 3, 9, and 12, and 405 KAR 16:080;

5. Restore the approximate premining recharge capacity of the permit area as required by 405 KAR 16:060, Section 5; and

6. Protect or replace the water supply of present users as required by 405 KAR 16:060, Section 8.

(c) The cabinet may require that the description include protective measures in addition to those identified under paragraph (b) of this subsection, if the cabinet determines that additional measures are needed to protect the hydrologic balance in accordance with 405 KAR 16:060.

(2) Each application shall include the design of any necessary protective measures identified under subsection (1) of this section. The design shall be prepared in a manner and detail acceptable to the cabinet including, as appropriate, calculations, maps, drawings, and written explanations as necessary to document the design.

(3) Each application shall include a determination of the probable hydrologic consequences of the mining and reclamation operations for the permit area and adjacent area.

(a) The determination shall be based upon the baseline geologic, hydrologic, and other information required by Sections 12 through 16 of this regulation and other appropriate information, and may include information statistically representative of the site.

(b) The determination shall be completed

according to the parameters and in the detail required by the cabinet to enable the cabinet to prepare a cumulative impact assessment, and shall take into account the anticipated effects of protective measures required by this chapter.

(c) For surface water systems, the determination shall, at a minimum, include probable impacts on:

1. Peak discharge rates, emphasizing the potential for flooding;

2. Settleable solids at peak discharge;

3. Low-flow discharge rates, emphasizing the potential for water supply diminution;

4. Suspended solids at low flow;

5. pH, at low flow, emphasizing the potential for acid drainage conditions, including depressed levels of alkalinity and elevated levels of iron, manganese, acidity, sulfate, and total dissolved solids or specific conductance, which are generally associated with acid drainage conditions.

(d) For groundwater systems, the determination shall, at a minimum, include probable impacts on:

1. Water quantity, emphasizing water levels and the potential for water supply diminution for existing users, and dewatering of aquifers which are not currently being used for water supply but have the potential to be developed as a water supply source.

2. pH, emphasizing the potential for acid drainage conditions, including depressed levels of alkalinity and elevated levels of iron, manganese, acidity, sulfate, and total dissolved solids or specific conductance, which are generally associated with acid drainage conditions.

(e) An application for a major revision to a permit shall be reviewed by the cabinet to determine whether a new or updated determination of the probable hydrologic consequences shall be required.

(4)(a) The application shall include a plan for the collection, recording, and reporting of groundwater and surface water quantity and quality data to monitor the effects of the mining and reclamation operations on the hydrologic balance, according to 405 KAR 16:110.

(b) The monitoring plan shall be based on the geologic and hydrologic baseline information, the mining and reclamation plan, and the determination of probable hydrologic consequences; and shall:

1. Identify the quantity and quality parameters to be monitored, sampling frequency, and monitoring site locations; and

2. Describe how the data may be used to determine the impacts of the operation on the hydrologic balance.

(5) An application for a major revision to a permit shall be reviewed by the cabinet to determine whether a new or updated cumulative hydrologic impact assessment shall be made.

Section 33. MRP; Diversions. Each application shall contain descriptions, including maps and cross-sections, of stream channel diversions and other diversions to be constructed within the proposed permit area to achieve compliance with 405 KAR 16:080.

Section 34. MRP; Impoundments and Embankments. (1) General. Each application shall include detailed design plans for each proposed sedimentation pond, water impoundment, and coal processing waste bank, dam, or embankment within the proposed permit area. Each plan shall:

(a) Be prepared by, or under the direction of, and certified by a qualified registered professional engineer;

(b) Contain a description, map, and appropriate cross-sections and drawings of the structure and its location;

(c) Contain all hydrologic and geologic information and computations necessary to demonstrate compliance with the design and performance standards of 405 KAR [Title 405,] Chapter 16; and all information utilized by the applicant to determine the probable hydrologic consequences of the mining operations under Section 32(3) of this regulation;

(d) Contain an assessment of the potential effect on the structure from subsidence of the subsurface strata resulting from past underground mining operations if underground mining has occurred;

(e) Include any geotechnical investigation, design, and construction requirements for the structure;

(f) Describe the operation and maintenance requirements for each structure; and

(g) Describe the timetable and plans to remove each structure, if appropriate.

(2) Sedimentation ponds.

(a) Sedimentation ponds, whether temporary or permanent, shall be designed in compliance with the requirements of 405 KAR 16:090. Any sedimentation pond or earthen structure which will remain on the proposed permit area as a permanent water impoundment shall also be designed to comply with the requirements of 405 KAR 16:100.

(b) Each plan shall, at a minimum, comply with the requirements of the MSHA, 30 CFR 77.216-1 and 77.216-2.

(3) Permanent and temporary impoundments. Permanent and temporary impoundments shall be designed to comply with the requirements of 405 KAR 16:100. Each plan shall comply with the requirements of the MSHA, 30 CFR 77.216-1 and 77.216-2.

(4) Coal processing waste banks. Coal processing waste banks shall be designed to comply with the requirements of 405 KAR 16:140.

(5) Coal processing waste dams and embankments. Coal processing waste dams and embankments shall be designed to comply with the requirements of 405 KAR 16:160. Each plan shall comply with the requirements of MSHA, 30 CFR 77.216-1 and 77.216-2, and shall contain the results of a geotechnical investigation of the proposed dam or embankment foundation area, to determine the structural competence of the foundation which will support the proposed dam or embankment structure and the impounded material. The geotechnical investigation shall be planned and supervised by an engineer or engineering geologist, according to the following:

(a) The number, location, and depth of borings and test pits shall be determined using current prudent engineering practice for the size of the dam or embankment, quantity or material to be impounded, and subsurface conditions.

(b) The character of the overburden and bedrock, the proposed abutment sites, and any adverse geotechnical conditions which may affect the particular dam, embankment, or reservoir site shall be considered.

(c) All springs, seepage, and groundwater flow observed or anticipated during wet periods in

the area of the proposed dam or embankment shall be identified on each plan.

(d) Consideration shall be given to the possibility of mud flows, rock-debris falls, or other landslides into the dam, embankment, or impounded material.

(6) If the structure is to be twenty (20) feet or higher or is to impound[s] more than twenty (20) acre-feet, each plan under subsections (2), (3), and (5) of this section shall include a stability analysis of each structure. The stability analysis shall include, but not be limited to, strength parameters, pore pressures, and long-term seepage conditions. The plan shall also contain a description of each engineering design assumption and calculation with a discussion of each alternative considered in selecting the specific design parameters and construction methods.

Section 35. MRP; Air Pollution Control. For all surface mining activities the application shall contain an air pollution control plan which includes the following:

(1) An air quality monitoring program, if required by the cabinet, to provide sufficient data to evaluate the effectiveness of the fugitive dust control practices under subsection (2) of this section to comply with applicable federal and state air quality standards; and

(2) A plan for fugitive dust control practices, as required under 405 KAR 16:170.

Section 36. MRP; Fish and Wildlife. Permit applications shall not be required under this section to contain a fish and wildlife plan unless and until federal regulations requiring a [such] plan have been promulgated and this regulation has been amended as necessary to be consistent with the corresponding federal regulations.

Section 37. MRP; Postmining Land Use. (1) Each plan shall contain a description of the proposed use, following reclamation, of the land within the proposed permit area, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses, and the relationship of the proposed use to existing land use policies and plans. This description shall explain:

(a) How the proposed postmining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use;

(b) Where a land use different from the premining land use is proposed, all supporting documentation submitted for approval of the proposed use under 405 KAR 16:210;

(c) The consideration which has been given to making all of the proposed surface mining activities consistent with surface owner plans and applicable state and local land use plans and programs; and

(d) Where grazing is the proposed postmining land use, the detailed management practices necessary to properly implement the postmining use for grazing.

(2) The description shall be accompanied by a copy of the comments concerning the proposed use by the legal or equitable owner of record of the surface of the proposed permit area and the state and local government agencies, if any, which would have to initiate, implement, approve, or authorize the proposed use of the land following reclamation.

(3) Approval of the initial postmining land use plan pursuant to this section, shall not preclude subsequent consideration and approval of a revised postmining land use plan in accordance with the applicable requirements of 405 KAR [this Title].

Section 38. MRP; Transportation on Public Roads. The application shall include or be accompanied by a public roads transportation plan and map (at least the scale and detail of the separate county maps published by the Kentucky Transportation Cabinet) which shall set forth the portions of the public road system, if any, over which the applicant proposes to transport coal extracted in the surface coal mining operation.

(1) The plan shall specify the legal weight limits for each portion of any public [such] road or bridge over which the applicant proposes to transport coal.

(2) The plan shall include any proposal by the applicant to obtain a special permit pursuant to [the provisions of] KRS 189.271 to exceed the weight limits on any road or bridge.

(3) The plan shall contain a certification by a duly authorized official of the Kentucky Transportation Cabinet attesting the accuracy of the plan in regard to the locations and identities of roads and bridges on the public road system and the accuracy of the specifications of weight limits on the [such] roads and bridges.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 12, 1989
FILED WITH LRC: January 13, 1989 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed amendment has been scheduled to take place on Thursday, February 23, 1989 at 9 a.m. EST. The hearing has been scheduled for the Department for Surface Mining Reclamation and Enforcement's Training Room (Room D-16) in the Hudson Hollow Office Park, 2 Hudson Hollow Road, Frankfort, Kentucky. Persons interested in attending or testifying at this hearing should submit written notification of such by February 18, 1989. Such notification must be submitted to James Hale at the address noted below, and the notice must indicate if testimony is to be given. If, by February 18, Mr. Hale has not received any written notice of intent to testify, the hearing will be cancelled. To assure an accurate record, the cabinet requests that each person testifying at the hearing provide the cabinet with a written copy of his or her testimony. Written comments on the proposed amendment may be submitted at any time before 4:30 p.m. EST on February 23, 1989. Comments received after that time will not be considered. Written comments and written requests to attend or testify at the hearing must be submitted to: James Hale, Department for Surface Mining Reclamation and Enforcement, Hudson Hollow Office Park, 2 Hudson Hollow Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Jim Villines

(1) Type and number of entities affected: The proposed amendments potentially affect all applicants for new permits, amendments, and

revisions, for surface mining activities. In calendar year 1988 the cabinet received, for surface and underground mining operations combined, 300 applications for new permits, 252 applications for amendments, and 739 applications for revisions. The cabinet expects that total permitting activity for calendar 1989 will not differ greatly from 1988. Based on the cabinet's experience to date, the cabinet expects that 20% to 40% of applications for original permits and amendments, and less than 5% of applications for revisions, will actually be affected. Because the cultural and historic resources requirements apply to both surface and underground mining operations in the same way, and the cabinet reviews both types with the same personnel, it would not be helpful to distinguish between the two types for the purposes of this analysis.

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

1. First year: There are two ways that an applicant can be affected by the proposed amendment. First, the amendment authorizes the cabinet to require an applicant to study his proposed permit area and adjacent areas to identify and evaluate any important historic and archaeological resources that may be eligible for listing on the National Register of Historic Places. The applicant may be required to collect additional information, to conduct field investigations, or to conduct other appropriate analyses. Second, when the proposed permit area or adjacent areas are found to contain historic or archaeological resources that are listed or eligible for listing on the Register, the cabinet may require the applicant to show in his mining and reclamation plan how he will protect these resources through appropriate mitigation and treatment measures. These measures, if required, can range from avoiding any disturbance of the resources to complete archaeological excavation and recording of the resources. The mitigation and treatment measures need not be completed before the permit is issued, but must be completed before the resources are affected by the mining activities.

The type of additional investigation which the cabinet will most frequently require of applicants is the Phase I archaeological survey, in which a qualified archaeologist performs a review of appropriate literature, makes an on-the-ground investigation of the area including shovel testing, and prepares a written report documenting his findings and evaluation of the site. The cost for such services will vary according to the individual consulting archaeologist, permit size, terrain, travel distance, weather, and perhaps other factors as well. Based upon the cabinet's limited experience with such surveys to date, a survey can be expected to cost the applicant from $15 to $35 per acre.

It is impractical to attempt to estimate costs for mitigation and treatment measures in the abstract, because the scope and complexity of these measures is so completely site-specific. They can range from very little cost for avoiding a small area, to hundreds of thousands of dollars for excavating and recording a large site over many months.

2. Continuing costs or savings: The proposed amendment will not add any continuing costs or savings to individual applicants.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Costs for archaeological surveys seem likely to decline, rather than increase, as increasing numbers of qualified archaeologists become available in response to the demand for archaeological services. Also, the fraction of applications for which surveys are required seems likely to decline as the cabinet gains experience regarding the probability that important resources exist within particular types of terrain and within particular regions of the state.

(b) Reporting and paperwork requirements: Affected applicants will experience additional paperwork in submitting archaeologists' reports to the cabinet, and in preparing their mining and reclamation plans to show mitigation and treatment measures.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The cabinet will need additional manpower and related resources to carry out its responsibilities under this amendment. Since the requirements for surface and underground mines are the same and the cabinet will handle both using the same resources, it is meaningless to differentiate between resources required by this amendment and the companion amendment to 405 KAR 8:040. The cabinet estimates the additional costs for both types of mining operations as follows:

The cabinet estimates that permit review activities for cultural and historic resources will require three additional employees with master's degrees in archaeology, two additional employees with bachelor's degrees in archaeology, and one additional secretarial employee, at a total annual personnel cost of $120,000. Two new vehicles would add $27,000, and professional equipment would add $4,000. Travel expenses of $10,000 and vehicle operation and maintenance of $2,000 would bring the first year total to $163,000.

2. Continuing costs or savings: Continuing costs for personnel, travel, and vehicle O/M in succeeding years are estimated at $138,000.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs to the cabinet, except that costs could increase or decrease if manpower requirements prove to be significantly different than anticipated.

(b) Reporting and paperwork requirements: The cabinet will experience substantial paperwork requirements in coordinating its review activities with the state Historic Preservation Officer and in communicating with the applicant and archaeologists performing work for applicants.

(3) Assessment of anticipated effect on state and local revenues: The amendment should not affect state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Under the constraints of KRS Chapter 13A, there are no alternatives to the promulgation of this amendment.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no statutes, administrative regulations, or governmental policies that conflict with, overlap, or duplicate the provisions of this amendment.

(a) Necessity of proposed regulation if in conflict: Since no conflicts exist, this item is not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Since no conflicts exist, this item is not applicable.

(6) Any additional information or comments: This proposed amendment also contains several nonsubstantive language changes in response to amendments to KRS Chapter 13A enacted by the 1988 Kentucky General Assembly.

TIERING: Was tiering applied? No. Tiering is not applicable to this proposed amendment because, under the federal and Kentucky surface mining laws and regulations, these requirements must apply equally to all permittees under 405 KAR Chapters 7 through 24.

FISCAL NOTE ON LOCAL GOVERNMENT: A fiscal note is not required for this regulation because it will have no impact on local government.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 30 CFR 778, 779, and 780, with amendments to 405 KAR 8:030, Section 11(2), Section 23(1)(k), and Section 30, which are the substantive changes in this rulemaking, being mandated by revisions to 30 CFR 779.12(b), 779.24(j), and 780.31, respectively, published on February 10, 1987 in Federal Register 52 FR 4244 et seq. The changes outside of Sections 11(2), 23(1)(k), and 30 are being made in response to amendments to KRS Chapter 13A passed during the 1988 session of the Kentucky General Assembly, rather than because of a federal mandate.

2. State compliance standards. Section 11(2) as amended will require that applications for surface mining operations describe and identify archaeological resources listed on or eligible for listing on the National Register of Historic Places. Section 11(2) will also require that the state Historic Preservation Officer be used as a data source for information on archaeological resources and eligible and listed National Register sites. Additionally, the amendment will authorize the cabinet to require applicants to collect additional information, conduct field investigations, or perform other appropriate analyses to identify and evaluate important historic and archaeological resources that may be eligible for listing on the National Register.

The changes to Section 23(1)(k) will require that each cemetery located in or within 100 feet of the proposed permit area be shown on a map in the permit application. This is a simplification of the current language, which requires a map showing "each public or private cemetery or Indian burial ground located in or within 100 feet of the proposed permit area."

The Section 30 changes will authorize the cabinet to require the permit applicant to protect historic or archaeological properties listed or eligible for listing on the National Register. Section 30 will also require that an applicant's mining and reclamation plan describe the measures to be used to prevent adverse impacts on publicly-owned parks and any places listed on he National Register, if the applicant does not have valid existing rights or if the mining operation has not been jointly approved by the cabinet and the agency with jurisdiction over the site. If the applicant does have valid existing rights, or if the mining operation has been jointly approved by the cabinet and the agency with jurisdiction, the plan must describe how adverse impacts will be minimized.

3. Minimum or uniform standards contained in the federal mandate. At 30 CFR 779.12(b), the federal mandate requires that applications for surface mining operations describe and identify archaeological resources listed on or eligible for listing on the National Register of Historic Places, and that the state Historic Preservation Officer be used as a data source for information on archaeological resources and eligible and listed National Register sites. The mandate also authorizes the regulatory authority to require applicants to collect additional information, conduct field investigations, or perform other appropriate analyses to identify and evaluate important historic and archaeological resources that may be eligible for listing on the National Register.

At 30 CFR 779.24(j), the mandate requires that permit applications contain maps identifying "each cemetery that is located in or within 100 feet of the proposed permit area."

30 CFR 780.31 authorizes the regulatory authority to require permit applicants to protect historic or archaeological properties listed or eligible for listing on the National Register. The mandate also requires that an applicant's mining and reclamation plan address protection of publicly-owned parks and any places listed on the National Register. If the applicant does not have valid existing rights or if the mining operation has not been jointly approved by the cabinet and the agency with jurisdiction over the site, the plan must describe how adverse impacts to the site will be prevented. If the applicant does have valid existing rights or if the mining operation has been jointly approved, the plan must address minimizing adverse impacts.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. The state and federal standards will be identical.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This item is not applicable - the state and federal standards will be identical.

NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION CABINET
Department for Surface Mining Reclamation
and Enforcement
(Proposed Amendment)

405 KAR 8:040. Underground coal mining permits.

RELATES TO: KRS 350.060, 350.151

STATUTORY AUTHORITY: KRS Chapter 13A, 350.020, 350.028, 350.060, 350.151, 350.465

NECESSITY AND FUNCTION: KRS Chapter 350 in pertinent part requires the cabinet to promulgate rules and regulations pertaining to permits for underground mining activities. This regulation recognizes the distinct differences between surface mining activities and underground mining activities. This regulation specifies certain information to be shown by the

applicant related to legal and compliance status, environmental resources, and his mining and reclamation plan. This regulation further specifies certain showings to be made by the applicant to obtain a permit.

Section 1. General. (1) Applicability.

(a) This regulation applies to any person who applies for a permit to conduct underground mining activities.

(b) The requirements set forth in this regulation specifically for applications for permits to conduct underground mining activities, are in addition to the requirements applicable to all applications for permits to conduct surface coal mining and reclamation operations as set forth in 405 KAR 8:010.

(c) This regulation sets forth information required to be contained in applications for permits to conduct underground mining activities, including:

1. Legal, financial, compliance, and related information;

2. Environmental resources information; and

3. Mining and reclamation plan information.

(2) The permit applicant shall provide to the cabinet in the application all the information required by this regulation.

Section 2. Identification of Interests. (1) Each application shall contain the names and addresses of:

(a) The permit applicant, including his or her telephone number;

(b) Every legal or equitable owner of record of the areas to be affected by surface operations and facilities and every legal or equitable owner of record of the coal to be mined;

(c) The holders of record of any leasehold interest in areas to be affected by surface operations or facilities and the holders of record of any leasehold interest in the coal to be mined;

(d) Any purchaser of record under a real estate contract of areas to be affected by surface operations and facilities and any purchaser of record under a real estate contract of the coal to be mined;

(e) The operator, if different from the applicant, who will conduct underground coal mining activities on behalf of the applicant, including his or her telephone number; and

(f) The resident agent of the applicant who will accept service of process, including his or her telephone number.

(2) If any owner, holder, purchaser, or operator, identified under subsection (1) of this section, is a business entity other than a single proprietor, the application shall contain the names and addresses of their respective principals, officers, and resident agents.

(3) Each application shall contain a statement of whether the applicant is a corporation, partnership, single proprietorship, association, or other business entity. For businesses other than single proprietorships, the application shall contain the following information where applicable:

(a) Names and addresses of every officer, partner, director, or other person performing a function similar to a director of the applicant;

(b) Name and address of any person who is a principal shareholder of the applicant;

(c) Names under which the applicant, partner, or principal shareholder previously operated a surface coal mining operation in the United States within the five (5) years preceding the date of application;

(d) If a partnership, a certified copy of the partnership agreement; and

(e) If a domestic corporation, a certified copy of the certificate of incorporation from the Secretary of State, and if a foreign corporation, a certified copy of the Certificate of Authority to conduct business within the Commonwealth of Kentucky.

(4) Each application shall contain a statement of any current or previous coal mining permits in the United States held by the applicant during the five (5) years preceding the application, and by any person identified in subsection (3)(c) of this section and of any pending permit application to conduct surface coal mining and reclamation operations in the United States. The information shall be listed by permit or application number and identify the regulatory authority for each of those coal mining operations.

(5) Each application shall contain the names and addresses of the owners of record of all surface and subsurface areas contiguous to any part of the proposed permit area.

(6) Each application shall contain the name of the proposed mine and all MSHA identification numbers that have been assigned for the mine and all sections.

(7) Each application shall contain proof, such as a power of attorney or resolution of the board of directors, that the individual signing the application has the power to represent the applicant in the permit matter.

(8) Each application shall contain a statement of all lands, interests in lands, options, or pending bids on interests held or made by the applicant for lands which are contiguous to the area to be covered by the permit.

Section 3. Compliance Information. (1) Each application shall contain: a statement of whether the applicant, any subsidiary, affiliate, or persons controlled by or under common control with the applicant has:

(a) Had a coal mining permit of the United States or any state suspended or revoked in the last five (5) years; or

(b) Forfeited a coal mining performance bond or similar security deposited in lieu of bond.

(2) If any [such] suspension, revocation, or forfeiture, as described in subsection (1) of this section, has occurred, the application shall contain a statement of the facts involved, including:

(a) Identification number and date of issuance of the permit, and date and amount of bond or similar security;

(b) Identification of the authority that suspended or revoked a permit or forfeited a bond and the stated reasons for that action;

(c) The current status of the permit, bond, or similar security involved;

(d) The date, location, and type of any administrative or judicial proceedings initiated concerning the suspension, revocation, or forfeiture; and

(e) The current status of these proceedings.

(3) Each application shall contain a list of each violation notice pertaining to SMCRA [(P.L. 95-87)] or KRS Chapter 350 and regulations promulgated pursuant thereto, received by the

applicant in connection with any surface coal mining operation during the three (3) year period before the application date. Each application shall also contain a list of each violation notice pertaining to air or water environmental protection received by the applicant in connection with any surface coal mining operation during the three (3) year period before the application date, for violations of any law, rule, or regulation of the United States, or of any state law, rule, or regulation enacted pursuant to federal law, rule or regulation. The application shall also contain a statement regarding each violation notice, including:

(a) The date of issuance and identity of the issuing regulatory authority, department, or agency;

(b) A brief description of the particular violation alleged in the notice;

(c) The final resolution of each violation notice, if any;

(d) For each violation notice that has not been finally resolved:

1. The date, location, and type of any administrative or judicial proceedings initiated concerning the fact of the violation, including, but not limited to, proceedings initiated by the applicant to obtain administrative or judicial review of the fact of the violation and the current status of the proceedings; and

2. The actions, if any, taken or being taken by the applicant to abate the violation.

(4) Upon request by a small operator as defined in KRS 350.450(4)(d), the cabinet shall [will] provide to the small operator, with regard to persons under subsection (1) of this section which are identified by the small operator, the compliance information required by this section regarding suspension and revocation of permits and forfeiture of bonds under KRS Chapter 350, and information pertaining to violations of KRS Chapter 350 and regulations promulgated thereunder.

Section 4. Right of Entry and Right to Mine. (1) Each application shall contain a description of the documents upon which the applicant bases his or her legal right to enter and begin underground mining activities in the permit area and whether that right is the subject of pending litigation. The description shall identify those documents by type and date of execution, identify the specific lands to which the document pertains, and explain the legal rights claimed by the applicant.

(2) For underground mining activities where the associated surface operations involve the surface mining of coal and the private mineral estate to be mined has been severed from the private surface estate, the application shall also provide, for lands to be affected by those operations within the permit area, a copy of the document of conveyance that grants or reserves the right to extract the coal by surface mining methods.

(3) Nothing in this section shall be construed to afford the cabinet the authority to adjudicate property title disputes.

Section 5. Relationship to Areas Designated Unsuitable for Mining. (1) Each application shall contain a statement of available information on whether the proposed permit area is within an area designated unsuitable for underground mining activities under 405 KAR [Title 405,] Chapter 24, or designated unsuitable for surface mining activities if the proposed underground mining activities also involve surface mining of coal, or under study for designation in an administrative proceeding initiated under that chapter.

(2) If an applicant claims the exemption in 405 KAR 8:010, Section 14(4)(b), the application shall contain information supporting the applicant's assertion that it made substantial legal and financial commitments before January 4, 1977, concerning the proposed underground mining activities.

(3) If an applicant proposes to conduct or locate surface operations or facilities within 300 feet of an occupied dwelling, the application shall include the waiver of the owner of the dwelling as required in 405 KAR 24:040, Section 2(5).

Section 6. Permit Term Information. (1) Each application shall state the anticipated or actual starting and termination date of each phase of the underground mining activities and the anticipated number of acres of surface lands to be affected, and the horizontal and vertical extent of proposed underground mine workings including the surface acreage overlying the [such] underground workings, for each phase of mining and over the total life of the permit.

(2) If the applicant proposes to conduct the underground mining activities in excess of five (5) years, the application shall contain the information needed for the showing required under 405 KAR 8:010, Section 17(1).

Section 7. Personal Injury and Property Damage Insurance Information. Each application shall contain a certificate of liability insurance according to 405 KAR 10:030, Section 4.

Section 8. Identification of Other Licenses and Permits. Each application shall contain a list of all other licenses and permits needed by the applicant to conduct the proposed underground mining activities. This list shall identify each license and permit by:

(1) Type of permit or license;

(2) Name and address of issuing authority;

(3) Identification numbers of applications for those permits or licenses or, if issued, the identification numbers of the permits or licenses; and

(4) If a decision has been made, the date of approval or disapproval by each issuing authority.

Section 9. Identification of Location of Public Office for Filing of Application. Each application shall identify, by name and address, the appropriate regional office of the cabinet where the applicant will file a copy of the entire [complete] application for public inspection under 405 KAR 8:010, Section 8(8).

Section 10. Newspaper Advertisement and Proof of Publication. A copy of the newspaper advertisement of the application and proof of publication of the advertisement shall be filed with the cabinet and made a part of the [complete] application not later than fifteen (15) days after the last date of publication required under 405 KAR 8:010, Section 8(2).

Section 11. Environmental Resource Information. (1) Each permit application shall include a description of the existing environmental resources either within the areas affected by proposed surface operations and facilities, or within the proposed permit area and adjacent areas, as required by Sections 11 through 23 of this regulation. The descriptions required by this regulation may, where appropriate, be based upon published texts or other public documents together with reasonable extrapolations from specific data available from existing permit areas or other appropriate areas.

(2)(a) Each application shall describe and identify the nature of cultural, [and] historic, and archaeological resources listed [in] or eligible for listing on [in] the National Register of Historic Places and known archaeological sites within the proposed permit area and adjacent areas. The description shall be based on all available information, including, but not limited to, information from the state Historic Preservation Officer and from [data of state and] local archaeological, historical, and cultural preservation agencies.

(b) The cabinet may require the applicant to identify and evaluate important historic and archaeological resources that may be eligible for listing on the National Register of Historic Places, through collection of additional information, field investigations, or other appropriate analyses.

Section 12. General Requirements for Baseline Geologic and Hydrologic Information. (1) The application shall contain baseline geologic and hydrologic information which has been collected, analyzed, and submitted in the detail and manner acceptable to the cabinet, and which shall be sufficient to:

(a) Identify and describe protective measures pursuant to Section 32(1) of this regulation which will be implemented during the mining and reclamation process to assure protection of the hydrologic balance, or to demonstrate that protection of the hydrologic balance can be assured without the design and installation of protective measures; and to design necessary protective measures pursuant to Section 32(2) of this regulation.

(b) Determine the probable hydrologic consequences of the mining and reclamation operations upon the hydrologic balance in the permit area and adjacent area pursuant to Section 32(3) of this regulation so that an assessment can be made by the cabinet pursuant to 405 KAR 8:010, Section 14(3) of the probable cumulative impacts of all anticipated mining on the hydrologic balance in the cumulative impact area;

(c) Determine pursuant to 405 KAR 8:010, Section 14(2) and (3) whether reclamation as required by 405 KAR [Title 405] can be accomplished and whether the proposed operation has been designed to prevent material damage to the hydrologic balance; and

(d) Design surface and groundwater monitoring systems pursuant to Section 32(4) of this regulation for the during-mining and postmining time period which, together with the baseline data collected under Sections 14(1) and 15(1) of this regulation, will demonstrate whether the mining operation is meeting applicable effluent limitations and stream standards and protecting the hydrologic balance.

(2)(a) Geologic and hydrologic information pertaining to the area outside the permit and adjacent area but within the cumulative impact assessment area shall be provided to the applicant by the cabinet:

1. If this information is needed in preparing the cumulative impact assessment; and

2. If this information is available from an appropriate federal or state agency.

(b) If this information is needed by the cabinet for conducting the cumulative impact assessment and is not available from a federal or state agency, the applicant may gather and submit this information to the cabinet as part of the permit application.

(3) Interpolation, modeling, correlation or other statistical methods, and other data extrapolation techniques may be used if the applicant can demonstrate to the satisfaction of the cabinet that the [such] data extrapolation techniques are valid and that information obtained through the [such] techniques meets the requirements of subsection (1) of this section.

(4) All water quality analyses performed to meet the requirements of this chapter shall be conducted according to the methodology in the fourteenth edition of "Standard Methods for the Examination of Water and Wastewater," or the methodology in 40 CFR Parts 136 and 434. All water quality sampling shall be conducted according to either methodology listed above when feasible.

Section 13. Baseline Geologic Information. (1) The application shall contain baseline geologic information collected from the permit area which shall meet the requirements of Section 12(1) of this regulation and shall include at a minimum:

(a) The results of samples obtained from continuous cores; drill cuttings; channel cuttings from fresh, unweathered, rock outcrops; or other rock or soil material which has been collected using acceptable sampling techniques.

1. For those areas where overburden will be removed, the vertical extent of sampling shall include those strata from the surface down to and including the stratum immediately below the lowest coal seam to be mined; and

2. For those areas overlying underground workings where overburden will not be removed, the vertical extent of sampling shall include those strata above and below the coal seam to be mined which may be impacted by the mining operation.

3. Where aquifers within the permit area are located above or below the coal seam to be mined and these [such] aquifers may be adversely affected by the mining operation, the vertical extent of sampling shall also include the aquifer and those strata which lie between the coal seam and the aquifer.

4. The areal and vertical density of sampling shall, at a minimum, be sufficient to determine the distribution of strata which have a potential to produce acid drainage and to determine the areal and vertical extent of aquifers which may be adversely affected.

5. If the vertical extent, and the areal and vertical density of sampling specified in subparagraphs 1 through 4 of this paragraph are not sufficient to locate suitable strata for use as a topsoil substitute, to determine the potential for subsidence, or for other required design or analysis, additional sampling shall be conducted as necessary to furnish adequate

geologic information.

(b)1. To identify strata which have a potential to produce acid or toxic drainage for areas where overburden will be removed, chemical analyses including, but not limited to, maximum potential acidity and neutralization potential of each overburden stratum and the stratum immediately below the lowest coal seam to be mined; and

2. To identify strata which have a potential to produce acid or toxic drainage for areas overlying underground workings where overburden will not be removed, chemical analyses including, but not limited to, maximum potential acidity and neutralization potential of the strata immediately above and below the coal seam to be mined.

(c) Chemical analyses of the coal seam to be mined to determine the potential to produce acid or toxic drainage, including the parameters of total sulfur and pyritic sulfur; except that the cabinet shall [will] not require an analysis for pyritic sulfur if the applicant can demonstrate to the satisfaction of the cabinet that an analysis for total sulfur provides adequate information to assure protection of the hydrologic balance.

(d) For standard room and pillar mining operations, the engineering properties of clays or soft rock such as clay shale, if any, located immediately above and below each coal seam to be mined.

(e) Collection of geologic information from the permit area as required in this subsection may be waived in whole or in part if:

1. The applicant can demonstrate to the satisfaction of the cabinet through geologic correlation or other procedures that information collected from outside the permit area is representative of the permit area and is sufficient to meet the requirements of Section 12(1) of this regulation; or

2. Other information equivalent to that required by this subsection is available to the cabinet in a satisfactory form and is made a part of the permit application; and

3. The cabinet provides a written statement granting a waiver.

(2) The application shall contain a description of the geology of the proposed permit area and adjacent area which shall meet the requirements of Section 12(1) of this regulation and be based on the information required in subsection (1) of this section or other appropriate geologic information. The description shall include, at a minimum, geologic logs, cross-sections, fence diagrams, or other appropriate illustrations and written descriptions depicting:

(a) Within the permit area:

1. The structural geology and lithology of overburden strata and the stratum immediately below the lowest coal seam to be mined for those areas where overburden will be removed; and the structural geology and lithology of strata which may be impacted by the mining operation for those areas overlying underground workings where overburden will not be removed.

2. The thickness and chemical characteristics of each overburden stratum and the stratum immediately below the lowest coal seam to be mined for those areas where overburden will be removed; or the thickness and chemical characteristics of each stratum which may be impacted by the mining operation for those areas overlying underground workings where overburden will not be removed.

3. Where aquifers may be adversely affected by the mining operation, the structural geology, lithology, thickness, and areal extent of the [such] aquifers; and structural geology and lithology of strata, and thickness of each stratum, whether located above or below the coal seam to be mined, which lie between the coal seam and the [such] aquifers.

4. For standard room and pillar mining operations, the thickness and engineering properties of clays or soft rock such as clay shale, if any, located immediately above and below each coal seam to be mined.

(b) Within the adjacent area, the approximate areal extent and approximate thickness of aquifers which may be adversely affected by the mining operation.

(3) If determined by the cabinet to be necessary to assure adequate reclamation and protection of the hydrologic balance, the cabinet may require geologic information and description in addition to that required by subsections (1) and (2) of this section including, but not limited to, leaching tests of material from strata which may be disturbed by the operation to determine the potential for the operation to produce drainage with elevated levels of acidity, sulfate, and total dissolved solids, and the collection of information to greater depths within the proposed permit area or the collection of information for areas outside the proposed permit area.

Section 14. Baseline Ground Water Information. (1) The application shall contain baseline groundwater information for the permit area and adjacent area which shall be collected and submitted in a manner acceptable to the cabinet and shall be adequate to meet the requirements of Section 12(1) of this regulation.

(2) Groundwater information shall include an inventory of wells, springs, underground mines, or other similar groundwater supply facilities which are currently being used, have been used in the past, or have a potential to be used for domestic, agricultural, industrial, or other beneficial purpose. The inventory shall include the location, ownership, type of usage, and where possible, other relevant information such as the depth and diameter of wells and approximate rate of usage, pumpage or discharge from wells, springs, and other groundwater supply facilities.

(3) Groundwater information shall include seasonal groundwater quantity and quality data collected from monitoring wells, springs, underground mines, or other appropriate groundwater monitoring facilities, at a sufficient number of monitoring locations with adequate areal distribution to meet the requirements of Section 12(1) of this regulation. Seasonal groundwater quantity and quality data shall be provided for each water transmitting zone above, and potentially impacted water transmitting zone below, the lowest coal seam to be mined including at a minimum:

(a) Groundwater levels; and

(b) Total dissolved solids, or specific conductance corrected to twenty-five (25) degrees C; pH; dissolved iron; dissolved manganese; acidity; alkalinity; and sulfate. For data collected prior to August 13, 1985 [the

effective date of these amendments], total iron and total manganese may be substituted for dissolved iron and dissolved manganese.

(4) The groundwater information described in subsection (3) of this section shall [will] be required in whole or in part for coal seams if the [in those cases where] coal seams to be mined are serving as water supply sources or are otherwise significant in protecting the hydrologic balance.

(5) If additional information is needed to assess the need for protective measures, to design protective measures, to determine the probable hydrologic consequences of mining, or to conduct the cumulative impact assessment, the cabinet may require groundwater information in addition to that described in subsections (2), (3), and (4) of this section including, but not limited to, information pertaining to aquifer storage, yield, discharge, recharge capacity, and additional water quality parameters.

Section 15. Baseline Surface Water Information. (1) The application shall contain baseline surface water information for the permit area and adjacent area which shall be collected and submitted in a manner acceptable to the cabinet and shall be adequate to meet the requirements of Section 12(1) of this regulation.

(2) Surface water information shall include an inventory of all streams, lakes, impoundments or other surface water bodies in the permit and adjacent area which are currently being used for domestic, agricultural, industrial, or other beneficial purpose. The inventory shall include the name of the surface water body which is being used as a water supply source; the location, drainage area, ownership, and type of usage for the withdrawal; and where possible other relevant information such as the rate of withdrawal and seasonal variation.

(3) Surface water information shall include:

(a) The name, location, and ownership where appropriate, of all streams, lakes, impoundments, and other surface water bodies which receive run-off from watersheds which will be disturbed by the operation; and

(b) The location and description of any existing facilities located in watersheds which will be disturbed by the mining operation which may contribute to surface water pollution, such as existing or abandoned mining operations, oil wells, logging operations, or other similar facilities, including the location of any discharges which may be flowing from the [such] facilities.

(4) Surface water information shall include seasonal quantity and quality data collected from a sufficient number of watersheds which will be disturbed by the operation with adequate areal distribution to meet the requirements of Section 12(1) of this regulation and include at a minimum:

(a) Flow rates; and

(b) Total dissolved solids, or specific conductance corrected to twenty-five (25) degrees C; total suspended solids; pH; total iron; total manganese; acidity; alkalinity; and sulfate.

(5) If additional information is needed to assess the need for protective measures, to design protective measures, to determine the probable hydrologic consequences of mining, or to conduct the cumulative impact assessment, the cabinet may require surface water information in addition to that described in subsections (2), (3), and (4) of this section including, but not limited to, information pertaining to flood flows and additional water quality parameters.

Section 16. Alternative Water Supply Information. If contamination, diminution, or interruption of an underground or surface source of water (for domestic, agricultural, industrial, or other legitimate use) within the proposed permit area or adjacent area may result from underground mining activities, then the applicant may identify, in the permit application, the alternative sources of water supply that could be developed to replace the existing sources.

Section 17. Climatological Information. (1) When requested by the cabinet, the application shall contain a statement of the climatological factors that are representative of the proposed permit area, including:

(a) The average seasonal precipitation;

(b) The average direction and velocity of prevailing winds; and

(c) Seasonal temperature ranges.

(2) The cabinet may request [such] additional data as deemed necessary to ensure compliance with the requirements of this chapter.

Section 18. Soil Resources Information. (1) If soil survey information for the proposed permit area is available from SCS, the application shall include this [such] information as a part of the description of premining land use capability and productivity required by Section 22(1)(b) of this regulation.

(2) Where the applicant proposes to use selected overburden materials as a supplement or substitute for topsoil, the application shall provide results of the analyses, trials and tests required under 405 KAR 18:050, Section 2(5).

Section 19. Vegetation Information. (1) The permit application shall, as required by the cabinet, contain a map that delineates existing vegetative types and a description of the plant communities within the area affected by surface operations and facilities and within any proposed reference area. This description shall include information adequate to predict the potential for reestablishing vegetation.

(2) When a map or aerial photograph is required, sufficient adjacent areas shall be included to allow evaluation of vegetation as important habitat for fish and wildlife.

Section 20. Fish and Wildlife Resources Information. Permit applications shall not be required under this section to contain a study of fish and wildlife unless and until federal regulations requiring a [such] study have been promulgated and this regulation has been amended as necessary to be consistent with the corresponding federal regulations.

Section 21. Prime Farmland Investigation. (1) The applicant shall conduct a preapplication investigation of the area proposed to be affected by surface operations or facilities to determine whether lands within the area may be prime farmland.

(2) Land shall not be considered prime farmland where the applicant can demonstrate, to

the satisfaction of the cabinet, one (1) or more of the following:

(a) The land has not been historically used as cropland;

(b) The slope of the land is ten (10) percent or greater;

(c) Other relevant factors exist which would preclude the soils from being defined as prime farmland according to 7 CFR 657, such as a very rocky surface, or the land is frequently flooded during the growing season more often than once in two (2) years and the flooding has reduced crop yields; or

(d) On the basis of a soil survey of the lands within the permit area there are no soil map units that have been designated prime farmland by the U.S. SCS.

(3) If the investigation establishes that the lands are not prime farmland, the applicant shall submit with the permit application a request for a negative determination and results of the investigation which show that the land for which the negative determination is being sought meets one (1) or more of the criteria in subsection (2) of this section.

(4) If the investigation indicates that lands within the proposed area to be affected by surface operations and facilities may be prime farmlands, the applicant shall contact the U.S. SCS to determine if these lands have a soil survey and whether the applicable soil map units have been designated prime farmlands. If no [such] soil survey has been made for these lands, the applicant shall request the SCS to conduct a soil survey.

(a) When a soil survey as required by this section contains soil map units which have been designated as prime farmlands, the applicant shall submit an application, in accordance with 405 KAR 8:050, Section 3 for the [such] designated land.

(b) When a soil survey as required by this section contains no soil map units which have been designated as prime farmland, after review by the U.S. SCS, the applicant shall submit with the permit application a request for negative determination under subsection (2)(d) of this section for the [such] nondesignated land.

(5) The cabinet shall decide to grant or deny a negative determination based upon documentation provided by the applicant and any other pertinent information, such as cropping history, available to the cabinet from other sources.

(6) The cabinet shall consult with the SCS in deciding on a request for negative determination under subsection (2)(c) of this section.

(7) The cabinet shall examine any records on crop history available from the Agriculture Stabiljzation and Conservation Service when deciding on a request for negative determination under subsection (2)(a) of this section.

Section 22. Land-use Information. (1) The application shall contain a statement of the condition, capability and productivity of the land which will be affected by surface operations and facilities within the proposed permit area, including:

(a) A map and supporting narrative of the uses of the land existing when the application is filed [at the time of the filing of the application]. If the premining use of the land was changed within five (5) years before the date of application, the historic use of the land shall also be described.

(b) A narrative of land capability and productivity, which analyzes the land-use description in conjunction with other environmental resources information required under this regulation. The narrative shall provide analyses of:

1. The capability of the land before any mining to support a variety of uses, giving consideration to soil and foundation characteristics, topography, vegetative cover, and the hydrology of the area proposed to be affected by surface operations or facilities; and

2. The productivity of the area proposed to be affected by surface operations and facilities before mining, expressed as average yield of food, fiber, forage, or wood products from the [such] lands obtained under high levels of management. The productivity shall be determined by yield data or estimates for similar sites based on current data from the U.S. Department of Agriculture, state agricultural universities or appropriate state natural resources or agricultural agencies.

(2) The application shall state whether the proposed permit area has been previously mined, and, if so, the following information, if available:

(a) The type of mining method used;

(b) The coal seams or other mineral strata mined;

(c) The extent of coal or other minerals removed;

(d) The approximate dates of past mining; and

(e) The uses of the land preceding mining.

(3) The application shall contain a description of the existing land uses and local government land use classifications, if any, of the proposed permit area and adjacent areas.

(4) The application shall contain a description identifying the extent to which cities, towns, and municipalities, or parts thereof, are located within the proposed permit area.

Section 23. Maps and Drawings. (1) The permit application shall include maps showing:

(a) The boundaries of all subareas which are proposed to be affected over the estimated total life of the underground mining activities, with a description of size, sequence and timing of the underground mining activities for which it is anticipated that additional permits will be sought;

(b) Any land within the proposed permit area and adjacent area which is within the boundaries of any units of the National System of Trails or the Wild and Scenic Rivers System, including study rivers designated under Section 5(a) of the Wild and Scenic Rivers Act (16 USC 1276(a)), or which is within the boundaries of a wild river established pursuant to KRS Chapter 146;

(c) The boundaries of any public park and locations of any cultural or historical resources listed on [in] or eligible for listing on [in] the National Register of Historic Places and known archaeological sites within the permit area and adjacent areas;

(d) The locations of water supply intakes for current users of surface waters within a hydrologic area defined by the cabinet, and those surface waters which will receive discharges from affected areas in the proposed permit area;

(e) All boundaries of lands and names of

present owners of record of those lands, both surface and subsurface, included in or contiguous to the permit area;

(f) The boundaries of land within the proposed permit area upon which, or under which, the applicant has the legal right to conduct underground mining activities. In addition, the map shall indicate the boundaries of that portion of the permit area which the applicant has the legal right to enter upon the surface to conduct surface operations.

(g) The location of surface and subsurface manmade features within, passing through, or passing over the proposed permit area, including, but not limited to, major electric transmission lines, pipelines, and agricultural drainage tile fields;

(h) The location and boundaries of any proposed reference areas for determining the success of revegetation for the permit area;

(i) The location of all buildings in and within 1000 feet of the proposed permit area, with identification of the current use of the buildings;

(j) Each public road located in or within 100 feet of the proposed permit area;

(k) Each [public or private] cemetery that is [or Indian burial ground] located in or within 100 feet of the proposed permit area;

(l) Other relevant information required by the cabinet.

(2) The application shall include drawings, cross-sections, and maps showing:

(a) Elevations and locations of test borings and core samplings;

(b) Elevations and locations of monitoring stations or other sampling points in the permit area and adjacent areas used to gather data on water quality and quantity, fish and wildlife, and air quality, if required, in preparation of the application or which will be used for such data gathering during the term of the permit;

(c) All coal crop lines and the strike and dip of the coal to be mined within the proposed permit area;

(d) Location and extent of known workings of active, inactive, or abandoned underground mines, including mine openings to the surface within the proposed permit area and adjacent areas;

(e) Location and extent of subsurface water, if encountered, within the proposed permit area or adjacent areas;

(f) Location of surface water bodies such as streams, lakes, ponds, springs, constructed or natural drainage patterns, and irrigation ditches within the proposed permit area and adjacent areas;

(g) Location, and depth if available, of gas and oil wells within the proposed permit area and water wells in the permit area and adjacent areas;

(h) Location and dimensions of existing coal refuse disposal areas and dams, or other impoundments within the proposed permit area;

(i) Sufficient slope measurements to adequately represent the existing land surface configuration of the area to be affected by surface operations and facilities, measured and recorded according to the following:

1. Each measurement shall consist of an angle of inclination along the prevailing slope extending 100 linear feet above and below or beyond the coal outcrop or the area to be disturbed or, where this is impractical, at locations and in a manner as specified by the cabinet.

2. Where the area has been previously mined, the measurements shall extend at least 100 feet beyond the limits of mining disturbances, or any other distance determined by the cabinet to be representative of the premining configuration of the land.

3. Slope measurements shall take into account natural variations in slope, to provide accurate representation of the range of natural slopes and reflect geomorphic differences of the area to be disturbed.

(3) The permit application shall include the map information specified in Sections 22(1)(a), 24(3), 24(4)(c), 24(4)(h), 26, 27(1), 28, 31, 32, 33, 34, and 38 of this regulation and 405 KAR 8:010, Section 5(6).

(4) Maps, drawings and cross-sections included in a permit application and required by this section shall be prepared by, or under the direction of and certified by a qualified registered professional engineer, and shall be updated as required by the cabinet. The qualified registered professional engineer shall not be required to certify the true ownership of property.

Section 24. Mining and Reclamation Plan; General Requirements. (1) Each application shall contain a detailed mining and reclamation plan (MRP) for the proposed permit area as set forth in this section through Section 39 of this regulation, showing how the applicant will comply with KRS Chapter 350 and 405 KAR [Title 405,] Chapters 16 through 20.

(2) Each application shall contain a description of the mining operations proposed to be conducted within the proposed permit area, including, at a minimum, the following:

(a) A narrative description of the type and method of coal mining procedures and proposed engineering techniques, anticipated annual and total production of coal, by tonnage, and the major equipment to be used for all aspects of those operations; and

(b) A narrative explaining the construction, modification, use, maintenance, and removal of the following facilities (unless retention of the [such] facility is to be approved as necessary for postmining land use as specified in 405 KAR 18:220):

1. Dams, embankments, and other impoundments;

2. Overburden and topsoil handling and storage areas and structures;

3. Coal removal, handling, storage, cleaning, and transportation areas and structures;

4. Spoil, coal processing waste, mine development waste, and noncoal waste removal, handling, storage, transportation, and disposal areas and structures;

5. Mine facilities; and

6. Water pollution control facilities.

(3) Each application shall contain plans and maps of the proposed permit area and adjacent areas as follows:

(a) The plans, maps and drawings shall show the underground mining activities to be conducted, the lands to be affected throughout the operation, and any change in a facility or feature to be caused by the proposed operations, if the facility or feature was shown under Section 23 of this regulation.

(b) The following shall be shown for the proposed permit area:

1. Buildings, utility corridors, and facilities to be used;
2. The area of land to be affected within the proposed permit area, according to the sequence of mining and reclamation;
3. Each area of land for which a performance bond or other equivalent guarantee will be posted under 405 KAR [Title 405,] Chapter 10;
4. Each coal storage, cleaning and loading area;
5. Each topsoil, spoil, coal preparation waste, underground development waste, and noncoal waste storage area;
6. Each water diversion, collection, conveyance, treatment, storage and discharge facility to be used;
7. Each source of waste and each waste disposal facility relating to coal processing or pollution control;
8. Each facility to be used to protect and enhance fish and wildlife related environmental values;
9. Each explosive storage and handling facility;
10. Location of each sedimentation pond, permanent water impoundment, coal processing waste bank, and coal processing waste dam and embankment, in accordance with Section 34 of this regulation, and each disposal area for underground development waste and excess spoil, in accordance with Section 28 of this regulation;
11. Cross-sections, at locations as required by the cabinet, of the anticipated final surface configuration to be achieved for the affected areas;
12. Location of each water and any subsidence monitoring point;
13. Location of each facility that will remain on the proposed permit area as a permanent feature, after the completion of underground mining activities.

(c) Plans, maps and drawings required under this section shall be prepared by, or under the direction of, and certified by a qualified registered professional engineer.

(4) Each plan shall contain the following information for the proposed permit area:

(a) A projected timetable for the completion of each major step in the mining and reclamation plan;

(b) A detailed estimate of the cost of the reclamation of the proposed operations required to be covered by a performance bond under 405 KAR [Title 405,] Chapter 10, with supporting calculations for the estimates;

(c) A plan for backfilling, soil stabilization, compacting and grading, with contour maps or cross-sections that show the anticipated final surface configuration of the proposed permit area, in accordance with 405 KAR 18:190;

(d) A plan for removal, storage, and redistribution of topsoil, subsoil, and other material to meet the requirements of 405 KAR 18:050 including a demonstration of suitability of any proposed topsoil substitutes or supplements;

(e) A plan for revegetation as required in 405 KAR 18:200, including, but not limited to, descriptions of the: schedule of revegetation; species and amounts per acre of seeds and seedlings to be used; methods to be used in planting and seeding; mulching techniques; irrigation, if appropriate, and pest and disease control measures, if any; measures proposed to be used to determine the success of revegetation as required in 405 KAR 18:200, Section 6; and a soil testing plan for evaluation of the results of topsoil handling and reclamation procedures related to revegetation;

(f) A description of the measures to be used to maximize the use and conservation of the coal resource as required in 405 KAR 18:010, Section 2;

(g) A description of measures to be employed to ensure that all debris, acid-forming and toxic-forming materials, and materials constituting a fire hazard are disposed of in accordance with 405 KAR 18:150 and 405 KAR 18:190, Section 3 and a description of the contingency plans which have been developed to preclude sustained combustion of the [such] materials;

(h) A description, including appropriate drawings and maps, of the measures to be used to seal or manage mine openings, and to plug, case or manage exploration holes, other bore holes, wells and other openings within the proposed permit area, in accordance with 405 KAR 18:040; and

(i) A description of steps to be taken to comply with the requirements of the Clean Air Act (42 USC [Sec.] 7401 et seq.), the Clean Water Act (33 USC [Sec.] 1251 et seq.), and other applicable air and water quality laws and regulations and health and safety standards. This description shall, at a minimum, consist of identification of the permits or approvals required by these laws and regulations which the applicant has obtained, has applied for, or intends to apply for.

Section 25. MRP; Existing Structures. (1) Each application shall contain a description of each existing structure proposed to be used in connection with or to facilitate the surface coal mining and reclamation operation. The description shall include:

(a) Location;

(b) Plans of the structure which describe its current condition;

(c) Approximate dates on which construction of the existing structure was begun and completed; and

(d) A showing, including relevant monitoring data or other evidence, whether the structure meets the performance standards of 405 KAR [Title 405,] Chapters 16 through 20, or if the structure does not meet those performance standards, a showing whether the structure meets the interim performance standards of 405 KAR [Title 405,] Chapter 3.

(2) Each application shall contain a compliance plan for each existing structure proposed to be modified or reconstructed for use in connection with or to facilitate the surface coal mining and reclamation operation. The compliance plan shall include:

(a) Design specifications for the modification or reconstruction of the structure to meet the performance standards of 405 KAR [Title 405,] Chapters 16 through 20;

(b) A construction schedule which shows dates for beginning and completing interim steps and final reconstruction;

(c) Provisions for monitoring the structure as required by the cabinet to ensure that the performance standards of 405 KAR [Title 405,] Chapters 16 through 20 are met; and

(d) A showing that the risk of harm to the

environment or to public health or safety will not be [is not] significant during the period of modification or reconstruction.

Section 26. MRP; Subsidence Control. (1) The application shall include a survey which shall show whether structures or renewable resource lands exist within the proposed permit area and adjacent areas and whether subsidence, if it occurred could cause material damage or diminution of reasonably foreseeable use of the [such] structures or renewable resource lands.

(2) If the survey shows that no [such] structures or renewable resource lands exist, or no [such] material damage or diminution could be caused in the event of mine subsidence, and if the cabinet agrees with this [such] conclusion, no further information need be provided in the application under this section.

(3) If [In the event] the survey shows that [such] structures or renewable resource lands exist, or that subsidence could cause material damage or diminution of value or foreseeable use of the land, or if the cabinet determines that [such] damage or diminution could occur, the application shall include a subsidence control plan which shall contain the following information:

(a) A detailed description of the mining method and other measures to be taken which may affect subsidence, including:

1. The technique of coal removal, such as longwall mining, room and pillar with pillar removal, hydraulic mining or other methods; and

2. The extent, if any, to which planned and controlled subsidence is intended.

(b) A detailed description of the measures to be taken to prevent subsidence from causing material damage or lessening the value of reasonably foreseeable use of the surface, including:

1. The anticipated effects of planned subsidence, if any;

2. Measures, if any, to be taken in the mine to reduce the likelihood of subsidence, including [such] measures such as backstowing or backfilling of voids; leaving support pillars of coal; and areas in which no coal removal is planned, including a description of the overlying area to be protected by leaving coal in place.

3. Measures to be taken on the surface to prevent material damage or lessening of the value or reasonably foreseeable use of the surface, including [such] measures such as reinforcement of sensitive structures or features; installation of footers designed to reduce damage caused by movement; change of location of pipelines, utility lines or other features; relocation of movable improvements to sites outside the angle-of-draw; and monitoring, if any, to determine the commencement and degree of subsidence so that other appropriate measures can be taken to prevent or reduce material damage.

(c) A detailed description of the measures to be taken to mitigate the effects of any material damage or diminution of value or foreseeable use of lands which may occur, including one (1) or more of the following as required by 405 KAR 18:210, Section 3:

1. Restoration or rehabilitation of structures and features, including approximate land-surface contours, to premining condition;

2. Replacement of structures destroyed by subsidence;

3. Purchase of structures prior to mining and restoration of the land after subsidence to condition capable of supporting and suitable for the structures and foreseeable land uses;

4. Purchase of noncancellable insurance policies payable to the surface owner in the full amount of the possible material damage or other comparable measures.

(d) A detailed description of measures to be taken to determine the degree of material damage or diminution of value or foreseeable use of the surface, including [such] measures such as:

1. The results of presubsidence surveys of all structures and surface features which might be materially damaged by subsidence;

2. Monitoring, if any, proposed to measure deformations near specified structures or features or otherwise as appropriate for the operation.

Section 27. MRP; Return of Coal Processing Waste to Abandoned Underground Workings. (1) Each plan shall describe the design, operation and maintenance of any proposed use of abandoned underground workings for coal processing waste disposal, including flow diagrams and any other necessary drawings and maps, for the approval of the cabinet and MSHA under 405 KAR 18:140, Section 7.

(2) Each plan shall describe the source and quality of waste to be stowed, area to be backfilled, percent of the mine void to be filled, method of constructing underground retaining walls, influence of the backfilling operation on active underground mine operations, surface area to be supported by the backfill, and the anticipated occurrence of surface effects following backfilling.

(3) The applicant shall describe the source of the hydraulic transport mediums, method of dewatering the placed backfill, retainment of water underground, treatment of water if released to surface streams, and the effect on the hydrologic regime.

(4) The plan shall describe each permanent monitoring well to be located in the backfilled area, the stratum underlying the mined coal, and gradient from the backfilled area.

(5) The requirements of this section shall also apply to pneumatic backfilling operations, except where the operations are exempted by the cabinet from requirements specifying hydrologic monitoring.

Section 28. MRP; Underground Development Waste and Excess Spoil. Each plan shall contain descriptions, including appropriate maps and cross-section drawings, of the proposed disposal methods and sites for placing underground development waste and excess spoil according to 405 KAR 18:130, 405 KAR 18:140, and 405 KAR 18:160 as applicable. Each plan shall describe the geotechnical investigation, design, construction, operation, maintenance, and removal, if appropriate, of the structures and be prepared according to 405 KAR 8:030, Section 27 and the applicable requirements of this regulation.

Section 29. MRP; Transportation Facilities. (1) Each application shall contain a description of each road, conveyor, and rail system to be constructed, used, or maintained within the proposed permit area. The description shall

include a map, appropriate cross-sections, and the following:

(a) Specifications for each road width, road gradient, road surface, road cut, fill embankment, culvert, bridge, drainage ditch, and drainage structure.

(b) A report of appropriate geotechnical analysis, where approval of the cabinet is required for alternative specifications or for steep cut slopes under 405 KAR 18:230.

(c) A description of each measure to be taken to obtain approval of the cabinet for alteration or relocation of a natural drainageway under 405 KAR 18:230.

(d) A description of measures, other than use of a rock headwall, to be taken to protect the inlet end of a ditch relief culvert, for approval by the cabinet under 405 KAR 18:230.

(2) Each plan shall contain a general description of each road, conveyor, or rail system to be constructed, used, or maintained within the proposed permit area.

Section 30. MRP; Protection of Public Parks and Historic Places. (1) For any publicly-owned [public] parks or any [historic] places listed on the National Register of Historic Places that may be adversely affected by the proposed operations, each plan shall describe the measures to be used to prevent adverse impact; or, if valid existing rights exist or joint agency approval is to be obtained under [minimize or prevent these impacts and to obtain approval of the cabinet and other agencies as required in] 405 KAR 24:040, Section 2(4), to minimize adverse impacts.

(2) The cabinet may require the applicant to protect historic or archaeological properties listed or eligible for listing on the National Register of Historic Places through appropriate mitigation and treatment measures. These measures need not be completed prior to permit issuance, but shall be completed before the properties are affected by underground mining activities.

Section 31. MRP; Relocation or Use of Public Roads. Each application shall describe, with appropriate maps and drawings the measures to be used to ensure that the interests of the public and landowners affected are protected if, under 405 KAR 24:040, Section 2(6), the applicant seeks to have the cabinet approve:

(1) Conducting the proposed underground mining activities within 100 feet of the right-of-way line of any public road, except where mine access or haul roads join that right-of-way; or

(2) Relocating a public road.

Section 32. MRP; Protection of Hydrologic Balance. (1) Each application shall contain a description, as set forth in this subsection, of the measures to be taken to minimize disturbances to the hydrologic balance within the permit area and adjacent area and to prevent material damage to the hydrologic balance outside the permit area.

(a) The description shall be based upon the baseline geologic, hydrologic, and other information required by Sections 12 through 16 of this regulation and other appropriate information, shall be specific to local hydrologic conditions, and shall be prepared in a manner and detail acceptable to the cabinet.

(b) The description shall identify the protective measures to be taken to enable the operation to meet, at a minimum, each of the hydrologic requirements referenced in this paragraph, or shall demonstrate to the satisfaction of the cabinet that protective measures are not necessary for [in order to enable] the operation to meet the [such] requirements:

1. Meet applicable water quality statutes, regulations, standards, and effluent limitations as required by 405 KAR 18:060, Section 1(3);

2. Avoid acid or toxic drainage as required by 405 KAR 18:060, Sections 4, 5, and 6;

3. Control the discharge of sediment to streams located outside the permit area as required by 405 KAR 18:060, Section 2; and

4. Control the drainage and discharge of water within the permit area as required by 405 KAR 18:060, Sections 1(4), 3, 8 and 9, and 405 KAR 18:080.

(c) The cabinet may require that the description include protective measures in addition to those identified under paragraph (b) of this subsection, if the cabinet determines that additional measures are needed to protect the hydrologic balance in accordance with 405 KAR 18:060.

(2) Each application shall include the design of any necessary protective measures identified under subsection (1) of this section. The design shall be prepared in a manner and detail acceptable to the cabinet including, as appropriate, calculations, maps, drawings, and written explanations as necessary to document the design.

(3) Each application shall include a determination of the probable hydrologic consequences of the mining and reclamation operations for the permit area and adjacent area.

(a) The determination shall be based upon the baseline geologic, hydrologic, and other information required by Sections 12 through 16 of this regulation and other appropriate information, and may include information statistically representative of the site.

(b) The determination shall be completed according to the parameters and in the detail required by the cabinet to enable the cabinet to prepare a cumulative impact assessment, and shall take into account the anticipated effects of protective measures required by this chapter.

(c) For surface water systems, the determination shall, at a minimum, include probable impacts on:

1. Peak discharge rates, emphasizing the potential for flooding;

2. Settleable solids at peak discharge;

3. Low-flow discharge rates, emphasizing the potential for water supply diminution;

4. Suspended solids at low flow;

5. pH, at low flow, emphasizing the potential for acid drainage conditions, including depressed levels of alkalinity and elevated levels of iron, manganese, acidity, sulfate, and total dissolved solids or specific conductance, which are generally associated with acid drainage conditions.

(d) For groundwater systems, the determination shall, at a minimum, include probable impacts on:

1. Water quantity, emphasizing water levels and the potential for water supply diminution for existing users, and dewatering of aquifers which are not currently being used for water supply but have the potential to be developed as a water supply source.

2. pH, emphasizing the potential for acid drainage conditions, including depressed levels of alkalinity and elevated levels of iron, manganese, acidity, sulfate, and total dissolved solids or specific conductance, which are generally associated with acid drainage conditions.

(e) An application for a major revision to a permit shall be reviewed by the cabinet to determine whether a new or updated determination of the probable hydrologic consequences shall be required.

(4)(a) The application shall include a plan for the collection, recording, and reporting of groundwater and surface water quantity and quality data to monitor the effects of the mining and reclamation operations on the hydrologic balance, according to 405 KAR 18:110.

(b) The monitoring plan shall be based on the geologic and hydrologic baseline information, the mining and reclamation plan, and the determination of probable hydrologic consequences; and shall:

1. Identify the quantity and quality parameters to be monitored, sampling frequency, and monitoring site locations; and

2. Describe how the data may be used to determine the impacts of the operation on the hydrologic balance.

(5) An application for a major revision to a permit shall be reviewed by the cabinet to determine whether a new or updated cumulative hydrologic impact assessment shall be made.

Section 33. MRP; Diversions. Each application shall contain descriptions, including maps and cross-sections, of stream channel diversions and other diversions to be constructed within the proposed permit area to achieve compliance with 405 KAR 18:080.

Section 34. MRP; Impoundments and Embankments. (1) General. Each application shall include detailed design plans for each proposed sedimentation pond, water impoundment, and coal processing waste bank, dam, or embankment within the proposed permit area. Each design plan shall:

(a) Be prepared by, or under the direction of, and certified by, a qualified registered professional engineer;

(b) Contain a description, map, and appropriate cross-sections and drawings of the structure and its location;

(c) Contain all hydrologic and geologic information and computations necessary to demonstrate compliance with the design and performance standards of 405 KAR [Title 405,] Chapter 18; and all information utilized by the applicant to determine the probable hydrologic consequences of the mining operation under Section 32(3) of this regulation;

(d) Contain an assessment of the potential effect on the structure from subsidence of the subsurface strata resulting from past underground mining operations if underground mining has occurred;

(e) Include any geotechnical investigation, design, and construction requirements for the structure;

(f) Describe the operation and maintenance requirements for each structure; and

(g) Describe the timetable and plans to remove each structure, if appropriate.

(2) Sedimentation ponds.

(a) Sedimentation ponds, whether temporary or permanent, shall be designed in compliance with the requirements of 405 KAR 18:090. Any sedimentation pond or earthen structure which will remain on the proposed permit area as a permanent water impoundment shall also be designed to comply with the requirements of 405 KAR 18:100.

(b) Each plan shall, at a minimum, comply with the requirements of MSHA, 30 CFR 77.216-1 and 77.216-2.

(3) Permanent and temporary impoundments. Permanent and temporary impoundments shall be designed to comply with the requirements of 405 KAR 18:100. Each plan shall comply with the requirements of MSHA, 30 CFR 77.216-1 and 77.216-2.

(4) Coal processing waste banks. Coal processing waste banks shall be designed to comply with the requirements of 405 KAR 18:140.

(5) Coal processing waste dams and embankments. Coal processing waste dams and embankments shall be designed to comply with the requirements of 405 KAR 18:160. Each plan shall comply with the requirements of MSHA, 30 CFR 77.216-1 and 77.216-2, and shall contain the results of a geotechnical investigation of the proposed dam or embankment foundation area, to determine the structural competence of the foundation which will support the proposed dam or embankment structure and the impounded material. The geotechnical investigation shall be planned and supervised by an engineer or engineering geologist, according to the following:

(a) The number, location, and depth of borings and test pits shall be determined using current prudent engineering practice for the size of the dam or embankment, quantity of material to be impounded, and subsurface conditions.

(b) The character of the overburden and bedrock, the proposed abutment sites, and any adverse geotechnical conditions which may affect the particular dam, embankment, or reservoir site shall be considered.

(c) All springs, seepage, and groundwater flow observed or anticipated during wet periods in the area of the proposed dam or embankment shall be identified on each plan.

(d) Consideration shall be given to the possibility of mud flows, rock-debris falls, or other landslides into the dam, embankment, or impounded material.

(6) If the structure is to be twenty (20) feet or higher or is to impound[s] more than twenty (20) acre-feet, each plan under subsections (2), (3), and (5) of this section shall include a stability analysis of each structure. The stability analysis shall include, but not be limited to, strength parameters, pore pressures, and long-term seepage conditions. The plan shall also contain a description of each engineering design assumption and calculation with a discussion of each alternative considered in selecting the specific design parameters and construction methods.

Section 35. MRP; Air Pollution Control. For all surface operations associated with underground mining activities, the application shall contain an air pollution control plan which includes the following:

(1) An air quality monitoring program, if required by the cabinet, to provide sufficient data to evaluate the effectiveness of the fugitive dust control practices, under

subsection (2) of this section to comply with applicable federal and state air quality standards; and

(2) A plan for fugitive dust control practices, as required under 405 KAR 18:170.

Section 36. MRP; Fish and Wildlife. Permit applications shall not be required under this section to contain a fish and wildlife plan unless and until federal regulations requiring a [such] plan have been promulgated and this regulation has been amended as necessary to be consistent with the corresponding federal regulations.

Section 37. MRP; Postmining Land Use. (1) Each plan shall contain a description of the proposed use, following reclamation, of the land to be affected within the proposed permit area by surface operations or facilities, including a discussion of the utility and capacity of the reclaimed land to support a variety of alternative uses, and the relationship of the proposed use to existing land use policies and plans. This description shall explain:

(a) How the proposed postmining land use is to be achieved and the necessary support activities which may be needed to achieve the proposed land use;

(b) Where a land use different from the premining land use is proposed, all supporting documentation submitted for approval of the proposed use under 405 KAR 18:220;

(c) The consideration given to making all of the proposed underground mining activities consistent with surface owner plans and applicable state and local land use plans and programs;

(d) Where grazing is the proposed postmining land use, the detailed management practices necessary to properly implement the postmining use for grazing.

(2) The description shall be accompanied by a copy of the comments concerning the proposed use from the legal or equitable owner of record of the surface areas to be affected by surface operations or facilities within the proposed permit area and the state and local government agencies, if any, which would have to initiate, implement, approve, or authorize the proposed use of the land following reclamation.

(3) Approval of the initial postmining land use plan pursuant to this section, shall not preclude subsequent consideration and approval of a revised postmining land use plan in accordance with the applicable requirements of 405 KAR [this Title].

Section 38. MRP; Transportation on Public Roads. The application shall include or be accompanied by a transportation plan and map (at least the scale and detail of the separate county maps published by the Kentucky Transportation Cabinet) which shall set forth the portions of the public road system, if any, over which the applicant proposes to transport coal extracted in the underground mining activities.

(1) The plan shall specify the legal weight limits for each portion of any public [such] road or bridge over which the applicant proposes to transport coal.

(2) The plan shall include any proposal by the applicant to obtain a special permit pursuant to [the provisions of] KRS 189.271 to exceed the weight limits on any road or bridge.

(3) The plan shall contain a certification by a duly authorized official of the Kentucky Transportation Cabinet attesting the accuracy of the plan in regard to the locations and identities of roads and bridges on the public road system and the accuracy of the specifications of weight limits on the [such] roads and bridges.

Section 39. MRP; Blasting. (1) Each application shall contain a blasting plan for the proposed permit area explaining how the applicant intends to comply with the requirements of 405 KAR 18:120. This plan shall include, at a minimum, information setting forth the limitations the permittee will meet with regard to ground vibration and airblast, the bases for the ground vibration and airblast limitations, and the methods to be applied in controlling the adverse effects of blasting operations.

(2) Each application shall contain a description of the systems to be used to monitor compliance with the standards for ground vibration and airblast including the types, capabilities, and sensitivities of blast monitoring equipment and identification of the monitoring procedures and locations.

(3) Blasting operations within 500 feet of active underground mines require approval of the cabinet, MSHA, and the Kentucky Department of Mines and Minerals.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 12, 1989
FILED WITH LRC: January 13, 1989 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed amendment has been scheduled to take place on Thursday, February 23, 1989 at 9 a.m. EST. The hearing has been scheduled for the Department for Surface Mining Reclamation and Enforcement's Training Room (Room D-16) in the Hudson Hollow Office Park, 2 Hudson Hollow Road, Frankfort, Kentucky. Persons interested in attending or testifying at this hearing should submit written notification of such by February 18, 1989. Such notification must be submitted to James Hale at the address noted below, and the notice must indicate if testimony is to be given. If, by February 18, Mr. Hale has not received any written notice of intent to testify, the hearing will be cancelled. To assure an accurate record, the cabinet requests that each person testifying at the hearing provide the cabinet with a written copy of his or her testimony. Written comments on the proposed amendment may be submitted at any time before 4:30 p.m. EST on February 23, 1989. Comments received after that time will not be considered. Written comments and written requests to attend or testify at the hearing must be submitted to: James Hale, Department for Surface Mining Reclamation and Enforcement, Hudson Hollow Office Park, 2 Hudson Hollow Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Jim Villines

(1) Type and number of entities affected: The proposed amendments potentially affect all applicants for new permits, amendments, and revisions, for surface mining activities. In

calendar year 1988 the cabinet received, for surface and underground mining operations combined, 300 applications for new permits, 252 applications for amendments, and 739 applications for revisions. The cabinet expects that total permitting activity for calendar 1989 will not differ greatly from 1988. Based on the cabinet's experience to date, the cabinet expects that 20% to 40% of applications for original permits and amendments, and less than 5% of applications for revisions, will actually be affected. Because the cultural and historic resources requirements apply to both surface and underground mining operations in the same way, and the cabinet reviews both types with the same personnel, it would not be helpful to distinguish between the two types for the purposes of this analysis.

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

1. First year: There are two ways that an applicant can be affected by the proposed amendment. First, the amendment authorizes the cabinet to require an applicant to study his proposed permit area and adjacent areas to identify and evaluate any important historic and archaeological resources that may be eligible for listing on the National Register of Historic Places. The applicant may be required to collect additional information, to conduct field investigations, or to conduct other appropriate analyses. Second, when the proposed permit area or adjacent areas are found to contain historic or archaeological resources that are listed or eligible for listing on the Register, the cabinet may require the applicant to show in his mining and reclamation plan how he will protect these resources through appropriate mitigation and treatment measures. These measures, if required, can range from avoiding any disturbance of the resources to complete archaeological excavation and recording of the resources. The mitigation and treatment measures need not be completed before the permit is issued, but must be completed before the resources are affected by the mining activities.

The type of additional investigation which the cabinet will most frequently require of applicants is the Phase I archaeological survey, in which a qualified archaeologist performs a review of appropriate literature, makes an on-the-ground investigation of the area including shovel testing, and prepares a written report documenting his findings and evaluation of the site. The cost for such services will vary according to the individual consulting archaeologist, permit size, terrain, travel distance, weather, and perhaps other factors as well. Based upon the cabinet's limited experience with such surveys to date, a survey can be expected to cost the applicant from $15 to $35 per acre.

It is impractical to attempt to estimate costs for mitigation and treatment measures in the abstract, because the scope and complexity of these measures is so completely site-specific. They can range from very little cost for avoiding a small area, to hundreds of thousands of dollars for excavating and recording a large site over many months.

2. Continuing costs or savings: The proposed amendment will not add any continuing costs or savings to individual applicants.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Costs for archaeological surveys seem likely to decline, rather than increase, as increasing numbers of qualified archaeologists become available in response to the demand for archaeological services. Also, the fraction of applications for which surveys are required seems likely to decline as the cabinet gains experience regarding the probability that important resources exist within particular types of terrain and within particular regions of the state.

(b) Reporting and paperwork requirements: Affected applicants will experience additional paperwork in submitting archaeologists' reports to the cabinet, and in preparing their mining and reclamation plans to show mitigation and treatment measures.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: The cabinet will need additional manpower and related resources to carry out its responsibilities under this amendment. Since the requirements for surface and underground mines are the same and the cabinet will handle both using the same resources, it is meaningless to differentiate between resources required by this amendment and the companion amendment to 405 KAR 8:030. The cabinet estimates the additional costs for both types of mining operations as follows:

The cabinet estimates that permit review activities for cultural and historic resources will require three additional employees with master's degrees in archaeology, two additional employees with bachelor's degrees in archaeology, and one additional secretarial employee, at a total annual personnel cost of $120,000. Two new vehicles would add $27,000, and professional equipment would add $4,000. Travel expenses of $10,000 and vehicle operation and maintenance of $2,000 would bring the first year total to $163,000.

2. Continuing costs or savings: Continuing costs for personnel, travel, and vehicle O/M in succeeding years are estimated at $138,000.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs to the cabinet, except that costs could increase or decrease if manpower requirements prove to be significantly different than anticipated.

(b) Reporting and paperwork requirements: The cabinet will experience substantial paperwork requirements in coordinating its review activities with the state Historic Preservation Officer and in communicating with the applicant and archaeologists performing work for applicants.

(3) Assessment of anticipated effect on state and local revenues: The amendment should not affect state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Under the constraints of KRS Chapter 13A, there are no alternatives to the promulgation of this amendment.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no statutes, administrative regulations, or governmental policies that conflict with, overlap, or duplicate the provisions of this amendment.

(a) Necessity of proposed regulation if in

conflict: Since no conflicts exist, this item is not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Since no conflicts exist, this item is not applicable.

(6) Any additional information or comments: This proposed amendment also contains several nonsubstantive language changes in response to amendments to KRS Chapter 13A enacted by the 1988 Kentucky General Assembly.

TIERING: Was tiering applied? No. Tiering is not applicable to this proposed amendment because, under the federal and Kentucky surface mining laws and regulations, these requirements must apply equally to all permittees under 405 KAR Chapters 7 through 24.

FISCAL NOTE ON LOCAL GOVERNMENT: A fiscal note is not required for this regulation because it will have no impact on local government.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 30 CFR 778, 783, and 784, with amendments to 405 KAR 8:040, Section 11(2), Section 23(1)(k), and Section 30, which are the substantive changes in this rulemaking, being mandated by revisions to 30 CFR 783.12(b), 783.24(j), and 784.17, respectively, published on February 10, 1987 in Federal Register 52 FR 4244 et seq. The changes outside of Sections 11(2), 23(1)(k), and 30 are being made in response to amendments to KRS Chapter 13A passed during the 1988 session of the Kentucky General Assembly, rather than because of a federal mandate.

2. State compliance standards. Section 11(2) as amended will require that applications for underground mining operations describe and identify archaeological resources listed on or eligible for listing on the National Register of Historic Places. Section 11(2) will also require that the state Historic Preservation Officer be used as a data source for information on archaeological resources and eligible and listed National Register sites. Additionally, the amendment will authorize the cabinet to require applicants to collect additional information, conduct field investigations, or perform other appropriate analyses to identify and evaluate important historic and archaeological resources that may be eligible for listing on the National Register.

The changes to Section 23(1)(k) will require that each cemetery located in or within 100 feet of the proposed permit area be shown on a map in the permit application. This is a simplification of the current language, which requires a map showing "each public or private cemetery or Indian burial ground located in or within 100 feet of the proposed permit area."

The Section 30 changes will authorize the cabinet to require the permit applicant to protect historic or archaeological properties listed or eligible for listing on the National Register. Section 30 will also require that an applicant's mining and reclamation plan describe the measures to be used to prevent adverse impacts on publicly-owned parks and any places listed on the National Register, if the applicant does not have valid existing rights or if the mining operation has not been jointly approved by the cabinet and the agency with jurisdiction over the site. If the applicant does have valid existing rights, or if the mining operation has been jointly approved by the cabinet and the agency with jurisdiction, the plan must describe how adverse impacts will be minimized.

3. Minimum or uniform standards contained in the federal mandate. At 30 CFR 783.12(b), the federal mandate requires that applications for underground mining operations describe and identify archaeological resources listed on or eligible for listing on the National Register of Historic Places, and that the state Historic Preservation Officer be used as a data source for information on archaeological resources and eligible and listed National Register sites. The mandate also authorizes the regulatory authority to require applicants to collect additional information, conduct field investigations, or perform other appropriate analyses to identify and evaluate important historic and archaeological resources that may be eligible for listing on the National Register.

At 30 CFR 783.24(j), the mandate requires that permit applications contain maps identifying "each cemetery that is located in or within 100 feet of the proposed permit area."

30 CFR 784.17 authorizes the regulatory authority to require permit applicants to protect historic or archaeological properties listed or eligible for listing on the National Register. The mandate also requires that an applicant's mining and reclamation plan address protection of publicly-owned parks and any places listed on the National Register. If the applicant does not have valid existing rights or if the mining operation has not been jointly approved by the cabinet and the agency with jurisdiction over the site, the plan must describe how adverse impacts to the site will be prevented. If the applicant does have valid existing rights or if the mining operation has been jointly approved, the plan must address minimizing adverse impacts.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. The state and federal standards will be identical.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This item is not applicable - the state and federal standards will be identical.

NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET
Department for Surface Mining Reclamation and Enforcement
(Proposed Amendment)

405 KAR 24:040. Areas unsuitable for mining.

RELATES TO: KRS 350.465(2)(b), 350.610

STATUTORY AUTHORITY: KRS Chapter 13A, 350.465(2), 350.610

NECESSITY AND FUNCTION: KRS 350.465(2) and 350.610 require the cabinet to prepare, develop, and promulgate a permanent regulatory program for the implementation of SMCRA containing procedures similar to that Act. This regulation sets forth procedures for reviewing applications for surface coal mining and reclamation operation permits to determine whether surface

coal mining and reclamation operations are limited or prohibited.

Section 1. General. The cabinet shall prohibit or limit surface coal mining and reclamation operations on or near certain private, federal, and other public lands designated by Congress in SMCRA [the Surface Mining Control and Reclamation Act of 1977 (P.L. 95-87)], except for operations which existed on August 3, 1977, or were subject to valid existing rights on that date. The cabinet shall also prohibit certain surface coal mining operations on lands designated unsuitable for all or certain types of surface coal mining and reclamation operations under 405 KAR 24:030.

Section 2. Permit Application Review. Except for operations which existed on August 3, 1977, unless the required approvals or waivers have been [are] obtained, upon receipt of a complete and accurate application for a surface coal mining and reclamation operation permit, and subject to valid existing rights, the cabinet shall review the application and deny the permit if it determines that the lands on which the proposed operation would be conducted include:

(1) Lands within the boundaries of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers designated under Section 5(a) of the Wild and Scenic Rivers Act (16 USC 1276(a)) or study rivers or study river corridors as established in any guidelines pursuant to that Act, and the National Recreation Areas designated by Act of Congress;

(2) Lands within 300 feet, measured horizontally, of any public park, public building, school, church, community or institutional building; or

(3) Lands within 100 feet, measured horizontally, of a cemetery; except that cemeteries may be relocated if authorized by applicable state law or regulations;

(4) Lands where mining will adversely affect any publicly-owned park or any places included on the National Register of Historic Places unless jointly approved by the cabinet and the federal, state, or local agency with jurisdiction over the park or place as set forth in paragraphs (a) and (b) of this subsection.

(a) The cabinet shall transmit to the federal, state, or local government agency with jurisdiction over the [public] park or [historic] place a copy of applicable parts of the [completed] permit application, together with a request for that agency's approval or disapproval of the operation, and a notice to that agency that it has thirty (30) days from receipt of the request within which to respond and that failure to interpose a timely objection will constitute approval. The cabinet, upon request by the appropriate agency, may grant an extension to the thirty (30) day period of an additional thirty (30) days. Failure to interpose an objection within thirty (30) days or the extended period granted shall constitute an approval of the proposed permit by the agency.

(b) A permit for a surface coal mining and reclamation operation shall not be issued unless jointly approved by all affected agencies.

(5) Lands within 300 feet, measured horizontally, from any occupied dwelling, unless the owner of the dwelling has provided a written waiver consenting to surface coal mining operations closer than 300 feet.

(a) The applicant shall submit with the permit application a written waiver by lease, deed, or other conveyance from the owner of the dwelling, clarifying that the owner and signator had the legal right to deny mining and knowingly waived that right. The waiver shall act as consent to the [such an] operation within a closer distance of the dwelling specified in the waiver. Valid waivers obtained prior to August 3, 1977 shall be [are] valid for the purposes of this paragraph. Waivers obtained from previous owners shall remain effective for subsequent owners who had actual or constructive knowledge of the existing waiver when the dwelling was purchased [at the time of purchase]. A subsequent owner shall be deemed to have constructive knowledge if the waiver has been properly filed in public property records pursuant to state law or if the mining has proceeded to within the 300-foot limit prior to the date of purchase.

(b) The waiver shall [must] be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver. In this [such] case, a copy of the lease or deed shall [must] be included with the permit application.

(c) This subsection shall not apply when the part of the mining operation which is within 300 feet of the dwelling is a haul road or access road which connects with an existing public road on the side of the public road opposite the dwelling.

(6) Lands within 100 feet, measured horizontally, of the outside right-of-way line of any public road (except where mine access roads or haulage roads join the [such] right-of-way). The cabinet may allow areas within 100 feet to be affected or may allow the public road to be closed or relocated, provided that, the cabinet shall:

(a) Require the applicant to obtain any necessary approval of the governmental authority with jurisdiction over the public road;

(b) Provide opportunity for a public hearing in the locality of the proposed mining operations for the purpose of determining whether the interests of the public and affected landowners will be protected;

(c) Publish notice in a newspaper of largest bona fide circulation according to the definition in KRS 424.110 to 424.120 in the county of the affected area at least two (2) weeks before the [such] public hearing;

(d) Make a written finding within thirty (30) days after the [any such] hearing or after any public comment period ends if no hearing is held, on the basis of information received at the public hearing as to whether the interests of the public and affected landowners will be protected. No mining shall be allowed within 100 feet of the outside right-of-way line of a road nor may a road be relocated or closed unless the cabinet determines that the interests of the public and affected landowners will be protected.

(7) Federal lands within the boundaries of any national forest, unless specifically approved by the Secretary of the Interior.

Section 3. Assistance Review. (1) If the cabinet is unable to determine whether the proposed surface coal mining operation is located within the distances or boundaries of

any of the lands identified in Section 2 of this regulation, the cabinet shall transmit a copy of the relevant portions of the permit application to the appropriate federal, state, or local government agency for a determination or clarification of the relevant boundaries or distances, with a notice to the agency that it shall [must] respond in writing within thirty (30) days of receipt of the request.

(2) The National Park Service or the U.S. Fish and Wildlife Service shall be notified of any request for a determination of valid existing rights pertaining to areas within the boundaries of areas under their jurisdiction and shall have thirty (30) days from receipt of notification in which to respond.

(3) The cabinet, upon request by the appropriate agency, shall grant an extension to the thirty (30) day period of an additional thirty (30) days. If no response is received within the thirty (30) day period or within the extended period granted, the cabinet may make the necessary determination based upon the information it has available.

Section 4. Valid Existing Rights. (1) Except for haul roads, "valid existing rights" means property rights in existence on August 3, 1977, that were created by a legally binding conveyance, lease, contract or other instrument which authorizes the applicant to produce coal and the person proposing to conduct a surface coal mining operation on the [such] lands either:

(a) Had been validly issued or had made a good faith effort to obtain, on or before August 3, 1977, all state and federal permits necessary to conduct surface coal mining operations on those lands, application for the [such] permits being deemed to constitute good faith efforts to obtain the [such] permits; or

(b) Can demonstrate to the cabinet that the coal is both needed for, and immediately adjacent to, an ongoing surface coal mining operation for which all permits were obtained prior to August 3, 1977.

(2) For haul roads, "valid existing rights" means:

(a) A recorded right-of-way, recorded easement, or a permit for coal haul road recorded as of August 3, 1977; or

(b) Any other road in existence as of August 3, 1977.

(3) "Valid existing rights" does not mean the mere expectation of a right to conduct surface coal mining operations or the right to conduct underground coal mining.

(4) Interpretation of the terms of the documents relied upon to establish existing rights shall be based upon the laws of Kentucky.

(5) A determination that coal is "needed" shall [will] be based upon, but not be limited to, a finding that additional production originating on adjacent land is necessary to preclude a financial hardship on the mining operation measured by standard accounting and financial procedures, provided that:

(a) A fair rate-of-return on invested capital is not achievable on existing permitted land;

(b) A less than fair rate-of-return on invested capital is attributable to [the provisions of] this chapter; and

(c) The operator can establish that the adjacent unpermitted land is part of the operator's mining plan.

(6) Where an area comes under the protection of Section 2 of this regulation after August 3, 1977, valid existing rights shall be found if, on the date the protection comes into existence, a validly authorized surface coal mining operation exists on that area.

Section 5. Exploration on Land Designated as Unsuitable for Surface Coal Mining Operations. Designation of any area as unsuitable for all or certain types of surface coal mining operations pursuant to this chapter does not prohibit coal exploration operations in the area, if conducted in accordance with KRS Chapter 350 and 405 KAR [Title 405,] Chapters 7 through 20. Exploration operations on any lands designated unsuitable for surface coal mining operations shall be approved only when the cabinet finds that the proposed exploration does not interfere with any value for which the area has been designated unsuitable for surface coal mining operations.

Section 6. Lands Designated Unsuitable. (1) If the cabinet determines that the proposed surface coal mining operation is not prohibited by Section 2 of this regulation, it may nevertheless, pursuant to appropriate petitions, designate the [such] lands as unsuitable for all or certain types of surface coal mining operations pursuant to 405 KAR 24:030.

(2) The cabinet shall not issue permits which are inconsistent with designations made pursuant to 405 KAR 24:030 and this regulation.

FRANK DICKERSON, Commissioner
CARL H. BRADLEY, Secretary
APPROVED BY AGENCY: January 12, 1989
FILED WITH LRC: January 13, 1989 at 11 a.m.

PUBLIC HEARING: A public hearing on this proposed amendment has been scheduled to take place on Thursday, February 23, 1989 at 9 a.m. EST. The hearing has been scheduled for the Department for Surface Mining Reclamation and Enforcement's Training Room (Room D-16) in the Hudson Hollow Office Park, 2 Hudson Hollow Road, Frankfort, Kentucky. Persons interested in attending or testifying at this hearing should submit written notification of such by February 18, 1989. Such notification must be submitted to James Hale at the address noted below, and the notice must indicate if testimony is to be given. If, by February 18, Mr. Hale has not received any written notice of intent to testify, the hearing will be cancelled. To assure an accurate record, the cabinet requests that each person testifying at the hearing provide the cabinet with a written copy of his or her testimony. Written comments on the proposed amendment may be submitted at any time before 4:30 p.m. EST on February 23, 1989. Comments received after that time will not be considered. Written comments and written requests to attend or testify at the hearing must be submitted to: James Hale, Department for Surface Mining Reclamation and Enforcement, Hudson Hollow Office Park, 2 Hudson Hollow Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Jim Villines

(1) Type and number of entities affected: The regulation applies to all applications for new permits, amendments, and revisions, in that it establishes criteria for reviewing applications to determine whether the application proposes to

affect areas where surface coal mining and reclamation operations are prohibited or limited. The substantive amendment affects only those applicants who propose to affect lands within 100 feet, measured horizontally, of a cemetery.

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

1. First year: The amendment allows permittees to relocate cemeteries if authorized by state law or regulations. A permittee will elect to relocate a cemetery rather than avoid it and the 100-foot buffer zone around it only if he expects to realize a net savings by the relocation. Thus the amendment does not mandate any net increase in cost, but rather offers the opportunity for net savings. The potential net savings, if any, can only be quantified on a case-by-case basis.

2. Continuing costs or savings: There are no continuing costs or savings for an individual applicant.

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: An applicant electing to relocate a cemetery would be required to demonstrate that he had the legal right to do so, and would be required to show his method of relocation in his mining and reclamation plan.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: If an applicant proposes to relocate a cemetery the department will spend slightly more time in reviewing the application, and if relocation is approved, the department will examine the relocation activities in the field. These would be minor additional costs, and very few such relocations are expected.

2. Continuing costs or savings: Costs for succeeding years should be similar to the first year.

3. Additional factors increasing or decreasing costs: The amendment allows the cabinet to transmit the applicable parts of the permit application, rather than the entire permit application, to the agency with jurisdiction over a public park or historic place for its review and comment. This provision will allow the cabinet to realize some savings in mailing costs if it determines that transmittal of portions of the application is administratively more workable than transmittal of the whole.

(b) Reporting and paperwork requirements: There should be no significant reporting and paperwork requirements.

(3) Assessment of anticipated effect on state and local revenues: The amendment should not affect state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Under the constraints of KRS Chapter 13A, there are no alternatives to the promulgation of this amendment.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no statutes, administrative regulations, or governmental policies that conflict with, overlap, or duplicate the provisions of this amendment.

(a) Necessity of proposed regulation if in conflict: Since no conflicts exist, this item is not applicable.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Since no conflicts exist, this item is not applicable.

(6) Any additional information or comments: This proposed amendment also contains several nonsubstantive language changes in response to amendments to KRS Chapter 13A enacted by the 1988 Kentucky General Assembly.

TIERING: Was tiering applied? No. Tiering is not applicable to this proposed amendment because, under the federal and Kentucky surface mining laws and regulations, these requirements must apply equally to all permittees under 405 KAR Chapters 7 through 24.

FISCAL NOTE ON LOCAL GOVERNMENT: A fiscal note is not required for this regulation because it will have no impact on local government.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 30 CFR 761, with the amendments to 405 KAR 24:040, Section 2(3) and (4)(a), which are substantive changes proposed in this rulemaking, being mandated by revisions to 30 CFR 761.11(g) and 761.12(f)(1) published on February 10, 1987 in Federal Register 52 FR 4244 et seq. The changes outside of Sections 2(3) and (4)(a) are being made in response to amendments to KRS Chapter 13A passed during the 1988 session of the Kentucky General Assembly, rather than because of a federal mandate.

2. State compliance standards. Subject to valid existing rights, current Section 2(3) prohibits mining operations within 100 feet, measured horizontally, of a cemetery. The revision to Section 2(3) will retain this prohibition, but will allow cemeteries to be relocated if authorized by applicable state law or regulation. Under federal law, operations that will adversely affect publicly-owned parks or any place included on the National Register of Historic Places may be conducted only if the permit applicant has valid existing rights or if the operation has been jointly approved by the cabinet and the federal, state, or local agency with jurisdiction over the site. When such operations are proposed in a permit application, the cabinet transmits appropriate information to the agency with site jurisdiction. While current Section 2(4)(a) requires that the cabinet provide the agency with jurisdiction with a copy of the entire permit application, the amendment will require that only those applicable parts of the application be provided. If the entire application is desired by the agency, it will be made available for review.

3. Minimum or uniform standards contained in the federal mandate. The federal mandate allows cemeteries to be relocated if authorized by state law or regulation. Also, the mandate states that the entire permit application need not be provided to the agency with site jurisdiction when a publicly-owned park or a place listed on the National Register is involved; the transmittal need only include the applicable parts of the application.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? No. The

state and federal standards will be identical.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. This item is not applicable - the state and federal standards will be identical.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:030. Kentucky State Reformatory.

RELATES TO: KRS Chapters 196, 197, 439

STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 13, 1989 [December 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
KSR 02-00-03 Screening Disbursements from Inmate Personal Accounts
KSR 02-00-11 Inmate Personal Accounts [(Amended 12/15/88)]
KSR 02-00-12 Institutional Funds and Issuance of Checks
[KSR 03-00-01 Shift Assignment/Reassignment (Deleted 01/13/89)]
[KSR 03-00-02 Employee Dress and Personal Appearance (Deleted 01/13/89)]
[KSR 03-00-05 Intra-Agency Promotional Opportunity Announcements (Deleted 01/13/89)]
[KSR 03-00-07 Travel Expense Reimbursement (Deleted 01/13/89)]
[KSR 03-00-08 Employee Tuition Assistance Reimbursement (Deleted 01/13/89)]
[KSR 03-00-10 Workers' Compensation (Deleted 01/13/89)]
[KSR 03-00-14 Prohibited Employee Conduct, Disciplinary Actions, and Appeal Process (Deleted 01/13/89)]
[KSR 03-00-15 Affirmative Action Program (Deleted 01/13/89)]
[KSR 03-00-16 Confidentiality of Personnel Records (Deleted 01/13/89)]
[KSR 03-00-19 Establishment of Personnel Records and Employee Right to Challenge Information Contained Therein (Deleted 01/13/89)]
[KSR 03-00-20 Personnel Selection, Retention and Promotion (Deleted 01/13/89)]
[KSR 03-00-21 Equal Employment Opportunities for Institutional Job Assignments and Job Classification Promotions (Deleted 01/13/89)]
[KSR 03-00-24 Inclement Weather and Employee Work Attendance (Deleted 01/13/89)]
[KSR 03-00-25 Medical Examination Requirements for New Employees (Deleted 01/13/89)]
KSR 04-00-02 Staff Training and Development
KSR 05-00-01 Officers' Daily Housing Security and Safety Log
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
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 08-00-10 Hazardous Chemicals and Material Safety Data Sheet
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 Contraband, Dangerous Contraband and Search Policy
KSR 09-00-14 Use of Force
KSR 09-00-21 Crime Scene Camera
KSR 09-00-22 Collection, Preservation, and Identification of Physical Evidence
KSR 09-00-23 Drug Abuse Testing (Amended 01/13/89)
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
KSR 10-00-02 Unit D - General Operational Procedures
KSR 10-00-03 Unit D - Inmate Tracking System and Records System
KSR 10-00-04 Unit D - Administrative Segregation
KSR 10-00-05 Unit D - Disciplinary Segregation
KSR 10-00-06 Unit D - Protective Custody
KSR 10-00-07 Unit D - Geriatrics
KSR 10-00-08 Unit D - Safekeepers
KSR 10-00-09 Unit D - Hold Ticket Residents
KSR 10-00-10 Unit D - Inmate Legal Access
KSR 10-00-11 Unit D - Behavior Problem Control

KSR 10-00-12	Unit D - Designated Staff Visits
KSR 10-00-13	Unit D - Property Room Access
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
KSR 13-00-03	Medication for Inmates Leaving Institution Grounds
KSR 13-00-04	Dental Care for Inmates
KSR 13-00-05	Medical and Dental Sick Call
KSR 13-00-06	Infection Control
KSR 13-00-07	Referral of Inmates Considered to Have Severe Emotional Disturbances
KSR 13-00-08	Institutional Laboratory Procedures
KSR 13-00-09	Institutional Pharmacy Procedures
KSR 13-00-10	Requirements for Medical Personnel
KSR 13-00-11	Preliminary Health Evaluation and Establishment of Inmate Medical Record
KSR 13-00-12	Vision Care/Optometry Services
KSR 13-00-14	Periodic Health Examinations for Inmates
KSR 13-00-15	Medical Alert System
KSR 13-00-16	Suicide Prevention and Intervention Program
KSR 14-00-01	Inmate Rights
KSR 14-00-02	A/C Center and Unit D Inmate Access to Legal Aide Services
KSR 14-00-04	Inmate Grievance Procedure
KSR 14-00-05	Inmate Marriages
KSR 14-00-06	Inmate Legal Aides
KSR 15-00-01	Operational Procedures and Rules and Regulations for Unit A, B, and C (Amended 01/13/89)
KSR 15-00-02	Regulations Prohibiting Immate Control or Authority Over Other Inmate(s)
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 (Amended 01/13/89)
KSR 16-00-01	Visiting Regulations
KSR 16-00-02	Inmate Correspondence and Mailroom Operations [(Amended 12/15/88)]
KSR 16-00-03	Inmate Access to Telephones
KSR 17-00-01	Housing Unit Assignment - Assessment/Classification Center
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 18-00-04	Returns from Other Institutions
KSR 18-00-05	Transfer of Residents to Kentucky Correctional Psychiatric Center, and Referral Procedure for Residents Adjudicated Guilty but Mentally Ill [(Amended 12/15/88)]
KSR 18-00-06	Classification and Special Notice Form [(Amended 12/15/88)]
KSR 19-00-01	Inmate Work Incentives
KSR 19-00-02	On-the-job Training Program (Amended 01/13/89)
KSR 19-00-03	Safety Inspections of Inmate Work Assignment Locations
KSR 20-00-01	Vocational School Referral and Release Process
KSR 20-00-03	Academic School Programs
KSR 20-00-04	Criteria for Participation in Jefferson Community College Program
KSR 20-00-08	Integration of Vocational and Academic Education Programs
KSR 21-00-01	Legal Aide Office and Law Library Services and Supervision
KSR 21-00-02	Inmate Library Services
KSR 21-00-03	Library Services for Unit D
KSR 22-00-03	Inmate Organizations
KSR 22-00-07	Inmate News Magazine
KSR 23-00-02	Chaplain's Responsibility and Inmate Access to Religious Representatives
KSR 23-00-03	Religious Programming
KSR 25-00-01	Discharge of Residents to Hospital or Nursing Home
KSR 25-00-02	Violations of Law or Code of Conduct by Inmates on Parole Furlough
KSR 25-00-03	Preparole Progress Report

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: January 13, 1989
FILED WITH LRC: January 13, 1989 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for February 23, 1989 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: 559 employees of the Kentucky State Reformatory, 1449 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
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640
NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 13, 1989 [December 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 (Deleted 1/13/89)]
[KSP 020000-02 Service Regulations, Attendance, Hours of Work, Accumulation and Use of Leave (Deleted 1/13/89)]
[KSP 020000-03 Work Planning and Performance Review (WPPR) (Deleted 1/13/89)]
[KSP 020000-04 Employee Disciplinary Procedure (Deleted 1/13/89)]
[KSP 020000-05 Proper Dress for Uniformed and NonUniformed Personnel (Deleted 1/13/89)]
[KSP 020000-06 Employee Grievance Procedure (Deleted 1/13/89)]
[KSP 020000-07 Personnel Registers and Advertisements (Deleted 1/13/89)]
[KSP 020000-09 Maintenance, Confidentiality, and Informational Challenge of Material Contained in Personnel Files (Deleted 1/13/89)]
[KSP 020000-10 Overtime Policy (Deleted 1/13/89)]
KSP 020000-15 Legal Assistance
[KSP 020000-20 Equal Employment Opportunity Complaints (Deleted 1/13/89)]
[KSP 020000-23 Recruitment and Employment of Ex-Offenders (Deleted 1/13/89)]
[KSP 020000-24 Educational Assistance Program (Deleted 1/13/89)]
[KSP 020000-29 Promotional Opportunity Announcement Program (Deleted 1/13/89)]
KSP 030000-01 Inventory Records and Control
KSP 030000-04 Requisition and Purchase of Supplies and Equipment
KSP 030000-05 Inmate Personal Funds
KSP 030000-06 Inmate Commissary Program
KSP 040000-01 Management Information System
KSP 040000-02 Inmate Records
KSP 040000-08 Inmate Equal Opportunity Policy
KSP 050000-14 Searches and Preservation of Evidence
KSP 060000-01 Special Security Unit
KSP 060000-02 Operational Procedures for Disciplinary Segregation, Administrative Segregation, Administrative Control and Behavioral Control Units
KSP 060000-04 Protective Custody Unit
KSP 060000-11 Criteria for Disciplinary Segregation and Incentive Time Reduction Program
KSP 070000-01 Hospital Services
KSP 070000-02 Sick Call
KSP 070000-03 Health Evaluations
KSP 070000-04 Consultations
KSP 070000-05 Emergency Medical Procedure
KSP 070000-13 Pharmacy Procedures
KSP 070000-14 Medical Records
KSP 070000-16 Psychiatric and Psychological Services
KSP 070000-17 Dental Services for Special Management Units
KSP 070000-19 Optometric Services
KSP 070000-20 Menu Preparation and Planning
KSP 070000-24 Food Service, General Sanitation, Safety, and Protection Standards and Requirements
KSP 070000-25 Food Service Inspections
KSP 070000-30 Therapeutic Diets
KSP 090000-01 Inmate Work Programs (Amended 01/13/89)
KSP 090000-03 Correctional Industries [(Amended 12/15/88)]
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
KSP 100000-08 Behavioral Counseling Record
KSP 100000-09 Due Process/Disciplinary Procedures
KSP 100000-11 Authorized and Unauthorized Inmate Property
KSP 100000-14 Property Room: Clothing Storage and Inventory
KSP 100000-15 Uniform Cell Standards for Fire Safety, Sanitation and Security
KSP 100000-18 Inmate Grievance Committee Hearings (Amended 01/13/89)
KSP 100000-20 Legal Services Program
KSP 100000-21 Photocopies for NonIndigent Inmates with Special Court Deadlines
KSP 110000-04 Preparole Progress Report [(Amended 12/15/88)]
KSP 110000-06 General Guidelines of the Classification Committee
KSP 110000-07 Statutory Good Time Restoration
KSP 110000-08 Award of Meritorious Good Time

KSP 110000-10	Special Needs Inmates
KSP 110000-12	Unit Classification Committee - Inmate Work Assignments [(Amended 12/15/88)]
KSP 110000-13	Classification Document [(Amended 12/15/88)]
KSP 110000-14	Vocational School Placement
KSP 110000-15	Transfers to Kentucky Correctional Psychiatric Center (KCPC) [(Amended 12/15/88)]
KSP 110000-16	Consideration of Further Treatment Requirements for Inmates Prior to Release
KSP 110000-18	Functions of the Classification Committee [(Added 12/15/88)]
KSP 120000-04	Academic Education
KSP 120000-07	Community Center Program
KSP 120000-08	Inmate Furloughs
KSP 120000-11	Religious Services - Staffing
KSP 120000-18	Religious Services - Religious Programming
KSP 120000-20	Marriage of Inmates
KSP 120000-31	Extended Furloughs
KSP 120000-32	Discharge of Inmates by Shock Probation
KSP 130000-10	Execution Plan

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: January 13, 1989
FILED WITH LRC: January 13, 1989 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for February 23, 1989 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: 356 employees of the Kentucky State Penitentiary, 803 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1.
3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:050. Luther Luckett Correctional Complex.

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 13, 1989 [July 14, 1988] and hereinafter should be referred to as Luther Luckett Correctional Complex Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

LLCC 01-08-01	Institutional Legal Assistance
LLCC 01-09-01	Public Information and News Media Access
LLCC 01-12-01	Duty Officer Responsibilities
LLCC 02-01-02	Fiscal Management: Accounting Procedures
LLCC 02-01-03	Fiscal Management: Agency Funds
LLCC 02-01-04	Fiscal Management: Insurance
LLCC 02-03-01	Fiscal Management: Audits
LLCC 02-06-01	Property Inventory
LLCC 02-07-01	Screening Disbursements from Inmate Personal Accounting
[LLCC 03-01-01	General Guidelines for LLCC Employees (Deleted 01/13/89)]
[LLCC 03-01-02	Service Regulations, Attendance Accumulation and use of Leave (Deleted 01/13/89)]
[LLCC 03-02-01	Proper Dress for Uniformed Personnel (Deleted 01/13/89)]
[LLCC 03-02-02	Replacement of Damaged or Destroyed Personal Property (Deleted 01/13/89)]
[LLCC 03-04-01	Employee Records (Deleted 01/13/89)]
[LLCC 03-05-01	Personnel Registers (Deleted 01/13/89)]
[LLCC 03-08-01	Shift Transfers (Deleted 01/13/89)]
[LLCC 03-08-02	Rotation of Correctional Officers Between Central Security and Unit Management Staff (Deleted 01/13/89)]
[LLCC 03-09-01	Promotion Board (Deleted 01/13/89)]
[LLCC 03-12-01	Confidentiality of Information Roles and Services of Consultants, Contract Personnel and Volunteers (Deleted 01/13/89)]
LLCC 08-01-01	Offender Records

LLCC 08-04-01	Storage of Expunged Records
LLCC 08-05-01	Psychological and Psychiatric Reports
LLCC 10-03-09	Duties and Responsibilities of Building 1 and 2 Officer
LLCC 11-03-01	LLCC Population Categories
LLCC 11-07-01	Adjustment Procedures for Minor Rule Violations
LLCC 11-09-01	Rules and Regulations of the Unit
LLCC 11-13-01	Inmate Dress and Use of Access Areas
LLCC 11-15-01	Postparole Furloughs
LLCC 11-16-01	Restoration of Forfeited Good Time
LLCC 11-18-02	Use of Monitor Telephone
LLCC 11-19-01	Unit Shakedowns/Control of Excess Property
LLCC 11-20-01	Program Services for "Special Needs"/Mentally Ill Inmates
LLCC 12-01-01	Special Management Inmates
LLCC 12-01-02	Disciplinary Segregation Time Calculation (WTR) [(Amended 7/14/88)]
LLCC 12-04-01	Guidelines for (7E) PC Unit/General Living Conditions
LLCC 13-01-01	Dining Room Guidelines
LLCC 13-04-01	Food Service: Meals
LLCC 13-04-02	Food Service: Menu, Nutrition and Special Diets
LLCC 13-05-02	Medical Screening of Food Handlers
LLCC 13-06-01	Food Service: Inspections and Sanitation
LLCC 13-07-01	Food Service: Purchasing, Storage and Farm Products
LLCC 13-08-01	OJT Food Service Training Placement
LLCC 14-01-01	Sanitation, Living Condition Standards, and Clothing Issue
LLCC 14-05-01	Institutional Inspections
LLCC 15-01-01	Health Maintenance Services; Sick Call and Pill Call
LLCC 15-02-01	Mental Health/Psychological Services
LLCC 15-03-01	Pharmacy
LLCC 15-03-02	Use of Psychotropic Medications
LLCC 15-04-01	Dental Services
LLCC 15-05-02	Licensure and Training Standards
LLCC 15-06-02	Specialized Health Services
LLCC 15-06-03	Emergency Medical/Dental Care Services
LLCC 15-06-04	First Aid/CPR Training Program
LLCC 15-06-05	Suicide Prevention and Intervention Program
LLCC 15-07-01	Health Records
LLCC 15-08-01	Special Diets
LLCC 15-12-01	Special Needs Unit
LLCC 15-14-01	Informed Consent
LLCC 15-15-01	Medical Restraints
LLCC 15-16-01	Health Education/Special Health Programs
LLCC 15-17-01	Serious and Infectious Diseases
LLCC 16-01-01	Inmate Rights and Responsibilities
LLCC 16-02-01	Inmate Grievance Procedure
LLCC 16-03-01	Inmate Legal Services
LLCC 17-01-01	Due Process/Disciplinary Procedure
LLCC 18-01-01	Inmate Correspondence
LLCC 18-01-02	Issuance of Legal Mail to Inmate Population
LLCC 18-02-01	Inmate Visiting
LLCC 18-02-03	Extended Visit and Furloughs
LLCC 18-02-04	Meritorious Visits
LLCC 18-03-01	Entry and Identification of Visitors for Inmate Visitation
LLCC 18-03-03	Inmate Visiting (DSU/ASU)
LLCC 20-01-01	Personal Property Control
LLCC 20-02-01	Authorized Inmate Personal Property
LLCC 20-03-01	Unauthorized Items
LLCC 20-04-02	Inmate Canteen
LLCC 20-05-01	Inmate Control of Personal Funds
LLCC 20-05-02	Storage and Disposition of Monies Received on Weekends, Holidays, and Between 4 p.m. and 8 a.m. Weekdays
LLCC 20-06-01	Procedure for Sending Appliances to Outside Dealers for Repair
LLCC 21-02-01	Classification/Security Levels
LLCC 21-03-01	Classification Process
LLCC 22-01-01	OJT/Job Assignments
LLCC 23-01-01	Academic School
LLCC 26-01-01	Religious Services
LLCC 28-01-01	Privileged Trips
LLCC 28-03-01	Temporary Release/Community Center Release
LLCC 28-04-01	Preparole Progress Report
LLCC 28-04-02	Parole Eligibility Dates

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: January 13, 1989
FILED WITH LRC: January 13, 1989 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for February 23, 1989 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: 232 employees of the Luther Luckett Correctional Complex, 687 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
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640
NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590, and 439.640 authorize the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. These regulations are in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 13, 1989 [October 14, 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 02-07-02 Chapel Fund
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 (Deleted 01/13/89)]
[NTC 03-02-01 Prohibited Employee Conduct (Deleted 01/13/89)]
[NTC 03-03-01 Staff Members Suspected of Being Under the Influence of Intoxicants (Deleted 01/13/89)]
[NTC 03-04-01 Shift/Post Assignments and Transfers (Deleted 01/13/89)]
[NTC 03-06-01 Worker's Compensation (Deleted 01/13/89)]
[NTC 03-08-01 Procedures for New Employees Reporting for Employment (Deleted 01/13/89)]
[NTC 03-09-01 Maintenance, Confidentiality and Challenge of Information Contained in Employee Personnel File (Deleted 01/13/89)]
[NTC 03-10-01 Employment of Ex-offenders (Deleted 01/13/89)]
[NTC 03-11-01 Submission of Northpoint Training Center Staff Recommendation/ Changes (Deleted 01/13/89)]
[NTC 03-11-02 Employee Suggestion System (Deleted 01/13/89)]
[NTC 03-14-01 Procedures for Selection, Retention, Promotion, and Lateral Transfer of Merit System Employees (Deleted 01/13/89)]
[NTC 03-14-02 Procedures for Promotional Opportunities (Deleted 01/13/89)]
[NTC 03-15-01 Time and Attendance; Accumulation and Use of Accrued Time (Deleted 01/13/89)]
[NTC 03-15-02 Procedures for Control of Excessive Leave Use (Deleted 01/13/89)]
[NTC 03-15-03 Inclement Weather and Emergency Conditions (Deleted 01/13/89)]
[NTC 03-16-01 Affirmative Action and EEO (Deleted 01/13/89)]
[NTC 03-17-01 Employee Grievance Procedure (Deleted 01/13/89)]
[NTC 03-18-01 Educational Assistance Program (Deleted 01/13/89)]
[NTC 03-19-01 Holding of Second Jobs by Employees (Deleted 01/13/89)]
[NTC 03-20-01 Assistance and Counseling Services for Employees and their Families (Deleted 01/13/89)]
[NTC 03-21-01 Procedures for Employee Evaluation System (Deleted 01/13/89)]
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 01/13/89)
NTC 14-01-02	Video Viewing of Trials
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
NTC 15-03-02	Rules and Regulations for General Population Dormitories
NTC 15-04-01	Inmate Identification
NTC 16-01-01	Mail Regulations
NTC 16-02-01	Visiting
NTC 16-02-02	Extended and Special Visits
NTC 16-02-03	Honor Dorm Visiting
NTC 16-03-01	Inmate Furloughs
NTC 16-05-01	Telephone Use and Control
NTC 17-01-01	Personal Property Control
NTC 17-01-02	Authorized Inmate Personal Property (Amended 01/13/89)
NTC 17-01-03	Unauthorized Inmate Property
NTC 17-01-04	Disposition of Unauthorized Property
NTC 17-03-01	Assessment/Orientation
NTC 18-01-01	Preparole Progress Report [(Amended 10/14/88)]
NTC 18-02-01	Classification [(Amended 10/14/88)]
NTC 18-02-02	Classification - 48 Hour Notification
NTC 18-03-01	Special Notice Form [(Amended 10/14/88)]
NTC 18-05-01	Transfers of Inmates [(Amended 10/14/88)]
NTC 18-05-02	Transfer of Inmates to Kentucky Correctional Psychiatric Center
NTC 19-01-01	Inmate Work Program (Amended 01/13/89)
NTC 19-01-03	Temporary Leave from Job Assignment (Amended 01/13/89)
NTC 19-02-01	Correctional Industries (Amended 01/13/89)
NTC 19-02-02	Guidelines for Correctional Industries (Amended 01/13/89)
NTC 20-01-01	Academic School Program (Amended 01/13/89)
NTC 20-02-01	Vocational School (Amended 01/13/89)
NTC 20-02-02	Live Work Projects in Vocational School Classes
NTC 21-01-01	Library Services
NTC 22-03-01	Conducting Inmate Organizational Meetings and Programs
NTC 23-01-01	Religious Services (Amended 01/13/89)
[NTC 23-03-01	Marriage of Inmates (Deleted 01/13/89)]
NTC 24-04-01	Honor Status
NTC 24-05-01	Unit Management
NTC 25-01-01	Release Preparation Program
NTC 25-01-02	Temporary Release/Community Center Release
NTC 25-01-03	Graduated Release
NTC 25-02-01	Funeral Trips and Bedside Visits
NTC 25-03-01	Inmate Release Procedure
NTC 26-01-01	Citizen Involvement and Volunteer Services Program

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: January 13, 1989
FILED WITH LRC: January 13, 1989 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for February 23, 1989 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: 290 employees of the Northpoint Training Center, 911 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 6:090. Frankfort Career Development Center.

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on

January 13, 1989 [November 15, 1988] and hereinafter should be referred to as Frankfort Career Development 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.

FCDC 01-04-01	Confidentiality of Information Roles and Services of Consultant, Contract Personnel, Governmental Services Supervisors and Volunteers
FCDC 01-05-01	Duties and Responsibilities of FCDC Duty Officer
FCDC 02-09-01	Inmate Account Draw and Savings Deposit Transactions Between Inmates
FCDC 02-10-01	Fiscal Management and Control [(Amended 11/15/88)]
FCDC 02-11-01	Fiscal Management: Accounting Procedures
FCDC 02-12-01	Fiscal Management: Checking Accounts
FCDC 02-13-01	Purchasing and Receiving
[FCDC 03-01-02	Security Manual Part 1: Staff Guidelines (Deleted 01/13/89)]
[FCDC 03-10-01	Dress Code (Deleted 01/13/89)]
[FCDC 03-15-01	Travel Expense Reimbursement (Deleted 01/13/89)]
[FCDC 03-16-01	Employee Grievance Procedure (Deleted 01/13/89)]
[FCDC 03-21-01	Time and Attendance (Deleted 01/13/89)]
FCDC 06-02-01	Inmate Records [(Amended 11/15/88)]
FCDC 08-01-01	Fire Safety Practices [(Added 11/15/88)]
FCDC 09-01-02	Institutional Entry/Exit Surveillance and Perimeter Security Procedures [(Added 11/15/88)]
FCDC 09-03-01	Control and Accountability of Flammable Toxic, Caustic and Other Hazardous Materials [(Added 01/03/89) (Amended 01/03/89)]
FCDC 09-06-08	Searches and Contraband Control [(Added 11/15/88)]
FCDC 11-01-01	Special Diets
FCDC 11-02-01	Menu Preparation [(Amended 11/15/88)]
FCDC 11-03-01	Food Services [(Amended 11/15/88)]
FCDC 12-03-01	Laundry, Clothing, Hygiene and Grooming Services [(Amended 11/15/88)]
FCDC 12-04-01	Sanitation Practices and Inspections
FCDC 13-01-01	Use of Pharmaceutical Products [(Amended 11/15/88)]
FCDC 13-01-02	Medical Emergencies [(Amended 11/15/88)]
FCDC 13-01-03	Informed Consent
FCDC 13-02-01	Inmate Medical Screenings and Health Evaluations
FCDC 13-03-01	Psychiatric and Psychological Services [(Amended 11/15/88) (Amended 01/03/89)]
FCDC 13-03-02	Parental Administration of Medications and Use of Psychotropic Drugs
FCDC 13-04-01	Intra-system Transfers of Medical/Psychiatric Problems
FCDC 13-05-01	Family Notification: Serious Illness, Injury or Major Surgery
FCDC 13-06-01	Chronic and Convalescent Care [(Amended 11/15/88)]
FCDC 13-08-01	Sick Call/Physician's Bimonthly Clinic [(Amended 11/15/88)]
FCDC 13-09-01	Management of Serious and Infectious Diseases
FCDC 13-10-01	Treatment Protocol Regarding First-Aid Procedures, Routine Health Care
FCDC 13-11-01	Health Education: Provision of Special Health Care Needs
FCDC 13-12-01	Elective Services
FCDC 13-13-01	Physicians Referrals
FCDC 13-14-01	Health Records
FCDC 13-15-01	Routine and Emergency Dental Appointments
FCDC 13-16-01	Routine and Emergency Eye Examinations
FCDC 13-17-01	Inmate Death
FCDC 14-01-01	Prohibiting Inmate Authority Over Other Inmates
FCDC 14-02-01	Inmate Grievance System
FCDC 14-03-01	Inmates Are Not Subject to Discrimination Based on Race, Religion, National Origin, Sex, Handicap or Political Beliefs and Are Protected Against Corporal Punishment
FCDC 14-04-01	Legal Services Program [(Amended 11/15/88)]
FCDC 15-01-01	Good Time - Credits
FCDC 15-03-01	Conduct of Adjustment Committee Hearings (Chairperson)
FCDC 15-04-01	Prehearing Detention and Protective Custody Requests [(Added 11/15/88)]
FCDC 16-01-01	Inmate Visiting [(Amended 11/15/88) (Amended 01/03/89)]
FCDC 16-02-01	Mail Policy [(Amended 11/15/88)]
FCDC 16-03-01	Inmate Access to Telephones [(Amended 11/15/88)]
FCDC 17-01-01	Inmate Property Control
FCDC 17-02-01	Inmate Reception, Orientation, and Discharge
FCDC 18-01-01	Inmate Classification
FCDC 18-02-01	Reclassification Document [(Amended 11/15/88)]
FCDC 18-03-01	Instructions for Six Month Review [(Amended 11/15/88)]
FCDC 19-01-01	Security and Operation of the Governmental Services Program
FCDC 19-02-01	Inmate Work Program
FCDC 20-01-01	Academic and Vocational Education [(Amended 11/15/88)]
FCDC 22-01-01	Privilege Trips
FCDC 22-01-02	Activity Trips
FCDC 22-02-01	Recreation and Inmate Activities
FCDC 23-01-01	Religious Activities [(Amended 11/15/88)]
FCDC 24-01-01	Social Service Program [(Amended 11/15/88)]
FCDC 24-02-01	Substance Abuse Programs [(Amended 11/15/88)]
FCDC 25-01-01	Escorted Leaves [(Amended 11/15/88)]
FCDC 25-02-01	Temporary Release/Community Center Program [(Amended 11/15/88)]
FCDC 25-03-01	Release Preparation Program

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: January 13, 1989
FILED WITH LRC: January 13, 1989 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for February 23,

1989 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: 43 employees of the Frankfort Career Development Center, 180 inmates, 0 parolees and probationers, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1.
3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:110. Roederer Farm Center.

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 13, 1989 [July 14, 1988] 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 [(Amended 7/14/88) (Amended 9/6/88)]
RFC 01-06-01 Inmate Access to and Communication with RFC Staff [(Amended 7/14/88)]
RFC 01-07-01 Institutional Legal Assistance
RFC 01-08-01 Public Information and News Media Access
RFC 01-09-01 Staff Participation in Professional Organization and Conferences; Provisions for Leave and Reimbursement for Expenses
RFC 01-10-01 RFC Cooperation with Outside Bodies Including Courts, Governmental Legislative, Executive, and Community Agencies [(Amended 7/14/88)]
RFC 01-12-01 Institutional Duty Officer - Responsibilities [(Amended 7/14/88)]
RFC 02-01-01 Fiscal Management: Organization
RFC 02-01-02 Fiscal Management: Accounting Procedures [(Amended 7/14/88)]
RFC 02-01-03 Fiscal Management: Agency Funds [(Amended 7/14/88)]
RFC 02-01-04 Fiscal Management: Insurance
RFC 02-02-01 Fiscal Management: Budget [(Amended 7/14/88)]
RFC 02-02-02 Inmate Control of Personal Funds (Amended 01/13/89)
RFC 02-02-03 Storage and Disposition of Monies received on Weekends, Holidays, and Between 4 p.m. and 8 a.m. Weekdays [(Amended 7/14/88)]
RFC 02-02-04 Inmate Accounts (Amended 01/13/89) [(Amended 7/14/88) (Amended 9/6/88)]
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 (Deleted 01/13/89)]
[RFC 03-01-02 Service Regulations, Attendance Accumulation and Use of Leave (Deleted 01/13/89)]
[RFC 03-03-01 Employee Grievance Procedures (Deleted 01/13/89)]
[RFC 03-04-01 Personnel Records (Deleted 01/13/89)]
[RFC 03-05-01 Personnel Vacancies: Promotion Board (Deleted 01/13/89)]
[RFC 03-06-01 Work Planning: Employee Evaluations and Evaluation Control (Deleted 01/13/89)]
[RFC 03-07-01 Affirmative Action - E.E.O. (Deleted 01/13/89)]
[RFC 03-08-01 Confidentiality of Information, Roles and Services of Consultants, Contract Personnel, and Volunteers (Deleted 01/13/89)]
[RFC 03-09-01 Personnel Manning Review (Deleted 01/13/89)]
[RFC 03-10-01 Employee's Handbook (Deleted 01/13/89)]
[RFC 03-11-01 Replacement of Damaged or Destroyed Personal Property (Deleted 01/13/89)]
[RFC 03-12-01 Corrections Cabinet Staff Members Entering the Roederer Farm Center While Being Under the Influence (Deleted 01/13/89)]
RFC 03-13-01 Staff/Visitor Meals

RFC 04-01-01 Employee Training and Development [(Amended 7/14/88)]
RFC 05-01-01 Information System [(Amended 7/14/88)]
RFC 06-01-01 Offender Records [(Amended 7/14/88)]
RFC 06-02-01 Use of Inmate Records/Security of Inmate Records [(Amended 7/14/88)]
RFC 06-03-01 Records Release of Information [(Amended 7/14/88)]
RFC 06-03-02 Storage of Expunged Records [(Amended 7/14/88)]
RFC 06-03-04 Access to Psychological and Psychiatric Reports (Added 1/13/89)
RFC 06-04-01 Court Trips [(Amended 7/14/88)]
RFC 06-04-02 Receipt of Order of Appearance [(Amended 7/14/88)]
RFC 08-01-01 Fire Prevention [(Amended 7/14/88)]
RFC 08-02-01 Fire Procedures [(Amended 7/14/88)]
RFC 08-02-02 Fire Extinguishers and Their Use
RFC 08-08-01 Hazardous Communication Program [(Amended 7/14/88)]
RFC 09-04-03 Duties and Responsibilities of the Fire Safety Officer [(Amended 7/14/88)]
RFC 09-06-01 Search Policy/Disposition of Contraband [(Amended 7/14/88)]
RFC 09-09-02 Drug Abuse Testing [(Amended 7/14/88)]
RFC 09-09-03 Breathalyzer [(Amended 7/14/88)]
RFC 09-14-01 Restricted Areas [(Amended 7/14/88)]
RFC 09-22-01 Use of Force (Amended 01/13/89) [(Amended 7/14/88)]
RFC 09-24-01 Informants [(Amended 7/14/88)]
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
RFC 12-02-01 Issuance of Clean Laundry and Receiving of Dirty Laundry
RFC 12-03-01 Personal Hygiene Items: Issuance and Placement Schedule
RFC 12-03-02 Barber Shop Services and Equipment Control
RFC 12-04-01 Institutional Inspections
RFC 12-05-01 Fire Safety
RFC 12-05-02 Use of Noncombustible Receptacle
RFC 12-06-01 Insect and Vermin Control
RFC 13-01-01 Organization of Health Services [(Amended 7/14/88)]
RFC 13-02-01 Health Maintenance Services: Sick Call and Pill Call (Amended 01/13/89) [(Amended 7/14/88)]
RFC 13-03-01 Dental Policy/Sick Call [(Amended 7/14/88)]
RFC 13-04-01 Inmate Medical Screenings and Health Evaluations [(Amended 7/14/88)]
RFC 13-05-02 Licensure and Training Standards [(Amended 7/14/88)]
RFC 13-06-01 Suicide Prevention and Intervention Program [(Added 7/14/88)]
RFC 13-06-02 First Aid and CPR Training Program [(Added 7/14/88) (Amended 9/6/88)]
RFC 13-06-03 Emergency Medical and Dental Care Services (Amended 01/13/89) [(Amended 7/14/88)]
RFC 13-06-04 First Aid/CPR Training Program
RFC 13-07-01 Health Records [(Amended 7/14/88)]
RFC 13-07-03 Use of Pharmaceutical Products [(Added 7/14/88)]
RFC 13-08-01 Special Diets [(Added 7/14/88)]
RFC 13-09-01 Notification of Inmate Family in the Event of Serious Illness, Surgery, or Inmate Death [(Added 7/14/88)]
RFC 13-10-01 Health Education/Special Health Programs [(Amended 7/14/88)]
RFC 13-11-01 Informed Consent [(Amended 7/14/88)]
RFC 13-12-01 Mental Health/Provision of Psychiatric Services by KCPC
RFC 13-12-02 Transfer of Inmates to Kentucky Correctional Psychiatric Center [(Amended 7/14/88) (Amended 9/6/88)]
RFC 13-13-01 Identification of Special Needs Inmates [(Added 7/14/88)]
RFC 13-15-01 Medical Restraints [(Amended 7/14/88)]
RFC 13-16-01 Specialized Health Services (Amended 01/13/89) [(Added 7/14/88)]
RFC 13-17-01 Vision Care and Optometry Services [(Amended 7/14/88)]
RFC 13-18-01 Serious and Infectious Diseases [(Added 7/14/88)]
RFC 14-01-01 Inmate Rights and Responsibilities [(Amended 7/14/88)]
RFC 14-02-01 Legal Services Program [(Amended 7/14/88)]
RFC 14-03-01 Inmate Grievance Procedure (Amended 01/13/89) [(Amended 7/14/88)]
RFC 14-04-01 Inmate Participation in Authorized Research [(Amended 7/14/88)]
RFC 15-01-01 Due Process and Disciplinary Procedures [(Amended 7/14/88)]
RFC 15-02-01 Prehearing Detention and Protective Custody [(Amended 7/14/88)]
RFC 16-01-01 Inmate Visiting (Amended 01/13/89)
RFC 16-02-01 Telephone Communications
RFC 16-03-01 Mail Regulations (Amended 01/13/89) [(Amended 7/14/88)]
RFC 16-03-02 Christmas Packages (Amended 01/13/89) [(Amended 7/14/88)]
RFC 17-01-01 Assessment/Orientation Procedure [(Amended 7/14/88)]
RFC 17-02-01 Inmate Reception Process [(Amended 7/14/88)]
RFC 17-03-01 Inmate Personal Property and Property Control (Amended 01/13/89) [(Amended 7/14/88)]
RFC 17-04-01 Unauthorized Items [(Amended 7/14/88) (Amended 9/6/88)]
RFC 17-05-01 Inmate Canteen [(Amended 7/14/88)]
RFC 18-01-01 Institutional Classification Committee [(Amended 7/14/88)]
RFC 18-02-01 Classification/Security Levels [(Amended 7/14/88)]

RFC 18-03-01 Classification Process [(Amended 7/14/88)]
RFC 18-03-02 Classification Program Planning [(Amended 7/14/88)]
RFC 18-03-03 Honor's Program [(Amended 7/14/88)]
RFC 18-04-01 Instruction for Six Month Review [(Amended 7/14/88)]
RFC 18-05-01 Transfers to Other Minimum Security Institutions [(Amended 7/14/88)]
RFC 18-06-01 Classification Document [(Amended 7/14/88)]
RFC 19-01-01 Job Assignments [(Amended 7/14/88)]
RFC 19-02-01 Government Service Details [(Added 7/14/88)]
RFC 20-01-01 Academic Education Program (Amended 01/13/89) [(Amended 7/14/88) (Amended 9/6/88)]
RFC 20-01-02 Testing and Verification Procedure
RFC 20-02-01 Correctional Educator Senior
RFC 21-01-01 Library Services (Amended 01/13/89) [(Amended 7/14/88)]
RFC 22-01-01 Recreation and Inmate Activities [(Added 7/14/88)]
RFC 22-01-02 Recreational Equipment Check-in/Check-out Procedure [(Amended 7/14/88)]
RFC 22-02-01 Outside Recreation [(Amended 7/14/88)]
RFC 22-02-02 Entry/Exit Procedure for Inmate Outside Recreation [(Amended 7/14/88)]
RFC 22-03-01 Inmate Clubs and Organizations [(Amended 7/14/88)]
RFC 22-03-02 Privilege Trips [(Amended 7/14/88)]
RFC 22-04-01 Conducting Inmate Organizational Meetings and Programs [(Amended 7/14/88)]
RFC 22-06-01 Playing Cards [(Amended 7/14/88)]
RFC 23-01-01 Religious Services [(Amended 7/14/88)]
RFC 23-02-01 Security Procedures for the Chapel [(Amended 7/14/88)]
RFC 23-03-01 Visitors for Religious Programs [(Amended 7/14/88)]
RFC 23-04-01 Marriage of Inmates [(Amended 7/14/88)]
RFC 24-01-01 Social Services and Counseling Program [(Amended 7/14/88)]
RFC 25-01-01 Expedient and Prerelease Preparation Program Description [(Amended 7/14/88)]
RFC 25-02-01 Temporary Release or Community Center Release (Amended 01/13/89) [(Amended 7/14/88)]
RFC 25-03-01 Furloughs (Amended 01/13/89) [(Amended 7/14/88)]
RFC 25-04-01 Preparole Progress Report [(Amended 7/14/88)]
RFC 25-04-02 Parole Eligibility Dates [(Amended 7/14/88)]
RFC 25-05-01 Inmate Discharge Procedure [(Amended 7/14/88)]
RFC 26-01-01 Citizen Involvement and Volunteer Services Program [(Amended 7/14/88)]

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: January 13, 1989
FILED WITH LRC: January 13, 1989 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for February 23, 1989 at 9 a.m., in the State Office Building Auditorium. Those interested in attending this hearing shall notify in writing: Barbara Jones, Office of General Counsel, 5th Floor, State Office Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Barbara Jones
(1) Type and number of entities affected: 96 employees of the Roederer Farm Center, 252 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1.
3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:120. Blackburn Correctional Complex.

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

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 13, 1989 [December 15, 1988] and hereinafter should be referred to as Blackburn Correctional Complex and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

BCC 01-05-01 Duty Officer and Acting Warden
BCC 01-07-01 Extraordinary Occurrence Reports

BCC 01-09-01	Legal Assistance for Staff
BCC 01-10-01	Political Activities of Merit Employees
BCC 01-11-01	Roles of Consultants, Contract Employees, Volunteers and Employees of Other Agencies
BCC 01-13-01	Relationships with Public, Media, and Other Agencies
BCC 01-15-01	Internal Affairs Office
BCC 01-16-01	Tours of Blackburn Correctional Complex
BCC 01-19-01	Inmate Access to BCC Staff
BCC 02-01-01	Inmate Canteen
BCC 02-02-01	Fiscal Responsibility
BCC 02-02-02	Fiscal Management: Accounting Procedures
BCC 02-02-03	Fiscal Management: Checks
BCC 02-02-04	Fiscal Management: Budget
BCC 02-02-05	Fiscal Management: Insurance
BCC 02-02-06	Fiscal Management: Audits
BCC 02-04-01	Billing Method for Health Services Staff Paid by Personal Service Contract
BCC 02-05-01	Property Inventory
BCC 02-06-01	Purchasing
BCC 02-07-01	Inmate Personal Accounts
[BCC 03-01-01	EEO - Affirmative Action (Deleted 01/13/89)]
[BCC 03-02-01	General Guidelines for BCC Employees (Deleted 01/13/89)]
[BCC 03-02-03	Physical Examinations for New Employees and Emergency Notification (Deleted 01/13/89)]
[BCC 03-03-01	Travel Reimbursement for Official Business and Professional Meetings (Deleted 01/13/89)]
[BCC 03-04-01	Employment of Ex-offenders (Deleted 01/13/89)]
[BCC 03-06-01	Procedures for Selection, Retention, Promotion, and Lateral Transfer of Merit System Employees (Deleted 01/13/89)]
[BCC 03-06-02	Procedures for Promotional Opportunities (Deleted 01/13/89)]
[BCC 03-07-01	Workers' Compensation (Deleted 01/13/89)]
[BCC 03-08-01	Employee Assistance Program (Deleted 01/13/89)]
[BCC 03-09-01	Holding of Second Jobs by Employees (Deleted 01/13/89)]
[BCC 03-10-01	Student Intern (Co-op) and Practicum Placement Procedures (Deleted 01/13/89)]
[BCC 03-11-01	Maintenance, Confidentiality, and Challenge of Information Contained in Employee File (Deleted 01/13/89)]
[BCC 03-12-01	Work Assignments for Security Staff (Deleted 01/13/89)]
BCC 04-02-01	Firearms Training
BCC 04-03-01	Educational Assistance Program
BCC 05-01-01	Inmate Participation in Authorized Research
BCC 06-01-01	Storage of Expunged Records
BCC 06-02-01	Records - Release of Information
BCC 06-02-02	Offender Records [(Amended 12/15/88)]
BCC 06-03-01	Reporting Inmate Misconduct Following Favorable Recommendation by the Parole Board
BCC 08-02-01	Natural Disaster Plan (Tornado)
BCC 08-03-01	Emergency Preparedness Plan Manual
BCC 08-04-01	Fire Safety Plan, Drills and Related Staff Duties
BCC 08-04-02	Immediate Release of Inmates from Locked Areas
BCC 08-06-01	Storage Control and Accountability of Flammable, Toxic, Caustic and Other Hazardous Materials [(Added 12/15/88)]
BCC 08-07-01	Facility Furnishings: Exit and Emergency Lights and Noncombustible Containers
BCC 09-01-01	Inclement Weather/Emergency Condition Operation
BCC 09-02-01	Restricted Areas
BCC 09-02-02	Inmate Pass System to Restricted Areas
BCC 09-02-03	Regulation of Inmate Movement
BCC 09-03-01	Inmate Identification
BCC 09-04-02	Complex Entry & Exit
BCC 09-05-01	Key Control
BCC 09-06-02	Transportation to Courts
BCC 09-07-01	Drug Abuse and Intoxicants Testing
BCC 09-08-02	Use of Restraints
BCC 09-09-01	Population Counts and Count Documentation
BCC 09-10-03	Development of Institutional Post Orders
BCC 09-10-04	Governmental Services, Study Release Officer Post Orders
BCC 09-10-05	Unit A-1 Post Orders
BCC 09-10-06	Recreation Post Orders: Observation
BCC 09-10-07	Entrance Gate Post Orders
BCC 09-10-08	Visiting Area Post Orders
BCC 09-10-09	Security Staff General Orders
BCC 09-10-10	Dining Room Officer Post Orders
BCC 09-12-01	Use of Physical Force; Prohibition of Personal Abuse and Corporal Punishment [(Amended 12/15/88)]
BCC 09-13-01	Perimeter Patrol
BCC 09-14-01	Prohibiting Inmate Authority Over Other Inmates
BCC 09-15-01	Search Policy/Disposition of Contraband
BCC 09-16-01	Security Activity Logs
BCC 09-17-01	Institutional Supervisor Inspections
BCC 09-18-01	Use of State Vehicles and Staff Owned Vehicles
BCC 09-19-01	Duties and Responsibilities of the Institutional Captain
BCC 09-19-02	Duties and Responsibilities of the Shift Supervisor
BCC 09-20-01	Inmate Death
BCC 09-21-01	Tool Control
BCC 09-22-01	Emergency Communication System
BCC 10-01-01	Special Management Inmates
BCC 11-01-01	Menu and Special Diets
BCC 11-02-01	Food Service: Inspection, Health Protection and Sanitation
BCC 11-03-01	Food Service: Meals
BCC 11-04-01	Dining Room Guidelines
BCC 11-05-01	Food Service Security: Knife & Other Sharp Instrument/Utensil Control
BCC 11-06-01	Purchasing, Storage and Farm Products
BCC 11-07-01	Food Service Operations Manual
BCC 12-02-01	Personal Hygiene Items
BCC 12-02-02	Personal Hygiene for Inmates: Clothing, Linens and Shower Facilities
BCC 12-05-01	Barber Shop Services
BCC 12-06-01	BCC Housekeeping Plan
BCC 13-01-01	Sick Call and Pill Call

BCC 13-02-01	Administration and Authority for Health Services
BCC 13-03-01	Provisions of Health Care Delivery
BCC 13-04-01	Licensure and Training Standards
BCC 13-05-01	Medical Alert System
BCC 13-06-01	Health Care Practices
BCC 13-07-01	Emergency Medical Care Plan
BCC 13-07-02	Emergency and Specialized Health Services
BCC 13-07-03	Immediate Medical Treatment for Person's Injured by Weapon or Chemical Agent
BCC 13-08-01	Inmate Health Screening and Evaluation
BCC 13-09-01	Prohibition on Medical Experimentation
BCC 13-10-01	Dental Services
BCC 13-11-01	Suicide Prevention and Intervention Program
BCC 13-12-01	Use of Pharmaceutical products (Amended 01/13/89)
BCC 13-12-02	Parenteral Administration of Medications and Use of Psychotropic Drugs
BCC 13-13-01	Inmate Health Education
BCC 13-14-01	Management of Serious and Infectious Diseases
BCC 13-15-01	Informed Consent
BCC 13-16-01	Health Records
BCC 13-17-01	Notification of Inmate Family in the Event of Serious Illness, Injury or Surgery
BCC 13-19-01	Physicians Referrals/Continuity of Care [(Amended 12/15/88)]
BCC 13-20-01	Chronic and Convalescent Care
BCC 13-22-01	Psychiatric and Psychological Services, Handling of Mentally Retarded Inmates and Transfers
BCC 13-23-01	First Aid Kits
BCC 14-01-01	Office of Public Advocacy Attorney Visits
BCC 14-02-01	Law Library
BCC 14-03-01	Inmate Grievance Procedure (Amended 01/13/89)
BCC 14-04-01	Inmate Rights and Responsibilities
BCC 14-05-01	Inmate Claims (Amended 01/13/89)
BCC 14-06-01	Legal and Support Services for Indigent Inmates (Added 01/13/89)
BCC 15-01-01	Authorized Inmate Personal Property
BCC 15-02-01	Meritorious Living Unit (B-1)
BCC 15-02-02	Room Assignment
BCC 15-03-01	Rules and Regulations for Dormitories
BCC 15-04-01	Restoration of Forfeited Good Time
BCC 15-05-01	Extra Duty Assignments
BCC 15-06-01	Due Process/Disciplinary Procedures
BCC 16-01-01	Inmate Furloughs
BCC 16-02-01	Visiting
BCC 16-03-01	Inmate Packages
BCC 16-03-02	Outgoing Inmate Packages
BCC 16-03-03	Inmate Correspondence
BCC 17-03-01	Processing of New Inmates From Local Jails
BCC 18-01-01	Classification: Institutional Classification and Reclassification
BCC 18-02-01	Racial Balance in Living Areas
BCC 19-01-01	Inmate Work Programs
BCC 19-02-01	Classification of Inmates to Governmental Service Program [(Amended 12/15/88)]
BCC 19-03-01	Correctional Industries
BCC 20-01-01	Academic and Vocational School [(Amended 12/15/88)]
BCC 20-02-01	College Programs [(Amended 12/15/88)]
BCC 20-04-01	Educational Program Evaluation
BCC 20-05-01	Educational Program Planning [(Amended 12/15/88)]
BCC 20-06-01	Academic and Vocational Curriculum [(Amended 12/15/88)]
BCC 21-01-01	Library Services
BCC 22-01-01	Arts and Crafts/Production and Sale of Items
BCC 22-02-01	Privileged Trips [(Amended 12/15/88)]
BCC 22-03-01	Recreational Employees
BCC 22-04-01	Recreation and Inmate Activities
BCC 22-04-02	Inmate Clubs and Organizations
BCC 22-04-03	Conducting Inmate Organizational Meetings and Programs
BCC 22-04-04	Recreation Program Availability (Amended 01/13/89)
BCC 22-04-05	Supervision of Leisure-Time Craft Club Activities and Materials
BCC 22-06-01	Music Club
BCC 22-09-01	Use of Inmates in Recreation Programs (Amended 01/13/89)
BCC 23-01-01	Religious Services
BCC 24-01-01	Duties and Responsibilities of Classification and Treatment Officers [(Amended 12/15/88)]
BCC 24-02-01	Duties and Responsibilities of the Unit Director and Assistant to Unit Director
BCC 24-03-01	Social Services
BCC 25-01-01	Inmate Check Out Procedure
BCC 25-02-02	Temporary Release/Community Center Release
BCC 25-05-01	Supplemental Preparole Progress Reports
BCC 26-01-01	Citizen Involvement and Volunteer Service Program

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: January 13, 1989
FILED WITH LRC: January 13, 1989 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for February 23, 1989 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: 85 employees of the Blackburn Correctional Complex, 340 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1.

3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

CORRECTIONS CABINET
(Proposed Amendment)

501 KAR 6:130. Western Kentucky Farm Center.

RELATES TO: KRS Chapters 196, 197, 439
STATUTORY AUTHORITY: KRS 196.035, 197.020, 439.470, 439.590, 439.640
NECESSITY AND FUNCTION: KRS 196.035, 197.020, 439.470, 439.590 and 439.640 authorizes the secretary to adopt, amend or rescind regulations necessary and suitable for the proper administration of the cabinet or any division therein. This regulation is in conformity with those provisions.

Section 1. Pursuant to the authority vested in the Corrections Cabinet the following policies and procedures are incorporated by reference on January 13, 1989 [December 15, 1988] and hereinafter should be referred to as Western Kentucky Farm Center Policies and Procedures. Copies of the procedures may be obtained from the Office of the General Counsel, Corrections Cabinet, State Office Building, Frankfort, Kentucky 40601.

WKFC 01-09-01	Duty Officers, External and Internal Inspections, and Staff Tours
WKFC 02-01-01	Inmate Funds
WKFC 02-00-03	Invoice/Voucher Processing
WKFC 02-00-06	Purchasing Procedures
WKFC 02-01-01	Inmate Funds
WKFC 02-02-01	Agency Funds and Accounting Procedures
WKFC 02-08-01	Property Receipt and Inventory Procedures
WKFC 04-01-01	Travel Reimbursement for Official Business in Attendance at Professional Meetings
WKFC 04-02-01	Employee Training and Development
WKFC 04-04-01	Educational Assistance Program
WKFC 05-01-01	Research, Consultants, and Student Interns
WKFC 06-00-01	Offender Records and Information Access
WKFC 06-00-02	Court Orders, Orders of Appearance, Warrants, Detainers, Etc.
WKFC 09-00-01	Drug Abuse Testing [(Amended 12/15/88)]
WKFC 10-02-01	Special Management Inmate(s)
WKFC 11-00-02	Food Service Inmate Work Responsibilities, Evaluations, and Health Requirements
WKFC 11-00-03	Food Service Inspections, Sanitation, Purchasing, Storage, and Corrections Cabinet Farm Products
WKFC 11-02-01	Food Service General Guidelines
WKFC 11-02-02	Food Service Security
WKFC 11-03-01	Food Service Meals, Menus, Nutrition and Special Diets
WKFC 12-01-01	Inmate Clothing
WKFC 13-00-01	Special Health Programs
WKFC 13-01-01	Use of Pharmaceutical Products
WKFC 13-02-01	Health Care Services [(Amended 12/15/88)]
WKFC 14-00-01	Inmate Rights and Responsibilities
WKFC 14-04-01	Legal Services Program
WKFC 14-06-01	Inmate Grievance Procedure
WKFC 15-01-01	Hair and Grooming Standards
WKFC 15-03-01	Meritorious Good Time
WKFC 15-05-01	Restoration of Forfeited Good Time
WKFC 16-01-01	Visiting Policy and Procedures
WKFC 16-02-01	Inmate Correspondence [(Amended 12/15/88)]
WKFC 16-03-01	Inmate Access to Telephones
WKFC 16-04-01	Inmate Packages
WKFC 17-01-01	Inmate Personal Property
WKFC 17-02-01	Inmate Reception and Orientation (Amended 01/13/89)
WKFC 18-01-01	Structure, Guidelines, and Functions of the Classification Committee
WKFC 18-13-01	Meritorious Housing
WKFC 19-03-01	Inmate Wage Program
WKFC 19-04-01	Work/Program Assignments
WKFC 20-04-01	Academic Education Program(s)
WKFC 20-03-01	Vocational Education Program(s)
WKFC 22-00-01	Inmate Recreation and Leisure Time Activities
WKFC 22-00-02	Inmate Clubs & Organizations
WKFC 23-00-01	Religious Services [(Amended 12/15/88)]
WKFC 25-01-01	Gratuities
WKFC 25-02-01	Inmate Release Process
WKFC 25-03-01	Prerelease Programs
WKFC 26-01-01	Volunteer Services Program [(Amended 12/15/88)]

JOHN T. WIGGINTON, Secretary
APPROVED BY AGENCY: January 13, 1989
FILED WITH LRC: January 13, 1989 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for February 23, 1989 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 Western Kentucky Farm Center, 302 inmates, and all visitors to state correctional institutions.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative

body:
(a) Direct and indirect costs or savings:
1. First year: None - All of the costs involved with the implementation of the regulations are included in the operational budget.
2. Continuing costs or savings: Same as 2(a)1.
3. Additional factors increasing or decreasing costs: Same as 2(a)1.
(b) Reporting and paperwork requirements: Monthly submission of policy revisions.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: None
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. All policies are administered in a uniform manner.

TRANSPORTATION CABINET
Department of Vehicle Regulation
Division of Vehicle Enforcement
(Proposed Amendment)

603 KAR 5:072. Mandatory annual bus inspection.

RELATES TO: KRS 189.231, Chapter 281 [281.600]
STATUTORY AUTHORITY: KRS 189.231, 281.600
NECESSITY AND FUNCTION: KRS 189.231 authorizes the Secretary of Transportation to restrict or regulate traffic on state-maintained highways in such manner as is reasonably necessary to promote the safety and convenience of the traveling public. KRS 281.600 authorizes the Department of Vehicle Regulation to promulgate regulations regarding safety requirements for [motor vehicles] and method of operation of motor vehicles.

Section 1. Definition. [and Scope. As used in this regulation, the term] "Bus" shall mean all motor vehicles that are required to be registered under the terms of KRS 186.050, designed and used for carrying passengers and having provisions for more than nine (9) passengers including the driver. [The term] "Bus" shall not include motor vehicles operated by any common school system, motor vehicles operated under a city bus certificate required by KRS Chapter 281 when operating within the corporate limits of a city, and regular route bus operators operating under a certificate required by KRS Chapter 281.

Section 2. Annual Inspections. The Transportation Cabinet shall require that all buses [within the scope of this regulation] be inspected annually by Transportation Cabinet personnel for compliance with the [such] minimum vehicle safety equipment standards established [as are currently required] under Federal Motor Carrier Safety Regulations adopted by the United States Department of Transportation as 49 Code of Federal Regulations, Part 393, and adopted by Kentucky Administrative Regulation 601 KAR 1:005. When a bus passes an inspection, the Transportation Cabinet shall issue to the bus owner a document showing that the bus has passed.

Section 3. Proof of Inspection. Proof of a passed inspection shall be shown to the appropriate county clerk before first-time or renewal of any bus registration.

Section 4. Random Inspections. In addition to the mandatory annual inspection, buses are subject to the provisions of 601 KAR 1:005 including random safety inspections.

Section 5. [3.] Out-of-service Sticker. If [In the event] a bus is determined to be out of compliance with the minimum safety requirements, employees of the Transportation Cabinet may [are authorized to] affix to it [thereto] a notice [identifying] that the bus does not comply. Correction of the noncompliance item shall be required [and require correction] before the bus [it] is further operated.

JEROME LENTZ, Acting Commissioner
MILO D. BRYANT, Secretary/Commissioner
APPROVED BY AGENCY: December 22, 1988
FILED WITH LRC: January 6, 1989 at 9 a.m.
PUBLIC HEARING: A public comment hearing will be held on this administrative regulation on February 21, 1989 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 February 16, 1989 so notify this agency. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public comment hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the administrative regulation. If the hearing is cancelled, written comments will only be accepted until February 16, 1989. Send written notification of intent to attend the public hearing or written comments on the administrative regulation to: Sandra G. Pullen, Executive's Staff Advisor, Transportation Cabinet, 10th Floor State Office Building, Frankfort, Kentucky 40622.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Sandra G. Pullen
(1) Type and number of entities affected: 4,500 privately owned buses.
(a) Direct and indirect costs or savings to those affected: While there is no inspection fee charged by the Transportation Cabinet, it is estimated that it will cost an average of $5 per bus to get the buses to and from an inspection station. However, the cost of the inspection in a service station would be about $50. Therefore, the net savings for each bus is $45.
1. First year: $202,500 net savings.
2. Continuing costs or savings: $202,500 net savings.
3. Additional factors increasing or decreasing costs (note any effects upon competition): None

(b) Reporting and paperwork requirements: Affected groups are required to take vehicle to Highway Department garage or weigh station.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings: It will cost the cabinet approximately one man hour for each bus inspected for a direct cost of $31,500.
1. First year: $31,500.
2. Continuing costs or savings: $31,500.
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: Inspection forms to be sent to central office repository and customers form to be shown to county clerk before renewal or first time registration.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: Inspection considered necessary on this class of vehicle. Exempted vehicles already inspected.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None. No regulation in this area.
(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: It should be noted that the changes to the regulation are not the cause of the cost and savings. Those are from the existing regulation.
TIERING: Was tiering applied? Yes.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes
2. State whether this administrative regulation will affect the local government or only a part or division of the local government. Only one part of local government.
3. State the aspect or service of local government to which this administrative regulation relates. The operation of the county clerk's office.
4. How does this administrative regulation affect the local government or any service it provides? The county clerk will have to check proof of passed inspection prior to issuing registration on a bus.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Administration and Finance
(Proposed Amendment)

702 KAR 3:020. Bond issue approval.

RELATES TO: KRS 58.150, 156.070, 156.200, 156.210, 162.080 to 162.100, 162.120 to 162.290, 162.300
STATUTORY AUTHORITY: KRS 58.150, 156.070, 162.160, 162.170, 162.180
NECESSITY AND FUNCTION: KRS 58.150 authorizes the State Board for Elementary and Secondary [of] Education to allow local school districts to issue revenue bond anticipation notes as an initial financing mechanism; KRS 156.070 gives the State Board the management and control of the common schools; KRS 156.200 and 156.210 require the Superintendent of Public Instruction to receive all reports and supervise all accounts of local boards of education, and to rectify any improper use of school funds; and KRS 162.080 to 162.100, 162.120, 162.290, and 162.300 set forth methods and authorizations for school districts to finance capital construction projects through bonds. This regulation sets forth procedures for the approval of bond and bond anticipation note issues by school districts.

Section 1. The Superintendent of Public Instruction shall determine the financial soundness of all school revenue bond issues. He shall supervise all phases of school revenue and voted bonds.

Section 2. The Superintendent of Public Instruction shall disapprove the sale of any school revenue or school voted bond issue which he deems to be not in accord with State Board for Elementary and Secondary [of] Education regulations or financially unsound for the district in question. The Superintendent of Public Instruction at the next special or regular meeting of the State Board for Elementary and Secondary [of] Education shall report the terms and conditions of all school revenue or school voted bond sales and certify that such sales were made in accordance with KRS Chapter 162 and the State Board for Elementary and Secondary [of] Education regulations.

Section 3. Fiscal agents shall [must] be registered with the Banking and Securities Commission in the Commonwealth of Kentucky. The local board of education shall select the fiscal agent for the proposed revenue bond issue. The fiscal agent shall employ appropriate bond counsel subject to approval of the local board of education. The allowable discount on bonds shall not exceed two (2) percent of the par value of the issue under contract.

Section 4. Twenty (20) percent of the revenues appropriate for bonding purposes shall [must] be set aside as a safety factor in determining the initial bonding potential of a local district. The Superintendent of Public Instruction may allow safety factors below twenty (20) percent to a minimum of ten (10) percent on a case by case basis dependent upon the financial stability of the individual school district. The following sources of revenue are eligible as annual revenues in support of school building revenue bonds or notes:
(1) Utility gross receipts license tax (KRS 160.593);
(2) Occupational income tax (KRS 160.593);
(3) Excise income tax (KRS 160.593);
(4) Special voted building fund ax (KRS 160.477);
(5) General fund ad valorem tax (KRS 160.476);
(6) Power equalization levy (KRS 157.565);
(7) Capital outlay funds (KRS 157.5650; and
(8) Special trust funds (when legal opinion provided by bond counsel).

Section 5. (1) Revenue bond anticipation notes or the reissuance (roll over) of bond

anticipation notes shall be issued only upon approval of the State Board for Elementary and Secondary [of] Education on a case by case basis and in accord with KRS 58.150.

(2) Prior to submittal to the State Board for Elementary and Secondary [of] Education for approval, the local school district shall provide the Department of Education the following financial information:

(a) Sources and annual amounts of revenue available for debt service;

(b) Projected debt service of a comparably-sized bond issue using maximum interest rates that the district could support with current available revenues as reflected in subsection (2)(a) of this section; and

(c) Projected debt service on a comparably-sized bond issue based on the then-current market.

(3) The following criteria are established for determining the approval of bond anticipation notes or the reissuance (roll over) of bond anticipation notes:

(a) The district shall [must] show evidence that the available fiscal resources could support a twenty (20) year revenue bond issue at the then-current market rates plus one and five-tenths (1.5) percent;

(b) The district shall [must] agree to escrow the difference between a regular revenue bond issue at the then-current market twenty (20) year amortization schedule, level principal redemption) and the annual net interest cost of the bond anticipation notes. The escrow account shall be used to reduce the principal of the note at the call date, the termination date, or as is stipulated in the terms and conditions of the issue note;

(c) Notes shall be issued for a period not less than two (2) nor more than four (4) years with a one (1) year call provision; and

(d) Bonds may be required to be issued to replace callable notes should market conditions change such that permanent financing is advisable and warranted.

Section 6. The maximum net interest cost for the sale of school revenue bonds established by the State Board for Elementary and Secondary [of] Education shall be a rate no greater than the most current Bond Buyer's 20 - Bond Index plus one and five-tenths (1.5) percent. In the event a bid on an issue of bonds exceeds the maximum interest rate the Superintendent of Public Instruction may declare an emergency to exist and request the chairman to convene the State Board of Education for the purpose of approving or disapproving his recommendation that the bonds be sold.

Section 7. Required transfers of principal and interest payments shall be made by local school districts to bond and interest redemption accounts at least ten (10) calendar days prior to the date upon which such payments are due. The paying and transfer agent bank shall notify the Superintendent of Public Instruction at least eight (8) calendar days prior to the due date should the local district fail to deposit required funds on the required date. The Superintendent of Public Instruction, in accordance with the terms and conditions of the contract of lease and rental agreement of the revenue bond issue of the local school district, shall then resolve the matter with the local school district or intercept appropriate funds due to the local school district and transmit them to the bond and interest redemption account of the local school district.

HENRY E. POGUE, IV, Chairman

APPROVED BY AGENCY: January 11, 1989

FILED WITH LRC: January 13, 1989 at 11 a.m.

PUBLIC HEARING: A public hearing has been scheduled on Thursday, February 23, 1989, at 10 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board for Elementary and Secondary Education at its January meeting. Those persons wishing to attend and testify shall contact in writing: Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before February 18, 1989. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Ron Moubray

(1) Type and number of entities affected: 177 local school districts.

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

1. First year: Can reduce cost of interest paid on school revenue bonds by increasing bond ratings for school districts to bank eligible levels.

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: None

(a) Direct and indirect costs or savings:

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements:

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: 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: No conflict.

(6) Any additional information or comments:

TIERING: Was tiering applied? Yes

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Local Services
(Proposed Amendment)

702 KAR 7:090. Requirements for coaches and other personnel staffing interscholastic athletic programs.

RELATES TO: KRS 156.070, 161.010, 161.044, 161.180

STATUTORY AUTHORITY: KRS 156.070, 161.044

NECESSITY AND FUNCTION: KRS 156.070 gives the

State Board for Elementary and Secondary Education the management and control of all programs, including interscholastic athletics, operated in the common schools, and further requires that the rules, regulations, and bylaws of any organization or agency designated by the state board to manage interscholastic athletics be approved by the state board; and KRS 161.010, 161.044, and 161.180 authorizes the employment of teachers' aides as paraprofessionals in the public schools. This regulation sets forth requirements for coaches and other personnel staffing interscholastic athletic programs.

Section 1. (1) Except as provided in Section 2 of this regulation, Head coaches and assistant coaches of interscholastic athletic teams and sponsors of cheerleading squads representing the common schools shall be certified teachers and members of their regular school faculties. They shall be duly employed by their respective boards of education, and their entire salaries shall be paid by such board. They shall be employed a minimum of three (3) regular periods for teaching classes, including physical education; for supervision of study halls; or for exercising responsibilities in other activity assignments within the school schedule.

(2) Head coaches employed by high school member schools of the Kentucky High School Athletic Association (KHSAA) under this section or Section 2 of this regulation for the sports of baseball, basketball, football, soccer, and wrestling shall attend annually a KHSAA sponsored rules clinic in the sport in which they are involved, and all head coaches employed by member schools in all sanctioned sports shall provide documentation of successful completion of a first aid course, including C.P.R., as approved by a college or university, the American Red Cross, or the American Heart Association, and such shall be timely and appropriately updated as required by the approving agency.

(3) Head coaches employed under this section or Section 2 of this regulation for any sport sanctioned by the KHSAA shall attend, on a biannual basis, the Sports Medicine Symposium sanctioned by the KHSAA and conducted each summer, such requirement to be fulfilled and enforced in the following manner:

(a) Head coaches who did not attend a sanctioned medical symposium in 1988 shall be required to attend one (1) of the symposiums in 1989 and biannually therafter; otherwise, head coaches shall attend a symposium in 1990 and biannually thereafter.

(b) A make-up symposium shall be scheduled for early September of each school year with attendance only for those head coaches hired after the last day of the preceding school year.

(c) All public member schools of KHSAA shall pay the necessary expenses of coaches for the required attendance at a sanctioned sports medicine symposium.

(d) The KHSAA shall impose one (1) of the following penalties for those coaches not properly in attendance at the required medical symposium:

1. Not allowing the coach to perform coaching duties for one (1) season in the sport which was not represented; or

2. Not allowing the coach to perform coaching duties in KHSAA sponsored championship competition for one (1) season in the sport which was not represented.

Section 2. (1) In the event a local board of education is unable to staff head or assistant coaching, or head or assistant cheerleader sponsor, positions under the provision of Section 1 of this regulation, the superintendent of the local school district may request the local board of education to approve the qualifications of persons holding a provisional or standard teaching certificate or having completed a minimum of sixty-four (64) semester hours of college credit as nonteaching paraprofessional head or assistant coaches or sponsors under the following provisions:

(a) The local board of education shall declare, after reasonable notice of a relevant position, that no qualified and certified member of the regular school faculty has applied for the position, pursuant to Section 1 of this regulation;

(b) The position shall be filled by the best qualified person available, giving preference to the factors of academic preparation and teacher certification, prior teaching experiences or related educational work, and personal attributes compatible with the demands of the position;

(c) The applicant shall have at least sixty-four (64) semester hours of credit from an accredited college or university, as documented by an official transcript;

(d) The applicant shall provide documentation of successful completion of a first aid course, including CPR, as approved by a college or university, the American Red Cross, or the American Heart Association, and such shall be timely and appropriately updated as required by the approving agency;

(e) Nonteaching paraprofessional assistants shall be employed and act under the direct supervision of a head coach or head cheerleader sponsor and under the authority of the principal and shall be evaluated annually;

(f) The entire salary for the position shall be paid by the local board of education; and

(g) Paraprofessional head coaches shall not, in any manner, be utilized with respect to high school varsity football or basketball teams.

(2) Nonteaching paraprofessional head and assistant coaches and sponsors utilized under this section shall have the full and same authority and responsibility, consistent with applicable law, as fully certified, teaching counterparts hired under the provisions of Section 1 of this regulation, but such assistants may not:

(a) Act as head coaches or sponsors, except in emergencies where the head coach or sponsor is unavailable, of junior varsity, freshman, elementary or middle school, or any other nonvarsity, athletic team or cheerleading squad; or

(b) Act as the school faculty member or administrator required to accompany students on school-sponsored or school-endorsed trips pursuant to KRS 161.185.

Section 3. As long as a noncertified paraprofessional, with fewer than sixty-four (64) semester hours of college credit, is acting within the scope and authority set forth in 704 KAR 15:080 and KRS 161.010 and 161.044, he or she may be employed by a local board of education to carry out assigned responsibilities

upon approval of the local board of a job description limited to the following duties:
(1) Assists the coaches in daily and long-range athletic activities;
(2) Assists the coaches in planning the program;
(3) Conducts learning experiences, under the direction of the coaches, with small groups of student athletes;
(4) Assists the coaches in guiding participants toward a harmonious team spirit;
(5) Alerts the head coach to the special needs of individual athletes;
(6) Provides escort, assistance, and supervision to athletes during periods of team travel;
(7) Recommends to the head coach the purchase of equipment, supplies, and uniforms as appropriate for the health, safety, and welfare of student athletes;
(8) Performs other noncoaching duties assigned by the principal, athletic director, or head coach.

Section 4. No person failing to meet the provisions of Sections 1, 2, or 3 of this regulation shall be employed or allowed to participate in any supervisory capacity with interscholastic athletic teams or cheerleading squads.

Section 5. The requirements of this regulation shall be made a part of the rules, regulations, and bylaws of any organization or agency designated by the state board to manage interscholastic athletics, and shall be made to apply by said organization or agency to all its member schools.

HENRY E. POGUE, IV, Chairman
APPROVED BY AGENCY: January 11, 1989
FILED WITH LRC: January 13, 1989 at 11 a.m.
PUBLIC HEARING: A public hearing has been scheduled on Thursday, February 23, 1989, at 10 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board for Elementary and Secondary Education at its January meeting. Those persons wishing to attend and testify shall contact in writing: Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before February 18, 1989. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Gary Bale
(1) Type and number of entities affected: 293 Kentucky High School Athletic Association member schools and their coaches.
(a) Direct and indirect costs or savings to those affected:
1. First year: Travel costs for coaches and $15-30 administration fee.
2. Continuing costs or savings: Continuing travel costs and administration fee.
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: Certification of appropriate attendance with registration as coach.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: No costs - appropriate doctors conduct medical sports symposium free of charge.
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Maintenance of paperwork documenting attendance by coaches.
(3) Assessment of anticipated effect on state and local revenues: Minimal
(4) Assessment of alternative methods; reasons why alternatives were rejected: Clinics and sports medicine symposium only way to insure coaches have necessary skills and knowledge.
(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? Yes.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 3:355. Basic [Essential] skills remediation.

RELATES TO: KRS 156.070, 158.750
STATUTORY AUTHORITY: KRS 156.070
NECESSITY AND FUNCTION: KRS 158.750 broadly authorizes and funds a public school remedial instruction program; and KRS 156.070 authorizes the State Board for Elementary and Secondary [of] Education to prescribe courses of study, curricula, and programs as deemed necessary for the efficient management, control, and operation of the public schools. This regulation sets forth the criteria for the authorized public school remediation program, procedures for allotment of units, eligibility criteria for pupils to be served, program operation, qualifications and job descriptions for personnel, requirements for housing of units, and requirements for program evaluation.

Section 1. Definitions. (1) Transition classroom means a separate, self-contained, full-time classroom staffed by a teacher who is trained to provide remedial instruction.
(2) Collaborating teacher means a teacher who consults with the regular classroom teacher to plan remedial education activities for students, and who also provides direct remedial instruction to students. [The collaborating teacher unit may be established as an alternative to the transition classroom.]
(3) Instructional assistant means a trained paraprofessional employee of the school district who provides tutorial instruction under the supervision of a teacher.
(4) Remediation means a program of instruction designed to correct educational deficiencies.
[(5) Mastery level means a determined level reflected by a score on an achievement test from which a pupil may be expected to progress

without remedial assistance.]

Section 2. Funding of Units. Funding of remedial units shall be as follows:

(1) [For the 1986-87 school year,] State funding for a remedial classroom unit, to include only a teacher's salary allotment and current operating expense allotment, equal to the rank and experience and current expense allotment stipulated in the biennial budget for foundation program units, and subject to KRS 158.750(3)(a), shall be made on the basis of one unit for each thirteen (13) pupils who at the end of kindergarten, first, or second grade fail to meet standards established in subsection (3) of this section for successful completion of the basic skills at those grade levels [in the 1984-85 school year were nonmasters of essential skills by reason of having achieved twenty-six (26) percent or more below the established mastery level in reading and/or mathematics on the Kentucky Essential Skills Test (KEST)]. Classroom units may [shall] be awarded on a fractional unit basis. If [In school districts where] fractional units result, local school districts may use [allocate] average daily attendance funds received through the Minimum Foundation Program from basic units [for those pupils eligible for transition classrooms in order] to supplement the funding of remedial [from the remedial program and create full scale transition] classroom units.

(2) [For the 1986-87 school year,] State funding for an instructional assistant unit, to include a salary allotment, shall be reimbursed to local school districts based on actual expenses not to exceed $8,000 annually per instructional assistant unit and awarded on the basis of one (1) unit for each twenty (20) pupils who at the end of kindergarten, first, or second grade, fail to meet standards established by subsection (3) of this section for successful completion of the basic skills at those grade levels [in the 1984-85 school year were partial masters of essential skills by reason of having achieved ten (10) to twenty-five (25) percent below the established mastery level in reading and/or mathematics on the KEST]. Instructional assistant units may [shall] be awarded on a fractional unit basis.

(3) The standard for student need to determine the number of teacher and instructional assistant units required to serve eligible pupils deficient in the skill areas of reading and mathematics shall be performance at or below the third state percentile for generation of a remediation teacher unit, and performance above the third state percentile but at or below the sixth state percentile for generation of an instructional assistant unit.

(4) [(3)] No single pupil shall be counted for purposes of generating both a remedial classroom unit and instructional assistant unit.

(5) [(4) For each year after the 1986-87 school year,] Funding of remedial classroom units and instructional assistant units shall be on the basis of the most recent statewide pupil test scores available [of pupils during the year two (2) years preceding the year in which services are to be provided and the then-current definitions of nonmaster and partial master as applied to all five (5) basic skills areas].

(6) [(5)] If the amount appropriated in the biennial budget is insufficient to fund the number of remediation classroom units and instructional assistant units generated, the allotment of funds to districts shall be adjusted on a pro rata share basis [of the units actually calculated to be needed, with first priority assigned to funding remediation classroom units].

Section 3. Eligibility Criteria. Selection of pupils to be served in the remediation program shall be as follows:

(1) Each school district shall select pupils to be served by the remedial instructional program who are deficient in the skill areas of reading and/or mathematics. The following documentation shall be used to determine which students may be served:

(a) Teacher recommendation based upon observation of social, behavioral, and development skills.

(b) Academic performance based on informal assessment and classroom performance.

(c) Performance at or below the 20th national percentile on the statewide norm-referenced achievement test.

[(1) No more than fifteen (15) pupils who are nonmasters in reading and/or mathematics and/or writing, spelling and library research reference skills on the KEST shall be served in a transition classroom or served by a collaborating teacher.]

[(a) If there are fewer than thirteen (13) eligible pupils identified for a remediation unit, and to enhance the availability of remedial instruction for needy pupils, local school districts may group pupils according to the following priorities in order to retain tentative funding for a transition classroom unit or fractional portion thereof or to create a full scale unit supplemented by Foundation Program funds.]

[1. Pupils who are nonmasters in reading and/or mathematics and/or writing, spelling and library research reference skills;]

[2. Pupils who are partial masters in reading and/or mathematics and/or nonmasters in either writing, spelling, or library research reference skills;]

[3. Pupils with the greatest needs, as determined by KEST scores, shall be selected first.]

[(b) Pupils who remain nonmasters in reading and/or mathematics and/or writing, spelling, and library research reference skills after one (1) year of remedial instruction in a transition classroom, may be eligible for services in a transition classroom for an additional year. Decisions regarding continued service in a transition room and decisions on promotion or retention for individual pupils shall be based upon the KEST score as well as records of ongoing progress and teacher recommendations.]

(2) Pupils who have a greater need as determined by the eligibility criteria shall be provided remedial instruction by a remediation teacher. Pupils who are eligible, but whose needs are not as great shall be provided tutorial services by an instructional assistant. [No more than twenty-two (22) pupils who are partial masters in reading and/or mathematics and/or nonmasters in writing, spelling or library research reference skills on the KEST shall be served by an instructional assistant. If there are fewer than twenty (20) eligible pupils identified for an instructional assistant, and to enhance the availability of

remedial instruction for needy pupils, local school districts may include pupils who are partial masters in writing, spelling or library research reference skills, or pupils who score up to ten (10) percent below mastery in reading and/or mathematics and/or writing, spelling and library research reference skills, in order to retain tentative funding for an instruction assistant unit or fractional portion thereof or to create, with supplemental Foundation Program funds, a full complement of pupils to be served by an instructional assistant. Pupils with the greatest needs shall be selected first.]

(3) No more than fifteen (15) pupils shall be served by a full-time remediation teacher. No more than twenty-two (22) pupils shall be served by a full-time instructional assistant. For fractional units, numbers of pupils served shall be reduced in accordance with the reduction unit.

(4) In the event that insufficient units are available to serve all eligible pupils, those pupils with the greatest need shall be selected first and shall be assigned to a remediation teacher or instructional assistant as specified in subsection (2) of this section.

(5) In the event that sufficient funds are available, eligible pupils in the third grade may be selected for participation in the remediation program; however, all eligible pupils in the first and second grades shall be provided remediation first. A remedial education program in the third grade shall operate by the same procedures as a program in the first or second grade.

(6) Pupils who continue to meet the eligibility criteria for remediation services after one (1) year of remedial instruction may be eligible for remedial services for an additional year. Decisions regarding continued remediation services and decisions on promotion and retention for individual pupils shall be based upon the performance scores on the statewide achievement test, records of ongoing progress, and teacher recommendations.

(7) [(3)] School districts shall notify in writing the parents or guardians of any pupil selected for remediation of the intent to serve the pupil in the remediation program. [School districts shall have a written policy for screening pupils which includes criteria for including or excluding individual pupils in the remediation program when documented evidence exists that such pupils' scores on the KEST do not reflect actual academic performance or when children who have not been tested with the KEST enroll in the school district. Under this provision, a pupil may be included in the program only with written parental consent. Such evidence shall be made available to the Kentucky Department of Education when requested.]

(8) [(4)] With the exception of those pupils who are handicapped only by a speech impairment or a physical handicap, as defined in 707 KAR 1:053, pupils who have been appropriately identified as handicapped by an admissions and release committee are not eligible to be served in the remediation program except upon a determination by the admissions and release committee that there is no other appropriate educational placement for such a pupil.

[(5) In the event that all eligible pupils have been provided a remedial education program in the first and second grades, and that funds are available for such, a school district may elect to establish a remedial education program in the third grade for otherwise-eligible pupils promoted to the third grade. A remedial education program in the third grade shall operate by the same procedures as a program in the first or second grade.]

Section 4. Program Operation. (1) The remediation program shall include appropriate student learning activities and teaching techniques. The major emphasis of the remediation program shall be reading and mathematics [and/or writing, spelling and library research reference skills].

(2) The level of intensity of remedial instruction shall be based upon the degree of need of the pupils served. The most intensive level of remedial instruction shall be provided by a remediation teacher [in the remedial classroom or by the collaborating teacher] in the content areas of reading and mathematics. The remedial teacher may operate as a collaborating teacher or as a transition teacher as defined in Section 1(1) and (2) of this regulation; or in accordance with other nationally recognized remedial instruction models when a plan for such a model has been submitted to and approved by the Kentucky Department of Education prior to implementation. [Content of other required curricula shall be taught with an emphasis on reading and mathematics. Pupils receiving remedial education shall participate equally in all school services provided for other pupils of the same grade in such areas as art, music, physical education and extra curricular activities in the same manner in which other pupils in the district receive such services.]

(3) When instruction is in a transition classroom, content of all required curricula shall be taught for the required number of minutes, as outlined in the Kentucky Program of Studies, with an emphasis on reading and mathematics. The transition classroom can be operated as a first grade, a second grade, or a combination grade room.

(4)(a) When instruction is by a collaborating teacher, direct instruction shall be provided within the regular teachers' classrooms to eligible pupils. Pupils may be provided such instruction in another location within the school when circumstances within the regular classroom would detract from the remedial learning atmosphere. Pupils shall not be instructed in other locations routinely. Instruction shall be on an individual or small group basis, depending upon pupil functioning levels.

(b) The collaborating teacher shall work with regular classroom teachers to develop an individual plan of remediation for each eligible pupil. The collaborating teacher shall also be responsible for monitoring the academic progress of each pupil with regard to identified skills requiring remediation.

(c) The collaborating teacher shall cooperate with regular classroom teachers on planning, scheduling, and space requirements. The collaborating teacher shall have no administrative or school management responsibilities.

(5) When tutorial instruction is provided by an instructional assistant, content of material presented shall be planned and supervised by the regular classroom teacher. The tutorial instruction shall be provided within regular

teachers' classrooms to eligible pupils. Pupils may be provided such instruction in another location within the school when circumstances within the regular classroom would detract from the remedial learning atmosphere; however, in such cases, tutorial instruction shall be provided within close proximity to the supervising teacher. This provision shall assure that the instructional assistant is not being placed in the position of assuming the duties and responsibilities of a teacher. The use of supplementary instructional materials shall be coordinated with lessons and materials presented in the regular classroom.

(6) Pupils receiving remedial education shall participate equally in all school services provided for other pupils of the same grade in such areas as art, music, physical education, and extracurricular activities in the same manner in which other pupils in the district receive such services.

Section 5. Qualifications of Personnel and Job Descriptions. Personnel qualified to serve in the remediation program shall meet the requirements for the position and fulfill the job description as follows:

(1) Teacher.

(a) Requirements.

1. Hold valid elementary education teaching certification;

2. Have demonstrated ability to work with pupils who have not been successful in the regular classroom;

3. Have at least one (1) year prior experience as a classroom teacher unless waived by the Superintendent of Public Instruction based upon documented evidence of lack of availability of personnel with such experience; and

4. Participate in program training as specified by the Kentucky Department of Education and local district.

(b) Job description.

1. Implement instructional techniques and learning activities appropriate for students in need of remediation [as required by the Kentucky Department of Education and local district];

2. Assess and document pupil progress on a continuous basis and modify instruction as necessary;

3. Maintain program records as required by the Kentucky Department of Education and local district;

4. Communicate with and involve parents; i.e., teacher/parent conferences, written communications, and home visits; and

5. Communicate with other teachers, instructional assistants and supervisors as necessary.

(2) Instructional assistant.

(a) Requirements.

1. Hold minimum of high school diploma or General Educational Development Equivalency Certificate;

2. Demonstrate competent language skills;

3. Have demonstrated ability to work with pupils who have not been successful in the regular classroom; and

4. Participate in program training as specified by the Kentucky Department of Education and local district.

5. Meet the applicable criteria required by KRS 161.044.

(b) Job description. Under the direction of the supervising teacher:

1. Implement instructional techniques and learning activities appropriate for students in need of remediation [as required by the Kentucky Department of Education and local district];

2. Provide tutorial instruction to pupils individually or in small groups;

3. Assist with the documentation of pupil progress on a continuous basis;

4. Prepare and organize materials and equipment for remedial instruction; and

5. Participate as an integral member of the remediation instructional team.

Section 6. Facilities. (1) The remediation program shall be housed in facilities which are in compliance with 702 KAR 4:060, 702 KAR 4:070 and 702 KAR 4:080.

(2) In the event facilities are not available which meet the minimum square footage standards, the instructional area shall provide at least twenty-four (24) square feet of instructional space per pupil served or no less than 312 square feet.

Section 7. Program Evaluation. (1) The Kentucky Department of Education [School districts] shall evaluate the effectiveness of the [their] remediation program by compiling pre and post norm-referenced test score data on pupils served in the program. As a result of this evaulation, the Department may make necessary modifications in the statewide remediation program to assure the effectiveness of the program. [by collecting specified program data and submitting a report to the Kentucky Department of Education on a timely basis.]

(2) No later than September of each year, the local board of education shall evaluate the local remediation program and approve a plan of operation and program improvement for the current school year based upon a review of the following factors from the previous year program:

(a) Student pre and post test scores;

(b) Methods of instruction;

(c) Promotion and retention rates;

(d) Attendance;

(e) Parent involvement;

(f) Numbers of pupils served;

(g) Adequacy of materials; and

(h) Coordination between the remediation and regular school program.

[(1) The report shall include, but not be limited to:]

[(a) A list of names of pupils served.]

[(b) A summary of pupil progress on essential skills.]

[(c) Evidence of utilization of remediation materials and techniques.]

[(d) Evidence of parent involvement activities.]

[(e) Evidence of communication and coordination efforts within the schools.]

[(2) A full report shall be submitted to the Department of Education by July 1 of each year.]

(3) On-site monitoring of remediation programs and local board approved plans shall occur in conjunction with state evaluation for accreditation of schools or as deemed necessary by the Superintendent of Public Instruction.

[Section 8. Collaborating Teacher Model. School districts may elect to implement an alternative to the remediation classroom for pupils who are otherwise eligible for a remediation classroom units. The alternative

shall be established according to the collaborating teacher model.]

[(1) Funding shall be the same as for a transition classroom and the teacher shall have the same qualifications as a transition room teacher. School districts shall submit a report for the alternative model as required in Section 7 of this regulation.]

[(2) The purpose of the collaborating teacher model shall be:]

[(a) To provide comparative data on differing approaches to remediation; and]

[(b) To provide remediation in the regular classroom to pupils who have failed to master essential skills.]

[(3) The collaborating teacher shall function in the following manner:]

[(a) The collaborating teacher shall provide direct instruction within the regular teachers' classrooms to eligible pupils. Pupils may be provided such instruction in other locations within the school only when circumstances within the regular classroom would detract from the remedial learning atmosphere. Pupils shall not be instructed in other locations routinely. Instruction shall be focused on remediation of deficiencies of essential skills in the areas of reading and mathematics. Instruction shall be on an individual or small group basis, depending upon pupil functioning levels.]

[(b) The collaborating teacher shall work with regular classroom teachers to develop an individual plan of remediation for each eligible pupil. The collaborating teacher shall also be responsible for monitoring the academic progress of each pupil with regard to identified essential skills requiring remediation.]

[(c) The collaborating teacher shall cooperate with regular classroom teachers on planning, scheduling, and space requirements.]

[(d) The collaborating teacher shall have no administrative or school management responsibilities.]

[(4) The collaborating teacher model shall also contain the following components:]

[(a) Support for the regular classroom teachers in efforts to teach and motivate low achieving pupils;]

[(b) Involvement of parents through parent contracts and parent support groups;]

[(c) Training in effective use of teacher aides and instructional assistance for pupil specific remediation;]

[(d) Incorporation of peer tutoring and team learning strategies;]

[(e) Tutoring and coaching in pupil self-management skills;]

[(f) Design of special homework assignment strategies;]

[(g) Development of cognitive and thinking skills, and problem solving;]

[(h) Incorporation of motivational techniques;]

[(i) Design of enrichment activities; and]

[(j) Participation in long-term staff development and team building strategies.]

[(5) The Department of Education shall provide training, program materials and supervision to support the implementation of program components and shall assist collaborating teachers in developing a network for sharing program information.]

HENRY E. POGUE, IV, Chairman
APPROVED BY AGENCY: January 11, 1989
FILED WITH LRC: January 13, 1989 at 11 a.m.

PUBLIC HEARING: A public hearing has been scheduled on Thursday, February 23, 1989, at 10 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board for Elementary and Secondary Education at its January meeting. Those persons wishing to attend and testify shall contact in writing: Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before February 18, 1989. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Joanne Brooks
(1) Type and number of entities affected:
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition): None
(b) Reporting and paperwork requirements: LEAs must evaluate effectiveness of remediation program and implement approval process by the local Board of Education.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: No change.
(3) Assessment of anticipated effect on state and local revenues:
(4) Assessment of alternative methods; reasons why alternatives were rejected: Previous methods have been evaluated and corrective methods incorporated in this regulation.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication:
(a) Necessity of proposed regulation if in conflict: None
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: None
(6) Any additional information or comments: None
TIERING: Was tiering applied? No. Statute specifies direct allocations based on a formula.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Instruction
(Proposed Amendment)

704 KAR 20:310. Written examination and internship prerequisites for vocational teachers.

RELATES TO: KRS 161.030
STATUTORY AUTHORITY: KRS 156.070, 161.030
NECESSITY AND FUNCTION: KRS 161.030 requires that[, effective January 1, 1985,] all new teachers, including out-of-state teachers with less than two (2) years' experience, successfully complete appropriate written tests prior to initial certification in Kentucky and

serve a one (1) year internship. The tests are to measure communication skills, general knowledge, professional education concepts, and knowledge in the specific teaching field of the applicant. The State Board for Elementary and Secondary [of] Education is charged with selecting the tests; determining minimum acceptable levels of achievement on each test; establishing a reasonable fee related to the cost of administration of the tests, such fees to be paid by the teacher applicants; and establishing procedures for persons having less than minimum levels of performance on any test to repeat that test and be informed of strengths and weaknesses in performance areas. This regulation implements such duties relative to teacher testing and internship for vocational teachers as specified in 704 KAR 20:305, Section 1(3).

Section 1. All new industrial education, health and personal service occupation, public service teacher applicants, and other applicants for vocational teacher certificates both with and without a teacher preparation degree; and out-of-state applicants for vocational certification with less than two (2) years of teaching experience shall successfully complete the appropriate written tests prior to initial Kentucky certification. Each applicant without a teacher preparation degree shall successfully complete the Comprehensive Test of Basic Skills (CTBS) for communication skills and general knowledge and the Office of Vocational Education's Teacher Aptitude Test (TAT). Each applicant with a teacher preparation degree shall successfully complete the National Teachers' Examination (NTE) Core Battery as specified in 704 KAR 20:305, Section 2(1). All applicants shall take a specialty test in the occupational area for which certification is to be granted. Specialty tests are identified as follows:

(1) Industrial education - National Occupational Competency Testing Institute's (NOCTI) Teacher Occupational Competency Test (TOCT) if one corresponding to the teaching specialty is available; or if not, the Office of Vocational Education, Department of Education, developed test corresponding to the teaching specialty.

(2) Health occupations - the appropriate state or national examination, where one exists; or, if not, the Office of Vocational Education, Department of Education, developed test corresponding to the teaching specialty.

(3) Public service - the corresponding Office of Vocational Education, Department of Education, developed test.

Section 2. In order to satisfy the testing prerequisites for teacher certification, and before an initial certificate is granted, each applicant shall make the following minimum passing score on each of the following tests:

(1) The Comprehensive Test of Basic Skills.

(a) Communication skills - 742;

(b) General knowledge - 720;

(2) The teacher aptitude test - 650.

(3) Specialty area tests for industrial education.

(a) Air conditioning - NOCTI - air conditioning refrigeration - 548;

(b) Aircraft mechanics - NOCTI - airframe and power plant - 578;

(c) Appliance repair - NOCTI - major appliance repair - 531;

(d) Auto body repair - NOCTI - auto body repair - 613;

(e) Auto mechanics - NOCTI - auto mechanics - 554;

(f) Auto parts - state developed - auto parts - 490;

(g) Building maintenance - NOCTI - building trades maintenance - 548;

(h) Cabinetmaking - NOCTI - cabinetmaking and millwork - 523;

(i) Carpentry - NOCTI - carpentry - 597;

(j) Civil & highway technology - NOCTI - civil technology - 392;

(k) Commercial art - NOCTI - commercial art - 518;

(l) Commercial sewing - NOCTI - power sewing - 600;

(m) Diesel mechanics - NOCTI - diesel mechanics - 509;

(n) Drafting - NOCTI - machine drafting - 564;

(o) Electricity - NOCTI - industrial electrician - 538;

(p) Electronics - NOCTI - electronics technology - 498;

(q) General miner - state developed - general miner - 520;

(r) Graphic arts - NOCTI - printing - offset - 495;

(s) Heavy equipment operator - state developed - heavy equipment operator - 510;

(t) Heavy equipment repair - NOCTI - diesel mechanics - 509;

(u) Industrial machinery maintenance - state developed - industrial machinery maintenance - 480;

(v) Instrumentation - NOCTI - electronics technology - 498;

(w) Interior finishing - state developed - interior finishing - 460;

(x) Machine shop - NOCTI - machine trades - 525;

(y) Masonry - NOCTI - masonry - 556;

(z) Meat cutting - state developed - meat cutting - 580;

(aa) Mine maintenance technology - state developed - mine maintenance technology - 560;

(bb) Mine equipment operator - state developed - mine equipment operator - 570;

(cc) Office machine repair - NOCTI - electronics technology - 498;

(dd) Plumbing - NOCTI - plumbing - 501;

(ee) Radio & TV production - state developed - radio & TV production - 440;

(ff) Radio & TV repair - NOCTI - radio & TV repair - 629;

(gg) Sheet metal - NOCTI - sheet metal - 596;

(hh) Small engine repair - NOCTI - small engine repair - 560;

(ii) Tailoring - NOCTI - textile production/fabrication - 557;

(jj) Tool and die - NOCTI - tool and die maker - 369;

(kk) Truck mechanics - NOCTI - diesel mechanics - 509;

(ll) Upholstery - state developed - upholstery - 520;

(mm) Welding - NOCTI - welding - 510;

(4) Specialty area test for health and personal service occupation.

(a) Barbering - The Kentucky Board of Barbering Examination and Barbering Instructors' License;

(b) Biomedical equipment technician - Board of

Examiners for Biomedical Equipment Technicians operating under the Certification Commission Examination and Biomedical Equipment Technician;

(c) Cosmetology - Kentucky Board of Hairdressers and Cosmetologists Instructors' License;

(d) Dental assisting - Dental assistants' National Board Examination and Dental Assistants' Certification or American Dental Association National Board Examination and Dental Hygiene Licensure coupled with State or Regional Board of Dentistry Examination and Dental Hygiene Licensure;

(e) Health services - The National Council of Licensure Examination Administered by the Kentucky Board of Nursing and Registered Nurse License in Kentucky;

(f) Medical assisting - The National Council of Licensure Examination administered by the Kentucky Board of Nursing and Registered Nurse License in Kentucky or American Association of Medical Assistants' Examination and Medical Assistant Certification;

(g) Medical laboratory technician - American Society of Clinical Pathologist Certification Examination and Medical Technologist Registration or National Certification Agency Certification Examination and Clinical Laboratory Scientist Certification;

(h) Medical secretary - state developed - medical secretary, with a minimum score of 580;

(i) Practical nursing - The National Council Licensure Examination administered by the Kentucky Board of Nursing and Registered Nurse License in Kentucky;

(j) Radiologic technology - American Registry of Radiologic Technologists' Certification Examination and Radiographers' Registration;

(k) Respiratory therapy technology - National Board for Respiratory Care;

(l) Surgical technology - The National Council Licensure Examination administered by the Kentucky Board of Nursing and Registered Nurse License in Kentucky or Association of Surgical Technologists' Examination under the direction of the Liaison council on Certification and Surgical Technologists' Certification;

(5) Specialty area test for public service:

(a) Public service - state developed - public service, with a minimum score of 630; and

(6) Specialty area test: other

(a) Commercial foods - NOCTI - quantity foods, with a minimum score of 618.

(b) Tractor trailer/truck driver - state developed, with a minimum score of 994.

Section 3. Teacher applicants in new vocational programs for which no appropriate specialty test is yet available shall not be required to take a specialty test, except for research and validation purposes. After the new program has been piloted and fully implemented, any new teacher applicant will be required to pass a designated specialty test.

Section 4. Applicants for initial certification may take the written tests on any of the dates established by the Department of Education, Office of Vocational Education, with such tests to be administered at least twice monthly. Public announcement of testing dates and locations shall be issued sufficiently in advance of testing dates to permit advance registration as required by the Office of Vocational Education. It shall be the responsibility of each applicant to seek information regarding the dates and location of the tests and to make application to the Office of Vocational Education for the appropriate tests prior to the deadlines established and sufficiently in advance of anticipated employment. Applicants must authorize test results to be forwarded to the Teacher Education and Certification Division, Department of Education.

Section 5. Applicants shall pay an examination fee of fifty (50) dollars directly to the testing agency for the four (4) tests. In the event that fewer than the four (4) tests are to be taken, the fee schedule shall be as follows: (1) CTBS - Communication Skills, ten (10) dollars; (2) CTBS - General Knowledge, ten (10) dollars; (3) Teacher Aptitude Test, ten (10) dollars; (4) specialty area tests, twenty (20) dollars.

Section 6. Applicants who fail to achieve at least the minimum score on one (1) or more of the test(s) shall be permitted to retake the test or those tests and all retakes must meet the regularly scheduled testing dates. However, initial certification will not be granted until acceptable scores are achieved in each of the required areas.

Section 7. The Department of Education shall collect such data and conduct such analyses of the impact of these tests as to permit a review of these regulations on at least a biennial basis.

Section 8. All applicants for Kentucky vocational teaching certificates who successfully complete the required written tests shall serve a one (1) year internship. The teacher shall be a full-time employee or serve on at least a half-time basis and shall have supervision, assistance, and assessment during the one (1) year internship. The Office of Vocational Education shall administer the internship program and shall follow the requirements established by the State Board for Elementary and Secondary [of] Education:

(1) A beginning teacher committee meeting the requirements of KRS 161.030 shall be identified by the Office of Vocational Education and shall consist of:

(a) A resource teacher who is certified as a vocational teacher in the same area in which the intern seeks certification;

(b) The school principal where the internship is being served; and

(c) A vocational teacher educator from a state-approved teacher training institution or, if the teacher training institution is unable to provide a member, an occupational specialist within the Office of Vocational Education.

(2) Internships for vocational teachers in area centers and state vocational-technical schools shall be administered by the Office of Vocational Education, Department of Education.

HENRY E. POGUE, IV, Chairman

APPROVED BY AGENCY: January 11, 1989

FILED WITH LRC: January 13, 1989 at 11 a.m.

PUBLIC HEARING: A public hearing has been scheduled on Thursday, February 23, 1989, at 10 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the

regulations adopted by the State Board for Elementary and Secondary Education at its January meeting. Those persons wishing to attend and testify shall contact in writing: Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before February 18, 1989. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Audrey T. Carr
(1) Type and number of entities affected: 2 SVTS - approximately 15-17 prospective teachers annually.
(a) Direct and indirect costs or savings to those affected:
1. First year: N/A
2. Continuing costs or savings: N/A
3. Additional factors increasing or decreasing costs (note any effects upon competition): N/A
(b) Reporting and paperwork requirements: Minimal
(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: Minimal
(3) Assessment of anticipated effect on state and local revenues: None
(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: 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.

LABOR CABINET
Department of Workplace Standards
Kentucky Occupational Safety & Health
(Proposed Amendment)

803 KAR 2:020. Adoption of 29 CFR Part 1910.

RELATES TO: KRS Chapter 338
STATUTORY AUTHORITY: KRS Chapter 338
NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules and regulations, and standards. Express authority to adopt by reference established federal standards and national consensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of general industry. The standards are arranged in numerical order in order to facilitate reference to 29 CFR 1910.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1910 of the Code of Federal Regulations revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby adopted by reference with the following additions, exceptions, and deletions.
(1) 29 CFR Part 1910.1 shall read as follows:
"The provisions of this regulation adopt and extend the applicability of established federal standards contained in 29 CFR Part 1910 to all employers, employees, and places of employment throughout the Commonwealth except those excluded in KRS 338.021."
(2) 29 CFR Part 1910.2 shall read as follows: As used in this part, unless the context clearly requires otherwise:
(a) "Act" means KRS Chapter 338.
(b) "Assistant Secretary of Labor" means the Secretary of Labor, Commonwealth of Kentucky.
(c) "Employer" means any entity for whom a person is employed except those employers excluded in KRS 338.021.
(d) "Employee" means any person employed except those employees excluded in KRS 338.021.
(e) "Standard" means a standard which requires conditions or the adoption or use of one (1) or more practices, means, methods, operations, or processes, reasonably necessary or appropriate to provide safe and healthful employment. "Standard" has the same meaning as and includes the words "regulation" and "rule."
(f) "National consensus standard" means any occupational safety and health standard or modification thereof which has been adopted and promulgated by a nationally recognized standards-producing organization.
(g) "Established federal standard" means any operative occupational safety and health standard established by any agency of the United States Government.
(h) An employer, required under these standards to report information to the U.S. Department of Labor, or any subsidiary thereof, shall instead report such information to the Kentucky Labor Cabinet, U.S. 127 South, Frankfort, Kentucky 40601.
(3) 29 CFR 1910.7, "Definition and Requirements for a Nationally Recognized Testing Laboratory," as published in Federal Register, Volume 53, Number 70, April 12, 1988, is adopted by reference.
(4) 29 CFR 1910.16(b)(2)(ix), Longshoring and Marine Terminals, as published in the Federal Register, Volume 52, Number 186, September 25, 1987 is adopted by reference.
(5) 29 CFR 1910.19(f) "Special Provisions for Air Contaminants," is removed as published in the Federal Register, Volume 50, Number 240, December 13, 1985, is adopted by reference.
(6) 29 CFR 1910.19(i), Special Provisions for Air Contaminants, as published in the Federal Register, Volume 52, Number 176, September 11, 1987 is adopted by reference.
(7) 29 CFR 1910.19(j), "Special Provisions for Air Contaminants," as published in the Federal Register, Volume Number 52, December 4, 1987, is adopted by reference.
(8) 29 CFR 1910.20 "Access to employee exposure and medical records" is amended as follows:
(a) 29 CFR 1910.20(e)(1)(i) is amended to read "Whenever an employee or designated representative requests access to an exposure or

medical record, the employer shall assure that access is provided in a reasonable time, place, and manner, but no longer than fifteen (15) days after the request for access is made unless sufficient reason is given why such a time is unreasonable or impractical."

(b) 29 CFR 1910.20(e)(1)(ii) is amended to read "Whenever an employee or designated representative requests a copy of a record, the employer shall, except as specified in (v) of this section, within the period of time previously specified assure that either:"

(c) 29 CFR 1910.20(e)(1)(v) is added and shall read "Original x-ray film will be made available to the employee and/or designated representative for inspection, review, and duplication under the supervision of the employer or his representative. The employer is not required to bear the cost of duplication of x-ray film."

(d) Amendments to 29 CFR 1910.20, "Access to Employee Exposure and Medical Records," as published in Federal Register, Volume 53, Number 189, September 29, 1988, are adopted by reference.

[(d) 29 CFR 1910.20(g)(1) is amended to read "Upon an employee's first entering into employment, and at least annually thereafter, each employer shall inform each employee exposed to toxic substances or harmful physical agents of the following:"]

[(e) 29 CFR 1910.20(g)(2) is amended to read "Each employer shall make readily available to employees any informational materials concerning this standard which are provided to the employer by the Assistant Secretary of Labor for Occupational Safety and Health."]

(9) Subparagraph 29 CFR 1910.23(a)(7) shall be amended to read as follows: "Every temporary or permanent floor opening shall have standard railings, or shall be constantly attended by someone."

(10) The amendments to 29 CFR 1910.28(f)(2), (g)(3), (h)(2) and (i)(1), "Safety Requirements for Scaffolding," as published in the Federal Register, Volume 53, Number 70, April 12, 1988, are adopted by reference.

(11) The amendments to 29 CFR 1910.35(h), "Definitions," as published in Federal Register, Volume 53, Number 70, April 12, 1988, are adopted by reference.

(12) Revision to 29 CFR 1910.68(e)(3), Manlifts, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is adopted by reference.

(13) 29 CFR 1910.95 "Hearing Conservation Program" is amended as follows:

(a) 29 CFR 1910.95(h)(1) shall read: Audiometric tests shall be pure tone, air conduction, hearing threshold examinations with test frequencies including as a minimum 500, 1,000, 2,000, 3,000, 4,000, and 6,000 Hz. Testing at 8,000 Hz must be included in the audiometric tests for employers using audiometers with that capacity and all audiometric tests must include 8,000 Hz after January 15, 1985.

(b) 29 CFR 1910.95(h)(4) shall read: Audiometric examinations shall be administered in a room meeting the requirements listed in Appendix D: Audiometric Test Rooms. When an audiometric test room is located in a mobile test van, background sound pressure level measurements shall be taken at each testing location.

(c) 29 CFR 1910.95(h)(5)(ii) shall read: Audiometer calibration shall be checked acoustically at least annually in accordance with Appendix E: Acoustic Calibration of Audiometers. Test frequencies below 500 Hz and above 8,000 Hz (6,000 Hz until January 15, 1985 for audiometers without 8,000 Hz capability) may be omitted from this check. Deviations of fifteen (15) decibels or greater require an exhaustive calibration.

(d) 29 CFR 1910.95(h)(5)(iii) shall read: An exhaustive calibration shall be performed at least every two (2) years in accordance with sections 4.1.2; 4.1.3; 4.1.4.3; 4.2; 4.4.1; 4.4.2; 4.4.3; and 4.5 of the American National Standard Specification for Audiometers, S3.6-1969. Test frequencies below 500 Hz and above 8,000 Hz (6,000 Hz until January 15, 1985 for audiometers without 8,000 Hz capability) may be omitted from this calibration.

(e) 29 CFR 1910.95(L)(1) shall read: The employer shall make available to affected employees or their representatives copies of this standard and shall also post a notice of the availability of this standard in the workplace.

(f) 29 CFR 1910.95(o) shall read: Paragraphs (c) through (n) of this section shall not apply to employers engaged in oil and gas well drilling and servicing operations, agriculture, or construction.

(g) 29 CFR 1910.95 Appendix E shall read: Acoustic Calibration of Audiometers.

This Appendix is Mandatory.

Audiometer calibration shall be checked acoustically, at least annually, according to the procedures described in this Appendix. The equipment necessary to perform these measurements is a sound level meter, octave-band filter set, and a National Bureau of Standards 9A coupler. In making these measurements, the accuracy of the calibrating equipment shall be sufficient to determine that the audiometer is within the tolerances permitted by American Standard Specification for Audiometers, S3.6-1969.

1. Sound Pressure Output Check.

a. Place the earphone coupler over the microphone of the sound level meter and place the earphone on the coupler.

b. Set the audiometer's hearing threshold level (HTL) dial to seventy (70) dB.

c. Measure the sound pressure level of the tones that each test frequency from 500 Hz through 8,000 Hz (6,000 Hz until January 15, 1985 for audiometers without 8,000 Hz capability) for each earphone.

d. At each frequency the readout on the sound level meter should correspond to the levels in Table E-1 or Table E-2, as appropriate, for the type of earphone, in the column entitled "sound level meter reading."

2. Linearity check.

a. With the earphone in place, set the frequency to 1,000 Hz and the HTL dial on the audiometer to seventy (70) dB.

b. Measure the sound levels in the coupler at each ten (10) dB decrement from seventy (70) dB to ten (10) dB, noting the sound level meter reading at each setting.

c. For each ten (10) dB decrement on the audiometer the sound level meter should indicate a corresponding ten (10) dB decrease.

d. This measurement may be made electrically

with a voltmeter connected to the earphone terminals.

3. Tolerances.

When any of the measured sound levels deviate from the levels in Table E-1 or Table E-2 plus or minus three (3) dB at any test frequency between 500 and 3,000 Hz, four (4) dB at 4,000 Hz, or five (5) dB at 6,000 Hz and 8,000 Hz, an exhaustive calibration is advised. An exhaustive calibration is required if the deviations are greater than ten (10) dB at any test frequency.

TABLE E-1 - REFERENCE THRESHOLD LEVELS FOR TELEPHONICS-TDH-39 EARPHONES

Frequency, Hz	Reference threshold level for TDH-39 earphones, dB	Sound level meter reading dB
500	11.5	81.5
1000	7.0	77.0
2000	9.0	79.0
3000	10.0	80.0
4000	9.5	79.5
6000	15.5	85.5
8000	13.0	83.0

TABLE E-1 - REFERENCE THRESHOLD LEVELS FOR TELEPHONICS-TDH-39 EARPHONES

Frequency, Hz	Reference threshold level for TDH-49 earphones, dB	Sound level meter reading dB
500	13.5	83.5
1000	7.5	77.5
2000	11.0	81.0
3000	9.5	79.5
4000	10.5	80.5
6000	13.5	83.5
8000	13.0	83.0

(14) 29 CFR 1910.101(b) shall be amended by revocation of referenced pamphlets P-1-1965 and the adoption of P-1-1974, herein filed by reference.

(15) The amendment to 29 CFR 1910.103(a)(1)(ii), "Hydrogen," as published in Federal Register, Volume 53, Number 70, April 12, 1988, is adopted by reference.

(16) 29 CFR 1910.106 "Flammable and combustible liquids" is amended as follows:

(a) 29 CFR 1910.106(a)(3) shall read: "The term automotive service station, or service stations, shall mean that portion of property where flammable or combustible liquids used as motor fuel are stored and dispensed from fixed equipment and into the fuel tanks of motor vehicles and shall include any facilities available for the sale and servicing of tires, batteries, accessories and for minor automotive maintenance work and shall also include private stations not accessible or open to the public such as those used by commercial, industrial or governmental establishments. This section shall not apply to agriculture."

(b) The amendment to 29 106(a)(35), "Flammable and Combustible Liquids," as published in Federal Register, Volume 53, Number 70, April 12, 1988, is adopted by reference.

(c) 29 CFR 1910.106(g)(1)(i)(g), Flammable and Combustible Liquids as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is removed.

(17) The amendment to 29 CFR 1910.107(a)(8), "Spray Finishing Using Flammable and Combustible Materials," as published in Federal Register, Volume 53, Number 70, April 12, 1988, is adopted by reference.

(18) The amendment to 29 CFR 1910.108(a)(3), "Dip Tanks Containing Flammable or Combustible Liquids," as published in Federal Register, Volume 53, Number 70, April 12, 1988, is adopted by reference.

(19) The amendment to 29 CFR 1910.109(d)(2)(iii)(a), "Explosives and Blasting Agents," as published in Federal Register, Volume 53, Number 70, April 12, 1988, is adopted by reference.

(20) The amendments to 29 CFR 1910.110(a)(14), (b)(2)(iii), (c)(5)(i)(g)(1) and (f)(5)(iv), "Storage and Handling of Liquified Petroleum Gases," as published in Federal Register, Volume 53, Number 70, April 12, 1988, are adopted by reference.

(21) The amendments to 29 CFR 1910.111(b)(1)(ii) and the new paragraph 1910.111(b)(1)(vi), "Storage and Handling of Anhydrous Ammonia," as published in Federal Register, Volume 53, Number 70, April 12, 1988, are adopted by reference.

(22) 29 CFR 1910.120, Hazardous Waste Operations and Emergency Response, as published in the Federal Register, December 19, 1986, Volume 51, No. 244, is adopted by reference.

(23) 29 CFR 1910.120, Hazardous Waste Operations and Emergency Response, as published in the Federal Register, May 4, 1987, Volume 52, No. 85, is adopted by reference. Corrections to amendments to 29 CFR 1910.120, "Hazardous Waste Operations and Emergency Response," as published in Federal Register, Volume 52, Number 85, May 4, 1987, are adopted by reference.

(24) 29 CFR 1910.134 is amended as follows:

(a) 29 CFR 1910.134(c) shall read: "Proper selection of respirators shall be made according to the guidance of American National Standard Practices for Respiratory Protection Z88.2 - 1980."

(b) 29 CFR 1910.134(d) the third sentence shall read: "Breathing air shall meet at least the requirements of the specification for Grade D breathing air as described in Compressed Gas Association Commodity Specification G-7.1 - 1973."

(c) 29 CFR 1910.134(g) shall read: Identification of Air-purifying Respirator Canisters and Cartridges.

1. The primary means of identifying an air-purifying respirator canister or cartridge shall be by means of properly worded labels. The secondary means of identifying an air-purifying respirator canister or cartridge shall be by an identifying color or colors.

2. All who issue or use air-purifying respirators falling within the scope of this standard shall ensure that all canisters and cartridges purchased or used by them are properly labeled and colored in accordance with this standard before they are placed in service and that the labels and colors are properly maintained at all times thereafter until the

canisters and cartridges have completely served their purpose. The user shall refer to the label wording to determine the type and degree of protection the canister or cartridge will afford.

3. On each air-purifying respirator canister and cartridge, the following shall appear in bold letters:

CANISTER FOR _____
(Name of atmospheric contaminant)

or

CARTRIDGE FOR _____
(Name of atmospheric contaminant)

In addition, either or both of subparagraphs a and b of this paragraph, and subparagraph (c) of this paragraph, shall appear beneath the appropriate phrase on the canister or cartridge label.

a. For respiratory protection in atmospheres containing not more than _____ by volume of
(Concentration)

_____
(Name of atmospheric contaminant)

b. For respiratory protection in atmospheres containing

_____
(Type of particulate contaminant)

c. Do not use in atmospheres containing less than nineteen and five-tenths (19.5) percent oxygen by volume at sea level.

4. Each respirator canister or cartridge, or canister or cartridge label, shall be a distinctive color as indicated in Table I-1. The color coating used shall offer a high degree of resistance to changes such as chipping, scaling, peeling, blistering, and fading, and to the effects of ordinary atmospheres to which they may be exposed under normal conditions of storage and use.

(d) 29 CFR 1910.134 Table I-1 shall read:

TABLE I-1
Color Assigned to Canister or Cartridge

Atmospheric Contaminant(s) to Be Protected Against	Color Assigned	ISCC-NBS Centroid Color Number	ISCC-NBS Centroid Color Name
Acid gases	White	263	White
Organic vapors	Black	267	Black
Ammonia gas	Green	139	Vivid green
Carbon monoxide gas	Blue	178	Strong blue
Acid gases and organic vapors	Yellow	82	Vivid yellow
Acid gases, ammonia, and organic vapors	Brown	75	Deep yellow brown
Acid gases, ammonia, carbon monoxide, and organic vapors	Red	11	Vivid red
Other vapors and gases not listed above	Olive	106	Light olive
Radioactive materials (except tritium and noble gases)	Purple	218	Strong purple
Dusts, fumes, and mists (other than radioactive materials)	Orange	48	Vivid orange

NOTES:

(1) A purple (ISCC-NBS Centroid Number 218) stripe shall be used to identify radioactive materials in combination with any vapor or gas.

(2) An orange (ISCC-NBS Centroid Number 48) stripe shall be used to identify dusts, fumes, and mists in combination with any vapor or gas.

(3) Where labels only are colored to conform with this table, the canister or cartridge body shall be gray (ISCC-NBS Centroid Number 265), or a metal canister or cartridge body may be left in its natural metallic color.

(4) The user shall refer to the wording of the label to determine the type and degree of protection the canister or cartridge will afford.

(25) 29 CFR 1910.141(c)(2)(i) shall read as follows: "(1) Each water closet shall occupy a separate compartment with walls or partitions between fixtures sufficiently high to assure privacy."

(26) Amendment to 29 CFR 1910.145(f), Accident Prevention Tags, as published in Federal Register, Volume 51, Number 182, September 19, 1986, is adopted by reference.

(27) 29 CFR 1910.151 relating to medical services and first aid shall be changed to read as follows:

"(a) The employer shall ensure the ready availability of medical personnel for advice and consultation on matters of occupational health."

"(b) Employers with eight (8) or more employees within the establishment shall have persons adequately trained to render first aid and first aid supplies approved by the consulting physician, along with a signed list of these supplies, shall be readily available. Outside salesmen, truck drivers, seasonal labor, and others who while performing their duties, are away from the premises more than fifty (50) percent of the time are not to be included in determining the number of employees."

"(c) All other employers shall, in the absence of an infirmary, clinic, or hospital in near proximity to the workplace which is used for the treatment of all injured employees, have a person or persons adequately trained to render first aid. First aid supplies approved by the consulting physician shall be readily available."

"(d) Where the eyes or body of any person may be exposed to injurious corrosive materials, suitable facilities for quick drenching or flushing of the eyes and body shall be provided within the work area for immediate emergency use."

(28) The amendments to 29 CFR 1910.155(c)(3)(i) and the new paragraph 1910.155(c)(3)(iv)(E), "Scope, Application and Definitions Applicable to this Subpart," as published in Federal Register, Volume 53, Number 70, April 12, 1988, are adopted by reference.

(29) 29 CFR 1910.156(a)(2) "Application" is amended to read: "The requirements of this section apply to fire brigades; industrial fire

departments; private fire departments; and municipal public fire departments and fire protection districts. Personal protective equipment requirements apply to members of fire brigades and fire departments performing interior structural fire fighting. The requirements of this section do not apply to airport crash rescue, forest fire fighting operations, or volunteer fire fighters."

(30) Revision to 29 CFR 1910.157(f)(16), Portable Fire Extinguishers, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is adopted by reference.

(31) 29 CFR 1910.177(a)(2), Servicing Multipiece and Single Piece Rim Wheels, shall be amended as follows:

(a) Amendments as published in the Federal Register, Volume 52, Number 186, September 25, 1987 are adopted by reference.

(b) Amendments to 29 CFR 1910.177(b), "Servicing Multi-Piece and Single Piece Rim Wheels," as published in Federal Register, Volume 53, Number 174, September 8, 1988, are adopted by reference.

(32) The amendment to 29 CFR 1910.178(a)(7), "Powered Industrial Trucks," as published in Federal Register, Volume 53, Number 70, April 12, 1988, is adopted by reference.

(33) Revisions to 29 CFR 1910.179(j)(2)(iii) and (iv), Overhead and Gantry Cranes, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, are adopted by reference.

(34) Revision to 29 CFR 1910.179(m)(1), Overhead and Gantry Cranes, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is adopted by reference.

(35) Revision to 29 CFR 1910.180(d)(6), Crawler Locomotive and Truck Cranes, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is adopted by reference.

(36) Revisions to 29 CFR 1910.180(g)(1) and (2)(ii), Crawler and Locomotive Truck Cranes, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, are adopted by reference.

(37) The amendment to 29 CFR 1910.180(i)(4)(i), "Crawler, Locomotive and Truck Cranes," as published in Federal Register, Volume 53, Number 70, April 12, 1988, is adopted by reference.

(38) Revisions to 29 CFR 1910.181(g)(1) and (3), Derricks, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, are adopted by reference.

(39) The amendment to 29 CRF 1910.181(j)(4)(i), "Derricks," as published in Federal Register, Volume 53, Number 70, April 12, 1988, is adopted by reference.

(40) The amendments to 29 CRF 1910.211(d)(11)(iii) and (12) and the new paragraphs 1910.211(d)(11)(iv), (61), (62), (63), (64), (65), and (66), "Definitions," as published in the Federal Register, Volume 53, Number 49, March 14, 1988, are adopted by reference.

(41) 29 CFR 1910.217(b)(7)(xii) relating to machines using part revolution clutches shall be amended by adding the following:

"This provision will not prevent the employer from utilizing a reversing means of the drive motor with the clutch-brake control in the 'inch' position."

(42) Revisions to 29 CFR 1910.217(e)(1)(i) and (ii), Mechanical Power Presses, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, are adopted by reference.

(43) The amendments to 29 CFR 1910.217(c)(3)(iii)(b) and the new paragraph (h) to 1910.217, "Mechanical Power Presses," as published in Federal Register, Volume 53, Number 49, March 14, 1988, are adopted by reference.

(44) Revisions to 29 CFR 1910.218(a)(2)(i) and (ii), Forging Machines, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, are adopted by reference.

(45) Amendments to 29 CFR 1910.243, "Guarding of Portable Powered Tools" as published in the Federal Register, Volume 50, Number 22, February 1, 1985 are adopted by reference.

(46) The amendment to 29 CFR 1910.251(b), "Definitions," as published in Federal Register, Volume 53, Number 70, April 12, 1988, is adopted by reference.

(47) Subparagraph 29 CFR 1910.252(a)(6)(iv), (d)(2) shall be corrected to read as follows:

"Wiring and electrical equipment in compressor or booster pump rooms or enclosures shall conform to the provisions of section 1910.309(a) for Class I, Division 2 locations."

(48) Revision to 29 CFR 1910.252(c)(6), Welding, Cutting and Brazing, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is adopted by reference.

(49) The amendment to 29 CFR 1910.265(d)(2)(iv)(c), "Sawmills," as published in Federal Register, Volume 53, Number 70, April 12, 1988, is adopted by reference.

(50) The amendments to 29 CFR 1910.266(c)(4)(iii) and (iv), "Pulpwood Logging," as published in Federal Register, Volume 53, Number 70, April 12, 1988, are adopted by reference.

(51) 29 CFR 1910.268(c), Telecommunications, shall be revised as follows: Revisions as published in the Federal Register, Volume 52, Number 187, September 28, 1987 are adopted by reference.

(52) 29 CFR 1910.272, "Grain Handling Facilities," as published in the Federal Register, Volume 52, Number 251, December 31, 1987, is adopted by reference. The amendments to 29 CFR 1910.272, "Grain Handling Facilities," as published in the Federal Register, Volume 53, Number 96, May 18, 1988, are adopted by reference.

(53) The amendment to 29 CFR 1910.399(a)(1), "Subpart S - Electrical," as published in Federal Register, Volume 53, Number 70, April 12, 1988, is adopted by reference.

(54) Amendment to 29 CFR 1910.430(e)(1), Commercial Diving Equipment, as published in the Federal Register, Volume 51, Number 181, September 18, 1986, is adopted by reference.

(55) 29 CFR 1910.440(a)(1), Commercial Diving Recordkeeping Requirements, as published in the Federal Register, Volume 51, Number 188, September 29, 1986, is removed.

(56) 29 CFR 1910 Subpart T Appendix B "Commercial Diving Operations" as published in the Federal Register, Volume 50, Number 6, January 9 1985, is adopted by reference.

(57) 29 CFR 1910.1000, "Air Contaminants," Table Z-1 is amended as published in the Federal Register, Volume 50, Number 240, December 13, 1985, is adopted by reference.

(58) 29 CFR 1910.1000, Table Z-2, Benzene, shall be amended as follows: Amendments as published in the Federal Register, Volume 52,

Number 176, September 11, 1987 are adopted by reference.

(59) 29 CFR 1910.1000, Table Z-2, "Formaldehyde," as published in the Federal Register, Volume Number 52, December 4, 1987, is amended.

(60) 29 CFR 1910.1001 "Asbestos" is amended as follows:

(a) Amendments as published in the Federal Register, Volume 51, Number 119, June 20, 1986, are adopted by reference.

(b) 29 CFR 1910.1001(d)(6)(ii) is amended to add: "The employer shall ensure that all sampling will be conducted in accordance with the ORM in Appendix A, before sampling commences."

(c) 29 CFR 1910.1001(d)(6)(iv) is amended to add: "The employer shall ensure that all analyses are performed in accordance with the elements outlined in Appendix A, and that all asbestos counters meet the criterion specified in Appendix A. This notice shall be given prior to the start of the analyses."

(d) 29 CFR 1910.1001(g)(3)(i) is amended to read: "Where respiratory protection is required, the employer shall institute a respirator program in accordance with American National Standards Practices for Respiratory Protection, ANSI Z88.2 - 1980, with the exception of Appendix A5, Suggested Procedures for Carrying Out Qualitative Respirator - Fitting Tests, and Appendix A6, Suggested Procedures for Carrying Out Quantitative Respirator - Fitting Tests."

(e) 29 CFR 1910.1001(j)(1)(ii) is amended to read: "Sign specifications. The warning signs required by paragraph (j)(1)(i) of the section shall be of a vertical format measuring twenty (20) inches in length and fourteen (14) inches in width, and shall be printed in letters of sufficient size and contrast as to be readily visible and legible, and shall bear the following information:"

(61) 29 CFR 1910.1001, Occupational Exposure to Asbestos, Tremolite, Anthophylite, and Actinolite, as published in Federal Register, October 17, 1986, Volume 51, No. 201, is adopted by reference.

(62) 29 CFR 1910.1001, Occupational Exposure to Asbestos, Tremolite, Anthophylite, and Actinolite, as published in Federal Register, May 12, 1987, Volume 52, No. 91, is adopted by reference. Amendments, revisions and additions to 29 CFR 1910.1001, "Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite," as published in Federal Register, Volume 53, Number 178, September 14, 1988, are adopted by reference.

(63) 29 CFR 1910.1005 4,4'-methylene bis (2-chloroaniline) and 29 CFR 1910.1003 through .1016 paragraphs (c)(6), Laboratory Activities, printed in the Federal Register, Volume 39, Number 125, June 27, 1974, are in effect.

(64) Paragraph 1910.1005(c)(7) of the 29 CFR 1910 General Industry Standards shall read as follows:

"Premixed Solutions: Where 4,4'-methylene bis (2-chloroaniline) is present only in a single solution at a temperature not exceeding 120 degrees Celsius, the establishment of a regulated area is not required; however, (i) only authorized employees shall be permitted to handle such materials."

(65) 29 CFR 1910.1025 "Occupational Exposure to Lead" shall be amended as follows: "Table 1 - Implementation Schedule" is amended to read:

TABLE 1 - Implementation Schedule

INDUSTRY[1]	COMPLIANCE DATES 200 ug/m³	100 ug/m³	50 ug/m³
Primary Lead Production	(2)	June 29, 1984	June 29, 1991
Secondary Lead Production	(2)	June 29, 1984	June 29, 1986
Lead Acid Battery Manufacture	(2)	June 29, 1983	June 29, 1986
Automobile/Manufacture/Solder Grinding	(2)	N/A	June 29, 1988
Electronics, Gray Iron Foundries, Ink Manufacture, Paints and Coatings Manufacture, Wall Paper Manufacture, Can Manufactures, and Printing	(2)	N/A	June 29, 1982
Lead Pigment Manufacture, Nonferrous Foundries, Leaded Steel Manufacture, Lead Chemical Manufacture, Ship Building and Ship Repair, Battery Breaking in the Collection and Processing of Scrap (excluding collection and processing of scrap which is part of a secondary smelting operation), Secondary Smelting of Copper, and Lead Casting	(2)	N/A	N/A
All Other Industries	(2)	N/A	June 11, 1984

[1] Includes ancillary activities located on the same worksite.

[2] On effective date. This continues an obligation from Table Z-2 of 29 CFR 1910.1000 which had been in effect since 1971 but which was deleted upon effectiveness of this section.

(66) 29 CFR 1910.1028, Benzene, as published in the Federal Register, Volume 52, Number 176, September 11, 1987 is adopted by reference.

(67) 29 CFR 1910.1029 "Coke Oven Emissions" shall be amended as follows: Revision as published in the Federal Register, Volume 50, Number 178, September 13, 1985 are adopted by reference.

(68) Corrections to 29 CFR 1910.1043, Cotton Dust as published in the Federal Register, Volume 51, Number 128, July 3, 1986, are adopted by reference.

(69) Amendments and corrections to 29 CFR 1910.1047, Ethylene Oxide and Appendices A, B, C and D, as published in the Federal Register, Volume 51, Number 132, July 10, 1986 are adopted by reference.

(a) The amendments to 29 CFR 1910.1047, "Ethylene Oxide," as published in the Federal Register, Volume 53, Number 66, April 6, 1988, are adopted by reference.

(b) Revisions to 29 CFR 1910.1047, "Occupational Exposure to Ethylene Oxide," as published in Federal Register, Volume 53, Number 143, July 26, 1988, are adopted by reference.

(70) 29 CFR 1910.1048, "Formaldehyde," as published in the Federal Register, Volume Number 52, December 4, 1987, is adopted by reference. Amendments to 29 CFR 1910.1048, "Occupational Exposure to Formaldehyde," as published in Federal Register, Volume 53, Number 170, September 1, 1988, are adopted by reference.

(71) 29 CFR 1910.1200, Hazard Communication, shall be amended as follows: Amendments as published in the Federal Register, Volume 52, Number 163, August 24, 1987 are adopted by reference.

(72) Revision of 29 CFR 1910.1200(i)(3), Hazard Communication, and an amendment removing the last paragraph in 1910.1200 Appendix D, as published in the Federal Register, Volume 51, Number 189.

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: January 4, 1989

FILED WITH LRC: January 10, 1989 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 28, 1989 at 1 p.m. at the Kentucky Labor Cabinet, U.S. 127 Building South, Bay 2 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 23, 1989, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Guy Schoolfield, Kentucky Labor Cabinet, U.S. 127 Building South, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Guy Schoolfield

(1) Type and number of entities affected: Section 1(8)(d) affects all employers in the Commonwealth with operations subject to providing employees with access to employee exposure and medical records. Section 1(23)(a) affects all employees in the Commonwealth with operations subject to hazardous waste operations and emergency response. Section 1(31)(a) affects all employers in the Commonwealth with operations subject to servicing of multi-piece and single piece rim wheels. Section 1(62)(a) affects all employers in the Commonwealth with operations subject to asbestos, tremolite, anthophyllite and actinolite exposure. Section 1(69)(b) affects all employers in the Commonwealth with operations subject to exposure to ethylene oxide. Section 1(70)(a) affects all employers in the Commonwealth with operations subject to exposure to formaldehyde.

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

1. First year: None of these amendments will result in any direct or indirect costs or savings to those affected, with the exception of Section 1(62)(a), which will result in the cost of $2,302 per exposed worker (54 workers exposed).

2. Continuing costs or savings: Section 1(62)(a) will result in an annual cost of $2,302 per exposed worker (54 workers exposed).

3. Additional factors increasing or decreasing costs (note any effects upon competition): None of these amendments will have effects on increasing or decreasing costs to competitors.

(b) Reporting and paperwork requirements: None of these amendments will entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: There will be no effects on the promulgating administrative body by these amendments.

(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: There will be no reporting or paperwork requirements as a result of these amendments.

(3) Assessment of anticipated effect on state and local revenues: These amendments have no anticipated effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: These amendments concern no alternative methods being considered because the regulations concern specific methods for compliance.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. The Occupational Safety and Health Program's regulations affect all employers with one or more employees and targets its inspections toward those industries or firms that pose higher risks to worker safety and health, or from which the OSH Program has received worker complaints.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Public Law 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. Section 1(8)(d) amendments require employers to adhere to regulations governing providing employees with access to exposure and medical records. Section 1(23)(a) amendments require employers to adhere

to regulations governing hazardous waste and emergency response operations. Section 1(31)(a) amendments update employers on the availability of charts for servicing multi-piece and single piece rim wheels. Section 1(62)(a) amendments require employers to adhere to regulations governing asbestos, tremolite, anthophyllite and actinolite exposure. Section 1(69)(b) amendments require employers to adhere to regulations governing exposure to ethylene oxide. Section 1(70)(a) amendments require employers to adhere to regulations governing exposure to formaldehyde.

3. Minimum or uniform standards contained in the federal mandate. Section 1(8)(d) amendments relate to all standards contained in the Federal Register, "Access to Employee Exposure and Medical Records," Volume 53, Number 189, September 29, 1988. Section 1(23)(a) amendments relate to all standards contained in the Federal Register, "Hazardous Waste Operations and Emergency Response," Volume 52, Number 85, May 4, 1987. Section 1(31)(a) amendments relate to all standards contained in the Federal Register, "Servicing of Multi-Piece and Single Piece Rim Wheels," Volume 53, Number 174, September 8, 1988. Section 1(62)(a) amendments relate to all standards contained in the Federal Register, "Asbestos, Tremolite, Anthophyllite and Actinolite," Volume 53, Number 178, September 14, 1988. Section 1(69)(b) amendments relate to all standards contained in the Federal Register, "Occupational Exposure to Ethylene Oxide," Volume 53, Number 143, July 26, 1988. Section 1(70)(a) amendments relate to all standards contained in the Federal Register, "Occupational Exposure to Formaldehyde," Volume 53, Number 170, September 1, 1988.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? There are no changes in these amendments to the Federal Registers identified in item three.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These amendments impose no stricter standards, additional or different responsibilities than the federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes - Section 1(8)(d), (23)(a), (31)(a) and (62)(a). No - Section 1(69)(b) and (70)(a).

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. Section 1(8)(d) amendments affect all local government entities that are required to maintain employee exposure and medical records. Section 1(23)(a) amendments affect all divisions of local government that are engaged in hazardous waste and emergency response operations. Section 1(31)(a) amendments affect all divisions in local government that are within the scope of the regulations (i.e., servicing of multi-piece or single piece rim wheels). Section 1(62)(a) amendments affect all divisions of local government that have asbestos, tremolite, anthophyllite and actinolite operations.

3. State the aspect or service of local government to which this administrative regulation relates. The action required is specifically required by P.L. 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(6)).

4. How does this administrative regulation affect the local government or any service it provides? The purposes of Section 1(8)(d), (23)(a), (31)(a), (62)(a), (69)(b) and (70)(a) amendments are to adopt federal regulations relating to: access to employee exposure and medical records; hazardous waste and emergency response operations; servicing of multi-piece and single piece rim wheels; asbestos, tremolite, anthophyllite and actinolite exposure; ethylene oxide exposure, formaldehyde exposure.

The amendments in Section 1(8)(d), (23)(a), (31)(a) and (62)(a) apply to some phases of local government. Section 1(69)(b) and (70)(a) do not apply to any phase of local government.

There will be no increase or decrease in local government revenues. There will be no increase or decrease in local government expenditures. These amendments will have no effect on the number of employees or other cost factors of local government.

LABOR CABINET
Department of Workplace Standards
Kentucky Occupational Safety & Health
(Proposed Amendment)

803 KAR 2:030. Adoption of 29 CFR Part 1926.

RELATES TO: KRS Chapter 338
STATUTORY AUTHORITY: KRS Chapter 13A
NECESSITY AND FUNCTION: KRS 338.051 and 338.061 authorize the Kentucky Occupational Safety and Health Standards Board to adopt and promulgate occupational safety and health rules, regulations, and standards. Express authority to adopt by reference established federal standards and national concensus standards is also given to the board. The following regulation contains those standards to be enforced by the Division of Occupational Safety and Health Compliance in the area of construction.

Section 1. The Occupational Safety and Health Standards Board hereby adopts Chapter 29, Part 1926 of the Code of Federal Regulations, revised as of July 1, 1986, published by the Office of the Federal Register, National Archives and Records Services, General Services Administration. These standards are hereby adopted by reference with the following additions, exceptions, and deletions:

(1) 29 CFR Part 1926.1 shall read as follows:

The provisions of this regulation adopt and extend the applicability of established federal standards contained in 29 CFR Part 1926 to all employers, employees, and places of employment throughout the Commonwealth except those excluded in KRS 338.021."

(2) 29 CFR 1926.58, Asbestos, tremolite, anthophylite, and actinolite, as published in the Federal Register, Volume 51, Number 119, June 20, 1986 is adopted by reference with the following amendments:

(a) 29 CFR 1926.58(e)(6)(iii) is amended to add: "The employer shall ensure that contractors provide in writing that they have a competent

person meeting the requirements of paragraph (b) "competent person" and paragraphs (e)(6)(ii) and (III) before work commences."

(b) 29 CFR 1926.58(f)(3) is amended to add: "The respirators required by this exception are to be Type "C" supplied - air respirators; continuous flow or pressure - demand class."

(c) 29 CFR 1926.58(f)(5)(ii) is amended to add: "The employer shall ensure that all sampling is conducted in accordance with the ORM in Appendix A before sampling commences."

(d) 29 CFR 1926.58(f)(5)(iii) is amended to add: "The employer shall ensure that all analyses are performed in accordance with the elements outlined in Appendix A, and that all asbestos counters meet the qualifications listed in Appendix A. This notice shall be given prior to the start of the analyses."

(e) 29 CFR 1926.58(h)(3)(i) is amended to read: "Where respiratory protection is used, the employer shall institute a respirator program in accordance with American National Standards Practices for Respiratory Protection, ANSI Z88.2 - 1980, with the exception of Appendix A5, Suggested Procedures for Carrying Out Qualitative Respirator - Fitting Tests, and Appendix A6, Suggested Procedures for Carrying Out Quantitative Respirator - Fitting Tests."

(f) 29 CFR 1926.58(j)(2)(1) is amended to add: "The decontamination area shall be separated from the regulated area by an air lock. Air locks shall be used to separate the clean room, shower area and equipment room. An "air lock" is an open area used to separate the clean room, shower room and equipment room from each other; and to separate the decontamination area from the work area. It is accessible through doorways protected by two overlapping polyethylene sheets."

(g) 29 CFR 1926.58(k)(1)(ii) is amended to read: "Sign specifications. The warning signs required by paragraph (k)(1)(i) of this section shall be of a vertical format measuring twenty (20) inches in length and fourteen (14) inches in width, and shall be printed in letters of sufficient size and contrast as to be readily visible and legible, and shall bear the following information:"

(3) 29 CFR 1926.58, Occupational Exposure to Asbestos, Tremolite, Anthophylite, and Actinolite, as published in Federal Register, May 12, 1987, Volume 52, No. 91, is adopted by reference. Revisions to 29 CFR 1926.58, "Occupational Exposure to Asbestos, Tremolite, Anthophyllite and Actinolite," as published in Federal Register, Volume 53, Number 178, September 14, 1988, are adopted by reference.

(4) 29 CFR 1926.59, Hazard Communication, as published in Federal Register, August 24, 1987, Volume 52, Number 163, is adopted by reference.

(5) 29 CFR 1926.103 "Respiratory Protection" Table E-4 is amended as follows:

Table E-4
Respirator Protection Factors[a]

Type of Respirator	Permitted for Use in Oxygen-deficient Atmosphere	Permitted for Use in Immediately-dangerous-to-life-or-health Atmosphere[f]	Respirator Protection Factor	
			Qualitative Test	Quantitative Test
Particulate-filter, quarter-mask or half-mask facepiece[b,c]	No	No	10	As measured on each person with maximum of 100.
Vapor-or gas-removing, quarter-mask or half-mask facepiece[c]	No	No	10, or maximum use limit of cartridge or canister for vapor or gas, whichever is less.	As measured on each person with maximum of 100, or maximum use limit of cartridge or canister for vapor or gas,[i,j] whichever is less.
Combination particulate-filter and vapor- or gas-removing, quarter-mask or half-mask facepiece[b,c]	No	No	10, or maximum use limit or cartridge or canister for vapor or gas, whichever is less.	As measured on each person with maximum of 100, or maximum use limit of cartridge or canister for vapor or gas,[i,j], whichever is less.
Particulate-filter, full facepiece[b]	No	No	100	As measured on each person with maximum of 100 if dust, fume or mist filter is used, or maximum of 1000 if high-efficiency filter is used.

Vapor- or gas-removing, full facepiece	No	No	100, or maximum use limit of cartridge or canister for vapor or gas, whichever is less.	As measured on each person with maximum of 1000, or maximum use limit of cartridge or canister for vapor or gas[i,j], whichever is less.
Combination particulate-filter and vapor- or gas-removing, full facepiece[b]	No	No	100, or maximum use limit of cartridge or canister for vapor or gas, whichever is less.	As measured on each person with maximum of 100 if dust, fume or mist filter is used and maximum of 1000 if high-efficiency filter is used, or maximum use limit of cartridge or canister for vapor or gas, whichever is less.
Powered particulate-filter, any respiratory-inlet covering[b,c,d]	No	No (yes, if escape provisions are provided[d])	N/A	N/A No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 100 if dust, fume, or mist filter is used and 3000 if high-efficiency filter is used.
Powered vapor- or gas-removing, any respiratory-inlet covering[c,d]	No	No (yes, if escape provisions are provided[d])	N/A	N/A No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 3000, or maximum use limit of cartridge or canister for vapor or gas[i,j] whichever is less.
Powered combination particulate-filter and vapor- or gas-removing, any respiratory-inlet covering[b,c,d]	No	No (yes, if escape provisions are provided[d])	N/A	N/A No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 100 if dust, fume, or mist filter is used and 3000 if high-efficiency filter is used, or maximum use limit of cartridge or canister for vapor or gas,[i,j], whichever is less.
Airline, demand, quarter-mask or half-mask facepiece, with or without escape provisions[c,e]	Yes[f]	No	10	As measured on each person, but limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values
Air-line, demand, full facepiece, with or without escape provisions[e]	Yes[f]	No	100	As measured on each person, but limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values
Air-line, continuous flow or pressure demand type, any facepiece, without escape provisions[c]	Yes[f]	No	N/A	N/A No tests are required due to positive-pressure operation of respirator. The protection factor provided by the respirator is limited to use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values.

Air-line, continuous flow or pressure demand type, any facepiece, with escape provisions[c,e]	Yes[g]	Yes	N/A	N/A No tests are required due to positive-pressure operation of respirator. The maximum protection factors is 10000 plus[h].
Air-line, continuous flow, helmet, hood, suit without escape provisions	Yes[f]	No	N/A	N/A No tests are required due to positive-pressure operation of respirator. The protection factor provided by the respirator is limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values.
Air-line, continuous flow, helmet, hood, or suit, with escape provisions[e]	Yes[g]	Yes	N/A	N/A No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 10000 plus[h].
Hose mask, with or without blower, full facepiece	Yes[f]	No	10	As measured on each person, but limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values.
Self-contained breathing apparatus, demand-type open-circuit or negative-pressure-type closed-circuit, quarter-mask or half-mask facepiece[c]	Yes[f]	No	10	As measured on each person, but limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values.
Self-contained breathing apparatus, demand-type open-circuit or negative-pressure-type closed-circuit, full facepiece or mouthpiece/nose clamp[c]	Yes[f] (Yes, if respirator is used for mine rescue and mine recovery operations.)	No (yes, if respirator is used for mine rescue and mine recovery operations.)	100	As measured on each person, but limited to the use of the respirator in concentrations of contaminants below the immediately-dangerous-to-life-or-health (IDLH) values except when the respirator is used for mine rescue and mine recovery operations.
Self-contained breathing apparatus, pressure-demand-type open-circuit or positive-pressure-type closed-circuit, quarter-mask or half-mask facepiece, full facepiece, or mouthpiece/nose clamp[c]	Yes[g]	Yes	N/A	N/A No tests are required due to positive-pressure operation of respirator. The maximum protection factor is 10000 plus.
Combination respirators not listed.	The type and mode of operation having the lowest respirator protection factor shall be applied to the combination respirator.			

N/A means not applicable since a respirator-fitting test is not carried out.

[a] A respirator protection factor is a measure of the degree of protection provided by a respirator to a respirator wearer. Multiplying the permissible time-weighted average concentration or the permissible ceiling concentration, whichever is applicable, for a toxic substance, or the maximum permissible airborne concentration for a radionuclide, by a protection factor assigned to a respirator gives the maximum concentration of the hazardous substance for which the respirator can be used. Limitations of filters, cartridges, and canisters used in air-purifying respirators shall be considered in determining protection factors.

[b] When the respirator is used for protection against airborne particulate matter having a permissible time-weighted average concentration less than 0.05 milligram particulate matter per cubic meter of air or less than 2 million particles per cubic foot of air, or for protection against airborne radionuclide particulate matter, the respirator shall be equipped with a high-efficiency filter(s).

[c] If the air contaminant causes eye irritation, the wearer of a respirator equipped with a quarter-mask or half-mask facepiece or mouthpiece and nose clamp shall be permitted to use a protective goggle or to use a respirator equipped with a full facepiece.

[d] If the powered air-purifying respirator is equipped with a facepiece, the escape provision means that the wearer is able to breathe through the filter, cartridge, or canister and through the pump. If the powered air-purifying respirator is equipped with a helmet, hood, or suit, the escape provision shall be an auxiliary self-contained supply of respirable air.

[e] The escape provision shall be an auxiliary self-contained supply of respirable air.

[f] "Oxygen deficiency - not immediately dangerous to life or health" - an atmosphere having an oxygen concentration below the minimum legal requirement but above that which is immediately dangerous to life or health.

[g] "Oxygen deficiency - immediately dangerous to life or health" - an atmosphere which causes an oxygen partial pressure of 100 millimeters of mercury column or less in the freshly inspired air in the upper portion of the lungs which is saturated with water vapor.

[h] The protection factor measurement exceeds the limit of sensitivity of the test apparatus. Therefore, the respirator has been classified for use in atmospheres having unknown concentrations of contaminants.

[i] The service life of a vapor- or gas-removing cartridge or canister depends on the specific vapor or gas, the concentration of the vapor or gas in air, the temperature and humidity of the air, the type and quantity of the sorbent in the cartridge or canister, and the activity of the respirator wearer. Cartridges and canisters may provide only very short service lives for certain vapors and gases. Vapor/gas service life testing is recommended to ensure that cartridges and canisters provide adequate service lives. Reference should be made to published reports which give vapor/gas life data for cartridges and canisters.

[j] Vapor- and gas-removing respirators are not approved for contaminants that lack adequate warning properties of odor, irritation, or taste at concentrations in air at or above the permissible exposure limits.

NOTE: Respirator protection factors for air-purifying-type respirators equipped with a mouthpiece/nose clamp form of respiratory-inlet covering are not given, since such respirators are approved only for escape purposes.

(6) Amendment to 29 CFR 1926.151(a)(1), as published in the Federal Register, Volume 51, Number 133, July 11, 1986 is adopted by reference.

(7) Revision to 29 CFR 1926.152(b)(4)(v) as published in the Federal Register, Volume 51, Number 133, July 11, 1986 is adopted by reference.

(8) 29 CFR 1926.200(g)(2), .201(a)(2) and .202 shall be amended to require signs, signaling and barricades to conform to specifications as set forth in ANSI D6.1 "Manual of Uniform Traffic Control Devices for Streets and Highways" (1978 Edition). Revisions, Numbers 1 through 4, as adopted by ANSI D6.1 (1978 edition), "Manual on Uniform Traffic Control Devices," are adopted by reference.

(9) Revision to 29 CFR 1926.351(d)(5), as published in the Federal Register, Volume 51, Number 133, July 11, 1986 is adopted by reference.

(10) Revision of 29 CFR 1926, Subpart K, Electrical, 1926.400, .401, .402, .403, .405, .406, .407, .408, .409, .416, .417, .418, .431, .432, .433, .441, .442 and .449, as published in Federal Register, Volume 51, Number 133, July 11, 1986 is adopted by reference.

(11) 29 CFR 1926.451(a)(4) shall read as follows: Guardrails and toeboards shall be installed on all open sides and ends of platforms more than ten (10) feet above the ground or floor, except needle beam scaffolds and floats (see paragraphs (p) and (w) of this section). Toeboards shall not be required on the loading side of platforms which are loaded by means of a high lift tractor or fork truck provided that employees are prohibited from entering the area beneath the scaffolding where they could be exposed to objects which might fall from the scaffolding. Scaffolds four (4) to ten (10) feet in height, having a minimum horizontal dimension in either direction of less than forty-five (45) inches, shall have standard guardrails installed on all open sides and ends

of the platform.

(12) 29 CFR 1926.550(b)(2), Cranes and Derricks shall be revised as follows: Revisions as published in the Federal Register, Volume 52, Number 187, September 28, 1987 are adopted by reference. Additions to 29 CFR 1926.550 (Section g), "Cranes and Derricks," as published in Federal Register, Volume 53, Number 148, August 2, 1988, are adopted by reference.

(13) 29 CFR 1926.552(b)(8) of the paragraph on "Material hoists" shall read as follows: All material hoists shall conform to the requirements of ANSI A10.5-1969, Safety Requirements for Material Hoists, with the exception that material hoists manufactured prior to January 1, 1970 may be used with a drum pitch diameter at least eighteen (18) times the nominal rope diameter provided the hoisting wire rope is at least equal in flexibility to 6 x 37 classification wire rope.

(14) 29 CFR 1926.552(c)(15), Material Hoists, Personnel Hoists and Elevators shall be revised as follows: Revisions as published in the Federal Register, Volume 52, Number 187, September 28, 1987 are adopted by reference.

(15) Revoke paragraph "514 - Warning Device" of ANSI B56.1 - 1969 - Safety Standards for Powered Industrial Trucks and adopt paragraph "512 - Warning Device" of ANSI B56.1 - 1975 - Low Lift and High Lift Trucks for standard reference as specified in 29 CFR 1926.602(c)(1)(vi): effective July 1, 1979.

(16) Revisions to 29 CFR 1926, Subpart Q, "Concrete, Concrete Forms and Shoring," (now "Concrete and Masonry Construction"), as published in Federal Register, Volume 53, Number 116, June 16, 1988, are adopted by reference.

(17) [(16)] Revision of 29 CFR 1926.803(j)(3), as published in the Federal Register, Volume 51, Number 133, July 11, 1986 is adopted by reference.

(18) [(17)] The following paragraphs of 29 CFR 1926, Subpart U, Blasting and the Use of Explosives, which were previously adopted by reference, are hereby revised and shall read as follows:

(a) 1926.900(k)(3)(i) The prominent display of adequate signs warning against the use of mobile radio transmitters, on all roads within 1,000 feet of blasting operations. Whenever adherence to this 1,000 foot distance would create an operational handicap, a competent person shall be consulted to evaluate the particular situation, and alternative provisions may be made which are adequately designed to prevent premature firing of electric blasting caps. The competent person may be a blaster certified by the Kentucky Department of Mines and Minerals with a working knowledge of mobile radio transmission and receiving hazards as related to use of electric blasting cap firing systems and designated by the employer. A description of any alternative shall be in writing describing the unusual conditions at the site and the alternative measure used. The description shall be maintained at the construction site during the duration of the work and shall be available for inspection by representatives of the Commissioner, Kentucky Department of Labor.

(b) 1926.900(k)(4) Ensuring that mobile radio transmitters which are less than 100 feet away from electric blasting caps, in other than original containers, shall be de-energized, and have the radio transmission circuit or vehicle effectively locked against transmitter usage.

(c) 1926.900(p) The use of black powder shall be prohibited except when a desired result cannot be obtained with another type of explosive, such as in quarrying certain types of dimension stone.

(d) 1926.900(r) All electric blasts shall be fired with an electric blasting machine or properly designed electric power source, and in accordance with the provisions of subsection .906(a) and (r).

(e) 1926.902(d) Explosives or blasting agents shall be transported in separate vehicles unless the detonators are packaged in specified containers and transported all in compliance with DOT Regulation 49 CFR 177.835(g).

(f) 29 CFR 1926.903(e), Underground Transportation of Explosives, shall be revised as follows: Revisions as published in the Federal Register, Volume 52, Number 187, September 28, 1987 are adopted by reference.

(g) 1926.903(o) deleted.

(h) 1926.905(h) Machines and all tools not used for loading explosives into the boreholes shall be removed from the immediate location of holes before explosives are delivered. Equipment shall not be operated within fifty (50) feet of a loaded hole except that which is required when the containment of the blast is necessary to prevent flyrock. When equipment or machinery is used to place mats, overburden, or protective material on the shot area, a competent person (who may be a blaster certified by the Kentucky Department of Mines and Minerals) shall implement adequate precautions to protect the lead wires or initiating systems such as protecting the components from direct contact with materials which sever, damage, impact, or conduct stray currents to the explosives system. This would include preventing the dragging of blasting mats or running over the holes and systems with the equipment used.

(i) 1926.905(i) No activity of any nature other than that which is required for loading holes with explosives and preparation required for initiating the blast and containment of flyrock from the blast shall be permitted in a blast area.

(j) 1926.905(k) Holes shall be inspected prior to loading to determine depth and conditions. When necessary to drill a hole in proximity to a charged or misfired hole, the distance between these two holes must be greater than the depth being drilled and precautions taken to ensure the integrity of any adjacent-charged hole or misfired hole. This distance must be determined by a competent person (who may be a blaster certified by the Kentucky Department of Mines and Minerals) in order to insure that there is no danger of intersecting the charged or misfired hole.

(k) 1926.905(n) In blasting, explosives in Fume Class I, as set forth by the Institute of the Makers of Explosives, shall be used; however, Fume Class I explosives are not required when adequate ventilation is provided and the workings are abandoned for a period of time sufficient to allow dissipation of all fumes.

(l) 1926.906(p) The blaster shall be in charge of the blasting machines, and no other person shall connect the leading wires to the machine except under the immediate physical and visual supervision of the blaster.

(m) 1926.906(q) Blasters, when testing circuits to charged holes, shall use only

blasting galvanometers equipped with a silver chloride cell especially designed for this purpose or an instrument designed solely for use in blasting, which incorporates a current-limiting device into its circuitry. No instrument capable of producing over fifty (50) milliamps on direct short circuit shall be used.

(n) 1926.906(s) Leading wires shall remain shorted and not be connected to the blasting machine or other source of current until the charge is to be fired.

(o) 1926.907(a) The use of a fuse that has been hammered or injured in any way shall be forbidden.

(p) 1926.910(b) Sufficient time shall be allowed, not less than fifteen (15) minutes in tunnels, for the smoke and fumes to leave the blasted area before returning to the shot. An inspection of the area and the surrounding rubble shall be made by the blaster to determine if all charges have been exploded before employees are allowed to return to the operation.

(19) [(18)] Amend subparagraph 1926.950(c)(1)(i) to read as follows:

"The employee is insulated or guarded from the energized part. Insulating gloves, as well as insulating sleeves when necessary, rated for the voltage involved shall be considered insulation of the employee from the energized part, or ....."

Section 2. Public Notice. (1) In accordance with KRS 13A.224(3)(c), this material may be inspected and copied at: Kentucky Labor Cabinet, Division of Education and Training, U.S. 127 South, Frankfort, Kentucky 40601.

(2) Office hours are 8 a.m. - 4:30 p.m. (EST), Monday through Friday.

CAROL M. PALMORE, Chairman

APPROVED BY AGENCY: January 4, 1989

FILED WITH LRC: January 10, 1989 at 4 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 28, 1989 at 1 p.m. at the Kentucky Labor Cabinet, U.S. 127 Building South, Bay 2 Conference Room, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 23, 1989, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mr. Guy Schoolfield, Kentucky Labor Cabinet, U.S. 127 Building South, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Guy Schoolfield

(1) Type and number of entities affected: Section 1(3)(a) affects all employers in the Commonwealth with operations subject to asbestos, tremolite, anthophyllite and actinolite exposure. Section 1(12)(a) affects all employers in the Commonwealth subject to lifting employees on suspended personnel work platforms. Section 1(16) affects all employers in the Commonwealth subject to concrete and masonry construction operations.

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

1. First year: Section 1(3)(a) will result in the cost of $651 per exposed worker (662 workers exposed). Section 1(12)(a) will result in the cost of $135 to each employer, if implementation is desired. Section 1(16) will result in the cost of $1,750 per exposed worker (10,067 workers exposed).

2. Continuing costs or savings: Section 1(3)(a) will result in an annual cost of $1,750 per exposed worker (10,067 workers exposed).

3. Additional factors increasing or decreasing costs (note any effects upon competition): None of these amendments will have effects on increasing or decreasing costs to competitors.

(b) Reporting and paperwork requirements: None of these amendments will entail any reporting or paperwork requirements.

(2) Effects on the promulgating administrative body: There will be no effects on the promulgating administrative body by these amendments.

(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: There will be no reporting or paperwork requirements as a result of these amendments.

(3) Assessment of anticipated effect on state and local revenues: There is no anticipated effect on state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: These amendments concern no alternative methods being considered because the regulations concern specific methods for compliance.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: None

TIERING: Was tiering applied? No. The Occupational Safety and Health Program's regulations affect all employers with one or more employees and targets its inspections toward those industries or firms that pose higher risks to worker safety and health, or from which the OSH Program has received worker complaints.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. Public Law 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(2)).

2. State compliance standards. Section 1(3)(a) amendments require employers to adhere to regulations governing asbestos, tremolite, anthophyllite and actinolite exposure. Section

1(12)(a) amendments require employers to adhere to regulations relating to lifting employees on suspended work platforms. Section 1(16) amendments require employers to adhere to regulations relating to concrete and masonry construction operations.

3. Minimum or uniform standards contained in the federal mandate. Section 1(3) amendments relate to all standards contained in the Federal Register, "Asbestos, Tremolite, Anthophyllite and Actinolite," Volume 53, Number 178, September 14, 1988. Section 1(12)(a) amendments relate to all standards contained in the Federal Register, "Cranes and Derricks," Volume 53, Number 148, August 2, 1988. Section 1(16) amendments relate to all standards contained in the Federal Register, "Concrete and Masonry Construction," Volume 53, Number 116, June 16, 1988.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? There are no changes in these amendments to the Federal Registers identified in item three.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These amendments impose no stricter standards, additional or different responsibilities or requirements than the federal standards.

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. Section 1(3)(a), (12)(a) and (16) affect all divisions of local government that are engaged in: asbestos, tremolite, anthophyllite and actinolite exposure; lifting of employees on suspended personnel work platforms; concrete and masonry construction operations.

3. State the aspect or service of local government to which this administrative regulation relates. The action required by these amendments is specifically required by P.L. 91-596 (Occupational Safety and Health Act of 1970, Section 18(c)(6)).

4. How does this administrative regulation affect the local government or any service it provides? The purposes of Section 1(3)(a), (12)(a) and (16) amendments are to adopt federal regulations relating to: asbestos, tremolite, anthophyllite and actinolite exposure; lifting of employees on suspended personnel work platforms; concrete and masonry construction operations.

These amendments in Section 1(3)(a), (12)(a) and (16) apply to some phases of local government. There will be no increase or decrease in local government revenues. There will be no increase or decrease in local government expenditures. These additions or adoptions will have no effect on the number of employees or other cost factors of local government.

PUBLIC PROTECTION AND REGULATION CABINET
Department of Alcoholic Beverage Control
(Proposed Amendment)

804 KAR 9:020. Wholesale liquor license limit.

RELATES TO: KRS 241.060, 243.040
STATUTORY AUTHORITY: KRS 241.060
NECESSITY AND FUNCTION: By the express provision of KRS 241.060(2), the board is granted the right to limit the number and types of license issued for the sale of alcoholic beverages. This regulation establishes the limitation on wholesale liquor licenses, such limitation begin based upon the number of [retail package liquor] licenses issued by the ABC Board <u>for the sale of distilled spirits and/or wine at retail</u>.

Section 1. The number of wholesale[r's] distilled spirits and wine licenses issued by the Alcoholic Beverage Control Board in the Commonwealth shall not exceed a number equal to one (1) for every <u>sixty (60)</u> [thirty-one (31) retail package liquor] licenses issued by said Alcoholic Beverage Control Board <u>for the sale of distilled spirits and/or wine at retail</u>.

Section 2. This regulation shall not prohibit the renewal of licenses. The [present] quota shall be reduced, in conformance with this regulation, as licenses are revoked or surrendered.

LANNY COMBS, Commissioner
APPROVED BY AGENCY: January 10, 1989
FILED WITH LRC: January 10, 1989 at 9 a.m.
PUBLIC HEARIING: A public hearing on this administrative regulation amendment shall be held on Wednesday, February 22, 1989 at 9:30 a.m., EST. Individuals interested in attending this hearing shall notify this agency in writing by February 17, 1989, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Mrs. Joyce Ware White, Secretary to the Board, Alcoholic Beverage Control, 123 Walnut, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Catherine C. Staib
(1) Type and number of entities affected: Will add potential of 9 new wholesale liquor licenses. There are 35 wholesale liquor licensees who will be indirectly affected.
(a) Direct and indirect costs or savings to those affected:
1. First year: License fee of $1,500.00/yr. If a person receives a license there will obviously be costs of doing business.
2. Continuing costs or savings: See no. 1.

3. Additional factors increasing or decreasing costs (note any effects upon competition): Will add 9 competitors to the existing 35 licensees. These will not necessarily be new businesses, however, but may be current holders of beer distributor licenses.

(b) Reporting and paperwork requirements: License application; tax reports.

(2) Effects on the promulgating administrative body: Processing of applications; regulation of 9 additional licensees.

(a) Direct and indirect costs or savings:

1. First year: Cost of processing applications for 9 additional licenses is negligible as is regulation of additional 9 licensees.

2. Continuing costs or savings: License renewal processing costs would be even more negligible.

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Processing of license applications for 9 new licenses.

(3) Assessment of anticipated effect on state and local revenues: $13,500 per year license fee to general fund of state. Local license fee is dependent upon local ordinances and cannot be determined since location of licenses is unknown.

(4) Assessment of alternative methods; reasons why alternatives were rejected: License needed to be increased. This method appeared most equitable, permitting a reasonable increase without destroying the value of existing licenses.

(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: There are no additional information or comments.

TIERING: Was tiering applied? Yes

PUBLIC PROTECTION & REGULATION CABINET
Department of Housing, Buildings & Construction
Division of Building Codes Enforcement
(Proposed Amendment)

815 KAR 7:020. Building code.

RELATES TO: KRS Chapter 198B

STATUTORY AUTHORITY: KRS 198B.040(7), 198B.050

NECESSITY AND FUNCTION: The Kentucky Board of Housing, Buildings and Construction is required by KRS 198B.040(7) to adopt and promulgate a mandatory uniform state building code, which establishes standards for construction of buildings in the state. This regulation establishes the Kentucky Building Code basic provisions relating to new construction, including general building limitations, special use and occupancy, light, ventilation and sound transmission control, means of egress, structural and foundation loads and stresses, acceptable materials and tests, fire resistive construction and fire protection systems, safety during building operations, mechanical systems, energy conservation and electrical systems. This amendment is needed to clarify the intent of the code as it relates to building size limitations of Table 501 and to recognize the jurisdiction of the Division of Water over any buildings to be constructed in flood prone areas. [allow certain standard construction practices, which do not reduce the life safety features of the building code, to continue in single family dwellings and apartments.]

Section 1. The Kentucky Building Code shall include the National Electrical Code, 1987 Edition, N.F.P.A. #70, published by and copies available from the National Fire Protection Association, Batterymarch Park, Quincy, Massachusetts 02269. The National Electrical Code is hereby adopted by reference.

Section 2. The Kentucky Building Code shall include the "BOCA National Building Code/1987," Tenth Edition, published by and copies available from Building Officials and Code Administrators International, Inc., 4051 W. Flossmoor Road, Country Club Hills, Illinois 60477. That code, including all standards listed in Appendices A through D are hereby adopted by reference on June 18, 1987, with the following additions, exceptions and deletions:

(1) Delete Article 1 in its entirety. All requirements for the administration and enforcement of this regulation are set forth in 815 KAR 7:010 with fees established by 815 KAR 7:013.

(2) Change subsection 201.0 to include the following additional definitions:

(a) "Basement: That portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling, ventilating facilities, but which is not ordinarily used for purposes of general household habitation." (See "Story Above Grade")

(b) "Building: Any structure used or intended for supporting or sheltering any use or occupancy as described in Section 101.3. For application of this code, each portion of a building completely separated from other portions by fire walls complying with Section 908.0 shall be considered as a separate building for the determination of height and area limitations of buildings contained in Table 501."

(c) [(b)] "Construction: The erection, fabrication, reconstruction, substantial alteration or conversion of a building, or the installation of equipment therein."

(d) [(c)] "Equipment: Facilities or installations including but not limited to, heating, electrical, ventilating, air-conditioning, and refrigerating facilities or installations."

(e) [(d)] "Reconstruction: The process of reproducing by new construction the exact form and detail of a vanished building, structure or object or a part thereof as it appeared at a specific period of time."

(f) [(e)] "Rehabilitation: The process of returning a property to a state of utility through repair or alteration which makes possible an efficient contemporary use of while preserving those portions or features of the property which are significant to historical, architectural and cultural values."

(g) [(f)] "Restoration: The process of accurately recovering the form and details of the property and its setting as it appeared at a particular period of time by means of the

removal of later work or by the replacement of missing earlier work."

(h) [(g)] "Stabilization: The process of applying measures designed to reestablish a weather-resistant enclosure and the structural stability of an unsafe or deteriorated property while maintaining the essential form as it exists."

(i) [(h)] "Story: That part of the building comprised between a floor and the floor or roof next above which is not a basement or an attic."

(j) [(i)] "TIA or Tentative Interim Amendment": means a publication of the National Fire Protection Association Standards Council which is a tentative amendment of the National Electrical Code referenced in Section 1 of this regulation because it has not been processed through the entire standards-making process; and it is interim because it is effective only between editions of the standard. As used in this regulation, it is a permanent provision until otherwise amended.

(4) Change subsection 309.5 to read as follows: "309.5 Use group R-4 Structures: This use group shall include all detached one (1) or two (2) family dwellings not more than than three (3) stories in height, and their accessory structures as indicated in the Appendix B Standard, One (1) and Two (2) family Dwelling Code. All such structures shall be designed and built in accordance with the requirements of this code for use group R-3 structures or shall be designed and built in accordance with all the requirements of the one (1) and two (2) family dwelling code as listed in Appendix B, except that the requirements of the state plumbing code (Article 28) shall supersede those conflicting requirements of the one (1) and two (2) family dwelling code. This choice shall be made by the builder at the time of plans submission. Nevertheless, any builder may use exception #3 of Section 809.4 to determine minimum size of egress windows."

(5) Change subsection 505.1 to read as follows: "505.1 Alteration Limitations: These provisions shall not be deemed to prohibit alterations within the limitations of Sections 106 and 505.2 provided an unlawful change of use is not involved."

(6) Delete Sections 512.1 through 512.4.1 and substitute the following: "512.1" Requirements for accessibility of the handicapped: Please see 815 KAR 7:060 for construction requirements providing accessibility to the handicapped, Article 33 of this Code.

(7) Amend Article 32 as follows:

(a) Amend Section 3202.1 to read as follows: "The provisions in the following Section 3202.1.1 through 3202.1.5 shall apply to existing buildings that will continue to be, or are proposed to be, in Use Groups A, B, E, F, M, R and S. These provisions shall not apply to historic buildings as provided for in Section 102.5."

(b) Amend subsection 3202.1.5 to read as follows: "All portions of the buildings proposed for change in use shall conform to the provisions of Article 33 as required by Section 3302.1."

(8) Change Section 600.8.2 by creating a new subsection which shall read as follows: "600.8.2 Housekeeping: Periodic inspections of existing uses and occupancies shall be made by the appropriate fire and health officials to insure maintenance of good housekeeping conditions."

(9) Change Section 608.1 to read as follows: "Private garages located beneath rooms in buildings of Use Groups R-1, R-2, R-3 or I-1 shall have walls, partitions, floors and ceilings separating the garage space from the adjacent interior spaces constructed of not less than one (1) hour fire-resistance rating. Attached private garages shall be completely separated from the adjacent interior spaces and the attic area by means of one-half (1/2) inch gypsum board or equivalent applied to the garage side. The sills of all door openings between the garage and adjacent interior spaces shall be raised not less than four (4) inches (102 mm) above the garage floor. The door opening protectives shall be one and three-fourths (1 3/4) inch solid core wood doors or approved equivalent. In lieu of the required one and three quarter (1 3/4) or twenty (20) minute door, an approved automatic sprinkler head located directly above the door in the garage and properly connected to the domestic water system or an approved automatic detector located directly above the door in the garage shall be acceptable."

(10) Delete Section 702 and Section 804 in their entirety.

(11) Amend Article 11 as follows:

(a) Change Section 1100.0 by creating a new subsection which shall read as follows: "1100.2 Certificate of Compliance: the provisions of this article and Article 12 may be deemed to have been satisfied when certification of an architect or engineer registered in Kentucky to that effect is placed on drawings submitted to the building official."

(b) Amend subsection 1105.4 by changing "Section 103.3" to "Section 106.3".

(c) Amend subsection 1113.1.1, Additions, by adding an exception to read as follows: "Exception: in Zone 1, additions that increase the height of an existing building shall not be required to conform to the provisions of this subsection."

(12) Delete subsections 904.4.2, 904.4.3, 904.4.4 in their entirety; and amend subsection 904.4 to read as follows: "Interior hangings and decorations shall comply with Section 904.4.1."

(13) Change subsection 2500.2 to read as follows: "2500.2 Boilers: All boilers and associated pressure piping shall meet the standards for construction, installation and inspection as set forth in Title 815, Chapter 15, Kentucky Administrative Regulations."

(14) Add two (2) new subsections to Section 2500.0 which shall read as follows:

(a) "2500.3 Unfired Pressure Vessels. All unfired pressure vessels shall meet the standards set forth in Section VIII of the 1983 Edition of the ASME Boiler and Pressure Vessel Code, ANSI/ASME BPV-VIII-1."

(b) "2500.4 Mechanical Code: All mechanical equipment and systems not covered by 2500.2 or 2500.3 but which are required by other provisions of this code to be installed in accordance with the mechanical code listed in Appendix A, shall be constructed, installed and maintained in conformity with the BOCA Basic Mechanical Code/1987 including all applicable standards listed within Appendix A."

(15) Delete Article 29 in its entirety.

(16) Amend Article 27 by changing, creating or deleting certain portions thereof, as follows:

(a) Create a new subsection 2700.5 which shall read as follows: "2700.5 Electrical Inspections:

Inspections conducted to determine compliance with the National Electrical Code shall be conducted by a certified electrical inspector in accordance with 815 KAR 35:015."

(b) Create a new subsection to 2700.5 to read as follows: "2700.5.1 Tentative Interim Amendment. Notwithstanding the provisions of Section 310-15(b) of the National Electrical Code dealing with ampacities of underground conductors, compliance with Tentative Interim Amendment #87-4, dated April 6, 1988, is incorporated by reference and shall be deemed to satisfy the intent of the Code. Copies of which are available from the Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, KY 40601."

(c) Delete Subsections 2701.3, 2704.3, and 2704.4.

(d) In Subsections 2702.1, 2702.3 and 2703.1 change the words "Building Official" to "Certified Electrical Inspector."

(17) Delete subsections 2800.1 through 2807.1 in their entirety and substitute the following: "2800.1 Scope: The design and installation of all plumbing systems, including sanitary and storm water sewage disposal in buildings shall comply with the requirements of Chapter 318 of the Kentucky Revised Statutes and the Kentucky State Plumbing Code as set out in Title 815, Chapter 20, Kentucky Administrative Regulations."

(18) Change subsection 809.4 to read as follows:

"809.4 Emergency escape: Every sleeping room below the fourth story in buildings of Use Group R and I-1 shall have at least one (1) operable window or exterior door approved for emergency egress or rescue. The units must be operable from the inside to a full clear opening without the use of separate tools. Where windows are provided as a means of egress or rescue, they shall have a sill height not more than forty-four (44) inches (1118 mm) above the floor. All egress or rescue windows from sleeping rooms must have a minimum net clear opening of five and seven-tenths (5.7) square feet (0.532). The minimum net clear opening height dimension shall be twenty-four (24) inches (610 mm). The minimum net clear opening width dimension shall be twenty (20) inches (508 mm).

Bars, grilles or screens placed over emergency escape windows shall be releasable or removable from the inside without the use of a key, tool or excessive force."

EXCEPTIONS

1. Grade floor windows may have a minimum net clear opening of five (5) square feet (0.47 m2).

2. In buildings where the sleeping room is provided with a door to a corridor having access to two (2) remote exits in opposite directions, then an outside window or an exterior door for emergency escape from each such sleeping room is not required.

3. Buildings equipped throughout with a complete automatic fire suppression system.

4. Egress windows located on the first and second stories in multiple family dwellings (R-2 and R-3 use groups) and one (1) and two (2) family dwellings, may have a minimum net clear opening height dimension of twenty-two (22) inches and a minimum width dimension of twenty (20) inches; and the net clear opening area may be reduced to no less than four (4) square feet. The minimum total glazed area must be five (5) square feet in the case of a ground floor window and not less than five and seven-tenths (5.7) square feet in the case of a second story window. (This exception applies only if the sash frames can be readily broken or removed.)

Section 3. Elevator, Dumbwaiter and Conveyor Equipment, Installation and Maintenance. The following subsections of Article 26 of the BOCA Basic Building Code are deleted or changed to read as follows:

(1) Change Subsection 2603.4 of Article 26 to read as follows: "2603.4 Posting certificates of compliance: The owner or lessee shall post the last issued certificate of compliance in a conspicuous place on the elevator, available to the building official."

(2) Change Subsection 2602.4.1 of Article 26 to read as follows: "2602.4.1 Periodic Inspection Intervals: Periodic inspections shall hereafter be made at intervals of not more than twelve (12) months for all passenger elevators, manlifts and escalators."

(3) Change Subsection 2610.1 of Article 26 to read as follows: "2610.1 General: The construction of machine rooms and related construction for passenger and freight elevators and dumbwaiters shall be protected from the weather, and shall be enclosed with fire resistive enclosures. Enclosures and access doors thereto shall have a fire endurance at least equal to that required for the hoistway enclosure in Table 401."

Section 4. Elevators. On page 485 of Appendix A of the BOCA National Building Code under "Elevators, Escalators and Moving Walks," add the following citations: "A17.1B-1985; A17.1C-1986, with the exception of rules 102.2(c)(4) and 700.4b, 700.5, 700.7b, 700.10b, 707.4."

Section 5. Amend Article 3 of the 1987 Edition of the BOCA National Building Code adding a new section to read as follows: "310.4 Tobacco auction warehouses: Warehouses, for the sale of tobacco only, of Type 1, Type 2, or Type 3 construction, may be constructed without a sprinkler system when all the following requirements have been met:

(1) The initial submission of plans to the Department of Housing, Buildings and Construction shall include a signed certificate by the owner that the warehouse will be used solely for the sale of tobacco on a seasonal basis or for the storage of noncombustibles.

(2) A manual fire alarm and smoke detection system with notification to the local fire service shall be provided with installation in accordance with Section 1017 of this code.

(3) An eighteen (18) foot paved and posted fire lane surrounding the entire perimeter of the building shall be provided and be accessible from a public street.

(4) A fifty (50) foot fire separation shall be maintained between the warehouse and the lot line and the warehouse and the nearest building."

Section 6. Amend the 1987 Edition of the BOCA National Building Code as follows:

(1) Amend Article 5 as follows:

(a) In subsection 505.1, change the number, "103.0," to read "106.0."

(b) In subsection 511.1, change the number, "124.0," to read "123.0."

(c) Delete subsection 513.1 in its entirety.

(2) Delete the reference to the BOCA Fire Prevention Code listed in Appendix A and install in its place the following: "The Kentucky Fire Safety Standards (815 KAR 10:020 - Fire Safety Standards) shall be used as the fire prevention code."

(3) Amend Figure 1113.1 of Article 11 by adding the following list of 120 Kentucky counties showing the assigned earthquake risk zone for each. The risk zone assigned herein shall supersede any general area designations as shown upon the face of the map.

Earthquake Risk Zone #1

Adair	Elliott	Laurel	Oldham
Allen	Estill	Lawrence	Owen
Anderson	Fayette	Lee	Owsley
Barren	Fleming	Leslie	Pendleton
Bath	Floyd	Letcher	Perry
Bell	Franklin	Lewis	Pike
Boone	Gallatin	Lincoln	Powell
Bourbon	Garrard	Logan	Pulaski
Boyd	Grant	Madison	Robertson
Boyle	Grayson	Magoffin	Rockcastle
Bracken	Greene	Marion	Rowan
Breathitt	Greenup	Martin	Russell
Breckinridge	Hancock	Mason	Scott
Bullitt	Hardin	Meade	Shelby
Butler	Harlan	Menifee	Simpson
Campbell	Harrison	Mercer	Spencer
Carroll	Hart	Metcalfe	Taylor
Carter	Henry	Monroe	Todd
Casey	Jackson	Montgomery	Trimble
Christian	Jefferson	Morgan	Warren
Clark	Jessamine	Muhlenberg	Washington
Clay	Johnson	McCreary	Wayne
Clinton	Kenton	McLean	Whitley
Cumberland	Knott	Nelson	Wolfe
Daviess	Knox	Nicholas	Woodford
Edmonson	Larue	Ohio	

Earthquake Risk Zone #2	Earthquake Risk Zone #3
Caldwell	Ballard
Calloway	Carlisle
Crittenden	Fulton
Henderson	Graves
Hopkins	Hickman
Lyon	Livingston
Trigg	Marshall
Union	McCracken
Webster	

(4) Change subsection 2203.2.1.7 to read as follows: "Glazing in fixed panels having a glazed area in excess of nine (9) square feet (0.84 m^2) with the lowest edge less than eighteen (18) inches (457 mm) above the finish floor level or walking surface within thirty-six (36) inches (914 mm) of such glazing, and the finish floor or walking surface are extended on both sides of said glazing. In lieu of safety glazing, such glazed panels may be protected with a horizontal member not less than one and one-half (1 1/2) inches (38 mm) in width when located between twenty-four (24) inches (610 mm) and thirty-six (36) inches (914 mm) above the walking surface."

(5) Change section 2203 by adding a new subsection 2203.3 which shall read as follows:

(a) "2203.3 Labeling requirements:

1. Each light of safety glazing material manufactured, distributed, imported, or sold for use in hazardous locations or installed in such a location within the Commonwealth of Kentucky shall be permanently labeled by such means as etching, sandblasting or firing ceramic material on the safety glazing material. The label shall identify the labeler, whether manufacturer, fabricator or installer, and the nominal thickness and the type of safety glazing material and the fact that said material meets the test requirements of ANSI Standard Z-97.1 and Z-97.1a listed in Appendix A and such further requirements as may be adopted by the Department of Housing, Buildings and Construction. The label must be legible and visible after installation. Such safety glazing labeling shall not be used on other than safety glazing materials."

(6) Change subsection 915.4 and the exceptions thereto to read as follows: "915.4 Duct and pipe shafts: In all buildings other than buildings of Use Group R-2, vertical pipes arranged in groups of two (2) or more which penetrate two (2) or more floors and occupy an area of more than one (1) square foot (0.093 m^2), and vertical ducts which penetrate two (2) or more floors, shall be enclosed by construction of not less than one (1) hour fire-resistance rating to comply with this section. All combustible ducts connecting two (2) or more stories shall be enclosed as indicated herein.

Exceptions:

1. In all buildings of Use Group R-2, vertical noncombustible ducts shall not be required to have a one (1) hour enclosure provided:

(a) the cross sectional area does not exceed thirty-five (35) square inches;

(b) the duct does not penetrate more than three (3) floors;

(c) the duct serves no more than one (1) dwelling unit and shall not join other ducts except above the top level for the purpose of utilizing a single roof penetration; and

(d) these ducts are restricted for use as a bathroom or kitchen exhaust, and combustion air supply and relief.

(7) Add the following language and NFPA Standards to Appendix A on page 496:

"These NFPA Standards are to be used for fire suppression requirements and design only, where referenced in a specific code requirement in the body of the Code."

BOCA Guide for Suppression Requirements for Specific Occupations

Installation of Sprinkler Systems	NFPA 13-87
Standard for Installation for Private Fire Service Mains and their Appurtenances	NFPA 24-1984
Aircraft Hangars	NFPA 409
Pyroxylin Plastics	NFPA 40C
Flammable Liquids	NFPA 36
Laboratories	NFPA 45
Fireworks	NFPA 44A
Gaseous Oxidizing Materials	NFPA 43C
L.P. Gas Storage	NFPA 58
Local Protective Signaling Systems	NFPA 72A-87
High Piled Storage in Excess of 12 ft. in height	NFPA 231
Rubber Tire Storage	NFPA 231D
Baled Cotton Storage	NFPA 231E
Rolled Paper Storage	NFPA 231F
Rangehoods	NFPA 96
Computer Rooms	NFPA 75
Archives and Record Centers	NFPA 232AM

L.P. Gas Storage and Handling	NFPA 59A
Explosion Prevention Systems	NFPA 69
Fur Storage	NFPA 81
Cooling Towers	NFPA 214
Marinas and Boatyards	NFPA 303
Library Stacks	NFPA 910

(8) Amend Article 30 as follows:
In subsection 3005.2, change the words, "Section 2805.4 through 2805.4.3" to read "Article 28, 815 KAR 20:090."
(9) Delete Article 28 in its entirety and substitute the following reference: "2800.1 General: See Kentucky State Plumbing Code for all the requirements for plumbing installations as set forth in Chapter 20, Title 815 of Kentucky Administrative Regulations. Informational copies are available from the Kentucky Division of Plumbing, U.S. 127 South, Frankfort, Kentucky 40601."

Section 7. Amend section 812 of the 1987 Edition of the BOCA National Building Code.
(1) Amend the first sentence of subsection 812.4.2 to read as follows: All doors equipped with latching or locking devices in buildings of Use Groups A and E or portions of buildings used for assembly or educational purposes and serving rooms or spaces with an occupant load greater than 100 shall be equipped with approved panic hardware."
(2) Create an exception to subsection 812.4.2 to read as follows: "Exception: Panic hardware for Use Group A3 is not required for the principal entrance/exit doors if (1) they are free-swinging; and (2) the calculated occupant load does not exceed 150; and (3) the latch/lock device is a thumb latch/lock or a key operated lock device in which the key cannot be removed from the side from which egress is to be made when it is locked."

Section 8. Amend Section 1016.1 to read as follows: "1016.1 Fire hydrants: Fire hydrants installed on private property as a part of a private fire protection system shall be located so as to meet the requirements of NFPA 24. Yard hydrant installation shall be coordinated with the responsible fire officials who shall not make recommendations which exceed the requirements of NFPA 24. Hydrants not addressed by NFPA 24 shall conform to the standards of the administrative authority of the jurisdiction and the fire department. Hydrants shall not be installed on a water main less than six (6) inches in diameter."

Section 9. Amend Article 9 of the 1987 Edition of the BOCA National Building Code by creating certain portions thereof as follows:
(1) Create a new subsection 905.4 which shall read as follows: "905.4 Combustible Pipe: Combustible Pipe shall be permitted in all use groups and construction types where approved by Article 28 of this Code and the Kentucky State Plumbing Code."
(2) Create a new subsection 905.4.1 which shall read as follows: "905.4.1 Vertical Combustible Pipes: Vertical Combustible Pipes shall comply with Sections 905.4.2 and 915.4."
(3) Create a new subsection 905.4.2 which shall read as follows: "905.4.2 Combustible Pipe Penetrations: Combustible pipe penetrations of fire-resistance rated assemblies shall be acceptable when installed in accordance with an approved tested assembly utilizing combustible pipe penetrations. If there is no approved tested assembly with combustible pipe penetrations, noncombustible fittings shall be required where combustible pipe penetrations enter into or exit from the fire-resistance rated assembly."

Section 10. Create a new Section 2511 of the 1987 BOCA National Building Code entitled "Rangehoods" to read as follows: "2511 Rangehoods. Rangehoods in kitchen exhaust systems shall comply with the requirements of the Mechanical Code listed in Appendix A. The bottom edge of the hood shall be located at a height of not more than four feet (4') above the cooking surface."

Section 11. Amend subsection 625.1 by adding a sentence to read as follows: "625.1.1 The Cabinet for Human Resources, Department for Health Services shall regulate the design and construction of new facilities as related to water distribution and treatment systems for public swimming pools and the proper operation and maintenance of all such facilities. Their regulation is 902 KAR 10:120 and is titled 'Kentucky Public Swimming and Bathing Facilities Regulation'."

Section 12. Amend Appendix A, page 492 of the 1987 BOCA National Building Code under CABO by adding a reference to CABO-1987 Supplement.

Section 13. Amend Section 1012.2.9, Use Group S, by adding an Exception to read as follows: "Use Group S: In all buildings or structures or portions thereof of Use Group S, other than public garages which shall conform to Section 1012.2.11, when:
(1) Three (3) or more stories in height, of Use Group S-1, and more than 3,000 square feet (279 m^2) in area per floor; or
(2) Three (3) or more stories in height, of Use Group S-2, and more than 10,000 square feet (930 m^2) in area per floor; or
(3) Four (4) or more stories in height of Use Group S-1 or S-2 regardless of the area per floor.
EXCEPTION: For open parking structures, the required standpipe may be a dry without making a connection to the permanent water supply."

Section 14. Amend Table 806 of Article 8 by adding an Exception to Industrial Areas which reads as follows: "Exception: For purposes of determining jurisdiction under Sections 108 and 109, design professional seal requirements, and Article 33 coverage, use 200 gross."

Section 15. Amend subsection 304.1 to read as follows: "304.1 General: All buildings and structures, or parts thereof, other than those used for business training or vocational training, shall be classified in Use Group E which are used by more than five (5) persons at one (1) time for educational purposes including, among others, schools, academies, colleges and universities. Educational type uses with a total occupant load less than fifty (50) shall be classified as Use Group B. School buildings, or parts thereof, for business training or vocational training shall be classified in the same use group as the business or vocation taught."

Section 16. Amend various sections of the 1987 BOCA National Building Code dealing with apartment buildings and single family dwellings by creating certain exceptions, as follows:

(1) Create an exception to Section 708.1.3 to read, "Exception: Use Group R-3 basement recreation rooms, a furred ceiling height of six feet and eight inches (6'8") around the ducts may be made in the soffit area only for structural beams and mechanicals. The above two-thirds (2/3) area requirements must still be met."

(2) Create an exception to Section 828.2.2 to read, "Exception: Handrails within individual dwelling units shall not be less than thirty (30) inches nor more than thirty-four (34) inches, measured vertically, above the nosing of the treads or above the finished floor."

Section 17. Amend Subsection 2102.1, General, of the 1988 Kentucky Building Code by adding an Exception to read as follows: "Exception: Plans showing compliance with Subsection 2102.1 through 2102.10.3 shall be submitted to the Kentucky Division of Water pursuant to KRS 151.250 and 260. Approval of plans by or through that agency together with their final approval of construction shall constitute compliance with these sections."

CHARLES A. COTTON, Commissioner
THEODORE T. COLLEY, Secretary
APPROVED BY AGENCY: November 17, 1988
FILED WITH LRC: January 12, 1989 at 1 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1989 at 10 a.m. in the office of the Department of Housing, Buildings and Construction, U.S. 127 South, Frankfort, Kentucky. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is received. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Judith G. Walden, Office of General Counsel, Department of Housing, Buildings and Construction, The 127 Building, U.S. 127 South, Frankfort, Kentucky 40601. If no written requests to appear at the public hearing are received by February 16, 1989, the hearing may be cancelled.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Judith G. Walden

(1) Type and number of entities affected: Property owners of any building to be constructed in flood prone zones.

(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): Savings of time from submission and review of flood proofing or elevation by one agency instead of two.

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: Savings to department in that its employees will not be required to be trained for the review and inspection of elevation and flood-proofing now required within KBC Section 2102.1-2102.10.3.

(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: There is no effect on state or local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Owners may elect to have area or facility considered as one building or several by constructing fire walls which will allow total increased size. Section 21 allows individuals to satisfy flood proofing and elevation requirements of the code by obtaining approval of the Division of Water.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: KRS 151.250 and 260 was duplicative of the KBC and it is by this regulatory change in Section 21 of the KBC that the conflict has been harmonized.

(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

FISCAL NOTE ON LOCAL GOVERNMENT

1. Does this administrative regulation relate to any aspect of a local government, including any service provided by that local government? Yes

2. State whether this administrative regulation will affect the local government or only a part or division of the local government. This amendment will affect a part of local government.

3. State the aspect or service of local government to which this administrative regulation relates. This regulation only affects local government where there is a local building inspection program. KRS 198B.060 requires local government to provide for building officials to enforce the KBC. Table 501 of the KBC and KRS 151.250 and 260 require approval for construction in flood plain zones.

4. How does this administrative regulation affect the local government or any service it provides? This regulation sets forth the criteria of the KBC and how it relates to other laws, including enforcement of building construction in flood prone areas. There is no increased fiscal impact created by this regulation, nor does it increase the number of persons needed by local government. State revenues are neither increased nor decreased by this amendment.

CABINET FOR HUMAN RESOURCES
Department for Social Services
Division of Program Management
(Proposed Amendment)

905 KAR 5:040. Standards for spouse abuse shelters [and crisis centers].

RELATES TO: KRS 209.030(7), 209.160
STATUTORY AUTHORITY: KRS 194.050, 209.030(1)
NECESSITY AND FUNCTION: KRS 209.030(1) authorizes the Cabinet for Human Resources to adopt rules, regulations, procedures, guidelines and policies to provide for the protection of adults. KRS 209.160 authorizes additional funds from marriage licenses to be used for spouse abuse shelters. Since there are no licensing requirements for spouse abuse shelters [or crisis centers], this regulation establishes reasonable performance standards for qualifying applicants for state funds related to spouse abuse shelters [and crisis centers].

Section 1. Definitions. (1) "Advisory board" means any designated group to whom the governing board may delegate responsibility for study and recommendation of any function of the governing board but shall not delegate final approval, responsibility, accountability, or direction of agency policy as these shall remain the ultimate responsibility of the governing board.

(2) "Agency" means any private or public nonprofit incorporated organization that has the capacity to provide spouse abuse shelter services, and with whom the cabinet contracts for such services.

(3) "Cabinet" means Cabinet for Human Resources.

(4) "Department" means Department for Social Services.

(5) "Director" means the individual responsible for the administration of the spouse abuse shelter and all related services.

(6) "Governing board" means a legally constituted group of individuals whose function is to oversee operations of spouse abuse shelter and related services and with whom the state contracts for such services.

(7) "Spouse abuse shelter" means a program which provides a safe place to stay, and related services such as counseling, advocacy, food, and information and referral services for victims of spouse abuse and their dependent children.

(8) "Volunteer" means a person who is either third party funded or who is donating free service time and either works directly in the spouse abuse shelter or is performing a related service at the request of the director.

Section 2. Management. (1) Each agency shall be managed by a governing board constituted so as to allow broad community participation in its activities. The governing board shall be responsible for agency compliance with all applicable federal, state and local regulations. The board shall develop written personnel rules and regulations, adopt written bylaws, and shall be responsible to submit all necessary reports, records, or information deemed necessary to determine fiscal, administrative and programmatic effectiveness.

(2) Board meetings shall be conducted in compliance with the provisions of the Open Meeting Law, KRS 61.805-618.20. The most current version of "Roberts Rules of Order" shall be applicable to board meetings. [et seq. (Open Meeting Law).]

(3)(a) The governing board shall develop written personnel rules and regulations including, but not limited to:

1. Job classifications;
2. Specifications;
3. A compensation plan;
4. Attendance and leave policies;
5. Fringe benefits;
6. Affirmative action;
7. Personnel grievance procedures; and
8. Hiring and firing practices, including layoff and disciplinary procedures.

(b) A copy of the personnel rules and regulations shall be available [and distributed] to all staff, volunteers and the department.

(c) The governing board shall adopt written bylaws. The bylaws shall include, but not be limited to:

1. The purpose of the agency;
2. Number of members;
3. Qualifications for board memberships;
4. Composition; [The types of membership;]
5. The method of selecting members;
6. Terms of members;
7. Officers and duties;
8. Method of election of officers and chairpersons;
9. Standing committees;
10. Provision for approval of all programs and budgets;
11. The frequency of board meetings and attendance requirements; and
12. Provision for official record of meetings and action taken.

(4) The official minutes of each meeting of a governing board of each agency shall contain the date and place of the meeting, names of members present, the subject matter discussed and actions taken, the name of the reporter, and shall be forwarded within thirty (30) days to each member of the board(s) and to the department.

(5) In the event the agency is a subsidiary of a larger entity, the provisions of subsection (1), (2), (3) and (4) of this sections shall apply to the larger entity.

Section 3. Staff. (1) In all agencies the governing board shall appoint one (1) staff person as spouse abuse shelter director. The director shall have the overall responsibility for supervision of the duties and activities of all staff and volunteers, shall coordinate all spouse abuse shelter and related services, fulfill all duties as required by the governing board, and shall report directly to the board on all spouse abuse program activities.

(2) The agency shall maintain and[/or] assure the provision of competent staff to provide services at the spouse abuse shelter. Staff [and volunteers] shall be at least eighteen (18) years of age, [unless under the direct supervision of an adult;] shall have education, training or experience to perform their particular job, and a willingness to work with others, including clients under stress [, and to share responsibilities as necessary]. Volunteers must at all times be under the overall control and direction of the director even though they are not considered paid staff.

(3) The agency shall submit to the department a staffing pattern and indicate areas of responsibility, as well as lines of authority

and supervision.

(4) The agency shall provide for [and/or secure] orientation and in-service training for staff and volunteers responsible for service delivery and shall maintain a record of the training provided.

(5) Each agency shall implement a system to assure compliance with affirmative action standards, and equal opportunity employment standards, and shall provide a system for hearing and resolving grievances of staff and volunteers.

Section 4. Physical Facilities. (1) The spouse abuse shelter shall comply with applicable local, state and federal building, fire, safety and health codes.

(2) The spouse abuse shelter shall be of sound construction and suitable for residential use.

(3) The spouse abuse shelter shall be dry, adequately heated, ventilated, and lighted; windows, doors, stoves, heaters, furnaces, pipes, and ventilating fans shall be protected; screening shall be provided for windows and doors unless air-conditioned; and floors shall be free from splinters and easily cleaned. All types of gas heaters and stoves shall be properly ventilated.

(4) A recreation area with comfortable furnishings in sufficient quantity to accommodate the number of children and adults using it at any one time shall be provided.

(5) Bedrooms shall be equipped with a bed for each client, of adequate size, with suitable springs, mattress, pillow, and bedding as well as adequate closet space and individual drawer space.

(6) The spouse abuse shelter and grounds shall be well maintained.

(7) Each spouse abuse shelter shall maintain a security system to provide for the physical safety of the client.

Section 5. Medical and Dental. The spouse abuse shelter shall assure that access to emergency medical and dental services are available within the community or within close proximity.

Section 6. Meals. The spouse abuse shelter shall provide all clients with three (3) meals per day, each including foods from at least three (3) of the four (4) basic food groups.

Section 7. Services. (1) The spouse abuse shelter shall maintain and provide services on a continuing basis and for as many [such] hours as are necessary to meet the needs of eligible persons.

(2) Staff of the spouse abuse shelter are to apprise clients of resources available from the spouse abuse shelter or by referral which may assist them in the solution of their problems.

(3) Upon entrance into the spouse abuse shelter, or when receiving any spouse abuse related service, the following minimal information shall be obtained and recorded in a permanent record:

(a) Name, date of birth, sex, address, marital status.

(b) Names and date of birth of any accompanying dependents.

(c) Identification of reason for intake.

(d) Identification of any physical injury.

(e) Any medical attention provided.

(f) Identification of any physical condition or ailment which may impact upon services to be offered the client.

(g) Any prior contacts with any spouse abuse shelter.

(4) Immediately following gathering the information required in subsection (3) of this section, the information shall be reported to the offices of the department located within the county where the spouse abuse shelter exists in accordance with the department's spouse abuse reporting policy. This report shall constitute compliance with the provisions of KRS 620.030(2) [199.335(2)] and 209.030(2).

(5) Upon completion of the gathering of information as required in subsection (3) of this section, a service plan shall be developed for each individual and accompanying dependents setting forth a summary of services needed by the individual and available within the spouse abuse shelter [facility] and community.

(6) Referral of the client for services outside the spouse abuse shelter shall be documented and maintained in the client's permanent case record. Service coordination with all other agencies shall also be documented in the case record.

(7) Daily program activities shall be offered with emphasis upon each client's physical, intellectual and social needs.

(8) The spouse abuse shelter shall have and enforce a policy which prohibits possession of any weapon, alcohol or nonprescribed drugs while in the shelter.

(9) The spouse abuse shelter shall keep all client medication in a locked cabinet. Spouse abuse shelter staff shall not dispense nor administer any medication but allow each client to take their own medication as prescribed. Shelter staff shall also keep a record of any medication taken by a client during their stay at the spouse abuse shelter.

(10) In no instance shall cruel or unusual punishment be used.

(11) Each spouse abuse shelter shall develop and implement [, subject to department approval,] procedures to provide for the movement to more appropriate accommodations for those clients who present a danger to self or others or those clients who refuse to comply with spouse abuse shelter rules.

(12) Each spouse abuse shelter shall establish written procedures to be given to each client upon initial contact describing the services to be rendered and a method for handling client complaints. The complaint procedure shall include an opportunity for the client to have access to the department's grievance procedure for review. The department shall have access to all client records in the possession of each spouse abuse shelter for review upon the filing of a service complaint by the client.

(13) Each spouse abuse shelter shall assure that services are available to all residents in the area development district [ADD] in which the agency is located. A spouse abuse shelter may accept referrals on a statewide basis so long as space is available. Each spouse abuse shelter shall cooperate with other spouse abuse agencies on a statewide basis.

(14) Each spouse abuse shelter shall develop and implement[, subject to department approval,] procedures for emergency and[/or] temporary shelter closure.

(15) Each spouse abuse shelter shall maintain

a record of any unusual incidents involving a client or clients and shall forward a copy of the incident report [same] to the department.

(16) Each spouse abuse shelter shall develop and implement a plan for the provision of outreach services in all counties of the area development district in which it is located.

Section 8. Records. (1) Client case records shall be maintained on each individual or family unit served by the spouse abuse shelter during the time that the client or family unit is receiving services.

(2) Client case records of each agency shall be maintained as confidential and shall not be shared with any person outside the cabinet. Any records of the Cabinet for Human Resources, Department for Social Services, in the possession of any agency are strictly confidential and shall be shared with other individuals [and/]or organizations only as provided in KRS 209.140, 194.060, and 620.050 [199.335] and with the prior written permission of the department.

(3) The department shall have access to the agency property and to records of all services provided, including but not limited to agency financial and client case records for the purpose of auditing and monitoring.

LARRY MICHALCZYK, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: January 9, 1989
FILED WITH LRC: January 12, 1989 at 3 p.m.

PUBLIC HEARING: A public hearing on this regulation will be held on February 21, 1989 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by February 16, 1989: Ryan Halloran, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thyra Whitford

(1) Type and number of entities affected: Eleven state funded spouse abuse agencies will be affected by the proposed regulations. The regulations will affect 15 spouse abuse shelter programs throughout the state as there is a spouse abuse shelter program in each of the Area Development Districts. The regulations will not apply nor affect any spouse abuse shelter program that does not receive state funds from the Department for Social Services.

(a) Direct and indirect costs or savings to those affected: There will not be any direct and indirect costs or savings to the state funded spouse abuse shelter programs as the proposed regulations only clarify and correct terminology in order to improve the already existing regulations.

1. First year: There will not be any direct and indirect costs or savings during the first year for the state funded spouse abuse shelter programs because the proposed regulations only clarify and correct terminology in order to improve the already existing regulations.

2. Continuing costs or savings: There will not be any continuing costs or savings for the state funded spouse abuse shelter programs because the proposed regulations only clarify and correct terminology in order to improve the already existing regulations.

3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors that would increase or decrease costs or effect competition for the state funded spouse abuse shelter programs because the proposed regulations only clarify and correct terminology in order to improve the already existing regulations.

(b) Reporting and paperwork requirements: There will not be any change in the state funded spouse abuse shelter agencies reporting and paperwork requirements because the agencies are currently regulated by the same kind of regulations. For example, the agencies are monitored each fiscal year by the Department for Social Services using the current regulations during their review process. If any deficiencies are discovered during the review, the agency has to prepare and submit a plan of corrective action to the department. The proposed regulations will not change the monitoring review process nor the plan of corrective action process. There will not be any increase because the proposed regulations only clarify and correct terminology in order to improve the already existing regulations.

(2) Effects on the promulgating administrative body: There will not be any cost or saving to the Department for Social Services as the proposed regulations only clarify and correct terminology in the current regulations. The proposed regulations will improve the language of the regulation but does not effect the way in which the department administers the state funded spouse abuse programs.

(a) Direct and indirect costs or savings: There will not be any direct and indirect costs or savings to the Department for Social Services as the proposed regulations only clarify and correct terminology in order to improve the already existing regulations.

1. First year: There will not be any direct and indirect costs or savings during the first year for Department for Social Services because the proposed regulations only clarify and correct terminology in order to improve the already existing regulations.

2. Continuing costs or savings: There will not be any continuing costs or savings for the Department for Social Services because the proposed regulations only clarify and correct terminology in order to improve the already existing regulations.

3. Additional factors increasing or decreasing costs: There are no additional factors that would increase or decrease costs or effect competition for the Department for Social Services because the proposed regulations only clarify and correct terminology in order to improve the already existing regulations.

(b) Reporting and paperwork requirements: There will not be any change in the Department for Social Services reporting and paperwork requirements because the spouse abuse shelter agencies are currently regulated by the same kind of regulations. For example, the agencies are monitored each fiscal year by the Department for Social Services using the current regulations during their review process. If any deficiencies are discovered during the review, the agency has to prepare and submit a plan of corrective action to the department. The proposed regulations will not change the

monitoring review process nor the plan of corrective action process. There will not be any increase because the proposed regulations only clarify and correct terminology in order to improve the already existing regulations.

(3) Assessment of anticipated effect on state and local revenues: There will not be any anticipated effect of state and local revenues as the proposed regulations will not affect the state funded spouse abuse shelter agencies' funds.

(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives were considered because the proposed regulations only clarify and correct terminology in order to improve the already existing regulations.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no statute, administrative regulation, or governmental policy which may be in conflict with, overlap, or duplicate in the proposed regulations.

(a) Necessity of proposed regulation if in conflict: There is no statute, administrative regulation, or governmental policy which may be in conflict with, overlap, or duplicate in the proposed regulations.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no statute, administrative regulations, or governmental policy which may be in conflict with, overlap, or duplicated in the proposed regulations.

(6) Any additional information or comments: There is no additional comment or information.

TIERING: Was tiering applied? Yes

CABINET FOR HUMAN RESOURCES
Department for Social Services
Division of Program Management
(Proposed Amendment)

905 KAR 5:050. Funding requirements for spouse abuse shelters [and/or programs].

RELATES TO: KRS 209.030(7), 209.160

STATUTORY AUTHORITY: KRS 194.050, 209.030(1)

NECESSITY AND FUNCTION: KRS 209.030(7) requires the Cabinet for Human Resources to provide protective services for adults except in cases where the adult refuses such services. KRS 209.160 creates a trust and agency account, to receive funds from the issuance of marriage licenses and charges the cabinet with the responsibility of using these funds for the purpose of providing protective shelter services for spouse abuse victims. KRS 209.030(1) authorizes the cabinet to adopt such rules, regulations, procedures, guidelines or policies necessary to protect adults. The function of this regulation is to set forth the requirements necessary for spouse abuse shelters to receive funding.

Section 1. Definitions. (1) "Agency" means any private or public nonprofit incorporated organization that has the capacity to provide spouse abuse shelter services, and with whom the cabinet contracts for such services.

(2) "Annual plan and budget" means the annual application for funding submitted by each spouse abuse shelter.

(3) "Cabinet" means Cabinet for Human Resources.

(4) "Cash" means any nonstate money or funds given to the agency for use in the spouse abuse shelter program and which is not used to match any other grant or contract.

(5) "Certified expenditure" means any nonstate cash expenditures incurred by the agency when such expenditures are determined to be allowable, reasonable and necessary under applicable state laws and regulations and are not used to match any other grant or contract. Such certified expenditures may be incurred by the agency whether public or private nonprofit, or may be certified on behalf of the provider by a third party which may also be a public or private nonprofit organization.

(6) "In-kind contribution" means property or services which directly benefit the services purchased; which are contributed by the agency or a third party without expenditure by the agency; and would have been an allowable, reasonable and necessary cost in accordance with state laws and regulations, if purchased by the agency.

(7) "Match" means locally generated funds or expenditures in the form or certified expenditures, in-kind contributions [and/]or cash provided by a contract agency as required to obtain state funding.

(8) "Primary service provider" means the agency within each area development district, (ADD), designated by the cabinet as the primary contractee and focal point of service delivery for spouse abuse shelter and related services. The primary service provider's area of jurisdiction is limited to those counties contained in each ADD.

(9) "Secondary service provider" means an agency within an ADD [area development district] other than the primary service provider, which through contract with the primary service provider or the cabinet, provides spouse abuse shelter and related services to victims of spouse abuse and their dependent children. The secondary service provider's area of jurisdiction is limited to those counties contained in each ADD.

(10) "Service area" means the counties located within the ADD [area development district] within which a primary service provider [and/]or a secondary service provider is located.

Section 2. General Funds. (1) Method of allocation. Of the amount of general funds that are appropriated to the cabinet for spouse abuse shelters for each fiscal year, ninety-eight (98) percent shall be allocated annually for the operation of these services by the designated primary service providers, and two (2) percent shall be retained by the cabinet for a six (6) month period to be used for the operation of supportive services by secondary service providers, and for emergency needs of one (1) or more primary service providers. After the first six (6) months of each fiscal year, the remaining unobligated funds shall be available for distribution among the designated primary service providers, based on validated need for increased funding.

(2) Primary service provider.

(a) Eligibility criteria. The cabinet shall designate one (1) primary service provider for each [area development district (]ADD[)] to receive an allocation of general funds. Such

designation shall be in effect unless rescinded following a review of the agency's performance and[/or] its annual plan and budget proposal for the upcoming year. The agencies which will be initially designated as primary service providers by the cabinet shall be those receiving state general funds under contract as of the effective date of these regulations.

(b) Selection process. Each primary service provider shall be selected according to the cabinet's predesigned contract review and selection process. Each selected agency shall submit a properly executed annual plan and budget proposal which shall indicate each agency's capacity to provide spouse abuse shelter and other related services for abused spouses and their dependent children. The application for funding shall be in the form and format prescribed by the department. Each agency's application for funding shall specify the type and kind of services it proposes to perform, either as a provider or under subcontract, detailed fiscal considerations, and assurances that the agency and[/or] all subcontractors will comply with all applicable federal and state regulations. Each agency's proposal shall include a commitment to provide outreach services in all counties of the ADD [area development district] in which it is located.

(c) Match. Each primary service provider shall provide funds at the rate of twenty-five (25) percent local match to seventy-five (75) percent state general fund dollars. Of the required local match, five (5) percent shall be cash and the remainder may be provided in any combination of cash, certified expenditures, or in-kind contributions. No match shall be provided by any state funded spouse abuse program to or on behalf of another spouse abuse contractor.

(d) Service areas. The cabinet shall allocate general funds to primary service providers in each of the ADDs [area development districts].

(3) Secondary service provider.

(a) Eligibility criteria. An agency that is properly organized and has the capacity to provide spouse abuse shelter or related services in accordance with federal and state laws and regulations may enter into a written subcontract agreement with the primary service provider. If after negotiations, the primary service provider and the applying agency find they cannot agree on a subcontract, and the applying agency can document the need for its services, the applying agency may then request that the department consider them for funding under the following conditions:

1. The applying agency can submit proof that the service is needed by both the primary service provider and the ADD community.
2. The applying agency can document its willingness to cooperate with other major service providers in the same ADD.
3. The applying agency can document its efforts to subcontract and the basis for failure to effect a subcontract with the primary service provider.
4. The applying agency submits a request that the department review all existing and necessary information and that the department render a final funding decision.

(b) Selection process. After the department has received all of the required information from the applying agency, meetings will be scheduled with the applying agency and the primary service provider to determine if the submitted information justifies the need for funding before rendering one (1) of the following decisions:

1. If the service is not needed nor properly justified, no contract will be awarded.
2. If the service is needed by the primary service provider and the applying agency cannot agree to subcontract, a contract may be awarded in accordance with the cabinet's predesigned contract and review processes. The applying agency shall coordinate their service programs with the primary service provider in order to avoid duplication of services. A local agreement must be executed between the primary and secondary service provider and submitted to the department for final approval. The local service agreement must outline the services to be provided, the coordination of these services, and a willingness to cooperate in the provision of services. It shall be department policy that all secondary service providers subcontract with the primary service provider to obtain second year funding.
3. If the service is needed and the department determines that it must be funded through the primary service provider for the current fiscal year, then the applying agency will be referred back to the primary service provider to resume subcontract negotiations.

(c) Match. Secondary service providers shall provide matching funds as described in Section 1(5) of this regulation and subsection (2)(c) of this section. No match may be provided by any state funded spouse abuse program to or on behalf of another spouse abuse contractor.

(d) Documentation. All primary and secondary service providers shall maintain documentation of the local match that is sufficient to determine that all requirements of this regulation are met. Records documenting local match, regardless of the type or source, shall be available to the cabinet and[/or] authorized entities for the purpose of audit.

(e) Disallowance. All primary and secondary service providers may be subject to disallowances and reimbursement to the Commonwealth, if required local match is not documented by the provider or third party.

Section 3. Trust and Agency Funds. (1) Eligibility criteria. In order to be able to receive trust and agency funds, an agency must be designated as a primary service provider.

(2) Method of allocation. Of the trust and agency spouse abuse funds coming to the cabinet, ninety (90) percent shall be equally allocated among the designated primary service providers and ten (10) percent shall be retained by the cabinet to be used as emergency funds for primary service providers during the fiscal year on an as-needed basis. If any balance remains in the emergency funds at the end of the fiscal year this shall be added back to current year trust and agency funds.

(3) Unexpended funds. If all of the trust and agency funds allocated to a primary service provider at the beginning of each fiscal year are not expended, then they may be held by the cabinet to be expended by the same primary service provider the following year in accordance with the approved annual plan and budget. If the designated primary service provider changes and a new primary service provider has been selected by the cabinet, then

all remaining unencumbered funds allocated to that original agency shall return to the cabinet. The cabinet may at its option assign these funds to the new primary service provider or designate them to the emergency fund for distribution as established in subsection (2) of this section.

LARRY MICHALCZYK, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: January 9, 1989
FILED WITH LRC: January 12, 1989 at 3 p.m.
PUBLIC HEARING: A public hearing on this regulation will be held on February 21, 1989 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by February 16, 1989: Ryan Halloran, Office of General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Thyra Whitford
(1) Type and number of entities affected: Eleven state funded spouse abuse agencies will be affected by the proposed regulations. The regulations will affect 15 spouse abuse shelter programs throughout the state as there is a spouse abuse shelter program in each of the Area Development Districts. The regulations will not apply nor affect any spouse abuse shelter program that does not receive state funds from the Department for Social Services.
(a) Direct and indirect costs or savings to those affected: There will not be any direct and indirect costs or savings to the state funded spouse abuse shelter programs as the proposed regulations only clarify and correct terminology in order to improve the already existing regulations.
1. First year: There will not be any direct and indirect costs or savings during the first year for the state funded spouse abuse shelter programs because the proposed regulations only clarify and correct terminology in order to improve the already existing regulations.
2. Continuing costs or savings: There will not be any continuing costs or savings for the state funded spouse abuse shelter programs because the proposed regulations only clarify and correct terminology in order to improve the already existing regulations.
3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no additional factors that would increase or decrease costs or effect competition for the state funded spouse abuse shelter programs because the proposed regulations only clarify and correct terminology in order to improve the already existing regulations.
(b) Reporting and paperwork requirements: There will not be any change in the state funded spouse abuse shelter agencies reporting and paperwork requirements because the agencies are currently regulated by the same kind of regulations. For example, the agencies are monitored each fiscal year by the Department for Social Services using the current regulations during their review process. If any deficiencies are discovered during the review, the agency has to prepare and submit a plan of corrective action to the department. The proposed regulations will not change the monitoring review process nor the plan of corrective action process. There will not be any increase because the proposed regulations only clarify and correct terminology in order to improve the already existing regulations.
(2) Effects on the promulgating administrative body: There will not be any cost or saving to the Department for Social Services as the proposed regulations only clarify and correct terminology in the current regulations. The proposed regulations will improve the language of the regulation but does not effect the way in which the department administers the state funded spouse abuse programs.
(a) Direct and indirect costs or savings: There will not be any direct and indirect costs or savings to the Department for Social Services as the proposed regulations only clarify and correct terminology in order to improve the already existing regulations.
1. First year: There will not be any direct and indirect costs or savings during the first year for Department for Social Services because the proposed regulations only clarify and correct terminology in order to improve the already existing regulations.
2. Continuing costs or savings: There will not be any continuing costs or savings for the Department for Social Services because the proposed regulations only clarify and correct terminology in order to improve the already existing regulations.
3. Additional factors increasing or decreasing costs: There are no additional factors that would increase or decrease costs or effect competition for the Department for Social Services because the proposed regulations only clarify and correct terminology in order to improve the already existing regulations.
(b) Reporting and paperwork requirements: There will not be any change in the Department for Social Services reporting and paperwork requirements because the spouse abuse shelter agencies are currently regulated by the same kind of regulations. For example, the agencies are monitored each fiscal year by the Department for Social Services using the current regulations during their review process. If any deficiencies are discovered during the review, the agency has to prepare and submit a plan of corrective action to the department. The proposed regulations will not change the monitoring review process nor the plan of corrective action process. There will not be any increase because the proposed regulations only clarify and correct terminology in order to improve the already existing regulations.
(3) Assessment of anticipated effect on state and local revenues: There will not be any anticipated effect of state and local revenues as the proposed regulations will not affect the state funded spouse abuse shelter agencies' funds.
(4) Assessment of alternative methods; reasons why alternatives were rejected: No alternatives were considered because the proposed regulations only clarify and correct terminology in order to improve the already existing regulations.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There is no statute, administrative regulation, or governmental policy which may be in conflict with, overlap, or duplicate in the proposed

regulations.

(a) Necessity of proposed regulation if in conflict: There is no statute, administrative regulation, or governmental policy which may be in conflict with, overlap, or duplicate in the proposed regulations.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: There is no statute, administrative regulations, or governmental policy which may be in conflict with, overlap, or duplicated in the proposed regulations.

(6) Any additional information or comments: There is no additional comment or information.

TIERING: Was tiering applied? Yes

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

STATUTORY AUTHORITY: 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.

(g) Effective with regard to determinations of eligibility for periods beginning on or after December 1, 1988 real property is excluded from consideration for adult medical assistance and state supplementation recipients if:

1. Such property is jointly owned and its sale would cause undue hardship due to loss of housing for the other owner or owners; or
2. Its sale is barred by a legal impediment; or
3. The owner's reasonable efforts to sell have

been unsuccessful.

(h) Cash payments intended specifically to enable applicants or recipients to pay for medical or social services are not considered as available income or as a resource in the month of receipt or for one (1) calendar month following the month of receipt. If the cash is still being held at the beginning of the second month following its receipt, it will be considered a 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	$2,500	$208
2	3,000	250
3	3,500	292
4	4,400	367
5	5,100	425
6	5,800	483

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 July 1, 1988.

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 official poverty income 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;

(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 and, effective for determinations of eligibility made on or after August 1, 1988, changes of resources 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.

(3) Effective with regard to determinations of eligibility for Medical Assistance furnished on or after October 1, 1988, pregnant women and children eligible pursuant to Section 4101 of the Omnibus Budget Reconciliation Act of 1987 (OBRA 87) shall be subject to the same special factors applicable to pregnant women, infants, and children as specified in Section 4(2)(b), (c), (d) and (e) of this regulation, and this additional special factor: such pregnant women and children under age one (1) may have family income up to, but not to exceed, 125 percent of the official poverty income 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.

(4) The following special income and resource limits and provisions are applicable for determinations of eligibility of qualified Medicare beneficiaries for the special Title XVIII benefits described in 907 KAR 1:006, effective for determinations of eligibility made on or after January 1, 1989.

(a) The following income upper limits, shown as a percentage of the official poverty income level, shall be effective on the specified dates: January 1, 1989, eighty-five (85) percent; Janauary 1, 1990, ninety (90) percent; January 1, 1991, ninety-five (95) percent; and January 1, 1992, 100 percent.

(b) The official poverty income guidelines will be those 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.

(c) The income disregards to be used will be those applicable in the federal Supplemental Security Income (SSI) program.

(d) Resources shall be limited to no more than twice the allowable amount for the federal Supplemental Security Income (SSI) program.

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 (except that, effective for determinations of eligibility for periods beginning on or after December 1, 1988, the incurred costs may be reimbursed under another public program of the state or political subdivision of the state), 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 medical assistance in 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; effective October 1, 1988, medical expenses incurred in periods prior to the quarter for which spend-down eligibility is being determined may be used to offset excess income so long as such medical expenses remain unpaid at the beginning of the quarter and have not previously been used as spend-down expenses. Effective for determinations of eligibility for periods beginning on or after February 1, 1989, the incurred costs may be reimbursed under another public program of the state or political subdivision of the state and still be considered incurred costs of the applicant or recipient.

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 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 by July 1, 1988.

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 for the six (6) months following that month unless such would act to preclude eligibility of the individual in long-term care.

(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 were a single individual due to living apart from his spouse, as shown in Section 10(3) and (4) of this regulation, who has jointly held resources with his 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 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 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 income are considered in relation to family size of one (1). Effective with regard to determinations of eligibility for periods beginning on or after December 1, 1988, the following criteria should be used to determine whether a child <u>who has been living with his parents and is</u> institutionalized in a psychiatric facility is to be considered as living <u>apart from</u> [with] his parents: a child is to be considered as living with his parents unless he has been in the facility for thirty (30) or more days or a physician specifies that it is anticipated he will remain in the facility for thirty (30) or more days (regardless of whether the child actually does so)<u>; a child who is institutionalized in a psychiatric facility but is legally committed to or in the custody of the Cabinet for Human Services is not to be considered as living with his parents</u>.

(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 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 basic maintenance standard. 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 liability for the cost of care is determined by allowing to the child from his 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, shall 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 (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 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 as dependents for purposes of determining his 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 dependents in the home.

(2) Determining eligibility of the children. When a stepparent or grandparent has available income remaining after disregards/exclusions are applied, the 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 shall 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 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 shall 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.

(4) A parent in a family case may request that one (1) or more children be technically excluded from the determination of eligibilty due to income while a regular application for Medicaid eligibility is processed for other children in the family group. In this circumstance, the income and resources of the technically excluded child(ren) and the technically excluded child(ren)'s needs are excluded in the budgeting process when determining eligibility of the family group. A separate spend-down case(s) may then be established for the technically excluded child(ren); the income, resources and needs of the responsible relative or parent are included

in the budget in accordance with usual criteria, and income/resources and needs of siblings in the other case may also be included in budgeting for the spend-down case if that works to the advantage of the technically excluded child(ren) for whom eligibility is being determined in the spend-down case. Excess income in the spend-down case may be spent-down using uncovered incurred medical care costs of any member of the family included in the budgeting process for the spend-down case.

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. Effective February 1, 1989, lump sum income for individuals eligible under the federal poverty level standards specified in Section 4(2) and (3) of this regulation would be divided by the appropriate standard for the eligibile group and prorated over the resultant number of months.

Section 14. Transferred Resources. The policy relating to transferred resources shown in this section is effective for determinations of eligibility for periods of time beginning on or after July 1, 1988 and transfers of property occurring on or after that date.

(1) When an institutionalized individual (defined as an individual in a skilled nursing facility, general intermediate care facility, psychiatric facility, mental hospital, or a participant in a hospice program who is in a skilled nursing or intermediate care facility, or a participant in the home and community based services waiver program or the alternate intermediate services program for the mentally retarded so long as eligibility is being determined using the special income level) applies for medical assistance a period of ineligibility must be computed if at any time during the thirty (30) month period immediately preceding the application the individual disposed of property for less than fair market value. The period of ineligibility (beginning with the month in which the resources were transferred) shall be equal to the lesser of thirty (30) months or the number of months derived by dividing the total uncompensated value of the resources so transferred by the average cost, to a private patient at the time of the application, of nursing facility services in the state (either intermediate care or skilled nursing care as appropriate for the level of care).

(2) An individual shall not be ineligible for medical assistance by virtue of subsection (1) of this section to the extent that the conditions specified in Section 1917(c)(2)(B), (C) and (D) of the Social Security Act are met, nor shall an individual be ineligible for medical assistance due to transfer of resources for less than fair market value except in accordance with this section. Transfers of resources for less than fair market value occurring prior to July 1, 1988 shall not be considered in determinations of eligibility for periods beginning on or after July 1, 1988.

(3) 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 shows the transfer was in accordance with Section 1917(c)(2)(B) or (C)(i) of the Social Security Act or presents convincing evidence that the disposal was exclusively for some other purpose. If the purpose of the transfer is in accordance with Section 1917(c)(2)(B) or (C)(i) or is for some reason other than to qualify for medical assistance 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 is required to be for an amount equal to the fair market value.

(4) 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.

(5) If retention would result in ineligibility, the cabinet will compute a period of ineligibility as provided for in subsection (1) of this section.

(6) 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; the amount of the uncompensated value to be excluded cannot include any amount which is payable by Medicaid, Medicare, or other insurance.

Section 15. Special Provisions for AIS/MR Recipients. 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.

(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 standard). 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, 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 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.

Section 16. Special Provisions for Hospice Recipients. 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 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 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 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. 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 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) 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 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 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.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: December 21, 1988
FILED WITH LRC: December 29, 1988 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1989 at 9 a.m. at Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1989, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler
(1) Type and number of entities affected: All Medicaid recipients are potentially affected.
(a) Direct and indirect costs or savings to those affected: None
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: None
(2) Effects on the promulgating administrative body: 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: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives for cost control were identified.
(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 cost impact of adding qualified Medicare beneficiaries is shown in the cost impact analysis for 907 KAR 1:006; the cost for nonstandard filing unit is shown in the cost analysis for 907 KAR 1:011.
TIERING: Was tiering applied? No. Federal Medicaid regulations require that similarly situated providers be treated in a similar manner.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:006. Coverage for persons eligible for Title XVIII benefits.

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: 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[(3)] 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 special coverage factors applicable to both categorically needy and medically needy individuals eligible for benefits under Title XVIII, Part A, Hospital Insurance Benefits[, hereinafter referred to as] (HIB); [and] Title XVIII, Part B, Supplementary Medical Insurance[, hereinafter referred to as] (SMI); and Title XVIII Qualified Medicare Beneficiaries (QMB).

Section 1. Purchase of Coverage under SMI. The cabinet shall pay the SMI premium for all recipients eligible for such coverage who are receiving a money payment under either the Supplemental Security Income program or the state program of optional or mandatory supplementation.

Section 2. Deductibles and Coinsurance. The cabinet shall pay the deductible [and/]or coinsurance amount for any medical service covered under the Kentucky Medical Assistance Program and also available under HIB or SMI to an individual eligible for such coverage. The actual amount paid for coinsurance shall be the uncovered percentage of the total permissible cost for the service as determined by the cabinet.

Section 3. Limitations Applicable to Nonmoney Payment Recipients. Any HIB/SMI eligible categorically needy or medically needy individual, for whom the cabinet does not purchase SMI coverage, is expected to retain HIB/SMI coverage, with premium payments considered as an income deduction. Failure to

retain such coverage does not obligate the cabinet for any payment in excess of deductible and coinsurance amounts.

Section 4. Coverage for Qualified Medicare Beneficiaries. Effective January 1, 1989, qualified Medicare beneficiaries as defined in 907 KAR 1:011 shall be entitled to the following coverage, regardless of whether the medical service is covered under the medical assistance program as a regularly covered service: payment of Part A and Part B Medicare premiums, deductibles and coinsurance. For providers not regularly participating in the Medicaid program, the appropriate agreement must be made with the Department for Medicaid Services to provide for limited participation in the Medicaid program; if the appropriate agreement is not made, the services will not be considered to be covered under this section.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: December 21, 1988
FILED WITH LRC: December 29, 1988 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1989 at 9 a.m. at Health Services Auditorium. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1989, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler
(1) Type and number of entities affected: Approximately 4,320 qualified Medicare Beneficiaries (QMBs) in 1989; approximately 5,820 QMBs in 1990; 8,820 in 1991; and 11,820 in 1992.
(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: (Cost) $5,100,000
2. Continuing costs or savings: (Cost) $9,400,000 in 1990, with additional costs in 1991 and 1992.
3. Additional factors increasing or decreasing costs: The percentage of the federal poverty level will increase each year by 5 percent until 1992. This will increase the state's cost and the number of eligible recipients.
(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: Viable alternatives were not identified.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: None
(a) Necessity of proposed regulation if in conflict:
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions:
(6) Any additional information or comments: This action is mandated for the Medicaid Program.
TIERING: Was tiering applied? No. Tiering is not appropriate as similarly situated individuals and providers must be treated in a similar manner under Medicaid.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:011. Technical eligibility requirements.

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: 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, 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 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 February 1, 1989, individuals specified in Section 9116 of P.L. 100-203 who lose SSI or state supplementation payments as a result of receipt of benefits under Section 202(e) or (f) of the Social Security Act, would be eligible for SSI or SSP except for such benefits, and are not entitled to hospital insurance benefits under Part A of Title XVIII; and

(13) [(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, and effective with regard to determinations of eligibility made for periods beginning on or after October 1, 1988, pregnant women and children under the age of one (1) as permitted by Section 4101 of the Omnibus Budget Reconciliation Act of 1987, subject to the following:

(a) Pregnant women, infants and children are required to meet the income and resource requirements for these eligibility groups 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 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. Qualified Medicare Beneficiaries. Effective January 1, 1989, coverage is extended to qualified Medicare beneficiaries as specified in Section 301 of the Medicare Catastrophic Coverage Act of 1988, subject to the income and resource limitations shown in 907 KAR 1:004, and for the scope of benefits specified in 907 KAR 1:006. A qualified Medicare beneficiary must be eligible for and receiving Medicare Part A benefits, and may be determined eligible for benefits as a qualified Medicare beneficiary eligible individual effective for the month after the month in which the determination is made but not retroactively and not for the month in which the determination is made.

Section 4. [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) Effective for determinations of eligibility made on or after January 1, 1989, including the usual determinations of retroactive eligibility for pending cases for periods prior to January 1, 1989, 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 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.

(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.

(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 <u>January 1, 1989, a responsible relative (but not a child)</u> [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 <u>5.</u> [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 unless he is under age twenty-one (21) or age twenty-two (22) if receiving such inpatient services on his 21st birthday 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 6. [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 six (6) months in any nine (9) month period, effective with regard to determinations of eligibility for periods beginning on or after December 1, 1988.

(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 7. [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 8. [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 9. [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 10. [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.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: December 29, 1988
FILED WITH LRC: December 29, 1988 at 11 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1989 at 9 a.m. at Health Services Auditorium. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1989, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: All Medicaid recipients are potentially affected.

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: $1,500,000 to $1,800,000 (costs).
2. Continuing costs or savings: $1,500,000 to $1,800,000 (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. No viable alternatives for cost control were identified.
(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 cost and number of affected recipients eligible as qualified Medicare beneficiaries is shown in 907 KAR 1:006.
TIERING: Was tiering applied? No. Federal Medicaid regulations require that similarly situated providers be treated in a similar manner.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:013. Payments for hospital inpatient services.

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: 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 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 are required to 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 December 15 [September 1], 1988, which is incorporated by reference in this regulation. 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 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 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 as defined in subsection (9) of this section, except as specified in this subsection [(defined as twenty (20) percent or more Medicaid clients as compared to the total number of clients served or, effective with regard to services provided on or after September 1, 1988, twenty-five (25) percent or more nursery days resulting from Medicaid deliveries as compared to the total number of paid Medicaid days)] and the upper limit is established at 115 percent for those mental hospitals serving a disproportionate number of poor patients as defined in subsection (9) of this section [(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, but, effective January 1, 1989, such amount shall not exceed the prospective reasonably determined uncompensated Medicaid cost to the facility.

(9) Disproportionate share hospitals.

(a) Disproportionate share hospitals are those hospitals meeting the criteria specified in Section 4112(b) and (d) of the Omnibus Budget Reconciliation Act of 1987 (OBRA 87) and those hospitals which may not meet such criteria but meet the criteria specified in Section 4112(d) of OBRA 87 and meet this additional criteria:

1. Acute care hospitals with Medicaid utilization of twenty (20) percent or higher and mental hospitals with Medicaid utilization of thirty-five (35) percent or higher;

2. Hospitals which are designated state teaching hospitals;

3. Hospitals which are designated major pediatric teaching hospitals; and

4. Effective with regard to services provided on or after September 1, 1988, hospitals having twenty-five (25) percent or more nursery days resulting from Medicaid covered deliveries as compared to the total number of paid Medicaid days.

(b) The upper limit for payments for hospitals in Kentucky is set at the lower of allowable Medicaid cost or the median of the facility array of allowable cost with payment adjustments allowed for hospitals deemed disproportionate share hospitals in accordance with subsections (8) and (9) of this section. For compliance with Section 4112(c) of OBRA 1987, the minimum payment adjustment and actual payment adjustment will be computed in the following manner:

1. All hospitals determined to be disproportionate share hospitals shall be entitled to a minimum payment adjustment equal to one (1) dollar as an addition to the hospital payment rate computed using usual upper limits; and for hospitals with Medicaid utilization in excess of one (1) standard deviation above the mean Medicaid inpatient utilization rate for hospitals receiving Medicaid payments in the state, a further payment adjustment which is equal to ten (10) cents for each one (1) percent of Medicaid utilization in the hospital which is in excess of utilization at the one (1) standard deviation level.

2. Hospitals meeting the additional criteria as shown in paragraph (a) of this subsection shall have their hospital payment rate computed using usual upper limits. The payment adjustment currently applicable for such hospitals shall then be computed and compared with the minimum payment adjustment specified in paragraph (b)(1) of this subsection and the actual payment adjustment added to the payment rate shall be the greater of the two (2) adjustment amounts.

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

(11) [(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.

(12) [(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 shall be reimbursed for covered inpatient services rendered eligible Kentucky Medicaid recipients at the rate of seventy-five (75) percent of usual and customary charges. 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 to this regulation shall be effective with regard to payments for services rendered on or after July 1, 1988, [and thereafter] except as specified in Section[s 2 and] 4[(8)] of this regulation.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: January 4, 1989
FILED WITH LRC: January 12, 1989 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1989 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1989, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: 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: 34 acute care and mental hospitals.
(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: Requires filing one more report.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: $200,000 (cost).
2. Continuing costs or savings: $200,000 (cost).
3. Additional factors increasing or decreasing costs: None
(b) Reporting and paperwork requirements: Requires one more report.
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives for cost control were identified.
(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: Section 4112 of the Omnibus Budget Reconciliation Act of 1987 imposed new requirements relating to disproportionate share hospital.
TIERING: Was tiering applied? No. Federal Medicaid regulations require that similarly situated providers be treated in a similar manner.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:022. Skilled nursing facility services.

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: KRS 194.050
NECESSITY AND FUNCTION: The Cabinet for Human Resources has responsibility to administer the program of Medical Assistance in accordance with Title XIX of the Social Security Act. KRS 205.520 empowers the cabinet, by regulation, to comply with any requirement that may be imposed or opportunity presented by federal law for the provision of medical assistance to Kentucky's indigent citizenry. This regulation sets forth the provisions relating to skilled nursing facility services for which payment shall be made by the medical assistance program in behalf of both the categorically needy and medically needy.

Section 1. Participation Requirements. Each facility desiring to participate as a skilled nursing facility must meet the following requirements:

(1) An application for participation shall be made to the cabinet using the procedures specified by the Commissioner, Department for Medicaid Services [Social Insurance], Cabinet for Human Resources. A vendor number shall be assigned to the facility by the cabinet when participation status is achieved.

(2) Each skilled nursing facility shall be required to have participatory status in the program of health care known as Title XVIII, Medicare, before the conditions of participation for Title XIX shall be deemed met.

(3) Each skilled nursing facility shall be required to comply with the preadmission screening and annual resident review requirements specified in Section 1919 of the

Social Security Act, effective with regard to admissions and resident stays occurring on or after January 1, 1989. Facilities failing to comply with this requirement shall be subject to disenrollment, with exclusion from participation to be accomplished in accordance with 907 KAR 1:220, Terms and conditions of provider participation; provider appeals, and federal regulations at 42 CFR 431.153 and 431.154.

Section 2. Provision of Service. Payment for services shall be limited to those services provided to eligible individuals meeting the criteria of patient status in that they require skilled nursing care on a continuous basis following an acute illness or as a result of a chronic disease and/or disability and are receiving such care in a participating facility.

Section 3. Determining Patient Status. Professional staff of the cabinet, or a [the Kentucky] peer review organization operating under its lawful authority pursuant to the terms of its agreement with the cabinet, shall review and evaluate the health status and care needs of the recipient in need of institutional care giving consideration to the medical diagnosis, care needs, services and health personnel required to meet these needs and the feasibility of meeting the needs through alternative institutional or noninstitutional services. A patient shall not qualify for Medicaid patient status unless the person is qualified for admission, and continued stay as appropriate, under the preadmission screening and annual resident review criteria specified in Section 1919 of the Social Security Act with regard to admissions and resident stays occurring on or after January 1, 1989. Patients qualify for skilled nursing care when their needs mandate skilled nursing [and/]or skilled rehabilitation services on a daily basis and when, as a practical matter, the care can only be provided on an inpatient basis. Where the inherent complexity of a service prescribed for a patient is such that it can be safely [and/]or effectively performed only by or under the supervision of technical or professional personnel, the patient would qualify for skilled nursing care. A patient with an unstable medical condition manifesting a combination of care needs in the following areas may qualify for skilled nursing care:

(1) Intravenous, intramuscular, or subcutaneous injections and hypodermoclysis or intravenous feeding;

(2) Nasogastric or gastrostomy tube feedings;

(3) Nasopharyngeal and tracheotomy aspiration;

(4) Recent [and/]or complicated ostomy requiring extensive care and self-help training;

(5) Indwelling catheter for therapeutic management of a urinary tract condition;

(6) Bladder irrigations in relation to previously indicated stipulation;

(7) Special vital signs evaluation necessary in the management of related conditions;

(8) Sterile dressings;

(9) Changes in bed position to maintain proper body alignment;

(10) Treatment of extensive decubitus ulcers or other widespread skin disorders;

(11) Receiving medication recently initiated, which requires skilled observation to determine desired or adverse effects [and/]or frequent adjustment of dosage;

(12) Initial phases of a regimen involving administration of medical gases;

(13) Receiving services which would qualify as skilled rehabilitation services when provided by or under the supervision of a qualified therapist(s), such as: ongoing assessment of rehabilitation needs and potential; therapeutic exercises which must be performed by or under the supervision of a qualified physical therapist; gait evaluation and training; range of motion exercises which are part of the active treatment of a specific disease state which has resulted in a loss of, or restriction of, mobility; maintenance therapy when the specialized knowledge and judgment of a qualified therapist is required to design and establish a maintenance program based on an initial evaluation and periodic reassessment of the patient's needs, and consistent with the patient's capacity and tolerance; ultrasound, short wave, and microwave therapy treatments; hot pack, hydrocollator infrared treatments, paraffin baths, and whirlpool (in cases where the patient's condition is complicated by circulatory deficiency, areas of desensitization, open wounds, fractures or other complications, and the skills, knowledge, and judgment of a qualified physical therapist are required); and services by or under the supervision of a speech pathologist or audiologist when necessary for the restoration of function in speech or hearing.

Section 4. Reevaluation of Need for Service. Skilled nursing service shall be provided for as long as the health status and care needs are within the scope of program benefits as described in Sections 2 and 3 of this regulation. Patient status shall be reevaluated at least once every six (6) months. If a reevaluation of care needs reveals that the patient no longer requires skilled care, payment shall continue for ten (10) days to permit orderly transfer to a lesser level of care. Patients who met patient status criteria as of August 31, 1985 on the basis that they would have been reclassified to intermediate care patient status except for the unavailability of such a bed, and had continued to receive care in the facility while on the waiting list of suitable facilities, will be considered to meet patient status criteria through January 31, 1986 so long as the preexisting conditions for such patient status criteria continue to be met.

Section 5. Evaluation of Patient Status for Persons with Mental Disorders or Mental Retardation. A person with a mental disorder or mental retardation meeting the health status and care needs specified in Sections 2 and 3 of this regulation shall generally be considered to meet patient status. However, these individuals are specifically excluded from coverage in the following situations:

(1) When the cabinet determines that in the individual case the combination of care needs is beyond the capability of the facility, and that placement in the skilled nursing facility is inappropriate due to potential danger to the health and welfare of the patient, other patients in the facility [and/]or staff of the facility; and

(2) When the skilled nursing care needs result directly and specifically from a [the] mental disorder; i.e., are essentially symptoms of the

mental disorder; and

(3) When the patient does not meet the preadmission screening and annual resident review criteria specified in Section 1919 of the Social Security Act for entering or remaining in a skilled nursing facility.

Section 6. Reserved Bed Days. The cabinet will cover reserved bed days (effective December 1, 1984) in accordance with the following specified upper limits and criteria.

(1) Reserved bed days will be covered for a maximum of fourteen (14) days per absence for a hospital stay with an overall maximum of forty-five (45) days per provider during the calendar year.

(2) Reserved bed days will be covered for a maximum of fifteen (15) days per provider during the calendar year for leaves of absence other than for hospitalization.

(3) Coverage during a recipient's absence for hospitalization or leave of absence is contingent on the following conditions being met:

(a) The person is in Title XIX payment status in the level of care he/she is authorized to receive and has been a resident of the facility at least overnight. Persons for whom Title XIX is making Title XVIII coinsurance payments are not considered to be in Title XIX payment status for purposes of this policy;

(b) The person can be reasonably expected to return to the same level of care;

(c) Due to demand at the facility for beds at that level, there is a likelihood that the bed would be occupied by some other patient were it not reserved;

(d) The hospitalization is for treatment of an acute condition, and not for testing, brace-fitting, etc.; and

(e) In the case of leaves of absence other than for hospitalization, the patient's physician orders and plan of care provide for such leaves. Leaves of absence include visits with relatives and friends, and leaves to participate in state-approved therapeutic or rehabilitative programs.

[Section 7. The provisions of this regulation as amended shall be effective on September 1, 1985.]

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: December 28, 1988
FILED WITH LRC: January 5, 1989 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1989 at 9 a.m. at Health Services Auditorium. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1989, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: All skilled nursing 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: Cost was reflected in 907 KAR 1:460.

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives for cost control were identified.

(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: Section 1919 of the Social Security Act mandates this change.

TIERING: Was tiering applied? No. Federal Medicaid regulations require that similarly situated providers be treated in a similar manner.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:024. Intermediate care facility services.

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: 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 provision relating to intermediate care facility services for which payment shall be made by the medical assistance program in behalf of both the categorically needy and the medically needy.

Section 1. Definitions. The following definitions shall be applicable:

(1) "Patient status," means that the

individual has care needs meeting the criteria set forth in this regulation for treatment in the institutional setting.

(2) "Intermittent skilled services," means the individual requires skilled nursing services at regular or irregular intervals, but not on a twenty-four (24) hour per day basis.

(3) "Stable medical condition," means one which is capable of being maintained in accordance with a planned treatment regimen requiring a minimum amount of medical supervision without significant change or fluctuation in the patient's condition or treatment regimen.

Section 2. Participation Requirements. Each intermediate care facility shall be required to comply with the preadmission screening and annual resident review requirement specified in Section 1919 of the Social Security Act, effective with regard to admissions and resident stays occurring on or after January 1, 1989. Facilities failing to comply with this requirement will be subject to disenrollment, with exclusion from participation to be accomplished in accordance with 907 KAR 1:220, Terms and conditions of provider participation; provider appeals, and federal regulations at 42 CFR 431.153 and 431.154.

Section 3. [1.] Provision of Services. Payment for services shall be limited to those services provided to eligible individuals meeting the criteria of patient status.

Section 4. [2.] Classification of Facilities. There shall be two (2) classifications of intermediate care facilities, i.e.:

(1) General intermediate care facilities; and

(2) Intermediate care facilities for the mentally retarded and persons with related conditions.

[Section 3. Definitions. The following definitions shall be applicable:]

[(1) "Patient status," means that the individual has care needs meeting the criteria set forth in this regulation for treatment in the institutional setting.]

[(2) "Intermittent skilled services," means the individual requires skilled nursing services at regular or irregular intervals, but not on a twenty-four (24) hour per day basis.]

[(3) "Stable medical condition," means one which is capable of being maintained in accordance with a planned treatment regimen requiring a minimum amount of medical supervision without significant change or fluctuation in the patient's condition and/or treatment regimen.]

Section 5. [4.] Determining Patient Status. Professional staff of the cabinet or a [the Kentucky] peer review organization operating under its lawful authority pursuant to the terms of its agreement with the cabinet, shall review and evaluate the health status and care needs of the recipient in need of institutional care giving consideration to the medical diagnosis, care needs, services and health personnel required to meet the needs and the feasibility of meeting the needs through alternative institutional or noninstitutional services.

(1) A patient shall not qualify for Medicaid patient status unless the person is qualified for admission and continued stay, as appropriate, under the preadmission screening and annual resident review criteria specified in Section 1919 of the Social Security Act with regard to admissions and resident stays occurring on or after January 1, 1989.

(2) [(1)] An individual shall be determined to meet patient status for a general intermediate care facility when the individual requires intermittent skilled nursing care, continuous personal care [and/]or supervision in an institutional setting. In making the decision as to patient status, the following criteria shall be applicable:

(a) An individual with a stable medical condition requiring intermittent skilled services not provided in a personal care home is considered to meet patient status.

(b) An individual with a stable medical condition, who has a complicating problem which prevents the individual from caring for himself in an ordinary manner outside the institution is considered to meet patient status. For example, ambulatory cardiac and hypertensive patients may be reasonably stable on appropriate medication, but have intellectual deficiencies preventing safe use of self-medication, or other problems requiring frequent nursing appraisal, and thus be considered to meet patient status.

(c) An individual with a stable medical condition manifesting a significant combination of the following care needs shall be determined to meet patient status for a general intermediate care facility when the professional staff determines that such combination of needs can be met satisfactorily only by provision of intermittent skilled nursing care, continuous personal care [and/]or supervision in an institutional setting:

1. Assistance with wheelchair;
2. Physical [and/]or environmental management for confusion and mild agitation;
3. Must be fed;
4. Assistance with going to bathroom or using bedpan for elimination;
5. Old colostomy care;
6. Indwelling catheter for dry care;
7. Changes in bed position;
8. Administration of stabilized dosages of medication;
9. Restorative and supportive nursing care to maintain the patient and prevent deterioration of his condition;
10. Administration of injections during time licensed personnel is available.
11. Services that could ordinarily be provided or administered by the individual but due to physical [and/]or mental condition is not capable of such self-care.
12. Routine administration of medical gases after a regimen of therapy has been established.

(d) An individual shall not generally be considered to meet patient status criteria when care needs are limited to the following:

1. Minimal assistance with activities of daily living;
2. Independent use of mechanical devices, for example, assistance in mobility by means of a wheelchair, walker, crutch(es) or cane;
3. Limited diets such as low salt, low residue, reducing and other minor restrictive diets;
4. Medications that can be self-administered [and/]or the individual requires minimal supervision.

(e) An individual with a psychiatric primary diagnosis or needs, or who is mentally retarded, is considered to meet general intermediate care patient status criteria only when the individual also has medical care needs as shown in subsection (2)[(1)](a) through (c) of this section, the mental care needs are adequately handled in a supportive environment (i.e., the intermediate care facility), and the individual does not require active psychiatric or mental retardation inpatient treatment.

(3) [(2)] An individual shall be determined to meet patient status for an intermediate care facility for the mentally retarded and persons with related conditions when the individual requires physical [and/]or environmental management [and/]or rehabilitation for moderate to severe retardation. In making the decision as to patient status the following criteria shall be applicable:

(a) An individual with significant developmental disabilities and significantly subaverage intellectual functioning who requires a planned program of active treatment to attain [and/]or maintain the individual's optimal level of functioning, but does not necessarily require skilled or general intermediate care facility services, is considered to meet patient status.

(b) An individual requiring a protected environment while overcoming the effects of developmental disabilities and subaverage intellectual functioning is considered to meet patient status while:

1. Learning fundamental living skills;
2. Learning to live happily and safely within his own limitations;
3. Obtaining educational experiences that will be useful in self-supporting activities;
4. Increasing his awareness of his environment.

(c) An individual with a psychiatric primary diagnosis or needs is considered to meet patient status criteria only when the individual also has care needs as shown in paragraph (a) or (b) of this subsection, the mental care needs are adequately handled in a supportive environment (i.e., the intermediate care facility), and the individual does not require psychiatric inpatient treatment.

(d) An individual that does not require a planned program of active treatment to attain [and/]or maintain the individual's optimal level of functioning is not considered to meet patient status.

(e) It is the policy of the cabinet that no individual is to be denied patient status solely due to advanced age, or length of stay in an institution, or history of previous institutionalization, so long as the individual qualifies for patient status on the basis of all other factors.

(f) With regard to an individual with a "related condition" (not mental retardation), the illness or ailment must have manifested itself prior to the individual's 22nd birthday.

Section 6. [5.] Reserved Bed Days. The cabinet will cover reserved bed days (effective December 1, 1984 for general intermediate facilities and March 1, 1982, for intermediate care facilities for the mentally retarded and persons with related conditions) in accordance with the following specified upper limits and criteria.

(1) For general intermediate care facilities, reserved bed days will be covered for a maximum of fourteen (14) days per absence for a hospital stay, with an overall maximum of forty-five (45) days per provider during a calendar year. Reserved bed days will be covered for a maximum of fifteen (15) days per provider during a calendar year for leaves of absence other than for hospitalization.

(2) For intermediate facilities for the mentally retarded and persons with related conditions, reserved bed days will be covered for a maximum of forty-five (45) days per provider within a calendar quarter. Reserved bed days for hospital stays may not exceed fifteen (15) days per stay. No more than thirty (30) consecutive reserved bed days (for hospital stay(s) plus leave(s) of absence, or leave of absence only) may be approved for coverage.

(3) Coverage during a recipient's absence for hospitalization or leave of absence is contingent on the following conditions being met.

(a) The person is in Title XIX payment status in the level of care he[/she] is authorized to receive and has been a resident of the facility at least overnight;

(b) The person can be reasonably expected to return to the same level of care;

(c) Due to demand at the facility for beds at that level, there is a likelihood that the bed would be occupied by some other patient were it not reserved;

(d) The hospitalization is for treatment of an acute condition, and not for testing, brace-fitting, etc.; and

(e) In the case of leaves of absence other than for hospitalization, the patient's physician orders and plan of care provide for such leaves. Leaves of absence include visits with relatives and friends, and leaves to participate in state-approved therapeutic or rehabilitative programs.

Section 7. [6.] Reevaluation of Need for Service. Intermediate care shall be provided for as long as the health status and care needs are within the scope of program benefits as described in Sections 3 and 5 of this regulation. Patient status shall be reevaluated at least every six (6) months. If the reevaluation reveals that the patient's condition indicates the need for a different level of care, payment shall continue for a maximum of ten (10) days to provide for orderly transfer to the appropriate level of care.

Section 8. [7.] Hearing Rights. Any applicant/recipient determined not to meet patient status may appeal that decision in accordance with 907 KAR 1:075 or 904 KAR 2:055, as applicable.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: December 28, 1988
FILED WITH LRC: January 6, 1989 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1989 at 9 a.m. at Health Services Auditorium. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1989, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed

administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler
(1) Type and number of entities affected: All 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: Cost analysis is reflected in 907 KAR 1:460.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives for cost control were identified.
(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: Section 1919 of the Social Security Act mandates this change.
TIERING: Was tiering applied? No. Federal Medicaid regulations require that similarly situated providers be treated in a similar manner.

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
STATUTORY AUTHORITY: 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. Definitions. For purpose of Sections 2 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 urethral 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.
(f) Respiratory therapy (excluding the routine administration of oxygen) effective September 1, 1988.
(g) Psychological and psychiatric therapy (for intermediate care facilities for the mentally retarded only).
(h) Ventilator therapy services, subject to the coverage limitations shown in the reimbursement manual.
(i) Disposable and reusable incontinent briefs, reusable briefs with disposable liners, and disposable or reusable underpads when ordered by a physician.
(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, band-aids 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) For disposable briefs, reusable briefs, reusable briefs with disposable liners, and disposable or reusable underpads provided upon a physician's orders, the per unit product cost in excess of twenty (20) cents, but not in excess of forty (40) cents, shall be considered ancillary cost, with other cost for such products (including all laundry cost) to be considered routine cost. The first six (6) dollars and fifty (50) cents of cost per catheter for indwelling urethral catheters (excluding specialty purpose catheters) shall be considered as allowable ancillary cost with any balance of cost to be considered as allowable routine cost. Indwelling urethral special purpose catheters will be reimbursable as an ancillary at full allowable cost when ordered by a physician.

(14) Effective October 1, 1988, "skilled nursing facility with a mental retardation specialty (SNF/MRS)" means a skilled nursing facility in which at least seventy-five (75) percent of the patients have demonstrated special needs relating to the diagnosis of mental retardation.

Section 2. Reimbursement for Skilled Nursing and Intermediate Care Facilities. All skilled nursing facilities (SNFs) or intermediate care facilities (ICFs) 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 3. Basic Principles of Reimbursement. (1) Payment shall be on the basis of rates which are reasonable and adequate to meet the costs which are required to 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 December 20 [July 1, 1988, as amended on November 1], 1988 which is hereby incorporated by reference) and supplemented by the use of the Title XVIII-A reimbursement principles. The Kentucky Medical Assistance Program Intermediate Care/Skilled Nursing Facility Reimbursement Manual may be reviewed during regular working hours (8 a.m. to 4:30 p.m.) in the Office of the Commissioner, Department for Medicaid Services, 275 East Main Street, Frankfort, Kentucky 40621. Copies may also be obtained from that office.

Section 4. 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 except as specified in this section, including the provisions contained in subsections (14) and (15) of this section. 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 shall 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, 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). 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. In recognition of the higher costs of hospital based SNFs, their upper limit shall be set at 135 percent of the upper limit of all other SNFs for covered services provided on or after July 1, 1988, and at 125 percent of the upper limit of all other SNFs for covered services provided on or after January 1, 1989, and at 115 percent of the upper limit of all other SNFs for covered services provided on or after October 1, 1989, and at 105 percent of the upper limit of all other SNFs for covered services provided on or after July 1, 1990. <u>For a skilled nursing facility with mental retardation specialty, effective with regard to services provided on or after October 1, 1988, the upper limit shall be set at 120 percent of the maximum payment for freestanding skilled nursing facilities.</u> 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.

(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;

(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). Compensation for owners and nonowner administrators (except for nonowner administrators of intermediate care facilities for the mentally retarded and dual licensed pediatric facilities) shall not exceed the amounts specified in the Interimediate Care/Skilled Nursing Facility Reimbursement Manual.

(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 shall 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.

(f) Effective with regard to services provided on or after October 1, 1988, skilled nursing facilities with a mental retardation specialty (SNF/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 Kentucky

Medical Assistance Program Intermediate Care/Skilled Nursing Facility 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 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 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 any records (in a form acceptable to the cabinet) which 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 or expansions will be made on a prospective basis in the context that if 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 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 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 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; audits may be conducted annually or at less frequent intervals. An 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.

(d) The prospective rate has been set based on unaudited cost reports and the prospective rate is to be adjusted based on audited reports with the appropriate cost settlement made to adjust the unaudited prospective payment amounts to the correct audited prospective payment amounts, effective September 1, 1988.

(16) Reimbursement paid shall 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 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) 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 shall 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 is required to be in the skilled nursing facility bed awaiting placement to an intermediate care bed; and

(c) The patient is required to have been reclassified from SNF patient status to ICF patient status; or, alternatively, the patient is required to meet ICF patient status criteria, and the appropriate representative of the Department for Social Services is required to 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.

Section 5. 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 7-1-88)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$32.99 & below	$.92	$.58
33.00 - 33.99	$.86	$.50
34.00 - 34.99	$.78	$.41
35.00 - 35.99	$.70	$.32
36.00 - 36.99	$.61	$.21
37.00 - 37.99	$.51	$.09
38.00 - 38.61	$.35	-

Maximum Payment $38.61

(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 7-1-88)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$43.99 & below	$.92	$.58
44.00 - 45.99	.86	.50
46.00 - 47.99	.78	.41
48.00 - 49.99	.70	.32
50.00 - 51.99	.61	.21
52.00 - 53.99	.51	.09
54.00 - 56.07	.35	-

Maximum Payment $56.07*

*The maximum payment for hospital based skilled nursing facilities is set at $75.69

effective July 1, 1988 and $70.09 effective January 1, 1989.

(d) Cost incentive and investment schedule for skilled nursing facilities with mental retardation specialty:

(Effective 10-1-88)

Basic Per Diem Cost	Investment Factor Per Diem Amount	Incentive Factor Per Diem Amount
$53.99 & below	$1.38	$.87
54.00 - 55.99	1.29	.75
56.00 - 57.99	1.18	.62
58.00 - 59.99	1.06	.47
60.00 - 61.99	.92	.31
62.00 - 63.99	.76	.13
64.00 - 67.28	.53	=

Maximum Payment $67.28*

(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 and, effective October 1, 1988, skilled nursing facilities with a mental retardation specialty have special requirements that are required to 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 6. 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 is required to 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 is required to 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 are required to 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 7. Implementation Date. The amendments to this regulation shall be effective with regard to payments for services provided on or after January 1, 1989 [July 1, 1988] except as specified in Sections 1(14), [1(2)(f),] 4(2), 4(8)(f), 5(5)(d) and 5(6) [and (15)(d)] of this regulation and as specified in the incorporated material with regard to respiratory therapy services and services provided by a skilled nursing facility with a mental retardation specialty, which are effective September 1, 1988 and October 1, 1988, respectively.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: December 28, 1988
FILED WITH LRC: January 5, 1989 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1989 at 9 a.m. at Health Services Auditorium. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1989, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler
(1) Type and number of entities affected: All skilled nursing and 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: $50,000 (costs).
2. Continuing costs or savings: $50,000 (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: No viable alternatives for cost control were identified.
(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. Federal Medicaid regulations require that similarly situated providers be treated in a similar manner.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:045. Payments for mental health center services.

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: 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 mental health center services.

Section 1. Mental Health Centers. In accordance with 42 CFR 447.325, the cabinet shall make payment to Kentucky based (in-state) providers who are appropriately licensed and have met the conditions for participation (including the signing of such contractural arrangements as the cabinet may require of this class of provider) set by the cabinet, on the following basis:
(1) Payment shall be on a prospective basis based on reasonable allowable prior year costs (utilizing the latest audited annual cost report or unaudited report if an audited report is not available) not to exceed usual and customary charges or the upper limits on payments. Allowable costs shall be trended to the beginning of the rate year and indexed for the rate year, so as to more accurately approximate actual costs which will be incurred during the year. (If an unaudited report is used, cost will not be adjusted based on audit.)
(2) Payment amounts shall be determined by application of the "Community Mental Health Center General Policies and Guidelines and Principles of Reimbursement," (revised <u>December 20, 1988</u> [July 1, 1987]) developed and issued by the cabinet, (incorporated by reference to the extent that such policies, guidelines and principles are applicable to Title XIX services and reimbursement, and filed herein), supplemented by the use of Title XVIII reimbursement principles.
(3) Allowable costs shall not exceed customary charges which are reasonable. Allowable costs shall not include the costs associated with political contributions, travel and related costs for trips outside the state (for purposes of conventions, meetings, assemblies, conferences, or any related activities), the costs of motor vehicles used by management personnel which exceed $15,000 total valuation annually (unless such excess cost is considered as compensation to the management personnel), 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.
(4) The prospective rate shall not exceed 110 percent of the median of the reasonable allowable cost for each reimbursable departmental cost center (i.e., inpatient, outpatient, partial hospitalization and personal care) for all participating facilities. <u>For services provided on or after October 1, 1988, a funding adjustment of one (1) dollar and fifty-five (55) cents will be added to the outpatient (clinical) per unit rate.</u>

Section 2. Implementation of Payment System. (1) Payments may be based on units of service such as fifteen (15) minute or hourly increments, or at a daily rate, depending on the type of service.
(2) Overpayments discovered as a result of audits may be settled in the usual manner, i.e., through recoupment or withholding.
(3) The vendor shall complete an annual cost report on forms provided by the cabinet not later than sixty (60) days from the end of the vendor's accounting year and the vendor shall maintain an acceptable accounting system to account for the cost of total services provided, charges for total services rendered, and charges for covered services rendered eligible recipients.
(4) Each community mental health center provider shall make available to the cabinet at the end of each fiscal reporting period, and at such intervals as the cabinet may require, all patient and fiscal records of the provider, subject to reasonable prior notice by the cabinet. Notwithstanding this general requirement, the provider need not make available (for purposes of determining Medicaid payment amounts) staff notes or treatment records which show treatment details for

non-Medicaid covered services; for such services, the information required shall be limited to a case summary sheet or listing which shows, at a minimum, the type of service provided, the staff member who provided the service, the date of the service, and appropriate identifying information relating to the patient.

(5) Payments due the community mental health center shall be made at reasonable intervals but not less often than monthly.

Section 3. Nonallowable Costs. The cabinet shall not make reimbursement under the provisions of this regulation for services not covered by 907 KAR 1:044, community mental health center services, nor for that portion of a community mental health center's costs found unreasonable or nonallowable in accordance with the cabinet's "Community Mental Health Center General Policies and Guidelines and Principles of Reimbursement."

Section 4. Reimbursement of Out-of-state Providers. The cabinet shall make payment to out-of-state mental health center providers who are appropriately licensed, participate with their state's Title XIX Medicaid Program, and have met the Kentucky Medical Assistance Program conditions of participation. The payment rate will be the lower of charges, or the facility's rate as set by the state Medicaid Program in the other state, or the upper limit for that type of service in effect for Kentucky providers.

Section 5. The amendments to this regulation shall be effective with regard to payments for services provided on or after October 1, 1988 [July 1, 1987].

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: December 28, 1988
FILED WITH LRC: January 5, 1989 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1989 at 9 a.m. at Health Services Auditorium. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1989, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: All mental health centers participating in the Medicaid program.

(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: $1.3 million (cost)*.

2. Continuing costs or savings: $1.3 million (cost)*.

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives for cost control were identified.

(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 change will replace $1.3 million of all state funds used by Department for Mental Health/Mental Retardation Services to $1.3 million in Medicaid expenditures to obtain the federal matching funds.

TIERING: Was tiering applied? No. Federal Medicaid regulations require that similarly situated providers be treated in a similar manner.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:055. Payments for primary care center services.

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: 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 primary care center services.

Section 1. Primary Care Centers. In accordance with 42 CFR 447.325, the cabinet shall make payment to providers who are appropriately licensed and have met the conditions for participation set by the cabinet, on the following basis:

(1) Payment shall be made on the basis of reasonable allowable cost.

(2) Payment amounts shall be determined by application of the "Primary Care Center General Policies and Guidelines and Principles of Reimbursement" (revised January 1, 1989 [July 1, 1986], and hereby incorporated by reference)

developed and issued by the cabinet, supplemented by the use of title XVIII-A reimbursement principles.

(3) Allowable costs shall not exceed customary charges which are reasonable.

(4) For services provided prior to July 1, 1985, reimbursement for medical and nursing cost center costs shall be subject to adjustment for a growth allowance. The growth allowance shall be computed for the year beginning each July, and shall be based on a projection of the change in the medical component of the Consumer Price Index over the previous year as applied to the median service cost of medical and nursing services, on a per visit basis, for all participating providers. Increases in medical and nursing center costs in excess of the growth allowance shall be disallowed. For those facilities with medical and nursing cost increases which are less than the growth allowance, the difference between the two (2) shall be reimbursable as a cost containment incentive payment at the time of the usual cost settlement.

(5) For services provided on or after July 1, 1985, the average allowable cost per visit for the medical and nursing services cost center shall not exceed the lesser of actual allowable costs, or charges, or the actual allowable average cost per visit for medical and nursing center services for the facility fiscal year ending prior to July 1, 1985 (not adjusted to the lower of cost or charges) plus an additional growth allowance of twenty (20) cents per visit per month (if such cost is incurred) for each month after the facility's fiscal year end but prior to July 1985. Primary care centers beginning participation on or after July 1, 1985, or which have less than two (2) full years of program participation on that date, shall be reimbursed on the basis of the lower of reasonable allowable costs or charges (as shown in subsections (1) through (3) of this section) for the first two (2) years of participation in the program. For the third and subsequent years, the average allowable cost per visit may not exceed the lower of the facility's actual allowable costs, or charges, or the facility's actual allowable costs (not adjusted to the lower of cost or charges) for the second year of participation.

(6) During the first six (6) months after the implementation of the policy contained in subsection (4) of this section, centers with fiscal year endings occurring in the six (6) month period shall not have medical and nursing center costs disallowed as a result of imposition of the growth allowance upper limit, but shall be entitled to receive any applicable incentive payment.

(7) The amount of any allowable incentive payment determined pursuant to the policy specified in subsection (4) of this section may not exceed the growth allowance, and must be added to allowable costs for application of the lower of costs or charges principle.

(8)(a) Effective January 1, 1989 all primary care centers will be placed on a universal rate year for purposes of upper limits. Except as specified in subsection (9) of this section, the following upper limits shall be applied on a prospective basis: medical and nursing services, 105 percent of the weighted median per visit cost with the upper limit for centers with a teaching component through affiliation with a medical school (University of Kentucky or University of Louisville) set at 135 percent of the weighted median per visit cost effective January 1, 1989, 120 percent effective January 1, 1990, and 105 percent effective January 1, 1991 and thereafter; pharmacy service cost shall be limited to the average amount paid by the Department for Medicaid Services to providers through the pharmacy element of the Medicaid program as determined from the most recent state fiscal year data, trended and indexed; and dental service cost shall be limited to the average amount paid per utilizer by the Department for Medicaid Services to providers through the dental element of the Medicaid program as determined from the most recent state fiscal year data, trended and indexed.

(b) A newly participating center shall not be included in the cost array and shall not be subject to upper limits until the center has one (1) full year of audited data resulting from Medicaid program participation.

(c) For the purpose of calculating interim rates and establishing prospective upper limits, costs from the most recent audited cost report will be used with costs trended to the beginning of the upper limit year (e.g., to January 1, 1989 for the first universal rate year) and indexed for inflation to the end of that year.

(9) As an incentive for cost efficiency, providers which at the beginning of the universal rate year have medical and nursing costs in the lowest one-fourth (1/4) of the array will receive an incentive payment which is set at twenty (20) percent of the average composite interim rate of the incentive eligible group, with the incentive to be paid only on visits which are not in excess of 10,000. The entire interim payment will be considered prospective in nature for the incentive eligible group in that there will be no settlement after audit requiring a payback unless charges are less than payments; to the extent that cost exceeds the interim payments, an upward adjustment will be made to compensate for the additional costs, subject to the upper limits on July 1, 1985 medical and nursing services cost limit. At the time of settlement, the center shall receive the greater of the interim payment, or actual cost up to the upper limits, not to exceed charges.

(10) [(8)] Effective with regard to services provided on or after October 1, 1988, the cost of drugs for specified immunizations as shown in 907 KAR 1:054 which are provided free from the Department for Health Services to primary care centers shall be paid by the Department for Medicaid Services to the Department for Health Services upon receipt of notice from the primary care centers that the drugs were used to provide immunizations to Medicaid recipients.

(11) [(9)] Effective with regard to services provided on or after January 1, 1989, the cost of drugs for specified immunizations as shown in 907 KAR 1:054 shall not be considered an allowable cost even though the drugs are purchased on the open market so long as the drugs could have been obtained free from the Department for Health Services.

Section 2. Implementation of the Payment System. (1) The reimbursement system developed by the cabinet for primary care centers is supported by the Title XVIII-A reimbursement principles which will serve as guidelines for

determining reasonable allowable cost in areas not addressed specifically by the cabinet.

(2) The system shall utilize a method whereby primary care providers are paid an interim rate based on a reasonable estimation of current year costs followed by a year end adjustment to actual reasonable allowable costs. When the need can be demonstrated, adjustment to an interim rate will be made.

(3) The vendor shall complete an annual cost report on forms provided by the cabinet not later than sixty (60) days from the end of the vendor's accounting year and the vendor shall maintain an acceptable accounting system to account for the cost of total services provided, charges for total services rendered, and charges for covered services rendered eligible recipients.

(4) Each primary care center provider shall make available to the cabinet at the end of each fiscal reporting period, and at such intervals as the cabinet may require, all patient and fiscal records of the provider, subject to reasonable prior notice by the cabinet.

(5) Interim payments due the primary care center shall be made at reasonable intervals but not less often than monthly.

Section 3. Prohibition against Joint Participation. Dual or joint participation in the medical assistance program by a primary care center is not permitted. When a primary care center elects to participate as such in the medical assistance program it may not participate concurrently under other regular ongoing elements of the medical assistance program, including the rural health clinic services element. In addition, when a center elects to participate as such in the medical assistance program, it is considered to elect participation for all eligible service elements, components, or subunits of the center.

Section 4. Nonallowable Costs. The cabinet shall not make reimbursement under the provisions of this regulation for services not covered by 907 KAR 1:054, primary care center services, nor for that portion of a primary care center's costs found unreasonable or nonallowable in accordance with the cabinet's "Primary Care Center General Policies and Guidelines and Principles of Reimbursement." In addition, when the utilization review processes of the cabinet find that costs have been incurred through provision of unnecessary medical treatment services, such costs shall be disallowed.

Section 5. Effective Dates. The provisions of this regulation as amended shall be effective with regard to services provided on or after January 1, 1989.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: January 4, 1989
FILED WITH LRC: January 12, 1989 at 3 p.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1989 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1989, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: 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: All primary care centers participating in the Medicaid Program.

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements: None

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: None

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

(4) Assessment of alternative methods; reasons why alternatives were rejected: No viable alternatives for cost control were identified.

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

(a) Necessity of proposed regulation if in conflict:

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

(6) Any additional information or comments: This change is budget neutral.

TIERING: Was tiering applied? No. Federal Medicaid regulations require that similarly situated providers be treated in a similar manner.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services
(Proposed Amendment)

907 KAR 1:330. Hospice services.

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: 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 terms and conditions under which the cabinet will provide hospice care to both the categorically and medically needy.

Section 1. Definition of Hospice Care. Hospice care means the care described in Section 1905(o) of the Social Security Act. Summarized, hospice care may be described as a package of palliative and supportive services provided by a hospice program to a terminally ill Medicaid recipient and his[/her] family to alleviate the patient's pain and suffering and assist the patient and his[/her] family to cope with dying and the circumstances surrounding terminal illness. The hospice package of services is provided in lieu of certain benefits described in Section 1812(d)(2)(A) of the Social Security Act and intermediate care facility services. The patient must voluntarily elect the hospice care. Hospice care may be provided an individual in a skilled nursing or intermediate care facility but in that circumstance coverage does not exist under the program for skilled nursing and intermediate care facility services, i.e., a payment may be made for only the hospice care. Hospice care must be provided by an appropriately licensed, accredited and[/or] certified hospice program (as defined in Section 1861(dd)(2) of the Social Security Act) participating in both Medicare and Medicaid.

Section 2. Voluntary Election. Any terminally ill Medicaid recipient may elect hospice coverage (where hospice care is provided by a participating hospice program in his[/her] service area) in accordance with procedures and using such forms as may be prescribed by the cabinet. Each recipient will be required to make his[/her] voluntary selection in writing, and must present a statement from a physician (or such statement must be available) to show that the recipient's illness is terminal and that death is expected to occur within six (6) months.

Section 3. Duration of Benefits. Effective January 1, 1989, there is no limit on the number of days an individual may participate in the hospice program. [Benefit Periods. Each voluntary election is made for a specified period of time, and disenrollment from hospice care (which may be made at any time at the recipient's option) will result in forfeiture of the balance of the period. The benefit periods are as follows:]

[(1) First period, ninety (90) days;]

[(2) Second period, ninety (90) days;]

[(3) Third period, thirty (30) days; and]

[(4) Extension period, sixty (60) days. The extension period is available only when a physician states that the recipient continues to suffer from a terminal illness and that death is expected within the sixty (60) day extension period.]

Section 4. Concurrent Medicare Coverage. When a Medicaid eligible individual with concurrent eligibility for hospice services under Medicare wishes to enroll in a hospice program under Medicaid he[/she] shall be required as a prerequisite for Medicaid hospice enrollment to enroll in the Medicare hospice program, i.e., concurrent enrollment is required to the extent there is concurrent eligibility for hospice services in both programs.

Section 5. Disenrollment, Reenrollment, and Transfers. A recipient may disenroll from a hospice program at any time. [, with the sole penalty being that the balance of that enrollment period is lost to him/her so far as hospice care is concerned. If the recipient has an additional period(s) remaining,] He[/she] may reenroll at such time as he[/she] may desire (subject only to the usual participation requirements). If a county is served by two (2) or more hospice programs, or if the recipient moves his[/her] county of residence to a county serviced by a different hospice(s), the recipient may transfer between hospice programs [with no loss of time in his/her benefit period].

[Section 6. Effective Date. Coverage of hospice services in the Medicaid program shall begin on October 1, 1986.]

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: January 10, 1989
FILED WITH LRC: January 12, 1989 at 3 p.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1989 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1989, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: 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: 160 recipients yearly.
(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: None. Since the average stay is 55 days for hospice patients, the removal of the 210 day limit will have no measurable impact on the program cost.
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: No viable alternatives for cost control were identified.

(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 Medicare Catastrophic Care removed the number of days limit for hospice coverage.

TIERING: Was tiering applied? No. Federal Medicaid regulations require that similarly situated providers be treated in a similar manner.

PROPOSED REGULATIONS RECEIVED THROUGH JANUARY 15, 1989

DEPARTMENT OF MILITARY AFFAIRS
Division of Disaster and Emergency Services

106 KAR 1:021. Repeal of 106 KAR 1:020, Disaster and emergency fund administration; qualification requirements procedure.

RELATES TO: KRS 39.483
STATUTORY AUTHORITY: KRS 39.483
NECESSITY AND FUNCTION: 106 KAR 1:020 has been superseded by SB 20 and 106 KAR 1:070 which establishes standards for local disaster and emergency services organizations established pursuant to KRS 39.415.

Section 1. 106 KAR 1:020, Disaster and emergency fund, administration; qualification requirements, procedure, is hereby repealed.

MICHAEL W. DAVIDSON, Brig. Gen.
APPROVED BY AGENCY: January 12, 1989
FILED WITH LRC: January 13, 1989 at 11 a.m.
PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1989 at 9 a.m. at the Emergency Operations Building, Boone National Guard Center, Frankfort, Kentucky. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1989, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Lucille Orlando, Disaster and Emergency Services, Boone Center, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: L. Orlando
(1) Type and number of entities affected: Not applicable.
(a) Direct and indirect costs or savings to those affected: Not applicable.
1. First year: Not appliable
2. Continuing costs or savings: Not appliable
3. Additional factors increasing or decreasing costs (note any effects upon competition): Not appliable
(b) Reporting and paperwork requirements: Not applicable.
(2) Effects on the promulgating administrative body: Not applicable.
(a) Direct and indirect costs or savings: Not applicable.
1. First year: Not applicable.
2. Continuing costs or savings: Not applicable.
3. Additional factors increasing or decreasing costs: Not applicable.
(b) Reporting and paperwork requirements: Not applicable.
(3) Assessment of anticipated effect on state and local revenues: Not applicable.
(4) Assessment of alternative methods; reasons why alternatives were rejected: Not applicable.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: Not applicable.
(a) Necessity of proposed regulation if in conflict: Not applicable.
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: Not applicable.
(6) Any additional information or comments: The only thing this regulation does is repeal 106 KAR 1:020. This is necessary because 106 KAR 1:020 has been superseded by SB 20 and 106 KAR 1:070.
TIERING: Was tiering applied? Not applicable.

FINANCE AND ADMINISTRATION CABINET

200 KAR 12:030. Computing compensation due a state employee after adjudicated penalization.

RELATES TO: KRS Chapter 18A
STATUTORY AUTHORITY: KRS 18A.105
NECESSITY AND FUNCTION: This regulation repeals 200 KAR 12:010, relating to the calculation of compensation due a state employee following the Personnel Board's or a court's adjudication of an appealed personnel action. This regulation also establishes a modified procedure for calculating the foregoing compensation. Furthermore, this regulation repeals 200 KAR 6:035, pertaining to the leasing of real property on behalf of various state agencies. The provisions of that regulation have been codified under KRS 56.830.

Section 1. Definitions. The following terms, words or phrases shall have the meaning assigned herein, unless the context indicates otherwise:
(1) "Adjudicated penalization" shall include, but not be limited to, the demotion, dismissal, suspension, fine or any other personnel action for which, after appeal, an employee is ordered either by the Personnel Board or by a court of competent jurisdiction to be reinstated to his former position or like position without loss of pay.
(2) "Appointing authority" means the agency head or any person whom he has authorized by law to designate to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, register requests, waiver requests, requests for certification, or other position actions.
(3) "Corrective dates or corrective period" are synonymous terms for the period between the date of adjudicated penalization or removal from the payroll and the date of reinstatement to a former position or a position of like status and pay as provided by KRS 18A.095.
(4) "Employee" means a person regularly appointed to a position in the state service for which he is compensated on a full-time or part-time basis.
(5) "Gross pay" means the gross amount of pay which an employee would have earned during the corrective period.

Section 2. Time of Payment. When the Personnel Board or a court of competent jurisdiction has ordered an employee reinstated to his former position or a like position without loss of pay, the appointing authority shall within a reasonable time thereafter cause the amount of compensation to which such employee is entitled for the corrective period to be calculated as provided in this regulation.

Section 3. Calculation of Gross Pay. (1) Calculation of gross pay shall be limited to the amount of gross salary or wages which would have been earned by the employee during the corrective period. If the employee dies or becomes permanently and totally disabled for the performance of duties of the position to which he is entitled to be reinstated prior to his reinstatement, the date of death or the date of total disability shall be deemed to be the last date to which such employee shall be entitled to be paid. In the case of a permanently and totally disabled employee, the last date may be extended by the number of days of sick or annual leave days accrued and to which he is entitled as provided in Section 7 of this regulation.

(2) Gross pay for a full-time employee shall be based on the following:

(a) The grade, classification and monthly pay rate in effect at the time of the adjudicated penalization, plus:

(b) Changes in classification in employee's position or the pay rate by reason of wage surveys, administrative action or legislation;

(c) Allowable increments for which the employee could have been considered eligible by the appointing authority during the corrective period;

(d) Any other changes which would affect the amount of compensation which the employee would otherwise have received if the adjudicated penalization had not occurred.

(3) Part-time employees shall be entitled to all pay increases applicable to full-time employees as set out in paragraph (2) of this subsection, if such employee would otherwise have been eligible to receive them during the corrective period under the administrative regulations of the Department of Personnel.

(4) Gross pay for a part-time employee shall be determined by one (1) of the following methods:

(a) Averaging the number of hours worked by other employees of the agency in the same locality under the same type of appointment, performing the same kind of work that the employee would have performed during the corrective period;

(b) Averaging the hours per week the employee worked during the calendar year preceding the adjudicated penalization.

(5) An employee demoted in grade, and consequently, ordered reinstated to his former position or to a position of like status and pay pursuant to KRS 18A.095, shall be eligible to be paid the difference in salary that he would have earned at his former pay rate and the salary that he earned at the pay rate to which he was demoted for all the entire period of his demotion.

Section 4. Retirement Calculations. (1) Employer and employee contributions to the Kentucky Employees' Retirement System shall be calculated on the basis of the employee's gross pay. Reductions in the amount due the retirement system shall be made if a portion of these costs were paid during the corrective period, as in the case of a demoted employee.

(2) An employee ordered reinstated by the Personnel Board or a court of competent jurisdiction and who has previously withdrawn his contributions to the retirement system, may elect after reinstatement, to repay the amount withdrawn by deduction from any compensation due him; or, if no compensation is due the employee, then the employee may pay this amount by check. The appointing authority shall in any event pay the employer's share of contributions to the retirement system plus interest at the current legal rate on the employer-employee contributions provided that the employer's share has not previously been paid to the system during the corrective period.

Section 5. Setoff Income. (1) Except as provided in this subsection, the employee's gross earnings from other employment during the corrective period, shall be setoff against his gross pay as determined in Section 3 of this regulation, to the extent that the income earned by the employee during the corrective period was not also being earned by the employee prior to the corrective period.

(2) In order to determine an employee's gross earnings from other employment during the corrective period, the employee shall furnish the appointing authority with an employee's affidavit, on that form to be provided by the Department of Personnel stating the amounts and sources of all his income during the corrective period.

(3) The income, property or assets of the spouse of the employee shall not be considered in determining the amount of the employee's income to be setoff against the employee's gross pay.

Section 6. Deductions Required by Law. The appointing authority shall make deductions for the following:

(a) Federal and state income;

(b) Unemployment compensation;

(c) Any applicable local payroll and occupational license taxes; and

(d) Social security taxes required by federal and state laws and the applicable regulations of the federal Internal Revenue Service, the Kentucky Revenue Cabinet, and Social Security Administration.

Section 7. Annual and Sick Leave. (1) The appointing authority shall calculate the number of days of annual and sick leave that the employee would have accumulated during the corrective period.

(2) When an employee has been ordered reinstated to his former position or a like position, all annual leave and sick leave and compensatory time that the employee accrued and for which he was not paid at the time of dismissal, shall be reinstated.

(3) An employee who does not desire to be reinstated, but who seeks only compensation, may be paid for annual leave time which would have accrued to him during the corrective period based on the Department of Personnel administrative regulations governing the accumulation of annual leave time in effect during the corrective period.

Section 8. Repeal of 200 KAR 12:010 and 200 KAR 6:035. 200 KAR 12:010 and 200 KAR 6:035 are hereby repealed.

L. ROGERS WELLS, JR., Secretary
APPROVED BY AGENCY: January 11, 1989
FILED WITH LRC: January 12, 1989 at 3 p.m.
PUBLIC HEARING: A public hearing has been scheduled at 8:30 a.m., EDT, on Tuesday, February 21, 1989, in Room 207, on the Second Floor of the Capitol Annex Building, Frankfort, Kentucky 40601. Persons interested in attending this hearing shall notify the undersigned in writing by February 16, 1989, five days prior to the hearing, of their interest to attend. If no notification of intent to attend the hearing is received by this date, the hearing may be cancelled. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Warren O. Nash, III, Attorney, Finance and Administration Cabinet, Office of Legal and Legislative Services, Room 314, Capitol Annex Building, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Warren O. Nash
(1) Type and number of entities affected: All state agencies.
(a) Direct and indirect costs or savings to those affected:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs (note any effects upon competition):
(b) Reporting and paperwork requirements: There will be reduced paperwork for state payroll officers due to calculation simplification of back pay for state employees under the proposed regulation.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: None
2. Continuing costs or savings: None
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: None
(3) Assessment of anticipated effect on state and local revenues: None
(4) Assessment of alternative methods; reasons why alternatives were rejected: The alternative regulation (200 KAR 12:010) is unnecessarily complex.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: The only regulation which duplicates or conflicts with the regulation is 200 KAR 12:010, which is being repealed.
(a) Necessity of proposed regulation if in conflict: (See above)
(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: (See above)
(6) Any additional information or comments:
TIERING: Was tiering applied? Yes

TOURISM CABINET
Department of Fish & Wildlife Resources

301 KAR 1:171. Grass carp transportation, propagation, rearing and stocking requirements.

RELATES TO: KRS 150.010, 150.025, 150.180, 150.990
STATUTORY AUTHORITY: KRS 13A.350, 150.025
NECESSITY AND FUNCTION: This regulation is necessary to control the acquisition, use, and proliferation of triploid (sterile) grass carp.

Section 1. (1) Individuals wishing to acquire triploid grass carp (Ctenopharyngodon idella) for aquatic vegetation control purposes shall only purchase triploid grass carp from suppliers who are certified by the Division of Fisheries.
(2) Suppliers may become certified by providing the Division of Fisheries with written assurances that each grass carp sold and/or delivered for use in Kentucky waters will be tested and certified (in writing) to be a triploid fish.

Section 2. (1) Each supplier shall obtain a Triploid Grass Carp Transportation permit. If grass carp are to be held and/or reared, a Triploid Grass Carp Holding and Rearing permit shall also be required.
(2) Each supplier shall submit monthly reports to the Division of Fisheries office in Frankfort, listing the names and addresses of his triploid grass carp customers, the number and size of triploid grass carp sold, the size of the pond stocked, and the date of the transaction. Monthly report forms will be provided by the Division of Fisheries.
(3) Individual Triploid Grass Carp Holding and Rearing permits, Triploid Grass Carp Transportation permits and Propagation permits shall not be renewed until all monthly reports for the preceding year for that individual have been received by the Division of Fisheries office in Frankfort.

Section 3. Individuals wishing to produce triploid grass carp shall apply to the Division of Fisheries for a Grass Carp Propagation permit.
(2) Grass Garp Propagation permits shall not be issued until Division of Fisheries personnel have made an on-site inspection of the applicant's propagation facility and find it to have adequate containment measures that will preclude escapement of diploid grass carp into public waters. The applicant shall also demonstrate how ploidy tests will be conducted and provide assurances that each grass carp produced will be tested for ploidy before it is sold or transported.
(3) The Division of Fisheries shall determine and specify the number of broodstock diploid grass carp that may be obtained from out-of-state sources, however, all diploid grass carp resulting from the production of triploids must be destroyed on site.

Section 4. (1) The Division of Fisheries may take random samples of grass carp shipped into and within Kentucky and from other stocks held by suppliers. Should diploid (fertile) fish be discovered, all of the supplier's Triploid Grass Carp permits shall be revoked.
(2) The supplier shall also be responsible for removing and destroying all grass carp from the

shipment containing diploid fish that were stocked in Kentucky waters, and shall reimburse the pond owner the full purchase price of the fish, including transportation costs.

Section 5. 301 KAR 1:170, Grass carp acquisition and stocking permit is hereby repealed.

DON R. McCORMICK, Commissioner
MARY RAY OAKEN, Secretary
DAVID GODBY, Chairman
APPROVED BY AGENCY: January 13, 1989
FILED WITH LRC: January 13, 1989 at 11 a.m.
PUBLIC HEARING: A public hearing on this regulation will be held on Wednesday, February 22, 1989 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: Peter W. Pfeiffer, Director, Division of Fisheries, Department of Fish and Wildlife Resources, Arnold L. Mitchell Building, #1 Game Farm Road, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Don R. McCormick
(1) Type and number of entities affected: There are approximately 1000-1500 pond owners that annually purchase and stock grass carp to control aquatic vegetation and 15-20 grass carp suppliers.
(a) Direct and indirect costs or savings to those affected: Allowing the in-state holding and rearing of fingerling grass carp should increase the supply efficiency and reduce cost. Time savings should also accrue to the pond owners as individual stocking permits will no longer be required.
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: Some increase in reporting and paperwork for the suppliers as a result of the monthly report requirement. Paperwork will decrease for the individual pond owner.
(2) Effects on the promulgating administrative body: No additional effort will be required.
(a) Direct and indirect costs or savings: A reduction in cost will occur as a result of time saved by elimination of the District Biologist's inspection and permit application approval. Some cost savings will also occur at the Frankfort office as a result of the elimination of permit processing.
1. First year:
2. Continuing costs or savings:
3. Additional factors increasing or decreasing costs:
(b) Reporting and paperwork requirements: Significant decreases in recordkeeping and paperwork associated with permits and permit applications.
(3) Assessment of anticipated effect on state and local revenues: There is no anticipated effect on budgets, funding, manpower levels or equipment needs. No loss in license sales or decrease in local economic impact is expected.
(4) Assessment of alternative methods; reasons why alternatives were rejected: This is an alternate approach that has resulted from two years of experience with a more restrictive grass carp program. It is believed that this less restrictive approach will increase delivery efficiency and pond owner access to grass carp stocks while maintaining adequate control.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: There are no statutes, administrative regulations or government policies which are in conflict, overlapping, or a 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: Contact with pond owners and suppliers indicate a high level of acceptability.
TIERING: Was tiering applied? Yes.

EDUCATION AND HUMANITIES CABINET
Department of Education
Office of Administration and Finance

702 KAR 6:045. Personnel; food service employee qualifications.

RELATES TO: KRS 156.160
STATUTORY AUTHORITY: KRS 156.070, 156.160
NECESSITY AND FUNCTION: KRS 156.160 requires the State Board for Elementary and Secondary Education to adopt regulations deemed necessary or advisable for the protection of the physical welfare and safety of public school children. This regulation prescribes necessary qualifications and training of beginning school food service employees.

Section 1. No person shall work, or be allowed to so work, in a school kitchen unless he or she is physically and mentally able to do so safely and satisfactorily.

Section 2. Beginning with the 1989-90 school year, a condition of initial employment in a school kitchen shall be completion of the beginning school food service personnel training course prescribed by the State Board for Elementary and Secondary Education and issuance of a Kentucky school food service employee certificate by the Superintendent of Public Instruction, based upon evidence submitted to the Kentucky Department of Education, Division of School Food Services, from a certified instructor that all training requirements have been fulfilled under the provisions of this regulation. The prescribed training course for certification of beginning school food service personnel shall consist of the following instructional units and minimum instructional clock hours:
(1) School food service rules and regulations - 1 hour;
(2) Sanitation - 1 hour;
(3) Safety and first aid - 1 hour;
(4) Food preparation and merchandising - 1 hour;
(5) Equipment use and care - 1 hour;
(6) Efficient use of resources - 1 hour; and
(7) Nutrition education - 1 hour.

Section 3. Those incumbent school food service personnel who voluntarily complete the beginning school food service personnel training course

shall also be issued a Kentucky school food service certificate as prescribed in Section 2 of this regulation.

Section 4. Beginning with the 1990-91 school year, all certificate holders shall be required to renew their certificates annually by satisfactorily completing a minimum of four (4) hours of in-service training conducted by a certified instructor and relevant to the curriculum established under the standards set forth in Section 2 of this regulation.

Section 5. The local school food authority may issue a temporary school food service employee permit if it is necessary to initially employ an applicant on an emergency basis as a replacement or additional staff position, provided that the applicant meets the qualifications sets forth in Section 1 of this regulation. This permit will be valid only for a period of forty (40) work days and shall be nonrenewable. In order to continue working after this forty (40) day period has expired, the applicant shall fulfill the requirements of Section 2 of this regulation.

Section 6. Beginning substitute school food service personnel shall fulfill the following requirements:

(1) Be employed with a temporary permit for forty (40) work days from the date of employment;

(2) A substitute certificate shall be issued upon completion of four (4) hours of training as defined in Section 2 of this regulation in the following areas:

(a) Equipment use and care;

(b) Safety and first aid;

(c) Sanitation; and

(d) Food preparation and merchandising.

(3) Renewal of this certificate shall be based upon satisfactorily completing one-half (1/2) of the requirement specified in subsection (2) of this section.

HENRY E. POGUE, IV, Chairman

APPROVED BY AGENCY: January 11, 1989

FILED WITH LRC: January 13, 1989 at 11 a.m.

PUBLIC HEARING: A public hearing has been scheduled on Thursday, February 23, 1989, at 10 a.m., EST, in the State Board Room, First Floor, Capital Plaza Tower, Frankfort, to review the regulations adopted by the State Board for Elementary and Secondary Education at its January meeting. Those persons wishing to attend and testify shall contact in writing: Dan H. Branham, Secretary, State Board for Elementary and Secondary Education, First Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, on or before February 18, 1989. If no requests to testify have been received by that date, the above regulation will be removed from the agenda.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Paul McElwain

(1) Type and number of entities affected: Public school districts; 177.

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

1. First year:

2. Continuing costs or savings:

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

(b) Reporting and paperwork requirements:

(2) Effects on the promulgating administrative body: Negligible

(a) Direct and indirect costs or savings: None

1. First year:

2. Continuing costs or savings:

3. Additional factors increasing or decreasing costs:

(b) Reporting and paperwork requirements: Would require compilation of reports and issuance of certificates.

(3) Assessment of anticipated effect on state and local revenues: Negligible, if any.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative would be to reply on local district initiatives. These have not been successful.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: 702 KAR 6:010(2)

(a) Necessity of proposed regulation if in conflict: Local districts have few, if any, requirements in this area. Program needs trained staff.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No

(6) Any additional information or comments: This regulation mandates compliance only for those people hired to work in a school kitchen for the first time beginning with the 1989-1990 school year. No compliance is mandated for the current personnel.

TIERING: Was tiering applied? Yes.

FEDERAL MANDATE ANALYSIS COMPARISON

1. Federal statute or regulation constituting the federal mandate. 7 CFR 210.9 contains the "Requirements for School Food Authority Participation" in the National School Lunch Program. 7 CFR 220.7 contains the same requirements with respect to the School Breakfast Program. Relevant sections are: 7 CFR 210.9(b)(5) - "serve lunches which meet the minimum requirements prescribed in 210.10"; 7 CFR 210.9(b)(5) - "maintain, in the storage, preparation and service of food, proper sanitation and health standards..."; 7 CFR 210.9(b)(15) - "maintain necessary facilities for storing, preparing and serving food". The breakfast sections which correspond are 220.7(e)(2), (8), and (11).

2. State compliance standards.

3. Minimum or uniform standards contained in the federal mandate.

4. Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate? Only in that it sets forth a curriculum of study completion of which is designed to produce employees who have received training in proper methods of sanitation, first aid, equipment use and care, and food preparation. Further, that it imposes limitation on employment which the federal mandate does not address.

5. Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements. These employees, more so than bus drivers who have equivalent training requirements, touch almost everyone who is involved in the school. Proper training ensures safety for the employees in the kitchen as well as students, teachers, administrators, janitors and bus drivers, all of

whom eat in the schools. One incident of food poisoning is all it will take a ruin a school's food service operation. One severed finger, one burned limb - one bad accident can cost a school district quite a bit in terms of insurance costs and community trust. State school bus standards and driver training are stricter than federal mandates. These standards exist for the safety of the driver and the students. The kitchen employees and those they serve deserve no less.

CABINET FOR HUMAN RESOURCES
Department for Social Services

905 KAR 1:230. Emergency custody orders.

RELATES TO: KRS 620.010, 620.040, 620.050, 620.060
STATUTORY AUTHORITY: KRS 194.050, 620.180
NECESSITY AND FUNCTION: The purpose of this regulation is to establish guidelines for protective action required by KRS 620.040 and 620.050. If a child is in danger of serious physical injury due to abuse, neglect or dependency, the Cabinet for Human Resources is under an obligation to take protective action under KRS 620.050(3). However, police are authorized to take children into protective custody under KRS 620.040(4) only if there exists reasonable grounds to believe the child is in danger of imminent death, serious physical injury, or sexual abuse. The emergency that exists is that these children are in danger of serious injury everyday and the Commonwealth cannot wait until the "danger of" becomes serious in fact. This regulation is intended to establish guidelines that will protect children from the danger of serious harm while permitting custodians to establish their willingness and ability to provide the child a secure, stable home as guaranteed by KRS 620.010.

Section 1. Guidelines for Determining Danger of Serious Physical Injury. The following circumstances shall be considered reasonable grounds to believe that the child is in danger of serious physical injury:
(1) If the child has recently suffered substantial physical pain or any impairment and the custodian is unable or unwilling to protect the child from additional pain or impairment of physical condition.
(2) The child is not attended by a responsible person and the child, due to age, physical or mental condition or other circumstances, is unable to protect himself from serious physical injury.

Section 2. Cabinet for Human Resources and Law Enforcement Actions Related to Protective Services. If there exists reasonable grounds to believe a child is in danger of serious physical injury, any appropriate law enforcement officer may take the child into protective custody.
(1) The officer shall make a reasonable effort to locate a responsible parent or relative to whom the child may be entrusted; and if no parent or relative is available, the officer shall request the Cabinet for Human Resources to provide necessary protective services, which may include immediate placement of the child in an emergency shelter or other suitable home. The officer, or the person or agency to whom the officer entrusts the child, shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.
(2) If the child is taken into protective custody by a law enforcement officer between the hours of 5 p.m. and 8 a.m., the Cabinet for Human Resources may, upon determination that there exists reasonable grounds to believe a child is in danger of imminent death, serious physical injury, or sexual abuse, authorize the officer to take the child to an emergency shelter for protective services.
(3) If the child is taken into protective custody between the hours of 8 a.m and 5 p.m., the child shall be released to the Cabinet for Human Resources or its designee for appropriate protective action. If the circumstances indicate the necessity of retaining the child in custody, the Cabinet for Human Resources or the law enforcement office shall request the court to issue an emergency custody order.

Section 3. Temporary Removal Guidelines. If the court declines to issue an ex parte emergency custody order, the Cabinet for Human Resources shall file a dependency petition and request a temporary removal hearing to be held within seventy-two (72) hours in order to protect the child. The Cabinet for Human Resources shall continue to provide necessary protective services on behalf of the child pending a hearing.

LARRY MICHALCZYK, MSSW, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: December 20, 1988
FILED WITH LRC: December 22, 1988 at 2 p.m.
PUBLIC HEARING: A public hearing on this regulation will be held on February 21, 1989 at 9 a.m. in the Department for Health Services Auditorium, 275 East Main Street, Frankfort, Kentucky. Those interested in attending this hearing shall notify in writing the following office by February 16, 1989: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4th West, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Nancy Rawlings
(1) Type and number of entities affected: DSS Family Services workers, all law enforcement jurisdictions, county and Commonwealth attorneys, district court judges and children and their families.
(a) Direct and indirect costs or savings to those affected: There are no measurable direct or indirect costs or savings to those affected.
1. First year: There are no measurable direct or indirect costs or savings to those affected.
2. Continuing costs or savings: There are no measurable direct or indirect costs or savings to those affected.
3. Additional factors increasing or decreasing costs (note any effects upon competition): There are no increasing or decreasing costs to the professionals affected (named in #1) because this falls within their assigned work responsibilities.
(b) Reporting and paperwork requirements: Reporting and paperwork requirements would increase due to an increased number of emergency custody orders being granted.
(2) Effects on the promulgating administrative

body: The Cabinet will be better able to fulfill its mandate to protect abused, neglected or dependent children in the Commonwealth.

(a) Direct and indirect costs or savings: There are no measurable direct or indirect costs or savings to those affected.

1. First year: There are no measurable direct or indirect costs or savings to those affected.

2. Continuing costs or savings: There are no measurable direct or indirect costs or savings to those affected.

3. Additional factors increasing or decreasing costs: There are no additional factors increasing or decreasing costs.

(b) Reporting and paperwork requirements: There are no additional reporting and paperwork requirements due to there being no additional factors.

(3) Assessment of anticipated effect on state and local revenues: There are no anticipated effects on state and local revenues.

(4) Assessment of alternative methods; reasons why alternatives were rejected: Alternative methods have been assessed but do not meet the requirements of law.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: May be in conflict with KRS 620.040(4).

(a) Necessity of proposed regulation if in conflict: An emergency exists because the cabinet cannot wait until children are seriously injured or killed before being able to obtain emergency custody.

(b) If in conflict, was effort made to harmonize the proposed administrative regulation with conflicting provisions: No effort was made to harmonize the proposed administrative regulation with conflicting provisions; however, there is currently a conflict in the statute, described as follows: KRS 620.040(4) authorizes the removal of children only if there exists reasonable grounds to believe the child is in danger of imminent death, serious physical injury or sexual abuse. However KRS 620.050(3) states the Cabinet for Human Resources is under obligation to take necessary action toward safeguarding the welfare of the child. It is the cabinet's position that this regulation allows the cabinet to fulfill this mandate.

(6) Any additional information or comments: There is no additional information or comment.

TIERING: Was tiering applied? No. Tiering was not applied as this regulation has statewide application.

CABINET FOR HUMAN RESOURCES
Office of Inspector General

906 KAR 1:050. Supplemental medical staffing agencies.

RELATES TO: KRS Chapter 216.860, 216.865

STATUTORY AUTHORITY: KRS 194.030(12)(b), 216.865

NECESSITY AND FUNCTION: KRS 216.865 states that the Secretary of the Cabinet for Human Resources shall adopt regulations relating to licensure fees, standards of care and service, and procedures for enforcement of penalties. The Office of Inspector General has been designated the promulgating agency in accordance with KRS 194.030(12)(b).

Section 1. Scope of Operations and Services. Supplemental medical staffing agencies (SMSA), are nursing pools, nursing registries, or any other organizations that provide or procure temporary employment for medical personnel with licensed health care facilities. Exempted from this regulation are health facility based or in-house pools which provide services, exclusively within the confines of the facility or business, or any person who provides exclusively his or her own services on a temporary basis to health care facilities, or a licensed home health agency which provides temporary supplemental medical staffing to health care facilities.

Section 2. Definitions. (1) "Division" means the Division for Licensing and Regulation within the Cabinet.

(2) "Cabinet" means the Cabinet for Human Resources.

(3) "Supplemental medical staffing personnel" includes, but is not limited to, nurses, nursing assistants, nurses' aides, and orderlies whose employment is in compliance with applicable federal and state statutues and regulations.

(4) "Registered nurse" means a nurse who is licensed to engage in registered nursing practice pursuant to KRS 314.041.

(5) "Licensed practical nurse" means a nurse who is licensed to engage in licensed nursing practice pursuant to KRS 314.051.

(6) "License" means an authorization issued by the cabinet for the purpose of operating an SMSA.

(7) "Health care facility" means a health care facility as defined in KRS Chapter 216B.

Section 3. Licensure. (1) No supplemental medical staffing agency as defined in Section 1 of this regulation shall be operated, maintained, or advertised without obtaining a license from the cabinet.

(2) All applications for licensure shall be received from and mailed to the Division of Licensing and Regulation; Human Resources Building, 275 East Main Street, Frankfort, KY 40621.

(3) All initial applications for licensure shall be accompanied by a fee of $130 and no renewal licenses shall be issued until the applicant for renewal licensure remits to the division the fee of sixty-five (65) dollars.

(a) All licenses shall be renewed annually upon expiration.

(b) All licenses shall expire one (1) year from their effective date.

(c) The cabinet may revoke or refuse to renew a license, if the cabinet determines that the SMSA is substantially out of compliance with the applicable statutes and regulations of the Commonwealth. The SMSA may appeal an adverse decision in accordance with KRS 216.553, 216.567, 216.570, and 905 KAR 1:060.

(4) In order to determine compliance with the provisions of this regulation, the division shall conduct periodic (at least annual), inspections of the SMSA on an unannounced basis. Representatives of the division shall have access to the SMSA during the hours that the SMSA operates.

Section 4. 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.
(b) The licensee shall establish lines of authority and desingate an administrator who shall be principally responsible for the daily operation of the SMSA.
(2) Policies. The SMSA 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) Policies and procedures for the guidance and control of personnel performance;
(c) A description of the duties, responsibilities, policies and procedures of the SMSA, the personnel who provide the service, and of the health care facilities which utilize the supplemental medical personnel from the agency.
(3) Personnel.
(a) There shall be a written job description for each person employed or on a registry which shall be reviewed and revised as necessary.
(b) A questionnaire utilized to evaluate personnel performance on an annual basis shall be developed with input sought from all health facilities to which medical personnel are sent. The results of the evaluation shall be available to health facilities utilizing the SMSA, upon request.
(c) All new employees shall participate in a job orientation program which defines the duties and responsibilities of the employee to the SMSA, the SMSA to the employee, and the health care facilities which utilize the SMSA.
(d) The SMSA shall document that each temporary employee provided to a health care facility currently meets the minimum licensing, training and continuing education standards for the position in which he or she shall be working, and that the employee's license and credentials are in good standing with their respective licensure boards.
(e) 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. Training and experience;
4. Performance evaluation;
5. Initial interview for employment;
6. Information obtained through reference checks;
7. Current negative tuberculin skin test or chest x-ray;
8. Current cardiopulmonary resuscitation certification; and
9. Initial job orientation for new employees.
(f) In-service training. All personnel shall participate in ongoing in-service training programs relating to their respective job activities including at least infection control and safety on an annual basis.
(g) The SMSA shall employ a registered nurse who shall supervise personnel performance.

WILLIAM M. GARDNER, Inspector General
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: January 9, 1989
FILED WITH LRC: January 12, 1989 at 3 p.m.
PUBLIC HEARING: A public hearing on this regulation has been scheduled for February 21, 1989, at 9 a.m., in the Health Services Auditorium, first floor, Health Services Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 16, 1989, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Eric Friedlander
(1) Type and number of entities affected: Approximately 50.
(a) Direct and indirect costs or savings to those affected:
1. First year: $6,500 for licensure fees.
2. Continuing costs or savings: $3,250 for licensure fees.
3. Additional factors increasing or decreasing costs (note any effects upon competition): Additional costs associated with SMSA compliance with this regulation will be incurred by the agency.
(b) Reporting and paperwork requirements: Written policies and personnel records will be required by this regulation.
(2) Effects on the promulgating administrative body:
(a) Direct and indirect costs or savings:
1. First year: $500 for reproduction of regulation.
2. Continuing costs or savings: $250 for new copies of survey report forms.
3. Additional factors increasing or decreasing costs: Additional costs may arise if new surveyors must be employed due to the increased number of entities surveyed.
(b) Reporting and paperwork requirements: Additional forms for surveyors.
(3) Assessment of anticipated effect on state and local revenues: Initial increase of $6,500 for licensure fees.
(4) Assessment of alternative methods; reasons why alternatives were rejected: The regulation and the areas it covers is mandated by KRS 216.860 and 216.865.
(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No conflicting, overlapping, or duplicative standards exist.
(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. KRS 216.865 requires the Secretary of the Cabinet for Human Resources to promulgate licensure standards for SMSA's. These standards should apply to all SMSA's.

CABINET FOR HUMAN RESOURCES
Office of Inspector General

906 KAR 1:060. Supplemental medical staffing agency hearings.

RELATES TO: KRS Chapter 216.860, 216.865
STATUTORY AUTHORITY: KRS 194.030(12)(b), 216.865
NECESSITY AND FUNCTION: KRS 216.865 states that the Secretary of the Cabinet for Human

Resources shall adopt regulations relating to licensure fees, standards of care and service, and procedures for enforcement of penalties for supplemental medical staffing agencies. The Office of Inspector General has been designated the promulgating agency in accordance with KRS 194.030(12)(b).

Section 1. Definitions. (1) "Cabinet" means the Cabinet for Human Resources.

(2) "Negative licensure action" means an action by the cabinet to revoke, modify, suspend or deny relicensure of a supplemental medical staffing agency.

(3) "Supplemental medical staffing agency (SMSA)" means any organization which provides or procures temporary employment for medical personnel with licensed health care facilities in accordance with KRS 216.860(4).

(4) "Hearing officer" means the person designated by the Secretary of Human Resources to conduct a hearing and make a recommendation to the cabinet on any appeal of negative licensure action.

Section 2. (1) Any SMSA may appeal negative licensure action taken by the cabinet by notifying the Cabinet for Human Resources within twenty (20) days of the issuance of notice of negative licensure action. Upon receipt of notice of appeal, the Secretary of the Cabinet for Human Resources shall designate a hearing officer.

(2) Notice of hearing shall be mailed to the employment agency not less than ten (10) days prior to the commencement of the hearing. The notice of hearing shall contain the reasons for negative licensure action. The notice of hearing shall be mailed by certified mail, return receipt requested to the SMSA.

(3) The SMSA and the cabinet may be represented by counsel and make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of such actions. No depositions shall be permitted for the purpose of discovery, however, the hearing officer may authorize depositions of witnesses who, in his opinion, for good cause shown cannot be present at the hearing. A hearing officer shall reside at the hearing, shall keep order, administer oaths, may issue subpoenas and may admit relevant and probative evidence and shall conduct the hearing in accordance with reasonable administrative practice.

(4) All testimony at the hearing shall be recorded but need not be transcribed unless requested. The person or organization requesting a transcript shall bear the cost of such transcript.

(5) The hearing officer may place reasonable time limits upon the presentation of testimony, evidence and argument and may terminate or exclude irrelevant or redundant evidence, testimony or argument.

(6) The hearing officer shall make a written recommendation to the cabinet including findings of fact and conclusions of law. With the recommendation, the hearing officer shall forward to the cabinet the record consisting of all documents, exhibits and recorded testimony introduced in the hearing.

(7) The cabinet shall issue a final determination of licensure status within ten (10) days of the receipt of the recommendation of the hearing officer.

(8) No hearing officer shall participate in any hearing involving an SMSA with which he has had in the past twelve (12) months preceding the hearing, any ownership, in whole or in part, employment, staff, fiduciary, contractual, creditor or consultative relationship.

WILLIAM M. GARDNER, Inspector General
HARRY J. COWHERD, M.D., Secretary

APPROVED BY AGENCY: January 9, 1989

FILED WITH LRC: January 12, 1989 at 3 p.m.

PUBLIC HEARING: A public hearing on this regulation has been scheduled for February 21, 1989, at 9 a.m., in the Health Services Auditorium, first floor, Health Services Building, 275 East Main Street, Frankfort, Kentucky. However, this hearing will be cancelled unless interested persons notify the following office in writing by February 16, 1989, of their desire to appear and testify at the hearing: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street, Frankfort, Kentucky 40621.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Eric Friedlander

(1) Type and number of entities affected: Approximately 50.

(a) Direct and indirect costs or savings to those affected: This regulation sets forth standards for licensure hearings for SMSA's. It is impossible to determine potential indirect costs per legal fees. There should be no direct costs associated with this regulation.

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: Legal paperwork will be necessary should procedures under this regulation be necessary to use. Personnel records will be required by this regulation.

(2) Effects on the promulgating administrative body:

(a) Direct and indirect costs or savings:

1. First year: $250 for reproduction of regulation.

2. Continuing costs or savings: This regulation should not be needed enough to cause significant costs to be associated with reproduction.

3. Additional factors increasing or decreasing costs: Since this is a licensure hearing regulation, legal costs will be incurred.

(b) Reporting and paperwork requirements: Legal paperwork will be necessary should procedures under this regulation be necessary to use.

(3) Assessment of anticipated effect on state and local revenues: Impossible to determine frequency of licensure hearings or their costs.

(4) Assessment of alternative methods; reasons why alternatives were rejected: An appeals procedure needs to be in place if negative licensure action is taken by the cabinet.

(5) Identify any statute, administrative regulation or government policy which may be in conflict, overlapping, or duplication: No conflicting, overlapping, or duplicative standards exist.

(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. Licensure hearings must utilize consistent procedures.

CABINET FOR HUMAN RESOURCES
Department for Medicaid Services

907 KAR 1:460. Coverage and payments for preadmission screening and annual resident review.

RELATES TO: KRS 205.520
STATUTORY AUTHORITY: 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 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 coverage and payment provisions for preadmission screening and annual resident review.

Section 1. General Applicability. The provisions of this regulation are applicable for all individuals desiring admission to, or continued stay in, skilled nursing or general intermediate care facilities (SNFs/GICFs) participating in the Kentucky Medical Assistance Program.

Section 2. Deemed Consent for Preadmission Screening and Annual Resident Review. Any individual applying for admission to, or requesting a continued stay in, a skilled nursing or general intermediate care facility (SNF/GICF) participating in the Medicaid program on or after January 1, 1989 shall be deemed to have given his consent for the Cabinet for Human Resources to make the determination of appropriateness for the individual to enter or remain in the facility using the standards specified in Section 1919 of the Social Security Act.

Section 3. Responsibility for Preadmission Screening and Annual Resident Review (PASARR). The Department for Mental Health and Mental Retardation Services (DMHMRS) shall be responsible for determining whether individuals desiring to enter, or remain in, a skilled nursing or general intermediate care facility (SNF/GICF) participating in the Medicaid program are mentally ill or mentally retarded and if so, whether the individual requires the level of services provided by an SNF/GICF, and if such services are required, whether the individual requires active treatment for mental illness or mental retardation. A practicing physician's written statement that an individual requires the level of services provided by an SNF/GICF will be considered adequate documentation with regard to that requirement being met; however, for reimbursement to be provided under Title XIX an individual must be Medicaid eligible and meet the usual patient care criteria specified in 907 KAR 1:022 and 907 KAR 1:024. The DMHMRS may contract with mental health/mental retardation centers for evaluations and recommendations as to whether the individual is mentally ill or mentally retarded, or requires active treatment and may delegate the authority for the determination as to whether an individual may enter or remain in an SNF/GICF to the mental health/mental retardation centers; and may contract with other agencies, organizations or entities if necessary to fulfill DMHMRS's obligations with regard to the PASARR function.

Section 4. Payments for the Performance of Preadmission Screening and Annual Resident Review Functions. The Medicaid program shall be responsible for the costs of the PASARR program, and funds may be paid from the Medicaid program to the DMHMRS, or directly to contracted agencies, for the performance of the PASARR program; however, no funds shall accrue to the DMHMRS for this purpose which are in excess of the actual costs to DMHMRS (including contract costs) of implementing and operating the PASARR program.

Section 5. Admissions Criteria under PASARR. Admissions to Medicaid participating SNFs/GICFs must be in accordance with Section 1919 of the Social Security Act. The following represents the substance of the admissions criteria derived from Section 1919 of the Social Security Act.
(1) A person who is determined not to be mentally ill or mentally retarded is not subject to further PASARR activity.
(2) A person who is mentally ill or mentally retarded may be admitted to an SNF/GICF if he requires the appropriate level of care and a determination is made as to whether active treatment for mental illness or mental retardation is required.
(3) A person who is mentally ill or mentally retarded and who does not require the appropriate level of care may not be admitted to an SNF/GICF regardless of whether he requires active treatment for mental illness or mental retardation.

Section 6. Criteria for Annual Resident Review. Residents in Medicaid participating SNFs/GICFs are subject to annual resident review in accordance with Section 1919 of the Social Security Act. The following represents the substance of the criteria for annual resident review and continued stay derived from Section 1919 of the Social Security Act.
(1) A person who is determined not to be mentally ill or mentally retarded is not subject to further PASARR activity except for annual resident review to verify continuation of his mental health status.
(2) A person who is determined to be mentally ill or mentally retarded but who requires the level of care provided by an SNF/GICF may remain in the facility but a determination must be made as to whether active treatment for mental illness or mental retardation is required.
(3) A person who is mentally ill or mentally retarded but who is determined not to require the level of care provided by an SNF/GICF may remain in the facility if he has continuously resided in an SNF/GICF for thirty (30) months before the date of the determination so long as he requires active treatment for mental illness or mental retardation.
(4) An individual who is mentally ill or mentally retarded and who is determined not to require the level of care provided by an

SNF/GICF may not remain in the facility if he has not continuously resided in an SNF/GICF for thirty (30) months prior to the date of the determination.

Section 7. Additional PASARR Admissions and Continued Stay Criteria. The following additional criteria for compliance with the PASARR admission and continued stay requirements shall be applied.

(1) A mentally ill or mentally retarded person who is of advanced years and competent to make an independent decision may be admitted to or remain in the facility if he meets the SNF/GICF level of care, is not a danger to himself or others, and chooses that level of care.

(2) A mentally ill or mentally retarded person may be admitted to an SNF/GICF for 120 days after release from an acute care hospital for convalescent care, if the individual needs the SNF/GICF level of care and is not a danger to himself or others, without being subjected to further PASARR evaluation.

(3) A mentally ill or mentally retarded individual may be admitted to or reside in an SNF/GICF if he requires continuous nursing care or medical supervision and treatment and is terminally ill, and is not a danger to himself or others.

(4) A mentally ill or mentally retarded individual who is not a danger to himself or others may be admitted to or remain in an SNF/GICF based on severity of illness if he is: comatose; ventilator dependent; functions at the brain stem level; or has a diagnosis of Chronic Obstructive Pulmonary Disease, Severe Parkinson's Disease, Hunting's Disease, Amyo Lateraltropic Schlerosis, or Congestive Heart Failure, and any other diagnosis so determined by the United States Department of Health and Human Services, Health Care Financing Administration.

Section 8. Appeals. Individuals who are not qualified for admission to or continued stay in a Medicaid participating SNF/GICF as a result of a PASARR determination by the DMHMRS may appeal using the following process.

(1) If a person is determined not suitable for admission to or continued stay in an SNF/GICF as a result of the PASARR process, the individual will receive a notice from the DMHMRS (or peer review organization acting on behalf of the DMHMRS) which advises the individual of the negative decision, the reason for the negative decision, the procedure and time frame for requesting an appeal, and of the right to legal or other appropriate representation. An individual in an SNF/GICF must be allowed at least ten (10) days to transfer from the facility, and shall not be required to move during the appeal process if the decision is appealed within the ten (10) day period. The individual may appeal the decision at any time within thirty (30) days of the decision. The individual, his attending physician, and the facility, as appropriate, will be notified of the date, time, and place of the hearing. The hearing shall be conducted by the DMHMRS and the appeal decision rendered within thirty (30) days of the notice of appeal. If the determination is adverse to the individual, the negative decision will contain further appeal rights, the time frame and procedure for requesting a hearing, and the right to legal or other appropriate representation.

(2) Upon a negative hearing decision by the DMHMRS, the individual may within twenty (20) days of the notice of the decision request a further appeal of the decision. The appeal hearing will be conducted by the Division for Administrative Review, Department for Social Insurance as the agency of the Department for Medicaid Services. The hearing and further appeal rights will be in accordance with 904 KAR 2:055, Hearings and appeals.

ROY BUTLER, Commissioner
HARRY J. COWHERD, M.D., Secretary
APPROVED BY AGENCY: December 28, 1988
FILED WITH LRC: January 6, 1989 at 11 a.m.

PUBLIC HEARING: A public hearing on this administrative regulation shall be held on February 21, 1989 at 9 a.m. at Health Services Auditorium. Individuals interested in attending this hearing shall notify this agency in writing by February 16, 1989, five days prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to: Ryan Halloran, General Counsel, Cabinet for Human Resources, 275 East Main Street - 4 West, Frankfort, Kentucky 40601.

REGULATORY IMPACT ANALYSIS

Agency Contact Person: Roy Butler

(1) Type and number of entities affected: All skilled nursing and general intermediate care facilities, and all individuals desiring admission to or continued stay in facility.

(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: $3.2 million (cost)

2. Continuing costs or savings: $3.6 million (cost)

3. Additional factors increasing or decreasing costs: Actual number of individuals determined to require Level II screening.

(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 viable alternatives for cost control were identified.

(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: Preadmission screening and annual resident review (PASARR) is mandated by Section 1919 of the Social Security Act.

TIERING: Was tiering applied? No. Federal Medicaid regulations require that similarly situated providers be treated in a similar manner.

ADMINISTRATIVE REGULATION REVIEW SUBCOMMITTEE
Minutes of the January 3, 1989 Meeting

The January meeting of the Administrative Regulation Review Subcommittee was held on Tuesday, January 3, 1989 at 10 a.m. in Room 107. Representative Mark D. O'Brien, Chairman, called the meeting to order, and the secretary called the roll. On motion of Senator McCuiston, seconded by Representative Bruce, the minutes of the December 5, 1988 meeting were approved.

Present January 3, 1989 were:

Members: Representative Mark D. O'Brien, Chairman; Senator Pat McCuiston; Representative Jim Bruce.

Guests: Paul Borden, Joyce A. Bryan, Higher Education Assistance Authority; Craig Martin, Mike Molloy, Lucille Orlando, Department of Military Affairs; Gregory C. Copley, William C. Eddins, Millie Ellis, Phillip M. Gordon, Jr., Martha L. Hall, Kenneth Himes, Parker Moore, Division for Air Quality; Michael Bradley, Ellen Tharpe, Corrections Cabinet; Vickie S. Bourne, Bill Debord, Joe A. Dolgas, Ron Howard, Sandra G. Pullen, Jerry D. Ross, John Trager, Transportation Cabinet; Gary Bale, Wendell D. Bruce, Louis S. DeLuca, H. G. Graham, R.C. Story, Perry Watson, Department of Education; Penny Becker, Carl B. Larsen, Harness Racing Commission; Judith G. Walden, Department of Housing, Buildings and Construction; Reginald Finger, M.D., Eric Friedlander, Angie Scott, Cabinet for Human Resources; Joe Clemons, KY Association of Highway Contractors.

LRC Staff: Susan Wunderlich, Joe Hood, Gregory Karambellas, Susan Eastman and Carla Arnold.

The Administrative Regulation Review Subcommittee met on January 3, 1989, and submits this report:

The Subcommittee determined that the following administrative regulations do not comply with KRS Chapter 13A or other applicable statutes as set forth below:

Transportation Cabinet: Department of Vehicle Regulation: Motor Vehicle Tax

601 KAR 9:130 (Motor vehicle registration.) Objections were raised to the fee increase provided for in this administrative regulation. The Subcommittee approved a motion that this administrative regulation did not conform to statutory authority.

The Subcommittee determined that the following administrative regulations, as amended, complied with KRS Chapter 13A:

Higher Education Assistance Authority: Division of Program Administration
KHEAA Grant Programs

11 KAR 5:120 (Application by recipients of AFDC.) This regulation was amended to correct a technical error - the phrase "except Section 1(4)" in Section 5 of this regulation was changed to read "except Section 2(4)".

Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Division for Air Quality: General Standards of Performance

401 KAR 63:050 (Local education agencies.) This regulation was amended to include the CFR references in the "STATUTORY AUTHORITY" section to comply with KRS Chapter 13A.

Corrections Cabinet: Office of the Secretary

501 KAR 6:070 (Kentucky Correctional Institution for Women.) The reference material to this administrative regulation was amended to specify that the pay scale was based on a daily rate.

501 KAR 6:090 (Frankfort Career Development Center.) The reference material to this administrative regulation was amended to correct typographical and grammatical errors.

Education and Humanities Cabinet: Department of Education: Office of Local Services: Student Services

704 KAR 7:080 (Ride to the Center for the Arts Program Fund.) This regulation was amended by changing the word "will" in Section 1 to "may" in regard to awarding transportation costs to schools participating in the Center for the Arts program.

Public Protection and Regulation Cabinet: Department of Housing, Buildings, and Construction: Plumbing

815 KAR 20:020 (Parts or materials list.) This administrative regulation was amended to specify what materials dissimilar to those originally specified in this list may be used.

The Subcommittee determined that the following regulations complied with KRS Chapter 13A:

Higher Education Assistance Authority: Division of Program Administration: KHEAA Grant Programs

11 KAR 5:010 (Authority, purpose, name of grant programs.)
11 KAR 5:030 (Student eligibility requirements.)
11 KAR 5:140 (Award determination procedure.)
11 KAR 5:150 (Notification of award.)
11 KAR 5:160 (Disbursement procedures.)
11 KAR 5:170 (Refund and repayment policy.)
11 KAR 5:180 (Records and reports.)
11 KAR 5:190 (Repeal of 11 KAR 5:020.)

Department of Military Affairs: National Guard

106 KAR 1:070 (Standards for local disaster and emergency services organizations.

Natural Resources and Environmental Protection Cabinet: Department for Environmental Protection: Division for Air Quality: General Standards of Performance

401 KAR 63:045 (School asbestos abatement accreditations.)

Corrections Cabinet: Office of the Secretary

501 KAR 6:030 (Kentucky State Reformatory.)
501 KAR 6:040 (Kentucky State Penitentiary.)
501 KAR 6:120 (Blackburn Correctional Complex.)

Transportation Cabinet: Department of Vehicle Regulation: Motor Vehicle Tax
601 KAR 9:074 (Kentucky highway use license, records and taxes.)
Driver Improvement
601 KAR 13:050 (Alcohol driver education program.)
Department of Highways: Mass Transportation
603 KAR 7:020 (Nonurbanized public transportation program and elderly and handicap program.)

Education and Humanities Cabinet: Department of Education: Office of Local Services: Pupil Transportation
702 KAR 5:030 (Superintendents' responsibilities.)
702 KAR 5:080 (Bus drivers' qualifications; responsibilities.)
Elementary and Secondary Education Act
704 KAR 10:022 (Elementary, middle and secondary schools standards.)
704 KAR 20:175 (Physical education at elementary level on high school certification.)
704 KAR 20:340 (Endorsement for teachers of computer courses.)
704 KAR 20:520 (Health education at the elementary school level.)
Office of Programs: Adult Education
709 KAR 1:080 (Community education.)

Public Protection and Regulation Cabinet: Harness Racing Commission: Harness Racing Rules
811 KAR 1:215 (Kentucky standardbred development fund.)
Department of Housing, Buildings, and Construction: Building Code
815 KAR 7:020 (Building code.)

Cabinet for Human Resources: Department for Health Services: Certificate of Need and Licensure
902 KAR 20:016 (Hospitals operation and services.)

The Subcommittee had no objections to emergency regulations which had been filed.

OTHER BUSINESS:

Mr. Ben Lampton appeared before the Subcommittee at its December meeting concerning the use of policies and procedures by the Retirement Systems that have not been promulgated as administrative regulations. The Subcommittee had approved a motion to inquire into this matter and instructed its staff to request an explanation of the action taken, and a statement of the reasons why no administrative regulations had been promulgated. A copy of this letter was distributed to members of the Subcommittee.

The Subcommittee adjourned at 10:45 a.m. until February 14, 1989.

OTHER COMMITTEE REPORTS

COMPILER'S NOTE: In accordance with KRS 13A.290(9), the following report(s) were forwarded to the Legislative Research Commission by the appropriate jurisdictional committee(s) and are hereby printed in the Administrative Register. The administrative regulations listed in each report became effective upon adjournment of the committee meeting at which they were considered.

INTERIM JOINT COMMITTEE ON LABOR AND INDUSTRY
Meeting of December 22, 1988

The Interim Joint Committee on Labor and Industry met on December 22, 1988, and submits this report:

The Committee took no action on 903 KAR 5:100.

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT
Meeting of January 11, 1989

The Interim Joint Committee on State Government met January 11, 1989, and submits this report.

The Committee determined that the following administrative regulation complies with KRS Chapter 13A.

106 KAR 1:070 - Department of Military Affairs (Standards for Local Disaster and Emergency Services Organizations)

INTERIM JOINT COMMITTEE ON BUSINESS ORGANIZATIONS & PROFESSIONS
Meeting January 13, 1989

The Interim Joint Committee on Business Organizations and Professions met on Friday, January 13, 1989, and submits this report:

The Committee determined that the following regulations complied with KRS Chapter 13A:

810 KAR 1:012 - KY State Racing Commission
811 KAR 1:215 - Harness Racing Commission

The Committee adjourned at 3:10 p.m.

CUMULATIVE SUPPLEMENT

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LOCATOR INDEX -- EFFECTIVE DATES

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

VOLUME 14

Regulation	14 Ky.R. Page No.	Effective Date
102 KAR 7:090		
Amended	1651	(See 15 Ky.R.)
704 KAR 15:080		
Amended	1652	(See 15 Ky.R.)

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Emergency Regulation	15 Ky.R. Page No.	Effective Date
101 KAR 1:325E	107	6-16-88
Replaced	950	9-14-88
105 KAR 1:010E	108	6-22-88
Replaced	31	8-10-88
106 KAR 1:060E	911	9-14-88
Replaced	1465	11-9-88
107 KAR 1:050E	3	6-10-88
Replaced	97	8-17-88
201 KAR 8:400E	3	6-13-88
201 KAR 8:410E	4	6-13-88
201 KAR 9:175E	777	7-27-88
Replaced	891	10-14-88
201 KAR 10:050E	5	6-2-88
Replaced	950	9-9-88
201 KAR 26:240E		4-14-88
Replaced	250	8-5-88
301 KAR 2:044E	913	8-16-88
Replaced	1251	10-26-88
301 KAR 2:220E	1207	9-23-88
Replaced	1136	11-23-88
301 KAR 2:240E	914	8-16-88
Replaced	842	10-26-88
302 KAR 20:056E	110	6-27-88
Replaced	275	9-28-88
401 KAR 30:010E	111	7-14-88
Replaced	315	10-26-88
401 KAR 31:020E	121	7-14-88
Replaced	337	10-26-88
401 KAR 32:040E	122	7-14-88
Replaced	341	10-26-88
401 KAR 34:090E	123	7-14-88
Replaced	343	10-26-88
401 KAR 35:070E	131	7-14-88
Replaced	351	10-26-88
401 KAR 35:090E	137	7-14-88
Replaced	358	10-26-88
401 KAR 63:045E	1212	10-5-88
401 KAR 63:050E	1215	10-5-88
501 KAR 1:030E	915	9-14-88
Replaced	1467	12-2-88
501 KAR 1:040E	918	9-14-88
Replaced	1190	12-2-88
501 KAR 1:050E	921	9-14-88
Replaced	1193	12-2-88
501 KAR 6:020E	6	6-14-88
Replaced	951	8-16-88
Resubmitted	922	8-16-88
Replaced	846	10-11-88
Resubmitted	1757	12-22-88
501 KAR 6:030E	924	9-14-88
Replaced	1147	12-2-88
501 KAR 6:070E	1393	11-10-88
501 KAR 6:080E	7	6-14-88
Replaced	41	8-17-88
501 KAR 6:110E	781	7-19-88
Replaced	525	9-13-88
501 KAR 6:130E	8	6-14-88
Replaced	41	8-17-88
501 KAR 6:140E	783	7-19-88
Replaced	530	9-13-88
501 KAR 9:010E	144	6-20-88
Replaced	716	9-13-88
501 KAR 9:020E	145	6-20-88
Replaced	954	9-13-88
501 KAR 9:030E	146	6-20-88
Replaced	719	9-13-88
501 KAR 9:040E	147	6-20-88
Replaced	720	9-13-88
501 KAR 9:050E	147	6-20-88
Replaced	956	9-13-88
501 KAR 9:060E	150	6-20-88
Replaced	725	9-13-88
501 KAR 9:070E	151	6-20-88
Replaced	726	9-13-88
501 KAR 9:080E	152	6-20-88
Replaced	727	9-13-88
501 KAR 9:090E	153	6-20-88
Replaced	958	9-13-88
501 KAR 9:100E	154	6-20-88
Replaced	959	9-13-88
501 KAR 9:110E	154	6-20-88
Replaced	731	9-13-88
501 KAR 9:120E	155	6-20-88
Replaced	959	9-13-88
501 KAR 9:130E	156	6-20-88
Replaced	734	9-13-88
501 KAR 9:140E	156	6-20-88
Replaced	735	9-13-88
501 KAR 9:150E	158	6-20-88
Replaced	960	9-13-88
600 KAR 1:080E	161	7-1-88
Replaced	44	9-2-88
600 KAR 2:020E	161	7-1-88
Replaced	532	10-4-88
601 KAR 1:005E	9	6-1-88
Withdrawn		8-15-88
Resubmitted	785	8-15-88
Replaced	816	10-4-88
Resubmitted	1758	12-20-88
601 KAR 13:020E	162	7-15-88
Replaced	541	10-4-88
603 KAR 5:072E	11	6-14-88
Replaced	806	9-2-88
Resubmitted	1761	1-10-89
603 KAR 5:230E	1394	10-26-88
702 KAR 7:065E	1220	9-23-88
Replaced	1153	1-7-89

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Replaced	1194	12-2-88
705 KAR 5:140E	164	7-15-88
Replaced	744	10-7-88
707 KAR 1:110E	165	7-15-88
Withdrawn		7-25-88
Resubmitted	787	7-25-88
Replaced	1104	11-4-88
803 KAR 25:011E		4-19-88
Replaced	250	8-5-88
803 KAR 25:025E	791	7-25-88
Replaced	1471	12-2-88
803 KAR 25:080E	169	7-13-88
Expired		11-3-88
806 KAR 4:010E	174	7-15-88
Replaced	1113	11-4-88
806 KAR 13:110E	175	7-15-88
Replaced	755	10-7-88
806 KAR 17:065E	1629	11-23-88
901 KAR 5:110E	176	7-13-88
Replaced	757	9-21-88
902 KAR 2:110E	794	7-15-88
Replaced	1115	11-4-88
902 KAR 2:120E	794	7-15-88
Replaced	1115	11-4-88
902 KAR 3:060E	177	6-20-88
Replaced	54	8-31-88
902 KAR 3:075E	178	6-20-88
Replaced	57	8-31-88
902 KAR 3:115E	179	6-20-88
Replaced	60	8-31-88
902 KAR 3:205E	181	6-20-88
Replaced	62	8-31-88
902 KAR 3:210E	182	7-1-88
Replaced	63	8-31-88
902 KAR 3:225E	184	6-20-88
Replaced	66	8-31-88
902 KAR 3:250E	185	6-20-88
Replaced	69	8-31-88
902 KAR 4:050E	926	9-15-88
Replaced	1156	11-16-88
902 KAR 10:021E		4-15-88
Replaced	17	6-22-88
902 KAR 10:081E	186	7-13-88
Replaced	619	9-21-88
902 KAR 10:085E	194	7-13-88
Replaced	628	9-21-88
902 KAR 10:130E		4-15-88
Replaced	17	6-22-88
902 KAR 17:010E	214	7-6-88
Expired		9-7-88
Resubmitted	1220	9-21-88
Replaced	1296	12-13-88
902 KAR 20:016E	926	9-15-88
Expired		11-4-88
Resubmitted	1440	11-15-88
902 KAR 45:120E		4-15-88
Replaced	258	8-3-88
902 KAR 50:120E	214	7-15-88
Replaced	987	9-21-88
903 KAR 5:260E	11	5-20-88
Replaced		8-5-88
903 KAR 5:270E	218	6-20-88
Replaced	93	8-5-88
904 KAR 2:015E	1639	12-13-88
904 KAR 2:016E	219	7-1-88
Withdrawn		8-9-88
Resubmitted	795	8-11-88
Replaced	869	11-4-88
904 KAR 2:022E	800	7-25-88
Replaced	875	11-4-88
904 KAR 2:110E	1221	10-6-88
Replaced	1300	12-13-88
904 KAR 2:116E	224	7-13-88
Replaced	658	9-21-88
Resubmitted	1223	10-10-88
Replaced	1303	1-7-89
904 KAR 3:020E	1451	10-31-88
Expired		12-15-88
Resubmitted	1762	12-22-88
904 KAR 3:060E	937	9-14-88
Replaced	1475	11-16-88
905 KAR 1:230E	1765	12-28-88
906 KAR 1:040E	804	7-15-88
Replaced	767	11-4-88
907 KAR 1:004E	227	7-1-88
Replaced	664	9-21-88
Resubmitted	1226	10-7-88
Replaced	1308	12-13-88
Resubmitted	1766	1-4-89
907 KAR 1:006E	1773	1-4-89
907 KAR 1:008E	233	7-1-88
Replaced	670	9-21-88
907 KAR 1:009E	1233	10-7-88
Replaced	1315	12-13-88
907 KAR 1:010E	1234	10-7-88
Expired		12-6-88
Resubmitted	1642	12-6-88
907 KAR 1:011E	1235	10-7-88
Replaced	1318	12-13-88
Resubmitted	1774	1-4-89
907 KAR 1:013E	233	7-1-88
Expired		8-30-88
Resubmitted	939	8-30-88
Replaced	1171	11-16-88
907 KAR 1:015E	235	7-1-88
Replaced	674	9-21-88
907 KAR 1:020E	236	7-1-88
Replaced	975	9-21-88
Resubmitted	1239	10-7-88
Replaced	1322	12-13-88
907 KAR 1:022E	1778	1-6-89
907 KAR 1:024E	1780	1-10-89
907 KAR 1:028E	237	7-1-88
Replaced	676	9-21-88
907 KAR 1:029E	238	7-1-88
Replaced	678	9-21-88
907 KAR 1:031E	238	7-1-88
Replaced	678	9-21-88
907 KAR 1:036E	240	7-1-88
Expired		8-30-88
Resubmitted	942	8-30-88
Replaced	1477	11-16-88
Resubmitted	1782	1-6-89
907 KAR 1:042E	247	7-1-88
Replaced	688	9-21-88
907 KAR 1:045E	1789	1-6-89
907 KAR 1:054E	1240	10-7-88
Replaced	1324	12-13-88
907 KAR 1:055E	1242	10-7-88
Replaced	1326	12-13-88
907 KAR 1:080E	1244	10-7-88
Replaced	1328	12-13-88
907 KAR 1:082E	1244	10-7-88
Replaced	1329	12-13-88
907 KAR 1:170E	247	7-1-88
Replaced	689	9-21-88
907 KAR 1:210E	1643	12-6-88
907 KAR 1:360E	248	7-1-88
Replaced	768	10-21-88
907 KAR 1:440E	1245	10-7-88
Replaced	1380	12-13-88
907 KAR 1:460E	1790	1-10-89

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11 KAR 3:020		
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11 KAR 3:030		
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11 KAR 3:040		
Repealed	880	11-4-88
11 KAR 3:050		
Repealed	880	11-4-88
11 KAR 3:060	880	11-4-88
11 KAR 5:010		
Amended	1486	
11 KAR 5:030		
Amended	1487	
11 KAR 5:110	884	11-4-88
11 KAR 5:120	1599	
As Amended	1793	
11 KAR 5:130	1600	
11 KAR 5:140	1601	
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11 KAR 5:160	1605	
11 KAR 5:170	1607	
11 KAR 5:180	1609	
11 KAR 5:190	1611	
12 KAR 5:010		
Amended	1118	11-23-88
12 KAR 5:020		
Amended	1118	11-23-88
12 KAR 5:030		
Amended	1120	
As Amended	1456	11-23-88
12 KAR 5:040		
Amended	1122	11-23-88
12 KAR 5:050		
Amended	1123	11-23-88
12 KAR 5:060		
Amended	1124	11-12-88
12 KAR 5:070		
Amended	1125	11-23-88
101 KAR 1:305	1714	
101 KAR 1:315	1714	
101 KAR 1:320		
Amended	264	11-9-88
101 KAR 1:325		
Amended	266	
As Amended	950	9-14-88
Amended	1659	
101 KAR 1:335	1715	
101 KAR 1:345	1717	
101 KAR 1:360		
Amended	267	11-9-88
101 KAR 1:365	1719	
101 KAR 1:375	1721	
101 KAR 1:395	1724	
101 KAR 2:030		
Amended	819	
As Amended	1247	10-12-88
101 KAR 2:090		
Amended	822	
As Amended	1250	10-12-88
101 KAR 2:100		
Amended	824	
As Amended	1457	11-9-88
101 KAR 2:110		
Amended	829	11-9-88
101 KAR 2:120		
Amended	830	10-12-88
101 KAR 2:140	886	10-12-88
101 KAR 2:150	888	10-12-88
101 KAR 2:160	889	10-12-88
101 KAR 3:010		
Amended	833	
As Amended	1461	11-9-88

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103 KAR 5:140	1331	
As Amended	1644	12-22-88
103 KAR 8:100	1612	
Withdrawn		12-12-88
103 KAR 16:100		
Amended	271	9-22-88
103 KAR 16:110		
Amended	272	9-22-88
103 KAR 16:130		
Amended	273	9-22-88
103 KAR 16:145	691	9-22-88
103 KAR 35:030	1724	
103 KAR 43:010		
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103 KAR 43:020		
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103 KAR 43:030		
Amended	1663	
103 KAR 43:050		
Amended	1665	
103 KAR 43:060		
Amended	1666	
103 KAR 43:070		
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103 KAR 43:080		
Amended	1667	
103 KAR 43:090		
Amended	1668	
103 KAR 43:100		
Amended	1669	
103 KAR 43:110		
Amended	1670	
103 KAR 43:120		
Amended	1671	
103 KAR 43:130		
Amended	1672	
103 KAR 43:140		
Amended	1674	
103 KAR 43:150		
Repealed	1332	12-22-88
103 KAR 43:160		
Repealed	1332	12-22-88
103 KAR 43:170		
Repealed	1332	12-22-88
103 KAR 43:230		
Amended	1675	
103 KAR 43:250	96	8-25-88
103 KAR 43:260	96	*(No eff. date)
*Since statement of consideration was not received by 15th day following hearing, regulation must be refiled (KRS 13A.280)		
103 KAR 43:270	890	10-27-88
103 KAR 43:280	1332	12-22-88
103 KAR 43:290	1333	12-22-88
103 KAR 43:300	1334	
As Amended	1645	12-22-88
103 KAR 44:030	1613	
Withdrawn		12-12-88
105 KAR 1:010		
Amended	31	8-10-88
106 KAR 1:021	1986	
106 KAR 1:030		
Repealed	1465	11-9-88
106 KAR 1:060	1182	
As Amended	1465	11-9-88
106 KAR 1:070	1615	1-11-89
107 KAR 1:050	97	8-17-88
200 KAR 3:045		
Amended	1126	
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200 KAR 12:030	1986	

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201 KAR 2:130		
Amended	837	
201 KAR 8:400	99	10-14-88
201 KAR 8:410	99	10-14-88
201 KAR 9:016		
Amended	1286	
As Amended	1645	12-13-88
201 KAR 9:041		
Amended	1287	1-7-89
201 KAR 9:083		
Repealed	777	7-27-88
201 KAR 9:175	891	10-14-88
201 KAR 10:050		
Amended	33	
As Amended	950	9-9-88
201 KAR 12:065		
Amended	1676	
201 KAR 12:190	1726	
201 KAR 20:161		
Amended	838	10-14-88
201 KAR 20:330		
Amended	1677	
201 KAR 22:040		
Amended	1128	11-11-88
201 KAR 22:110		
Amended	1129	11-11-88
201 KAR 26:121	1727	
201 KAR 26:160		
Amended	1678	
201 KAR 26:171		
Amended	1679	
201 KAR 26:190		
Amended	1681	
201 KAR 26:200		
Amended	1682	
201 KAR 26:210		
Amended	1683	
201 KAR 26:230		
Amended	1685	
201 KAR 26:240		
As Amended	250	8-5-88
201 KAR 28:140		
Amended	1288	1-7-89
301 KAR 1:085		
Amended	1130	11-23-88
301 KAR 1:145		
Repealed	1184	11-23-88
301 KAR 1:146	1184	11-23-88
301 KAR 1:150		
Amended	1131	11-23-88
301 KAR 1:171	1988	
301 KAR 1:200		
Amended	1132	11-23-88
Amended	1854	
301 KAR 2:044		
Amended	840	
As Amended	1251	10-26-88
301 KAR 2:140		
Amended	1134	12-13-88
301 KAR 2:220		
Amended	1136	11-23-88
301 KAR 2:240		
Amended	842	10-26-88
301 KAR 3:021		
Amended	1142	11-23-88
301 KAR 4:070	895	
Amended	1278	11-23-88
301 KAR 4:080	898	10-26-88
302 KAR 15:030		
Amended	843	10-26-88
302 KAR 16:010		
Amended	845	10-26-88
302 KAR 20:056		
Amended	275	9-28-88
306 KAR 2:010	692	10-7-88
307 KAR 1:010		
Amended	276	10-7-88
401 KAR 4:100		
Amended	281	
Amended	991	10-26-88
401 KAR 4:110	693	
Amended	991	10-26-88
401 KAR 4:120	695	
Amended	993	
As Amended	1252	10-26-88
401 KAR 4:130	703	
Amended	998	10-26-88
401 KAR 4:140	706	
Amended	1000	10-26-88
401 KAR 5:005		
Amended	282	
Amended	1005	
As Amended	1257	10-26-88
401 KAR 5:010		
Amended	285	
Amended	1007	10-26-88
401 KAR 5:085		
Amended	289	
Amended	1010	
As Amended	1259	10-26-88
401 KAR 6:015		
Amended	292	
Amended	1012	10-26-88
401 KAR 6:030		
Implied repeal		7-15-88
401 KAR 6:040		
Amended	309	
Amended	1028	10-26-88
401 KAR 6:300		
Amended	314	
Amended	1032	
As Amended	1261	10-26-88
401 KAR 30:010		
Amended	315	10-26-88
401 KAR 31:010		
Amended	327	10-26-88
401 KAR 31:020		
Amended	337	10-26-88
401 KAR 32:010		
Amended	339	10-26-88
401 KAR 32:040		
Amended	341	10-26-88
401 KAR 34:090		
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401 KAR 35:070		
Amended	351	10-26-88
401 KAR 35:090		
Amended	358	10-26-88
401 KAR 39:010		
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401 KAR 39:020		
Amended	367	
Amended	1033	
As Amended	1261	10-26-88
401 KAR 39:030		
Amended	369	
Amended	1033	
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401 KAR 39:060		
Amended	371	
Amended	1034	
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401 KAR 39:090		
Amended	375	
Amended	1035	
As Amended	1264	10-26-88
401 KAR 39:110	713	
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401 KAR 39:120	715	
Amended	1036	
As Amended	1265	10-26-88
401 KAR 47:060		
Amended	377	
Amended	1037	
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401 KAR 50:015		
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401 KAR 50:036		
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401 KAR 63:045	1335	
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405 KAR 7:015		
Amended	390	12-13-88
405 KAR 7:020		
Amended	392	
Amended	1041	12-13-88
405 KAR 7:030		
Amended	402	12-13-88
405 KAR 7:090		
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Amended	1049	12-13-88
405 KAR 8:010		
Amended	414	
Amended	1057	12-13-88
Amended	1855	
405 KAR 8:020		
Amended	428	12-13-88
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405 KAR 8:030		
Amended	1870	
405 KAR 8:040		
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405 KAR 8:050		
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405 KAR 10:010		
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405 KAR 10:050		
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405 KAR 16:010		
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Amended	1074	12-13-88
405 KAR 16:100		
Amended	460	
Amended	1076	12-13-88
405 KAR 16:110		
Amended	464	
Amended	1078	12-13-88
405 KAR 16:120		
Amended	466	12-13-88
405 KAR 16:150		
Amended	471	12-13-88
405 KAR 16:190		
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Amended	1080	12-13-88
405 KAR 18:010		
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405 KAR 18:070		
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405 KAR 18:080		
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Amended	1083	12-13-88
405 KAR 18:100		
Amended	485	
Amended	1085	12-13-88
405 KAR 18:110		
Amended	489	
Amended	1088	12-13-88
405 KAR 18:120		
Amended	491	12-13-88
405 KAR 18:150		
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Amended	498	
Amended	1089	12-13-88
405 KAR 20:010		
Amended	502	12-13-88
405 KAR 20:060		
Amended	505	12-13-88
405 KAR 24:020		
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405 KAR 24:030		
Amended	511	12-13-88
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Amended	515	12-13-88
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500 KAR 7:020	1348	1-7-89
501 KAR 1:011		
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501 KAR 1:015		
Repealed	921	9-14-88
501 KAR 1:020		
Repealed	918	9-14-88
501 KAR 1:030	1186	
As Amended	1467	12-2-88
501 KAR 1:040	1190	12-2-88
501 KAR 1:050	1193	12-2-88
501 KAR 6:020		
Amended	34	
As Amended	951	8-17-88
Amended	846	10-11-88
Amended	1145	12-2-88
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501 KAR 6:030		
Amended	518	9-13-88
Amended	1147	12-2-88
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Amended	1689	
Amended	1901	
501 KAR 6:040		
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Amended	1903	

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501 KAR 6:060		
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Amended	522	9-13-88
Amended	1149	12-2-88
Amended	1292	
As Amended	1646	1-7-89
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501 KAR 6:070		
As Amended	14	7-1-88
Amended	39	8-17-88
Amended	523	9-13-88
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As Amended	1796	
501 KAR 6:080		
Amended	41	8-17-88
501 KAR 6:090		
Amended	1494	
As Amended	1798	
Amended	1907	
501 KAR 6:110		
Amended	525	
As Amended	952	9-13-88
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501 KAR 6:120		
Amended	527	9-13-88
Amended	1496	
Amended	1692	
Amended	1911	
501 KAR 6:130		
Amended	41	8-17-88
Amended	529	9-13-88
Amended	1151	12-2-88
Amended	1293	1-7-89
Amended	1694	
Amended	1914	
501 KAR 6:140		
Amended	42	8-17-88
Amended	530	9-13-88
501 KAR 9:010	716	9-13-88
501 KAR 9:020	717	
As Amended	954	9-13-88
501 KAR 9:030	719	9-13-88
501 KAR 9:040	720	9-13-88
501 KAR 9:050	722	
As Amended	956	9-13-88
501 KAR 9:060	725	9-13-88
501 KAR 9:070	726	9-13-88
501 KAR 9:080	727	9-13-88
501 KAR 9:090	729	
As Amended	958	9-13-88
501 KAR 9:100	730	
As Amended	959	9-13-88
501 KAR 9:110	731	9-13-88
501 KAR 9:120	732	
As Amended	959	9-13-88
501 KAR 9:130	734	9-13-88
501 KAR 9:140	735	9-13-88
501 KAR 9:150	737	
As Amended	960	9-13-88
600 KAR 1:080		
Amended	44	9-2-88
600 KAR 2:020		
Amended	532	10-4-88
600 KAR 3:010		
Amended	1152	12-2-88
600 KAR 4:010		
Amended	534	10-4-88
601 KAR 1:005		
Amended	45	
Amended	816	10-4-88
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601 KAR 1:025		
Amended	538	10-4-88
601 KAR 1:150	1728	
601 KAR 9:074		
Amended	1498	
601 KAR 9:090		
Amended	540	10-4-88
601 KAR 9:110		
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